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[Exempt from filing fees,
Gov. Code § 6103]

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA

CIVIL COMPLEX DIVISION

PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

v.

**THE PROGRESSIVE CORPORATION;
PROGRESSIVE DIRECT HOLDINGS, INC.;
PROGRESSIVE ADVANCED INS. CO.;
PROGRESSIVE DIRECT INS. CO.;
PROGRESSIVE CASUALTY INS. CO.;
PROGRESSIVE COMMERCIAL CASUALTY
INS. CO.; PROGRESSIVE EXPRESS INS. CO.;
PROGRESSIVE NORTHWESTERN INS. CO.;
PROGRESSIVE SELECT INS. CO.;
PROGRESSIVE SPECIALTY INS. CO.;
ASI SELECT AUTO INS. CORP.; PACIFIC
MOTOR CLUB;**

**UNITED SERVICES AUTOMOBILE
ASSOCIATION; USAA CASUALTY
INSURANCE COMPANY; USAA GENERAL
INDEMNITY COMPANY;**

MITCHELL INTERNATIONAL, INC.;

**CCC INTELLIGENT SOLUTIONS INC.;
CCC INTELLIGENT SOLUTIONS
HOLDINGS, INC.;**

and

DOE DEFENDANTS 1 through 100,

Defendants.

CASE NO: 24CV073476

**FIRST AMENDED COMPLAINT
FOR INJUNCTIVE RELIEF,
CIVIL PENALTIES,
CIVIL FINES, RESTITUTION,
DISGORGEMENT, AND
OTHER EQUITABLE RELIEF**

Bus. & Prof. Code § 17200, *et seq.*;
Cal. Code. Civ. P. § 1060;
Cal. Ins. Code § 2051;
Cal. Vehicle Code section § 544;
Cal. Penal Code §§ 532(a) and
550(b)(2)-(3); and
10 Cal. Code Regs. § 26958(b)

Action Filed: April 29, 2024

Trial Date: None Set

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I. OVERVIEW

PLAINTIFF, the People of the State of California (hereinafter, “the PEOPLE”), by and through Alameda County District Attorney Pamela Y. Price, allege as follows:

1. The INSURANCE COMPANY DEFENDANTS¹—including national insurance conglomerates USAA and PROGRESSIVE—are engaged in a state-wide, pervasive, and systematic scheme to defraud their insureds when insureds file a claim for the total loss of an insured vehicle (the “Scheme”).² The Scheme allows each INSURANCE COMPANY DEFENDANT to undervalue and underpay automobile total loss claims to the detriment of their insureds.

2. The INSURANCE COMPANY DEFENDANTS pursue the Scheme with the material and conspiratorial assistance of the VALUATION DEFENDANTS—including automotive industry data companies MITCHELL and CCC, who at all times knowingly advance and further the Scheme. Each INSURANCE COMPANY DEFENDANT has entered into a services agreement with one of the VALUATION DEFENDANTS. For example, USAA has a services agreement with CCC, while PROGRESSIVE has a services agreement with MITCHELL.

A. Introduction to the Scheme and Its Impact on California Insureds

3. In summary, and as provided in more detail in Section VI (“Additional Factual Allegations”), below, the Scheme operates as follows:

- a. an insured suffers the total loss of an insured vehicle by collision, hail, or some other cause. The insured submits a claim for indemnity to their respective INSURANCE COMPANY DEFENDANT under the insured’s automotive insurance policy.

¹ See Parties, Section II.B.1, ¶¶ 29-66, below.

² Through this action, the PEOPLE do not challenge the rates INSURANCE COMPANY DEFENDANTS charge for insurance products. The PEOPLE’s action does not invoke the Filed Rate Doctrine.

- 1 b. The INSURANCE COMPANY DEFENDANT loads the insured's claims
2 data into the software portal its contracted VALUATION DEFENDANT
3 provided. With the VALUATION DEFENDANT's knowledge, guidance,
4 assistance, and cooperation, the INSURANCE COMPANY DEFENDANT
5 uses the software portal to generate a Market Value Report ("MVR") that
6 states a monetary value for the loss vehicle. This value, which each
7 INSURANCE COMPANY DEFENDANT misrepresents as actual cash
8 value or "ACV" for the loss vehicle, forms the basis of what the
9 INSURANCE COMPANY DEFENDANT owes its insured in payment of
10 the total loss claim.
- 11 c. Both the INSURANCE COMPANY DEFENDANT and its VALUATION
12 DEFENDANT know the MVR substantially and materially understates the
13 loss vehicle's value so that the INSURANCE COMPANY DEFENDANT
14 may resolve the claim for a lesser amount than it owes its insureds, and
15 thereby reduce its indemnity losses.
- 16 d. With the VALUATION DEFENDANTS' assistance, the INSURANCE
17 COMPANY DEFENDANTS purposefully use MVRs to induce insureds to
18 accept lesser settlement amounts to their detriment. The result is that the
19 INSURANCE COMPANY DEFENDANTS systematically and pervasively
20 underpay claims to their insureds' detriment.
- 21 e. The VALUATION DEFENDANTS are fully aware of the INSURANCE
22 COMPANY DEFENDANTS' intended outcome, purposeful use of their
23 MVR software to achieve that outcome, and the effect the Scheme has on
24 California insureds.
- 25 f. But, nonetheless, the VALUATION DEFENDANTS assist their contracted
26 INSURANCE COMPANY DEFENDANTS in customizing their software
27
28

1 for the purpose of underpaying automobile total loss claims, from which the
2 VALUATION DEFENDANTS derive significant revenue.

3 g. At all relevant times, the Scheme is hidden from plain view. Insureds have
4 no way to know the ways in which the MVR software “rigs the game”
5 against them from the start of their claim.

6 4. The INSURANCE COMPANY DEFENDANTS insure hundreds of thousands of
7 California vehicles owned by individuals or businesses using California-approved form
8 automotive insurance policies. These form policies, which are substantially and materially similar
9 notwithstanding the specific INSURANCE COMPANY DEFENDANT or subsidiary entity that
10 issued it, dictate what the INSURANCE COMPANY DEFENDANT owes its insured in the event
11 of a total loss to a vehicle covered under the policy.

12 5. In California, a total loss occurs when the vehicle incurs enough damage that it is
13 not economical to repair the vehicle. In the event of a total loss, the INSURANCE COMPANY
14 DEFENDANTS’ automobile insurance policies require them to pay the insured the actual cash
15 value (“ACV”) of the subject vehicle measured immediately preceding the loss. The INSURANCE
16 COMPANY DEFENDANT then takes title to the loss vehicle and typically sells it at auction to
17 recoup some of its indemnity payout (*i.e.*, its indemnity loss).

18 **B. The Scheme Violates the Duty of Good Faith Inherent to Every Insurance Contract**
19 **in California**

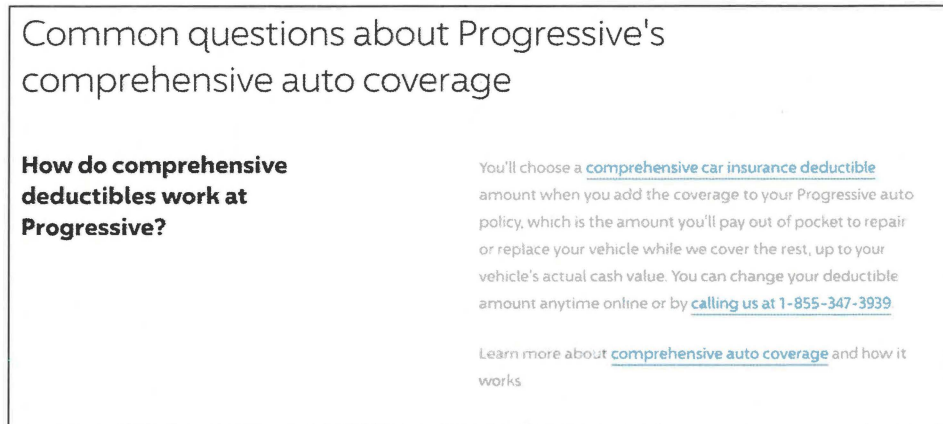
20 6. The Scheme violates, inter alia, the duty of good faith and fair dealing, which is
21 inherent to every insurance contract and thereby owed by each insurer to INSURANCE
22 COMPANY DEFENDANT its respective insureds in California. This duty provides essential
23 protection to insureds, who lack the resources and experience to negotiate with an insurance
24 provider on an equal playing field. This duty to act in good faith obliges each INSURANCE
25 COMPANY DEFENDANT to act honestly. Moreover, it obligates each INSURANCE
26 COMPANY DEFENDANT to act only in ways that do not place the insurer’s interests above the
27 insured’s interests.

7. Therefore, when an INSURANCE COMPANY DEFENDANT states the ACV of an insured's total loss vehicle, it impliedly represents that the ACV is an accurate, objective, and good faith calculation of the vehicle's ACV. That INSURANCE COMPANY DEFENDANT has the legal duty to make an accurate and correct indemnity payment in the first instance.

8. The INSURANCE COMPANY DEFENDANTS reinforce their duty of good faith by marketing their comprehensive insurance coverage to consumers in California.

9. For example, PROGRESSIVE's website reinforces its duty by marketing its comprehensive insurance coverage to consumers as follows:

a. Comprehensive auto coverage pays “up to your vehicle’s actual cash value” less the deductible;³



b. “When an accident causes extensive or costly damage to your vehicle, we may determine it’s not practical to complete repairs (this usually means that repairs cost more than the actual cash value of your vehicle). If this is the case, your car is determined a total loss, and we issue you and/or your lienholder payment for the value of your car (minus your deductible if you’re a Progressive policyholder);”⁴

³ <https://www.progressive.com/auto/insurance-coverages/comprehensive/> (emphasis added) (last visited March 13, 2024)

⁴ <https://www.progressive.com/claims/faq/total-loss/> (emphasis added) (last visited March 13, 2024).

Total loss

When an accident causes extensive or costly damage to your vehicle, we may determine it's not practical to complete repairs (this usually means that repairs cost more than the actual cash value of your vehicle). If this is the case, your car is determined a total loss, and we issue you and/or your lienholder payment for the value of your car (minus your deductible if you're a Progressive policyholder). We need to complete an inspection of your vehicle before we can determine the value and whether it's a total loss.

We know this experience can be stressful—and in some cases emotional. If you have a total loss, we manage the process for you and answer any questions you have along the way. Here are a few of the most common questions.

and

- c. Actual cash value is “the current market value, including any depreciation.”⁵

Actual cash value (ACV)

The actual cash value of an item is the current market value, including any depreciation.

All PROGRESSIVE’s marketing representations lead consumers to believe PROGRESSIVE will pay them the actual cash value (*i.e.*, current market value of their car less the deductible) in the event of total loss.

10. USAA emphasizes its duty by underscoring the accuracy of its ACV calculations in a total loss scenario:

To accurately value the loss for vehicle claims specifically, USAA uses a vendor database tool called CCC One. The actual cash value will be based on comparable vehicle sales in your geographic area as well as your vehicle’s mileage, condition and options.⁶

To accurately value the loss for vehicle claims specifically, USAA uses a vendor database tool called CCC One. The actual cash value will be based on comparable vehicle sales in your geographic area as well as your vehicle’s mileage, condition and options.

⁵ <https://www.progressive.com/answers/glossary/> (emphasis added) (last visited March 13, 2024).

⁶ <https://www.usaa.com/inet/wc/advice-insurance-what-is-actual-cash-value> (emphasis added) (last visited April 2, 2024).

C. The Valuation Defendants Are Knowing and Willing Participants in the Scheme

11. The VALUATION DEFENDANTS are knowing, willing, and essential participants in the Scheme. At all relevant times, the VALUATION DEFENDANTS are direct actors—knowing and willful co-conspirator in the Scheme. The VALUATION DEFENDANTS create, design, and provide the INSURANCE COMPANY DEFENDANTS with the software tools, customization capabilities, and guidance to underpay its insureds. The VALUATION DEFENDANTS conspire with the INSURANCE COMPANY DEFENDANTS by designing and modifying software in a manner that allows the INSURANCE COMPANY DEFENDANTS to improperly and unfairly reduce their indemnity losses at the insureds’ detriment. For instance, at all times, both MITCHELL and PROGRESSIVE know that PROGRESSIVE’s use of MITCHELL’s modified software will materially undervalue the ACVs in the MVRs to the detriment of PROGRESSIVE insureds in Alameda County and throughout the State of California.

12. MITCHELL is a software and data company that provides products and services to the automotive industry. Its flagship product, MITCHELL’s WorkCenter Total Loss (“WCTL”), is a valuation software toolkit MITCHELL represents to both streamline the process for valuing total loss vehicles and generate accurate ACV valuations. WCTL is widely available by license to insurance providers, adjusters, and lienholders. However, MITCHELL knowingly and by design allows PROGRESSIVE to modify WCTL in a manner that creates inaccurate and suppressed ACV valuations that reduce insurers’ indemnity payments for automobile total losses. MITCHELL knows that PROGRESSIVE uses WCTL to underpay total loss claims. Indeed, MITCHELL works closely with PROGRESSIVE to customize and modify the software to achieve PROGRESSIVE’s undervaluation goals.

13. CCC is also a software and data company that provides products and services to the automotive industry. CCC is the leading provider of personal, commercial, and recreational commercial vehicle valuations in the US; it processes more than three million unique valuations each year for more than 300 insurance carriers. Its flagship product, CCC One, is a valuation software toolkit CCC represents to “[d]eliver valuations representing a vehicle’s fair market value

1 based on CCC's market-driven valuation methodology.”⁷ CCC boasts “authoritative, verifiable
2 data” that obviates the need to rely upon “guidebooks or potentially outdated sources” and enables
3 CCC to deliver “a comprehensive valuation report in as little as eight hours...”⁸ Its website claims:

4 Our comprehensive valuation reports provide detailed explanation in familiar terms
5 of the data used to determine a vehicle or CRV valuation. It includes loss details
6 like condition, equipment, and history, as well as comparable details like
7 year/make/model, configuration, additional equipment, and adjusted comparable
8 value.⁹

9 14. The VALUATION DEFENDANTS generate MVRs that rely on the value of
10 purportedly comparable vehicles and other data to calculate a value for any specific vehicle subject
11 to a total loss determination. On information and belief, DEFENDANTS expressly and/or
12 impliedly represent MVRs as accurate and objective measures of the ACV of the total loss vehicle
13 when they know this is representation is incorrect. This leads consumers to believe that when an
14 INSURANCE COMPANY DEFENDANT provides the ACV of a total loss vehicle, that amount
15 is accurate, objective, reliable, and calculated in good faith.

16 15. However, in reality, the INSURANCE COMPANY DEFENDANTS use the
17 VALUATION DEFENDANTS' MVRs intentionally and systematically to provide its insureds
18 understated ACVs for their vehicles subject to a total loss determination. The INSURANCE
19 COMPANY DEFENDANTS thereby systematically underpay and under-indemnify insureds for
20 their total loss claims.

21 16. The VALUATION DEFENDANTS provide off-the-shelf licenses for their MVR
22 software. These publicly available licenses—when used in accordance with California state law—
23 reasonably permit the user to generate accurate and fair approximations of ACV. Non-customized
24 versions of WCTL or CCC One are regularly used by independent adjusters and appraisers.

25 ⁷ [https://www.cccis.com/insurance-carriers/claims-solutions/apd/total-loss-](https://www.cccis.com/insurance-carriers/claims-solutions/apd/total-loss-management#Featured)
26 [management#Featured](https://www.cccis.com/insurance-carriers/claims-solutions/apd/total-loss-management#Featured) (last visited April 2, 2024).

27 ⁸ *Id.*

28 ⁹ *Id.*

17. Nevertheless, with the VALUATION DEFENDANTS' knowledge, cooperation, and assistance, the INSURANCE COMPANY DEFENDANTS intentionally procured and/or implemented a modified version of their respective VALUATION DEFENDANTS' valuation software that purposefully, systematically, and materially understates the ACV on the MVRs that software produces. The INSURANCE COMPANY DEFENDANTS (with the VALUATION DEFENDANTS' assistance and guidance) designed and implemented this modified version of their respective software so that the INSURANCE COMPANY DEFENDANTS could reduce their contractual indemnity obligations to the hundreds of thousands of California insureds they serve.

18. As set forth in detail in Section VI (“Additional Factual Allegations”), below, the INSURANCE COMPANY DEFENDANTS’ respective versions of the VALUATION DEFENDANTS’ MVR software:

- a. selects “comparable” vehicles that do not accurately reflect the subject loss vehicle in the local market area;
- b. relies upon an exclusive matrix of comparable vehicles and condition adjustments that are only available to the INSURANCE COMPANY DEFENDANTS and which is designed to underpay total loss claims; and
- c. applies arbitrary and unsupported adjustments to the condition of the loss vehicle.

Each of these manipulations of the customized MVR software platform understates the ACV that appears on the MVR. Together, these manipulations egregiously understate the ACV.

19. The result is the substantial and material underpayment of indemnity payments the INSURANCE COMPANY DEFENDANTS owe its insureds for automobile total losses under their policies. The INSURANCE COMPANY DEFENDANTS profit by retaining their insureds' funds while reducing their indemnity payments.

D. The Scheme Is Concealed

20. The INSURANCE COMPANY DEFENDANTS employ misleading marketing campaigns to help conceal the Scheme.

21. For example, PROGRESSIVE’s marketing to consumers as providing insurance “up to your vehicle’s actual cash value” is intentionally misleading. PROGRESSIVE knows it uses MITCHELL MVRs to systematically understate ACV and underpay claims. PROGRESSIVE further misleads consumers by claiming to “issue you and/or your lienholder payment for the value of your car,” and that “the actual cash value of an item is the current market value, including any depreciation.” In fact, the amount PROGRESSIVE knowingly and actually provides its insureds in most cases is not ACV, but an amount substantially and materially less than ACV.

22. So, too, are USAA’s representations that it “accurately” calculates ACV. *See* Note 6 above.

23. Insureds who fall victim to the Scheme have limited recourse for at least the following reasons:

- a. The INSURANCE COMPANY DEFENDANTS expressly and/or impliedly represent to their insureds that the values stated on the MVRs are accurate and correct statements of ACV.
- b. The INSURANCE COMPANY DEFENDANTS fail to disclose to insureds any aspect of the Scheme.
- c. Most insureds lack the tools or knowledge to independently calculate an accurate cost-free ACV. Insureds therefore have no means to ascertain the Scheme on their own unless and until they hire an independent appraiser to challenge the valuation through appraisal or hire a lawyer to file suit.

24. Even in cases where consumers suspect they were underpaid for their total loss, insureds have only limited available recourse to invoke appraisal and/or sue to enforce their rights under the policy. Informal negotiation is rarely successful because, on information and belief, the INSURANCE COMPANY DEFENDANTS instruct their adjusters to avoid deviating from the MVRs whenever possible.

25. Publicly available data indicates relatively few insureds—approximately less than two percent of all insureds—ever invoke their policy’s appraisal provision. Rather, the vast

majority of insureds trust and rely on their insurer. They reasonably believe their respective INSURANCE COMPANY DEFENDANT'S false representations that the MVR is an accurate and correct statement of their vehicle's ACV. Insureds' trust and reliance in the undervalued ACVs are reasonable because INSURANCE COMPANY DEFENDANTS owe a duty of good faith and fair dealing. Insureds rely on the INSURANCE COMPANY DEFENDANTS' representations of expertise in the insurance industry and the suitability of MVRs to calculate ACV. Insureds reasonably take as true the INSURANCE COMPANY DEFENDANTS' false representations that they prioritize their insureds' needs and pay the actual cash value less the deductible in the event of total loss. Insureds act on their wholly reasonable assumption that their insurer will treat them in good faith, as required by California law. Almost all California insureds subjected to the Scheme accept the underpayment of their automobile total loss claim without complaint or question.

26. Both the INSURANCE COMPANY DEFENDANTS and the VALUATION DEFENDANTS are aware very few insureds ever file suit against their insurers. Although the aggregate amount of underpayments affecting California insureds is likely in the billions of dollars, the underpayment for any single total loss vehicle most probably averages three to four thousand dollars. Therefore, even if insureds suspect an underpayment, most would conclude that it is not in their economic interest to bring suit against an INSURANCE COMPANY DEFENDANT over that amount of money. The relatively small amount of any single underpayment and the extremely large amount of the underpayments in the aggregate are some of the insidious aspects of the Scheme. An insured should never have to invoke appraisal or sue their insurer to recover money stolen from them by their insurer.

E. The Scheme Is Unlawful, Unfair, and Fraudulent

27. The Scheme constitutes a pattern or practice of unlawful, unfair, and/or fraudulent business practices in violation of California's Unfair Competition Law, Business & Professions Code § 17200, *et seq.* ("UCL"). It further constitutes false advertising under California's False Advertising Law, Business & Profession Code § 17500, *et seq.* ("FAL"). The unlawful, unfair, and/or fraudulent nature of the INSURANCE COMPANY DEFENDANTS' and the

1 VALUATION DEFENDANTS' business practices is indicated by the ways in which they violate
2 at least the following:

- 3 a. California's prohibition against Insurance Claims Fraud under Cal. Pen.
4 Code § 550(b)(2)-(3);
- 5 b. California's prohibition against Criminal Fraud under Cal. Pen. Code
6 § 532(a);
- 7 c. California's prohibition against Criminal Conspiracy under Cal. Pen. Code
8 § 182;
- 9 d. The duty of good faith and fair dealing inherent to any contract of insurance
10 under California law;
- 11 e. California's common law prohibition against civil conspiracy;
- 12 f. California Insurance Code § 332, which requires transparency on the part
13 of any insurer as to all facts material to an insurance contract; and
- 14 g. California's Unfair Insurance Practices Act, codified in Insurance Code
15 § 790, *et seq.*

16 28. Accordingly, the PEOPLE seek injunctive and equitable relief, civil penalties,
17 restitution, and other appropriate relief under the UCL and the FAL (*see* First and Second Causes
18 of Action, Section VIII).

19 II. PARTIES

20 A. Plaintiff

21 29. PLAINTIFF, **THE PEOPLE OF THE STATE OF CALIFORNIA** bring this
22 action by and through Pamela Y. Price, District Attorney of Alameda County, California.

23 B. The INSURANCE COMPANY DEFENDANTS

24 30. The PEOPLE refer to the following groups of Defendants—USAA or the USAA
25 DEFENDANTS, the DOE USAA DEFENDANTS, PROGRESSIVE or the PROGRESSIVE
26 DEFENDANTS, the DOE PROGRESSIVE DEFENDANTS, the DOE MITCHELL INSURING
27
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1 DEFENDANTS, and the DOE CCC INSURING DEFENDANTS—throughout this Complaint as
2 the “INSURANCE COMPANY DEFENDANTS.”

3 **1. The USAA DEFENDANTS**

4 31. Throughout this Complaint, the PEOPLE refer to (a) Defendant UNITED
5 SERVICES AUTOMOBILE ASSOCIATION; (b) Defendant USAA CASUALTY INSURANCE
6 COMPANY; (c) Defendant USAA GENERAL INDEMNITY COMPANY; and (d) the DOE
7 USAA DEFENDANTS in Section II.C, below **collectively as “USAA”** or “the USAA
8 Defendants” unless specifically stated otherwise.

9 32. Defendant **UNITED SERVICES AUTOMOBILE ASSOCIATION** is a
10 reciprocal insurance exchange and thus an unincorporated association. Under Supreme Court case
11 law, its citizenship is based on the citizenship of its members. Defendant UNITED SERVICES
12 AUTOMOBILE ASSOCIATION has members in all fifty states, and is thereby deemed a citizen
13 of each state, including California. Defendant UNITED SERVICES AUTOMOBILE
14 ASSOCIATION may be served with process through its registered agent, the Corporation Service
15 Company, at 2710 Gateway Oaks Drive, Suite 150N, Sacramento, California 95833-3505.

16 33. Defendant **USAA CASUALTY INSURANCE COMPANY** (“USAA CIC”) is a
17 corporation incorporated under the laws of the State of Texas. Defendant USAA CIC is registered
18 to transact business in California with the California Secretary of State. Defendant USAA CIC
19 may be served with process through its registered agent, the Corporation Service Company, at
20 2710 Gateway Oaks Drive, Suite 150N, Sacramento, California 95833-3505.

21 34. Defendant **USAA GENERAL INDEMNITY COMPANY** (“USAA GIC”) is a
22 corporation incorporated under the laws of the State of Texas. Defendant USAA GIC is registered
23 to transact business in California with the California Secretary of State. Defendant USAA GIC
24 may be served with process through its registered agent, the Corporation Service Company, at
25 2710 Gateway Oaks Drive, Suite 150N, Sacramento, California 95833-3505.

26 35. Defendant UNITED SERVICES AUTOMOBILE ASSOCIATION is the parent
27 company of Defendant USAA CIC and Defendant USAA GIC. Defendant UNITED SERVICES
28

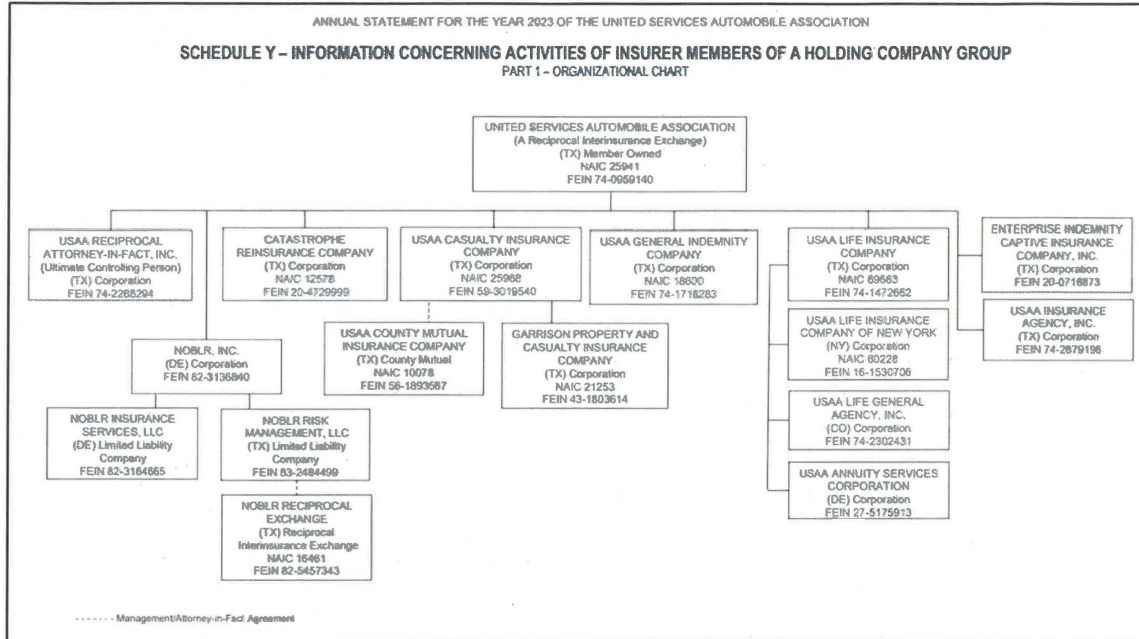
1 AUTOMOBILE ASSOCIATION is a reciprocal exchange of which Defendant USAA CIC and
2 Defendant USAA GIC are members. Defendant UNITED SERVICES AUTOMOBILE
3 ASSOCIATION directly and completely controls all aspects of the operation the other USAA
4 DEFENDANTS, including but not limited to the handling of claims from all insureds with USAA
5 policies (including those issued by any USAA Defendant or other USAA subsidiaries). This
6 control is pervasive and exceeds that normally exercised by a mere parent over its subsidiary.

7 36. USAA is so organized and controlled and its affairs so conducted that the separation
8 between Defendant UNITED SERVICES AUTOMOBILE ASSOCIATION the other USAA
9 DEFENDANTS is merely an instrumentality. Defendant UNITED SERVICES AUTOMOBILE
10 ASSOCIATION creates and enforces the claims handling guidelines for USAA—including all
11 USAA subsidiary companies like Defendants USAA CIC and USAA GIC. Defendant UNITED
12 SERVICES AUTOMOBILE ASSOCIATION trains, manages, and directs all USAA adjusters,
13 claims handlers, and claims supervisors—including those who adjust claims for policies
14 underwritten by specific USAA subsidiary companies.

15 37. On information and belief, Defendant UNITED SERVICES AUTOMOBILE
16 ASSOCIATION identified, evaluated, and selected CCC as a vendor for USAA (and all USAA
17 subsidiary companies), maintains USAA's business relationship with CCC, and is responsible for
18 USAA's use of CCC MVRs. Defendant UNITED SERVICES AUTOMOBILE ASSOCIATION
19 is the USAA party to the Master Communication Services and Software License Agreement,
20 which governs each USAA entity's use of CCC software and MVRs.

21 38. USAA is so organized and controlled and its affairs so conducted that the separation
22 between Defendant UNITED SERVICES AUTOMOBILE ASSOCIATION and Defendant
23 USAA CIC is merely an instrumentality. USAA maintains one central website for all its
24 companies, including Defendant USAA CIC and Defendant USAA GIC. A person who applies
25 for a policy from any USAA entity submits a general application form to USAA, generally; he or
26 she does not submit a form to a specific USAA subsidiary like USAA CIC. Profits from all USAA
27

subsidaries are shared with USAA's members. USAA and its subsidiaries share common officers, directors, and executives.



39. As a result, the Court may disregard the separation between these two entities, and the contacts of one may be imputed to the other. Doing so is necessary to protect the rights of Plaintiff and accomplish justice.

2. The PROGRESSIVE DEFENDANTS

40. The Progressive Group of Insurance Companies (“PROGRESSIVE”) is an insurance conglomerate comprised of approximately sixty-five subsidiaries, through which it provides personal and commercial automobile insurance and other specialty property-casualty insurance and related services throughout the United States and in California. Each of the following Defendants in Section II.B.1, along with each DOE PROGRESSIVE DEFENDANT in II.C., is a “PROGRESSIVE DEFENDANT” and collectively are “PROGRESSIVE” and “PROGRESSIVE DEFENDANTS.” Each PROGRESSIVE DEFENDANT:

- a. issues automotive insurance policies to Californians or other persons who own vehicles located in California; and/or

1 b. provides claims adjustment and handling services for automobile total loss
2 claims. Each PROGRESSIVE DEFENDANT therefore individually and
3 collectively perpetuates the Scheme at issue.

4 41. On information and belief, PROGRESSIVE operates as a single entity in Alameda
5 County, throughout the State of California, and throughout the United States, with Defendant THE
6 PROGRESSIVE CORPORATION fully and completely controlling all PROGRESSIVE
7 operations, including that of all other PROGRESSIVE DEFENDANTS, many of whom lack any
8 proprietary employees or office space whatsoever. This is true regardless of which
9 PROGRESSIVE underwriting subsidiary may appear at the top of an insured's policy declaration
10 page. PROGRESSIVE controls all aspects of that underwriting process and any claims handling
11 deriving therefrom. PROGRESSIVE's control includes, but is not limited to, identical equitable
12 ownership, comingling of funds, use of the same offices, disregard of formalities, and use of one
13 entity as a mere shell for the affairs of another. PROGRESSIVE operates as one single insurer and
14 markets itself to California residents and consumers, investors, and regulatory bodies as such.

15 42. Any separation between the PROGRESSIVE DEFENDANTS should be
16 disregarded and PROGRESSIVE should be treated as a singular, unified entity. Without unified
17 treatment, inequities will occur due to PROGRESSIVE's use of and funding for the various shells
18 at issue here.

19 43. A detailed organizational chart for PROGRESSIVE, including, but not limited to,
20 all PROGRESSIVE DEFENDANTS is publicly available as part of PROGRESSIVE'S quarterly
21 statement filings with the California Department of Insurance.¹⁰

22 44. Defendant **THE PROGRESSIVE CORPORATION** is the top-level parent entity
23 controlling and directing all operations of the progressive Group of Companies (and all other
24

25 ¹⁰ See, e.g., Quarterly Statement as of March 31, 2023 of the Condition and Affairs of the
26 Progressive Advanced Insurance Company, available at
27 [https://interactive.web.insurance.ca.gov/apex_extprd/f?p=144:6:6993664805759::NO:RP,6:P6_](https://interactive.web.insurance.ca.gov/apex_extprd/f?p=144:6:6993664805759::NO:RP,6:P6_COMPANY_ID,P6_NAIC:12370,11851#:~:text=Statement%20Pages%2DQ1-,Statement%20Pages%2DQ2,-row(s)%201)
28 [COMPANY_ID,P6_NAIC:12370,11851#:~:text=Statement%20Pages%2DQ1-](https://interactive.web.insurance.ca.gov/apex_extprd/f?p=144:6:6993664805759::NO:RP,6:P6_COMPANY_ID,P6_NAIC:12370,11851#:~:text=Statement%20Pages%2DQ1-,Statement%20Pages%2DQ2,-row(s)%201)
[,Statement%20Pages%2DQ2,-row\(s\)%201](https://interactive.web.insurance.ca.gov/apex_extprd/f?p=144:6:6993664805759::NO:RP,6:P6_COMPANY_ID,P6_NAIC:12370,11851#:~:text=Statement%20Pages%2DQ1-,Statement%20Pages%2DQ2,-row(s)%201) (last visited Jan. 10, 2024).

1 PROGRESSIVE DEFENDANTS), including, but not limited to, the issuance of policies,
2 attachment of coverage, renewals, claims handling and adjustment, appraisal, and claims
3 settlement.

4 45. THE PROGRESSIVE CORPORATION does business within and throughout the
5 State of California, including, but not limited to, Alameda County and numerous other California
6 counties. THE PROGRESSIVE CORPORATION may be served with process through its
7 registered California agent, CT Corporation Systems, at 330 N. Brand Boulevard, Suite 700,
8 Glendale, California 91203. THE PROGRESSIVE CORPORATION directs and controls the
9 operations of all other PROGRESSIVE DEFENDANTS.

10 46. Defendant **PROGRESSIVE DIRECT HOLDINGS, INC.** is an immediate
11 subsidiary of THE PROGRESSIVE CORPORATION. PROGRESSIVE DIRECT HOLDINGS,
12 INC. does business within the State of California, including, but not limited to, Alameda County
13 and numerous other California counties. PROGRESSIVE DIRECT HOLDINGS, INC. may be
14 served with process through its registered California agent, CT Corporation Systems, at 330 N.
15 Brand Boulevard, Suite 700, Glendale, California 91203.

16 47. Defendant **PROGRESSIVE ADVANCED INSURANCE COMPANY** issues
17 automotive insurance policies for PROGRESSIVE in California. PROGRESSIVE ADVANCED
18 INSURANCE COMPANY does business within and throughout the State of California, including,
19 but not limited to, Alameda County and numerous other California counties. PROGRESSIVE
20 ADVANCED INSURANCE COMPANY may be served with process through its registered
21 California agent, CT Corporation Systems, at 330 N. Brand Boulevard, Suite 700, Glendale,
22 California 91203.

23 48. Defendant **PROGRESSIVE DIRECT INSURANCE COMPANY** issues
24 automotive insurance policies for PROGRESSIVE in California. PROGRESSIVE DIRECT
25 INSURANCE COMPANY does business within the State of California, including, but not limited
26 to, Alameda County and numerous other California counties. PROGRESSIVE DIRECT
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1 INSURANCE COMPANY may be served with process through its registered California agent, CT
2 Corporation Systems, at 330 N. Brand Boulevard, Suite 700, Glendale, California 91203.

3 49. Defendant **PROGRESSIVE CASUALTY INSURANCE COMPANY** issues
4 automotive insurance policies for PROGRESSIVE in California. PROGRESSIVE CASUALTY
5 INSURANCE COMPANY does business within the State of California, including, but not limited
6 to, Alameda County and numerous other California counties. PROGRESSIVE CASUALTY
7 INSURANCE COMPANY may be served with process through its registered California agent, CT
8 Corporation Systems, at 330 N. Brand Boulevard, Suite 700, Glendale, California 91203.

9 50. Defendant **PROGRESSIVE COMMERCIAL CASUALTY COMPANY** issues
10 automotive insurance policies for PROGRESSIVE in California. PROGRESSIVE
11 COMMERCIAL INSURANCE COMPANY does business within the State of California,
12 including, but not limited to, Alameda County and numerous other California counties.
13 PROGRESSIVE COMMERCIAL INSURANCE COMPANY may be served with process
14 through its registered California agent, CT Corporation Systems, at 330 N. Brand Boulevard, Suite
15 700, Glendale, California 91203.

16 51. Defendant **PROGRESSIVE EXPRESS INSURANCE COMPANY** issues
17 automotive insurance policies for PROGRESSIVE in California. PROGRESSIVE EXPRESS
18 INSURANCE COMPANY does business within the State of California, including, but not limited
19 to, Alameda County and numerous other California counties. PROGRESSIVE EXPRESS
20 INSURANCE COMPANY may be served with process through its registered California agent, CT
21 Corporation Systems, at 330 N. Brand Boulevard, Suite 700, Glendale, California 91203.

22 52. Defendant **PROGRESSIVE NORTHWESTERN INSURANCE COMPANY**
23 issues automotive insurance policies for PROGRESSIVE in California. PROGRESSIVE
24 NORTHWESTERN INSURANCE COMPANY does business within the State of California,
25 including, but not limited to, Alameda County and numerous other California counties.
26 PROGRESSIVE NORTHWESTERN INSURANCE COMPANY may be served with process
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1 through its registered California agent, CT Corporation Systems, at 330 N. Brand Boulevard, Suite
2 700, Glendale, California 91203.

3 53. Defendant **PROGRESSIVE SELECT INSURANCE COMPANY** issues
4 automotive insurance policies for PROGRESSIVE in California. PROGRESSIVE SELECT
5 INSURANCE COMPANY does business within the State of California, including, but not limited
6 to, Alameda County and numerous other California counties. PROGRESSIVE SELECT
7 INSURANCE COMPANY may be served with process through its registered California agent, CT
8 Corporation Systems, at 330 N. Brand Boulevard, Suite 700, Glendale, California 91203.

9 54. Defendant **PROGRESSIVE SPECIALTY INSURANCE COMPANY** issues
10 automotive insurance policies for PROGRESSIVE in California. PROGRESSIVE SPECIALTY
11 INSURANCE COMPANY does business within the State of California, including, but not limited
12 to, Alameda County and numerous other California counties. PROGRESSIVE SPECIALTY
13 INSURANCE COMPANY may be served with process through its registered agent, CT
14 Corporation Systems, at 330 N. Brand Boulevard, Suite 700, Glendale, California 91203.

15 55. Defendant **ASI SELECT AUTO INSURANCE CORP.** issued automotive
16 insurance policies for PROGRESSIVE in California during the relevant period. ASI SELECT
17 AUTO INSURANCE CORP. is formed under the laws of California and does business within the
18 State of California, including, but not limited to, Alameda County and numerous other California
19 counties. ASI SELECT AUTO INSURANCE CORP. is a citizen of the state of California. ASI
20 SELECT AUTO INSURANCE CORP may be served with process through its registered
21 California agent, Corporate Creations Network, Inc., at 5901 W. Century Boulevard, Los Angeles,
22 California 90045.¹¹

23
24 ¹¹ “ASI Select Auto Insurance Corp. is domiciled in California and is a member of the Progressive
25 Insurance Group and is wholly owned by ARX Holding Corp. (“ARX”), a holding company
26 incorporated in Delaware. ARX is a wholly-owned subsidiary of The Progressive Corporation
27 (“TCP”), a publicly traded holding company incorporated in Ohio. [ASI Select Auto Insurance
28 Corp.] was incorporated in California on January 13, 2016, as ASI Select Automobile Insurance
Corp. Effective March 20, 2017, the Company's name was changed to ASI Select Auto Insurance
Corp. On April 11, 2017, the Company received its certificate of authority from the California

1 56. Defendant **PACIFIC MOTOR CLUB** issues automotive insurance policies for
2 PROGRESSIVE in California. PACIFIC MOTOR CLUB maintains its principal place of business
3 in Cordova, California. PACIFIC MOTOR CLUB is formed under the laws of California and does
4 business within the State of California, including, but not limited to, Alameda County and
5 numerous other California counties. PACIFIC MOTOR CLUB is a citizen of the State of
6 California. PACIFIC MOTOR CLUB may be served with process through its registered California
7 agent, CT Corporation Systems, at 818 W 7th St Fl 2, Los Angeles, CA 90017-3407.

8 **C. The VALUATION DEFENDANTS**

9 57. The PEOPLE refer to the following groups of Defendants—the CCC
10 DEFENDANTS, the DOE CCC DEFENDANTS, the MITCHELL DEFENDANTS, and the DOE
11 MITCHELL DEFENDANTS—throughout this Complaint as the “VALUATION
12 DEFENDANTS.”

13 **1. The CCC DEFENDANTS**

14 58. The PEOPLE refer collectively to Defendants CCC INTELLIGENT SOLUTIONS
15 HOLDINGS INC. and CCC INTELLIGENT SOLUTIONS INC. as “CCC” or “the CCC
16 DEFENDANTS” throughout this Complaint. The CCC DEFENDANTS provide valuation
17 services and MVRs as part of the Scheme to the USAA DEFENDANTS.

18 59. Defendant **CCC INTELLIGENT SOLUTIONS HOLDINGS INC.** is a
19 Delaware corporation with its principal place of business in Illinois. CCC INTELLIGENT
20 HOLDINGS INC. may be served with process through its registered agent The Corporation Trust
21 Co., at 1209 Orange Street, Wilmington DE 19801.

22 60. Defendant **CCC INTELLIGENT SOLUTIONS INC.** is a wholly owned
23 subsidiary of Defendant CCC INTELLIGENT SOLUTIONS HOLDINGS INC. Defendant CCC

24 _____
25 Department of Insurance and is licensed to write private passenger automobile insurance,
26 exclusively in California. The first policies were written in August 2017. The Company stopped
27 writing new business in October 2019. Beginning on April 3, 2020, all remaining business began
renewing on Progressive West Insurance Company.” ASI Select Auto Insurance Corp. Statutory-
Basis Financial Statements for the years ended December 31, 2020 and 2019, available at
<https://www.insurance.ca.gov/> (last visited Jan 10, 2024).

1 INTELLIGENT SOLUTIONS INC. is a registered with the California Secretary of State to do
2 business within the State. CCC INTELLIGENT SOLUTIONS INC. may be served with process
3 through its registered agent, CSC-Lawyers Incorporating Service, at 2710 Gateway Oaks Drive,
4 Suite 150N Sacramento, California 95833-3505.

5 **2. The MITCHELL DEFENDANTS**

6 61. The PEOPLE refer collectively to Defendants MITCHELL INTERNATIONAL,
7 INC. and the DOE MITCHELL DEFENDANTS collectively throughout this Complaint as
8 “MITCHELL” or the “MITCHELL DEFENDANTS.

9 62. Defendant **MITCHELL INTERNATIONAL, INC.** is a corporation organized
10 and existing under the laws of the State of Delaware with its principal place of business in San
11 Diego, California. MITCHELL INTERNATIONAL, INC. is a citizen of the State of California.
12 MITCHELL INTERNATIONAL, INC. publishes information and technology tools for the
13 automobile collision, repairs and property, and casualty insurance industries. MITCHELL
14 INTERNATIONAL, INC. is the author and publisher of and owns the rights to the computer
15 software programs involved in this case, including the WorkCenter Total Loss (“WCTL”)
16 software. MITCHELL INTERNATIONAL, INC. may be served with process through its
17 registered agent, CT Corporation System, 330 N. Brand Boulevard, Glendale, California 91203.

18 **D. DOE Party Pleadings**

19 63. **DOE DEFENDANTS 1 THROUGH 100** are the fictitious names representing
20 and in place of the true names and capacities of certain defendants, which are unknown to the
21 PEOPLE at this time. The PEOPLE therefore sue said defendants by such fictitious names pursuant
22 to Code of Civil Procedure Section 474. The PEOPLE allege that DOE Defendants 1 through 100
23 are in some manner responsible for the events alleged herein.

24 64. **DOE DEFENDANTS 1-100** may include, but are not necessarily limited to:

25 a. **DOE MITCHELL INSURING DEFENDANTS**, which may include, but
26 are not necessarily limited to:

27 1. Additional insurance companies who use MITCHELL;

2. Subsidiary or parent entities, as well as other underwriting entities
of such additional insurance companies who use MITCHELL; and

3. The directors, officers, and/or agents of such additional insurance
companies who use MITCHELL;

b. **DOE PROGRESSIVE DEFENDANTS**, which may include, but are not
necessarily limited to

1. Additional PROGRESSIVE Defendants (*e.g.*, subsidiary or parent
entities, as well as other underwriting entities); and

2. The PROGRESSIVE Defendants' directors, officers, and/or
agents;

c. **DOE MITCHELL DEFENDANTS**, which may include, but are not
necessarily limited to:

1. Additional MITCHELL defendants (*e.g.*, subsidiary or parent
entities, as well as other underwriting entities); and

2. MITCHELL's directors, officers, and/or agents.

d. **DOE CCC INSURING DEFENDANTS**, which may include, but are not
necessarily limited to:

1. Additional insurance companies who use CCC;

2. Subsidiary or parent entities, as well as other underwriting entities
of additional insurance companies who use CCC; and

3. The directors, officers, and/or agents of the additional insurance
companies who use CCC;

e. **DOE USAA DEFENDANTS**, which may include, but are not necessarily
limited to:

1. Additional USAA DEFENDANTS (*e.g.*, subsidiary or parent
entities, as well as other underwriting entities); and

2. USAA DEFENDANTS' directors, officers, and/or agents;

f. **DOE CCC DEFENDANTS**, which may include, but are not necessarily limited to:

1. Additional CCC DEFENDANTS (*e.g.*, subsidiary or parent entities, as well as other underwriting entities); and
2. CCC's directors, officers, and/or agents.

65. The PEOPLE will seek leave to amend this Complaint to show the DOE Defendants' true names and capacities when these facts are determined.

66. Reference in this Complaint to any act or omission of any Defendant, individually or collectively, unless otherwise specified, shall be deemed to mean the act of each Defendant acting jointly and severally. Such allegation shall be deemed to mean that each Defendant did the alleged acts and omissions through its directors, officers, employees, agents, and/or representatives while they were acting within the actual or ostensible scope of their authority.

III. JURISDICTION AND VENUE

67. The PEOPLE incorporate by reference Paragraphs 1 through 66 as though fully set forth herein.

68. This Court has subject matter jurisdiction over this action pursuant to Article VI, section 10 of the California Constitution and sections 393 and 731 of the Code of Civil Procedure.

69. The PEOPLE, by and through Alameda County District Attorney Pamela Y. Price, may bring a civil action to enjoin any person who violates the UCL or FAL, and may seek civil penalties and restitution for each violation. Bus. & Prof. Code, §§ 17203, 17204, 17206, 17535, 17536(a).

70. This Court may properly exercise jurisdiction over each Defendant. Each does business within the State of California. Notwithstanding state of incorporation, principal place of business, or citizenship of limited liability company membership, each Defendant hereto has sufficient minimum contacts with the State of California, including, but not limited to, the sale, provision, and maintenance of contracts for insurance coverage and the adjustment of claims pursuant to them for California residents and businesses in California to justify the Court's exercise

1 of jurisdiction over them. Each Defendant intentionally directs its business activities at the forum
2 and its residents and businesses such that, by virtue of the benefits each Defendant receives, each
3 Defendant should reasonably expect to be hauled into the forum courts. Each Defendant has
4 thereby purposefully availed itself of the privileges and benefits of doing business in California.
5 The PEOPLE bring claims against each Defendant that arise from and relate to each Defendants'
6 respective contacts with California. The Court's exercise of jurisdiction over each Defendant is
7 reasonable; the maintenance of this suit does not offend traditional notions of fair play and
8 substantial justice.

9 71. Defendants **ASI SELECT AUTO INSURANCE CORP.** and **PACIFIC**
10 **MOTOR CLUB** are incorporated under the laws of California and maintain their principal place
11 of business in California. Defendant **UNITED SERVICES AUTOMOBILE ASSOCIATION** is
12 deemed a citizen of California by virtue of the citizenship of its members, which includes
13 California. Defendant **MITCHELL INTERNATIONAL, INC.** maintains its principal place of
14 business in California. Therefore, **ASI SELECT AUTO INSURANCE CORP., PACIFIC**
15 **MOTOR CLUB, UNITED SERVICES AUTOMOBILE ASSOCIATION,** and **MITCHELL**
16 **INTERNATIONAL, INC.** are each a forum state defendant and their presence in the matter
17 precludes removal under 28 U.S.C. § 1441.

18 72. Venue is proper in this Court pursuant to Code of Civil Procedure section 393
19 because DEFENDANTS' violations of law that occurred in Alameda County are part of the case
20 and, independently, because Defendants' business practices affect Alameda County consumers.
21 This action concerns DEFENDANTS' commissions and omissions vis-à-vis contracts for policies
22 of insurance coverage, which at all relevant times were (1) marketed and sold to residents of this
23 County; and (2) entered into in this County to insure property situated in this County against loss
24 occurring in this County. Instances of DEFENDANTS' wrongful conduct complained of herein
25 occurred in or were targeted at the residents of Alameda County.
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74. The FAL prohibits “untrue or misleading” statements made in connection with offering of a service or sale, which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading. Bus. & Prof. Code § 17500.

76. DEFENDANTS who violate the UCL and FAL may be enjoined from engaging in their unlawful, unfair, and fraudulent business practices, and may be ordered to pay restitution. Bus. & Prof. Code §§ 17203, 17535. They are liable for civil penalties up to \$2,500 for each violation of either statute. Cal. Bus. & Prof. Code §§ 17206(a), 17536(a). A violation of the FAL is also a violation of the UCL, and remedies are cumulative. Bus. & Prof. Code, §§ 17200, 17205, 17534.5.

24
COMPLAINT

**V. CALIFORNIA'S REGULATION OF AUTOMOTIVE
TOTAL LOSS INSURANCE CLAIMS**

78. In California, a vehicle is deemed a total loss where the cost to repair the vehicle plus the salvage value of the vehicle exceeds the actual cash value of the vehicle value prior to the loss.

79. California's Fair Claims Settlement Practices Regulations provide, in relevant part, as follows:

(b) In evaluating automobile total loss claims the following standards shall apply:

(1) The insurer may elect a cash settlement that shall be based upon the actual cost of a "comparable automobile" less any deductible provided in the policy....

(2) A "comparable automobile" is one of like kind and quality, made by the same manufacturer, of the same or newer model year, of the same model type, of a similar body type, with options and mileage similar to the insured vehicle.

Newer model year automobiles may not be used as comparable automobiles unless there are not sufficient comparable automobiles of the same model year to make a determination as set forth in Section 2695.8(b)(4), below. In determining the cost of a comparable automobile, the insurer may use either the asking price or actual sale price of that automobile. Any differences between the comparable automobile and the insured vehicle shall be permitted only if the insurer fairly adjusts for such differences. Any adjustments from the cost of a comparable automobile must be discernible, measurable, itemized, and specified as well as appropriate in dollar amount and so documented in the claim file. Deductions taken from the cost of a comparable automobile that cannot be supported shall not be used. The actual cost of a comparable automobile shall not include any deduction for the condition of a loss vehicle unless the documented condition of the loss vehicle is below average for that particular year, make and model of vehicle. This subsection shall not preclude deduction for prior and/or unrelated damage to the loss vehicle. A comparable automobile must have been available for retail purchase by the general public in the local market area within ninety (90) calendar days of the final settlement offer. The comparable automobiles used to calculate the cost shall be identified by the vehicle identification number (VIN), the stock or order number of the vehicle from a licensed dealer, or the license plate number of that comparable vehicle if this information is available. The identification shall

also include the telephone number (including area code) or street address of the seller of the comparable automobile.

(4) The insurer shall take reasonable steps to verify that the determination of the cost of a comparable vehicle is accurate and representative of the market value of a comparable automobile in the local market area. [...] *The cost of a comparable automobile shall be determined as follows and, once determined, shall be fully itemized and explained in writing for the claimant at the time the settlement offer is made:*

(A) when comparable automobiles are available or were available in the local market area in the last 90 days, the average cost of two or more such comparable automobiles; or,

(B) when comparable automobiles are not available or were not available in the local market area in the last 90 days, the average of two or more quotations from two or more licensed dealers in the local market area; or,

(C) the cost of a comparable automobile as determined by a computerized automobile valuation service that produces statistically valid fair market values within the local market area; or,

(D) if it is not possible to determine the cost of a comparable automobile by using one of the methods described in subsections (b)(3)(A), (b)(3)(B) and (b)(3)(C) of this section, the cost of a comparable automobile shall otherwise be supported by documentation and fully explained to the claimant. Any adjustments to the cost of a comparable automobile shall be discernible, measurable, itemized, and specified as well as appropriate in dollar amount and so documented in the claims file. Deductions taken from the cost of a comparable automobile that cannot be supported shall not be used[.]

10 Cal. Code Regs. § 2695.8(b) (“Additional Standards Applicable to Automobile Insurance”) (emphasis added); *see also* Cal. Vehicle Code § 544.

VI. ADDITIONAL FACTUAL ALLEGATIONS

80. The PEOPLE incorporate by reference all preceding paragraphs as though fully set forth herein.

1 **A. The INSURANCE COMPANY DEFENDANTS Write Auto Insurance Coverage for**
2 **Hundreds of Thousands of California Insureds.**

3 81. The INSURANCE COMPANY DEFENDANTS write personal and commercial
4 automotive insurance in California. In doing so, they provide coverage to hundreds of thousands
5 of California residents and businesses each year.

6 82. The INSURANCE COMPANY DEFENDANTS provide coverage using standard
7 form automotive insurance policies. These policies, which are substantially and materially similar
8 notwithstanding the specific entity that issues it, dictate what each INSURANCE COMPANY
9 DEFENDANT owes its insured in the event of a total loss to a vehicle covered under the policy.¹²

10 **B. The INSURANCE COMPANY DEFENDANTS Must Pay Actual Cash Value for**
11 **Total Loss Claims.**

12 83. When an insured vehicle incurs damage, the insurance policy between each
13 INSURANCE COMPANY DEFENDANT and its insured dictates how that INSURANCE
14 COMPANY DEFENDANT should compensate the insured. This compensation is the contractual
15 benefit for which each insured pays premiums to its respective INSURANCE COMPANY
16 DEFENDANT.

17 84. In the event of damage to an insured vehicle—*i.e.*, a “loss”—each INSURANCE
18 COMPANY DEFENDANT retains the option under its form policies in use in California to either
19 (a) compensate the insured with a cash payment; or (b) pay to repair/replace the damaged property.

20 85. A “total loss” is the outcome of substantial damage to an insured vehicle—most
21 commonly from a collision or hailstorm. Under California law, a total loss occurs when the insurer
22 deems it uneconomical to repair the vehicle—*i.e.*, when the cost to repair the vehicle plus its
23 salvage value equals or exceeds the vehicle’s actual cash value.¹³

24 _____
25 ¹² Each INSURANCE COMPANY DEFENDANT’s form policies, which are in use in California,
26 must be filed with the California Department of Insurance. Each form policy at issue is therefore
27 available publicly through either the Department’s public online document management portal or
28 the Department office.

¹³ This simple formula is commonly referred to as the “Total Loss Threshold.” *See* Section V.

1 86. Under the INSURANCE COMPANY DEFENDANTS' form automotive policies
2 used in California, each INSURANCE COMPANY DEFENDANT is obligated to compensate its
3 insured for the ACV of the vehicle when a total loss occurs. In exchange, the insured must transfer
4 title to the total loss vehicle to the respective INSURANCE COMPANY DEFENDANT. The
5 INSURANCE COMPANY DEFENDANT then sells the total loss vehicle at auction to recoup
6 some of its indemnity loss.

7 87. The nature of this transaction creates a dark incentive for the INSURANCE
8 COMPANY DEFENDANT: if it can minimize its ACV payment to the insured, but nevertheless
9 total the vehicle and sell the vehicle for scrap, it minimizes its indemnity losses on the claim. Thus,
10 the INSURANCE COMPANY DEFENDANT is incentivized to understate the ACV, as this tends
11 to push more vehicles from a repair to total loss, which benefits the respective INSURANCE
12 COMPANY DEFENDANTS.

13 88. Although California statutory law does not define ACV in the automotive context,
14 ACV is well understood to be the fair market value of the subject vehicle at the moment preceding
15 the total loss. Additionally, the California's Regulation of Automotive Total Loss Settlements
16 specifies the appropriate methodology to determine ACV, and requires any "computerized
17 automobile valuation service" to "produce statistically valid fair market values within the local
18 market area," 10.Cal. Code Regs. § 2695.8(b), of which the ACVs from the modified software are
19 not.

20 89. Each INSURANCE COMPANY DEFENDANT misleadingly informs consumers
21 that it pays ACV, and that "ACV is the current market value, including any depreciation."
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C. Each Insurance Company Defendant uses a Software Tool to Calculate the “Value” of an Insured’s Total Loss Vehicle.

90. When an INSURANCE COMPANY DEFENDANT pays an insured for a total loss vehicle claim,¹⁴ it presents the insured with a written statement of the loss vehicle’s ACV, which is the basis of what it owes the insured in compensation for the loss.

91. In electing to inform its insured of the loss vehicle’s ACV, the INSURANCE COMPANY DEFENDANT owes certain obligations, which are inherent to the duty of good faith and fair dealing it owes each insured. The INSURANCE COMPANY DEFENDANT must inform the insured of the ACV in good faith with accuracy and honesty. Thus, the INSURANCE COMPANY DEFENDANT’s written statement of ACV is both its representation that (a) the stated amount fairly and accurately represents the loss vehicle’s ACV; and (b) the stated amount fairly and accurately represents what the INSURANCE COMPANY DEFENDANT is obligated to pay the insured under the policy.

92. Each INSURANCE COMPANY DEFENDANT has contracted with one of the VALUATION DEFENDANTS to outsource the calculation of ACV and the preparation of its ACV statement to the insured. Pursuant to a services contract, one of the VALUATION DEFENDANTS provides a software platform to each INSURANCE COMPANY DEFENDANT, which that INSURANCE COMPANY DEFENDANT uses to produce MVRs. The INSURANCE COMPANY DEFENDANT then provides the MVR to the insured in support of its statement of ACV (or, at least, incorporates the findings of the MVR into its offer of settlement to the insured).

93. USAA uses CCC for MVR production and PROGRESSIVE uses MITCHELL.

94. In each instance, the INSURANCE COMPANY DEFENDANTS use the VALUATION DEFENDANT’S MVR software tool to intentionally understate the value of its insureds’ vehicles after a total loss and thereby underpay their insureds’ claim. They do so at all

¹⁴ This assumes the insured suffers a covered loss, the insured files a claim with their respective INSURANCE COMPANY DEFENDANT, the INSURANCE COMPANY DEFENDANT determines the loss to be a total loss, and the insured elects to be compensated in cash.

1 times with the knowing and purposeful assistance of the VALUATION DEFENDANT with whom
2 they contracted for MVR services.

3 **1. USAA Uses CCC’s One Software to Calculate the “Value” of an Insured’s**
4 **Total Loss Vehicle¹⁵**

5 95. USAA uses a MVR software tool from CCC¹⁶ to intentionally understate the value
6 of its insureds’ vehicles after a total loss and thereby underpay their insureds’ claim. The software
7 produces MVRs—specifically, CCC One Market Value Reports—which use a deceptive array of
8 so-called “comparable” vehicles and a list of outcome-determinative adjustments to lower the
9 value at which USAA values the first-party insureds’ total loss vehicles. USAA then makes a
10 lowball settlement offer to their insured based on the MVR understated value and “hold the line”—
11 *i.e.*, USAA leverages its superior bargaining position on that value until the insured capitulates.
12 Once the insured accepts the lowball offer, USAA obtains title to their insured’s vehicle and then
13 resell it at auction to minimize its indemnity losses.

14 96. To be certain, USAA uses CCC’s MVRs for one purpose: to pay its insureds less
15 than it owes under the insured’s respective automotive insurance policy. The CCC One Market
16 Value Report is not an appraisal. It is not objective, accurate, or fair with regard to the interests of
17 USAA’s insureds. It is neither measurable, discernible, itemized, nor specified.

18 97. But USAA treats it as such by presenting the MRV (or, at least, the conclusions
19 derived therefrom) to the insureds as a *bona fide*, genuine, good faith determination of the vehicle’s

21 ¹⁵ The allegations in Subsection VI.C.1—“*The USAA DEFENDANTS Use CCC One Software to*
22 *Calculate the “Value” of an Insured’s Total Loss Vehicle*” also pertain to DOE CCC INSURING
23 DEFENDANTS who, like the USAA DEFENDANTS, use CCC MVRs to underpay their insureds.

24 ¹⁶ Certified Collateral Corporation Information Services Inc. (“CCC”) provides vehicle value
25 reports to insurance companies. CCC utilizes its own methods to calculate a value for a vehicle—
26 which is ***not*** the fair market value or actual cash value—that purports to reflect the actual cost of
27 a replacement vehicle in the market where the vehicle would have been sold, had it not been
28 deemed a total loss. In reality, CCC’s One Market Value Reports grossly understate the value of
the vehicle in question using a multitude of arbitrary, ambiguous “adjustments” to mismatched
“comparable” value vehicles. Indeed, CCC markets its valuation reports to insurance companies
as a tool to increase their indemnity savings (*i.e.*, to shortchange their insureds).

1 actual cash value. In doing so, USAA relies on their superior bargaining position inherent to is
2 relationship as insurer to its insureds.

3 98. USAA touts this as a relationship of trust and commitment in their advertising—
4 *e.g.*, “Get coverage for your car, home, health, life and family from a company that cares about
5 what’s important to you”¹⁷ and “USAA stands for United Services Automobile Association. But
6 we’re not just an acronym. With roots grounded in the military, we’re built on the core values of
7 our founders—service, loyalty, honesty and integrity.”¹⁸

8 99. But USAA knows exactly how use of CCC’s MVRs places their interests above
9 that of their insureds in violation of their duty and California law. USAA knows that CCC’s MVRs
10 are inaccurate, biased, and inherently unfair to its insureds. Moreover, USAA knows their
11 systematic use of CCC MVRs constitutes bad faith claims handling, fraud, and an array of other
12 violations under California law. Nevertheless, USAA improperly uses CCC reports systematically,
13 pervasively, knowingly, and intentionally to shortchange its insureds’ claims. This process
14 defrauds the insured and constitutes a breach of USAA’s duty of good faith and fair dealing.

15 100. CCC offers an “off-the-shelf” version of its MVR software to anyone who wants to
16 purchase it. Any insurer, independent appraiser, or insured may acquire a license to use CCC’s
17 off-the-shelf MVR software and generate MVRs. However, as explained herein, USAA and CCC
18 worked together to design and implement a highly customized MVR software for USAA. No
19 private adjusters or insureds have any way of accessing the customized software CCC created for
20 and with USAA. CCC’s off-the-shelf WCTL software produces an MVR for any subject vehicle
21 that varies substantially and materially from an MVR produced by the customized version used by
22 USAA with CCC’s help and assistance. USAA’s customized MVR software version is specifically
23 and purposefully designed to underpay total loss claims. As used by USAA, CCC’s MVR software
24 does not produce a statistically valid fair market value within the local market. This is markedly
25 unfair to USAA’s insureds.

26 ¹⁷ See <https://www.usaa.com/inet/wc/insurance-products> (last visited May 16, 2022).

27 ¹⁸ See <https://www.usaa.com/about/> (last visited May 16, 2022).

1 101. USAA uses CCC's MVRs with one primary goal in mind: to pay its insureds less
2 than it owes under the insured's respective automotive insurance policy.

3 102. Neither USAA nor CCC provide anything to USAA's insureds advising them that
4 MVR, as modified by/for and utilized by USAA, is a highly modified version of the off-the-shelf
5 version of MVR that produces statistically invalid, artificially low ACVs. Nor does USAA or CCC
6 advise USAA's insureds that: (a) the comparables utilized in the MVRs are not the best
7 comparables available to USAA or CCC at the time the MVRs are generated; (b) that the
8 comparables utilized by USAA or CCC do not generate valid fair market values for the local
9 market; and (c) the methodology utilized by USAA and CCC does not comply with Additional
10 Standards Applicable to Automobile Insurance. 10 Cal. Code Regs. § 2695.8(b).

11 103. USAA's use of CCC MVRs places USAA's interests above those of its insureds in
12 violation of its duties and California law. USAA and CCC know the CCC MVRs are inaccurate,
13 biased, and unfair to its insureds. Moreover, USAA and CCC know that USAA's systematic use
14 of CCC MVRs facilitates and results in bad faith claims handling and fraud under California law.
15 Nevertheless, USAA improperly uses CCC MVRs pervasively, knowingly, and intentionally to
16 shortchange its insureds' claims. This process defrauds the insured and constitutes a breach of
17 USAA's duty of good faith and fair dealing.

18 104. USAA's knowing, systematic, and intentional use of deceptive CCC MVRs to
19 undervalue their insureds' vehicles and underpay their claims is part of a company-wide pattern or
20 practice of bad faith claims handling and fraud, which USAA imposes upon all its California
21 insureds, including those in Alameda County, who experience total loss auto claims. It is the result
22 of USAA's corporate goal of reducing their indemnity expenses across their entire California
23 automotive insurance market, including Alameda County.

24 105. Examination of claims across the State will show a Scheme perpetrated against
25 California insureds in a near-uniform and consistent way. And, as discussed below, USAA actively
26 and fraudulently conceals its conduct from insureds. Comparatively few insureds invoke appraisal,
27 hire a third-party adjuster to assist them, or file suit to invoke their rights against USAA. The
28

1 overwhelming majority of USAA's insureds remain in the dark, which USAA and CCC use to
2 continue their unlawful, unfair, and fraudulent conduct.

3 **2. PROGRESSIVE Uses MITCHELL's WCTL Software to Calculate the**
4 **"Value" of an Insured's Total Loss Vehicle.¹⁹**

5 106. In almost every instance, PROGRESSIVE informs the insured of the ACV of the
6 loss vehicle using a MITCHELL MVR. PROGRESSIVE knowingly uses MITCHELL's modified
7 WCTL software toolkit to produce MVRs that intentionally understate the value of its insureds'
8 vehicles after a total loss, and thereby underpays its insureds' total loss claims. MITCHELL MVRs
9 use a deceptive array/matrix of so-called "comparable" vehicles and a list of outcome-
10 determinative adjustments to improperly lower the value at which PROGRESSIVE values its first-
11 party insureds' total loss vehicles. PROGRESSIVE then makes a lowball payment to their insureds
12 based on this manipulated value under the guise that such value was derived in good faith. In
13 reliance on PROGRESSIVE's knowing misrepresentation of the ACV and underpayment of the
14 claim, the insured transfers title to the loss vehicle to PROGRESSIVE in exchange for the
15 undervalued claim payment. PROGRESSIVE then resells the loss vehicle at auction to further
16 reduce its indemnity loss.

17 107. MITCHELL offers an "off-the-shelf" version of WCTL software to anyone who
18 wants to purchase it. Any insurer, independent appraiser, or insured may acquire a license to use
19 MITCHELL's off-the-shelf WCTL software and generate MVRs. However, as explained herein,
20 PROGRESSIVE and MITCHELL worked together to design and implement a highly customized
21 WCTL software for PROGRESSIVE. No private adjusters or insureds have any way of accessing
22 the customized software MITCHELL created for and with PROGRESSIVE. MITCHELL's off-
23 the-shelf WCTL software produces an MVR for any subject vehicle that varies substantially and
24 materially from an MVR produced by the customized version used by PROGRESSIVE with

25 ¹⁹ The allegations in Subsection VI.C.2—"The Progressive Defendants Use MITCHELL WCTL
26 Software to Calculate the "Value" of an Insured's Total Loss Vehicle" also pertain to DOE
27 MITCHELL INSURING DEFENDANTS who, like the PROGRESSIVE DEFENDANTS use
28 CCC MVRs to underpay their insureds.

MITCHELL's help and assistance. PROGRESSIVE's customized WCTL software version is specifically and purposefully designed to underpay total loss claims. As used by PROGRESSIVE, MITCHELL's WCTL does not produce a statistically valid fair market value within the local market. This is markedly unfair to PROGRESSIVE's insureds.

108. PROGRESSIVE uses MITCHELL's MVRs with one primary goal in mind: to pay its insureds less than it owes under the insured's respective automotive insurance policy.

109. Neither PROGRESSIVE nor MITCHELL provide anything to PROGRESSIVE's insureds advising them that WCTL, as modified by/for and utilized by PROGRESSIVE, is a highly modified version of the off-the-shelf version of WCTL that produces statistically invalid, artificially low ACVs. Nor do PROGRESSIVE or MITCHELL advise PROGRESSIVE's insureds that (a) the comparables utilized in the MVRs are not the best comparables available to PROGRESSIVE or MITCHELL at the time the MVRs are generated; (b) that the comparables utilized by PROGRESSIVE or MITCHELL do not generate valid fair market values for the local market; and (c) the methodology utilized by PROGRESSIVE and MITCHELL does not comply with Additional Standards Applicable to Automobile Insurance. 10 Cal. Code Regs. § 2695.8(b).

110. The MITCHELL MVR is not an appraisal—it is not objective, accurate, or fair with regard to the interests of PROGRESSIVE's insureds. Despite this, both PROGRESSIVE and MITCHELL treat it as such. Indeed, MITCHELL boasts as follows:

Our total loss software is based on a straightforward and easy-to-understand methodology—providing carriers and consumers with accurate, transparent and timely vehicle valuations.²⁰

111. MITCHELL prides itself on the appearance of its MVRs, which it designed to convey an air of accuracy and reliability. For example:

WorkCenter Total Loss was developed by Mitchell in collaboration with J.D. Power, a global leader in data analytics and consumer intelligence with years of experience in vehicle pricing. Combining Mitchell's industry-

²⁰ Mitchell WorkCenter Total Loss, available at <https://www.mitchell.com/solutions/auto-physical-damage/total-loss> (emphasis added) (last visited March 13, 2024).

1 leading claims management solutions with J.D. Power’s data analysis and
2 pricing techniques, *Mitchell WorkCenter Total Loss provides true market*
3 *valuations, helping to reduce settlement cycles.*²¹

4 112. PROGRESSIVE presents and represents, expressly and/or impliedly, the
5 MITCHELL MVR or, at least, the conclusions derived therefrom to its insureds as a *bona fide*,
6 genuine, good faith determination of the vehicle’s ACV. In doing so, PROGRESSIVE relies on its
7 superior bargaining position inherent to its relationship as insurer to its insureds. For example,
8 PROGRESSIVE represents, states, markets, and advertises to California residents and businesses
9 as follows:

10 We’re the #1 combined personal and commercial auto insurance
11 company[.] From customized auto insurance to superior claims service, our
12 people and technology will support you every step of the way. Join us today
13 and experience why we’re one of the best insurance companies.²²

14 This statement exemplifies the foundational trust relationship PROGRESSIVE markets to its
15 insureds—one PROGRESSIVE knows its insureds reasonably expect and rely upon in acting on
16 information that PROGRESSIVE presents to them. This is markedly unlawful, unfair, and
17 fraudulent: PROGRESSIVE leverages this trust relationship to induce its insureds into relying
18 upon the Scheme to their detriment.

19 113. PROGRESSIVE’s use of MITCHELL MVRs places PROGRESSIVE’s interests
20 above those of its insureds in violation of its duties and California law. PROGRESSIVE and
21 MITCHELL know MITCHELL MVRs are inaccurate, biased, and unfair to its insureds. Moreover,
22 PROGRESSIVE and MITCHELL know PROGRESSIVE’s systematic use of MITCHELL MVRs
23 facilitates and results in bad faith claims handling and fraud under California law. Nevertheless,
24 PROGRESSIVE improperly uses MITCHELL MVRs pervasively, knowingly, and intentionally
25 to shortchange its insureds’ claims. This process defrauds the insured and constitutes a breach of
26 PROGRESSIVE’s duty of good faith and fair dealing.

27 ²¹ See, e.g., “Mitchell WorkCenter Total Loss, The Next Generation of Total Loss Valuation
28 Solutions,” available at <https://www.mitchell.com/solutions/auto-physical-damage/total-loss#Resources> (emphasis in original) (last visited March 13, 2024).

²² <https://www.progressive.com/> (last visited March 13, 2024).

114. PROGRESSIVE's knowing, systematic, and intentional use of deceptive MITCHELL MVRs to undervalue its insureds' vehicles and underpay their claims is part of a company-wide pattern and practice of bad faith claims handling and fraud, which PROGRESSIVE imposes upon all its California insureds, including those in Alameda County, who experience total loss auto claims. It is the result of PROGRESSIVE's corporate goal of reducing its indemnity expenses across its entire California automotive insurance market, including Alameda County.

115. Examination of claims across the State will show a Scheme perpetrated against California insureds in a near-uniform and consistent way. And, as discussed below, PROGRESSIVE actively and fraudulently conceals their conduct from its insureds. Comparatively few insureds invoke appraisal, hire a third-party adjuster to assist them, or file suit to invoke their rights against PROGRESSIVE. The overwhelming majority of PROGRESSIVE's insureds remain in the dark, which PROGRESSIVE and MITCHELL use to continue their unlawful, unfair, and fraudulent conduct.

D. The VALUATION DEFENDANTS' Market Value Reports ("MVRs") Understate Actual Cash Value.

116. Each VALUATION DEFENDANT utilizes its own methods to calculate a value for a vehicle. This value is not market value, fair market value, or actual cash value, despite the fact that the MVR purports to reflect the actual cost of a replacement vehicle in the local market where the vehicle would have been sold, had it not been deemed a total loss.

117. Both the MITCHELL DEFENDANTS and the CCC DEFENDANTS equip their respectively contracted INSURANCE COMPANY DEFENDANTS with MVR software. These deployments produce MVRs that grossly understate the value of the vehicle in question by using a variety of arbitrary, ambiguous “adjustments” to mismatched “comparable” value vehicles. Indeed, on information and belief, the VALUATION DEFENDANTS market their MVRs to INSURANCE COMPANY DEFENDANTS as a tool to increase their indemnity savings and reduce indemnity losses (*i.e.*, to shortchange their insureds).

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119. A Vehicle Condition Adjustment Matrix provides a detailed set of inspection guidelines, which are used to determine the condition of key components of the loss vehicle. These guidelines describe physical characteristics for the major vehicle components. Based on these guidelines, the INSURANCE COMPANY DEFENDANT determines the condition of the vehicle prior to the loss. The MVR software then makes dollar adjustments that reflect the impact the reported condition has on the value of the loss vehicle.

121. The result is unfair and biased against insureds: when an INSURANCE COMPANY DEFENDANT hires an appraiser, it will grant its appraiser access to its customized

1 MVR software backend—and thereby its exclusive Vehicle Condition Adjustment Matrix. Neither
2 the insured nor the insured’s independent appraiser can fairly access, evaluate, test, and compare
3 to the INSURANCE COMPANY DEFENDANT’s Vehicle Condition Adjustment Matrix.

4 122. This means that two appraisers—*e.g.*, one representing an INSURANCE
5 COMPANY DEFENDANT and another representing an insured—could appraise **the same total**
6 **loss vehicle using the same set of comparable vehicles, yet the appraisers could produce two**
7 **different values for that total loss vehicle in question.** This exemplifies bad faith claims
8 handling.

9 123. The INSURANCE COMPANY DEFENDANTS created and engineered this
10 disparity in a coordinated, oncome-determinative effort with the VALUATION DEFENDANTS
11 for the purpose of reducing indemnity payments. At all relevant times, each INSURANCE
12 COMPANY DEFENDANT and its respectively contracted VALUATION DEFENDANT were
13 aware of this inherent bias against insureds. Nevertheless, they have continued to use exclusive,
14 personalized Vehicle Condition Adjustment Matrices to produce MVRs that undervalue its
15 insureds’ total loss vehicles.

16 2. MVRs Leverage Deceptive “Comparables”

17 124. To produce a MVR on an insured’s vehicle, the VALUATION DEFENDANT
18 generating the report first gathers publicly available information on vehicles it deems
19 “comparable” to the insured’s vehicle at issue. This deceptive list of “comparable” vehicles is
20 cherry-picked from those that fall within the approximate value the VALUATION DEFENDANT
21 wants to assign the insured’s vehicle—a value less than the fair market would assign and, therefore,
22 less than the INSURANCE COMPANY DEFENDANT owes the insured under the Policy. These
23 “comparables” often have—as compared to the insured’s vehicle—(a) less favorable CARFAX
24 reports; (b) dissimilar option deployments; (c) below-standard service records; and/or (d)
25 mismatched accrued mileages. The INSURANCE COMPANY DEFENDANTS and the
26 VALUATION DEFENDANTS customized the MVR software to exclude as outliers any
27 “comparables” that may substantially increase the value of the insured’s vehicle.

125. These excluded outliers are often the exact comparable vehicles that should be utilized to determine an accurate ACV. By excluding relevant comparable vehicles in the local market area as outliers, the INSURANCE COMPANY DEFENDANT and the VALUATION DEFENDANT render the MVRs produced by the software inaccurate and invalid.

126. The VALUATION DEFENDANTS often ignore truly comparable vehicles—identical matches in options with nearly-identical mileage. The INSURANCE COMPANY DEFENDANT and the VALUATION DEFENDANT customize the MVR software to rely on a self-serving selection of “comparable” vehicles to populate and inform the values in the MVR. The outcome is both biased against the insured from the start and statistically invalid—a bias the INSURANCE COMPANY DEFENDANT and the VALUATION DEFENDANT knowingly and intentionally leverage in its favor of “indemnity savings” to the insurer’s benefit and its insureds’ detriment.

127. The INSURANCE COMPANY DEFENDANTS and the VALUATION DEFENDANTS customized the software to assign arbitrary, understated values to its list of “comparables,” which amplifies the deceptive, statistically invalid nature of its methodology and misuse. VALUATION DEFENDANT employees periodically visit car dealerships to record the “take” prices of used vehicles for sale. The “take” price purports to indicate the lowest cash price for which the dealer would sell the vehicle—a value that is significantly less than the dealer’s “asking” price. The “take” price is not the dealership’s “asking” or listed price; rather, the VALUATION DEFENDANT arrives at the “take” price by either asking the dealership to provide a value, or by arbitrarily reducing the “asking” price to suit its needs. The VALUATION DEFENDANTS regularly use this highly questionable “take” pricing as the value for its “comparable” vehicles, which necessarily and unrealistically assumes (a) the “take” price is accurate; and (b) the insured could or did negotiate with the dealer and agree on that specific “take” price. VALUATION DEFENDANT employees often calculate the “take” price using a fixed, uniform deduction from the “asking” price, without input from the dealer, which has no established

1 statistical validity. This understates the value of the insured's total loss vehicle in an unfair,
2 subjective, statistically invalid, and deceptive way.

3 **3. MVRs Make Outcome-Determinative Adjustments**

4 128. The INSURANCE COMPANY DEFENDANTS and the VALUATION
5 DEFENDANTS customized the MVR software to then apply a series of "condition adjustments"
6 to modify the value of total loss vehicle at issue. But these adjustments are outcome-determinative
7 and wholly favor the INSURANCE COMPANY DEFENDANT using the MVR. They
8 misrepresent the deployments and conditions attributable to the insured's total loss vehicle at issue.
9 This enables the INSURANCE COMPANY DEFENDANT to justify a lower value settlement
10 with its insured over the total loss vehicle.

11 129. These outcome-determinative adjustments are arbitrary. The INSURANCE
12 COMPANY DEFENDANTS and the VALUATION DEFENDANTS fail to itemize or explain the
13 basis for the application of adjustments to the vehicle in the MVR or in any settlement
14 documentation the INSURANCE COMPANY DEFENDANT provides therewith.

15 130. The INSURANCE COMPANY DEFENDANTS, through their respectively
16 contracted VALUATION DEFENDANT, adopt these condition adjustments and falsely presents
17 them to their insureds as *bona fide*, fair, accurate, genuine, and good faith assessments of insureds'
18 vehicle's value.

19 **4. MVRs Result in Undervalued Claims Payments and Refusal to Negotiate in**
20 **Good Faith**

21 131. The INSURANCE COMPANY DEFENDANTS use intentionally undervalued
22 MVRs to knowingly and intentionally short-change insureds with an underpayment on the
23 insureds' claims. Upon information and belief, if an insured counters or protests, the INSURANCE
24 COMPANY DEFENDANTS resorts to bad faith refusal to negotiate in any meaningful or
25 substantive way, wherein they instructs adjusters to refuse to negotiate in good faith and stand pat
26 on the deceptive, inaccurate, and statistically invalid MVRs. This unreasonable positioning vis-a-
27 vis the insured constitutes *per se* bad faith, especially when an INSURANCE COMPANY
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1 DEFENDANT bases its position on the knowingly and purposefully flawed MVR. The insured
2 has no choice but to capitulate to the underpayment or file suit to recoup funds rightfully owed—
3 and the INSURANCE COMPANY DEFENDANT acts in bad faith by forcing the insured into
4 such an untenable position.

5 **5. MVRs are Statistically Invalid**

6 132. To the extent the INSURANCE COMPANY DEFENDANTS and the
7 VALUATION DEFENDANTS seek a safe harbor in the Additional Standards Applicable to
8 Automobile Insurance,²³ the customized version of each VALUATION DEFENDANTS' software
9 is designed to appear facially compliant with these Additional Standards Applicable to Automobile
10 Insurance while systematically and intentionally undervaluing total loss claims. For the reasons
11 set forth above, specifically (but not limited to) paragraphs 116-131, neither the MITCHELL nor
12 CCC software utilizes comparables that comply with the requirements of the Additional Standards
13 Applicable to Automobile Insurance and does not produce statistically valid market values within
14 the local market area. By manipulating MVR software to cherry-pick low value comparables,
15 reject highly relevant comparables as outliers, utilize outcome determinative exclusive matrices,
16 and apply inappropriate condition adjustments, the INSURANCE COMPANY DEFENDANTS
17 and the VALUATION DEFENDANTS have both skirted the requirements of that Additional
18 Standards Applicable to Automobile Insurance and destroyed any statistically valid methodology
19 that may exist in the off-the-shelf software.

20 133. However, the PEOPLE do not concede that even the off-the-shelf version of the
21 software produces statistically valid results. Although the INSURANCE COMPANY
22 DEFENDANTS' and the VALUATION DEFENDANTS' fraudulent concealment of the Scheme
23 (see Section VII) deprives insureds of the information needed to make an informed decision
24 regarding appraisal, the appraisal provisions contained in each INSURANCE COMPANY
25 DEFENDANT's form policies will expose both the failure to comply with the Additional

26 _____
27 ²³ See Section V, above.

Standards Applicable to Automobile Insurance and the statistical invalidity of the customized version of the software. During the appraisal process, two independent appraisers derive an ACV, and if the values obtained by each appraiser differ, an objective and neutral umpire makes a final and preclusive determination of ACV.

134. On information and belief, subjecting a random sample of each INSURANCE COMPANY DEFENDANT's total loss claims to the appraisal process will reveal the statistical invalidity of the MVRs by demonstrating that almost all of the respective INSURANCE COMPANY DEFENDANT's total loss claims are underpaid. The appraisal process—which is a process agreed to by each INSURANCE COMPANY DEFENDANT in its form policy as a methodology to determine ACV conclusively—provides a simple and expedient mechanism to establish the statistical invalidity of the MVR as used by that INSURANCE COMPANY DEFENDANT, determine the frequency of underpayment, the average amount of underpayment, and the aggregate underpayment for all Alameda County and California insureds.

135. Consider the following real-world example of a PROGRESSIVE insured in California, whom PROGRESSIVE subjected to their Scheme: PROGRESSIVE Claim No. 22-6912681-01, which involved a 2006 Ford Econoline Cargo Van, VIN No. 1FTNE24L76HA78289 with 48,474 miles at the time of loss. The vehicle was involved in a head-on collision with an intoxicated driver on August 7, 2022 and deemed a total loss.

136. The insured purchased the vehicle already used on May 26, 2022—seventy-four days prior to the loss—for \$17,995.00. PROGRESSIVE, through a misleading MITCHELL MVR, informed the insured of its calculation of the vehicle's ACV at \$12,520.00 or a more than five thousand (\$5,000) reduction in value in less than three months.

137. The insured invoked appraisal, which resulted in a conclusive determination of ACV of \$17,000.00—a **\$4,479.70 additional award**, or a **35.8% increase** (before tax).

138. PROGRESSIVE's Scheme became clear upon thorough analysis of the MVR during appraisal. For example, the loss vehicle had no prior accidents. PROGRESSIVE's version of WCTL selected two "comparable vehicles" with prior accident damage.

1 139. The National Automobile Dealers Association (“NADA”) prescribed a \$8,400.00
2 mileage adjustment for the loss vehicle. This means the value should be increased according to the
3 average given the relatively low mileage of the loss vehicle, which increases its value. Comparable
4 Vehicle No. 1 had **153,815 miles**, compared to the loss vehicle’s 48,474 miles. It had prior
5 structural damage, where the loss vehicle had no structural damage. PROGRESSIVE ascribed a
6 mere \$1,936.20 for mileage adjustment.

7 140. Comparable Vehicle No. 2 had **167,029 miles**, compared to Loss Vehicle’s 48,474
8 miles. It had prior accident damage, where the loss vehicle had no prior accident damage.
9 PROGRESSIVE ascribed a mere \$2,166.64 in mileage adjustment.

10 141. PROGRESSIVE’s comparable vehicles were located in Texas, an average of **1,267**
11 **miles away** from the insured’s location. PROGRESSIVE ignored the closest comparable to the
12 loss vehicle available: the loss vehicle itself, a 2006 Ford Econoline Cargo Van E-250 with a clean
13 history and extremely close mileage and sold within the required ninety days from the date of loss
14 in the market area. Its sales price (market value) was **\$17,995**. PROGRESSIVE further ignored
15 two additional close comparable vehicles in the market area: one in Poway, California--75 miles
16 away from the insured--which produced a value **\$2,874.70 higher than PROGRESSIVE’s**, and
17 the second in Pacoima--59 miles away from the insured--which produced a value **\$3,392.70 higher**
18 **than PROGRESSIVE’s**.

19 **E. The INSURANCE COMPANY DEFENDANTS Further Reduce their Indemnity**
20 **Losses by Recouping Money Through More Salvage Sales.**

21 142. Once an INSURANCE COMPANY DEFENDANT uses a VALUATION
22 DEFENDANT MVR to dupe their insured into not protesting the undervalued indemnity payment,
23 the INSURANCE COMPANY DEFENDANT then takes title to its insured’s vehicle and sells the
24 vehicle at auction to offset its indemnity expenses.

25 143. Inherent to the Scheme is this loss recoupment opportunity: the INSURANCE
26 COMPANY DEFENDANT would rather total a vehicle than repair it because of the opportunity
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1 to recoup some of the indemnity payment through a salvage sale. If the INSURANCE COMPANY
2 DEFENDANT pays to repair the vehicle, it has no ability to recoup any of that loss.

3 144. The INSURANCE COMPANY DEFENDANT therefore rigs the settlement
4 process in favor of a total loss scenario, and against a repair scenario, so it can recoup some of its
5 indemnity loss. At all times during the claims-handling process, the INSURANCE COMPANY
6 DEFENDANT intends to sell the salvaged vehicle at auction to recoup costs. The INSURANCE
7 COMPANY DEFENDANT therefore knowingly uses a MVR to undervalue the vehicle and
8 underpays its insureds' policy benefits with this outcome in mind. The INSURANCE COMPANY
9 DEFENDANT is incentivized by salvage auction sales to minimize its indemnity liability to its
10 insureds in event of a total loss and thereby maximize its profit.

11 145. The INSURANCE COMPANY DEFENDANTS' business model relies on this
12 process; they systematically offset their indemnity losses through their ability to take title to a total
13 loss vehicle and then resell the vehicle at auction.

14 146. To illustrate, assume an INSURANCE COMPANY DEFENDANT insured vehicle
15 is damaged in a collision and the cost of repair is \$15,000 and the salvage value is \$5,000. Using
16 customized and inaccurate MVR software, the INSURANCE COMPANY DEFENDANT delivers
17 to the insured an MVR that shows an inaccurate ACV of \$14,000.00. However, the true pre-loss
18 ACV of the vehicle is \$17,000.00. This is a true total loss situation because the cost of repairs
19 (\$15,000) plus the salvage value (\$5,000) exceeds the true ACV (\$17,000). However, the
20 INSURANCE COMPANY DEFENDANT pays the insured the manipulated \$14,000 ACV, which
21 it represents to the insured is an accurate statement of the true ACV. The INSURANCE
22 COMPANY DEFENDANT takes title to the loss vehicle and sells it at auction for \$5,000. Under
23 this scenario, the INSURANCE COMPANY DEFENDANT's net loss on the vehicle is \$9,000
24 (\$14,000 minus \$5,000). However, if the insured were compensated for the true pre-loss value of
25 the vehicle (\$17,000), the INSURANCE COMPANY DEFENDANT's net loss would be \$12,000
26 (\$17,000 minus \$5,000). Thus, the INSURANCE COMPANY DEFENDANT improperly reduces
27 its indemnity loss at the expense of its insured.

1 which is made possible in the first instance by the understated ACV, the INSURANCE
2 COMPANY DEFENDANT saves \$2,000 in additional indemnity dollars by converting a loss that
3 should result in repairs to a false total loss scenario.

4 **F. The Scheme Harms the People of California.**

5 151. The Scheme specifically harms the following persons in California:

6 152. The Scheme principally harms INSURANCE COMPANY DEFENDANTS'
7 insureds in California, who suffer direct economic harm in the form of underpaid automobile total
8 loss claims. The INSURANCE COMPANY DEFENDANTS' insureds are personal and
9 commercial automotive policyholders throughout Alameda County and the State of California.

10 153. Each insured pays premium dollars to their respective INSURANCE COMPANY
11 DEFENDANT in reasonable expectation of full benefits described in their policy. However, each
12 INSURANCE COMPANY DEFENDANT knowingly accepts those premium payments, but then
13 withholds a portion of lawfully owed indemnity when paying the insured's total loss claim.

14 154. Additionally, the INSURANCE COMPANY DEFENDANTS failure to fully
15 indemnify insureds for automobile total loss claims often leads to a cascade of financial
16 consequences for disadvantaged Californians, including senior citizens, economically-
17 disadvantaged persons, and persons of color. California is a state where a vehicle is a necessity.
18 Disadvantaged residents often live paycheck to paycheck and can be highly leveraged in the
19 financing of an automobile. When an INSURANCE COMPANY DEFENDANT underpays a total
20 loss claim, the underpayment can result in automobile loan defaults or delinquencies, damage to
21 credit scores, increased future borrowing costs, difficulty borrowing at all, and the inability to
22 purchase a replacement vehicle. These follow-on consequences can lead to loss of employment
23 and income, displacement for homes, and even homelessness.

24 155. The California department of insurance reports that PROGRESSIVE made up
25 approximately 6% of the California private passenger collision insurance market in 2021. Based
26 on that percentage, and on information and belief, approximately 1,380 PROGRESSIVE insureds
27 suffer a total loss in Alameda County annually. Approximately 36,000 PROGRESSIVE insureds
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1 suffer a total loss claim in California annually. Over four years, these numbers approximate 5,520
2 PROGRESSIVE total loss claims in Alameda County and 144,000 PROGRESSIVE total loss
3 claims in California—all of whom are subject to DEFENDANTS' Scheme.²⁴ These estimates do
4 not include California Scheme victims who carry Progressive insurance through a commercial or
5 business policy.

6 156. The California department of insurance reports USAA made up approximately 5%
7 of the California private passenger collision insurance market in 2021. Based on that percentage,
8 and on information and belief, approximately 1,150 USAA insureds suffer a total loss in Alameda
9 County annually. Approximately 30,000 USAA insureds suffer a total loss claim in California
10 annually. Over four years, these numbers approximate 4600 USAA total loss claims in Alameda
11 County and 120,000 USAA total loss claims in California—all of whom are subject to
12 DEFENDANTS' Scheme.²⁵ These estimates do not include California Scheme victims who carry
13 USAA insurance through a commercial or business policy.

14 **1. California Car Dealerships**

15 157. DEFENDANTS harm car manufacturers and dealerships in California by
16 affecting brand loyalty, as the systemic undervaluation of vehicles leads consumers to believe
17 certain vehicles depreciate more rapidly, which impacts consumer impression of the make and
18 model in question.

19 158. Moreover, new car dealerships are required to maintain a fleet of loaner vehicles
20 which correspond to the makes and models the dealership sold. On information and belief, the
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22 ²⁴ These numbers are derived as follows: according to the Insurance Information Institute 2017
23 data, approximately 9% of all private passenger vehicles incur physical damage claims each year.
24 Approximately 20% of all physical damage claims are total losses, according to a 2022 crash
25 course report by CCC One, a company that provides MVRs for other insurance carriers. Thus,
26 approximately 1.85% of all vehicles become total losses each year. The California DMV reported
27 in 2021 approximately 32.4 million registered vehicles and, therefore assumedly insured passenger
28 vehicles, which suggest approximately 600,000 estimated total loss claims throughout California.
The California DMV reported in 2021 approximately 1.2 million registered passenger vehicles,
suggesting approximately 23,000 estimated annual total loss claims in Alameda County.

²⁵ *Id.*

1 claim frequency and severity for dealership loaner vehicles is approximately twice that of
2 consumer-owned vehicles. Because car dealerships are unwittingly subjected to DEFENDANTS'
3 Scheme, the dealership's owned loaner fleet vehicles lose twice the amount lost by consumers, on
4 average.

5 159. Furthermore, dealerships often accept some of the risk for gap insurance. When
6 INSURANCE COMPANY DEFENDANTS underpay claims, a portion of the loss is shifted to
7 gap providers, including dealerships who participate in the gap risk.

8 **2. California Gap Insurance Providers**

9 160. In certain scenarios, INSURANCE COMPANY DEFENDANTS pass on the cost
10 of their Scheme to insurance providers who write gap insurance. "Gap" insurance refers to
11 coverage that will pay the insured for the gap between the amount the insured owes on the vehicle
12 financing loan and the amount the vehicle is worth at the time of loss, as the vehicle starts to
13 depreciate in value the moment it leaves the car lot, and most vehicles lose as much as twenty
14 percent of their value within a year.

15 161. As described at length above, standard auto insurance policies cover the depreciated
16 value of a car—*i.e.*, the current market value of the vehicle at the time of loss.

17 162. When the insured finances the purchase of the new vehicle, instances where the
18 amount of the loan exceeds the value of the vehicle are commonly referred to as being "upside
19 down" in the loan. This negative equity scenario occurs when an insured secures a longer-term
20 loan, secures a loan with a higher interest rate, secures a loan with little or no a down payment,
21 pays above the vehicle's sticker price, or purchases a rapidly depreciating vehicle.

22 163. To mitigate this risk of an "upside down" scenario where the insured owes more on
23 their loan than is covered by standard auto insurance policies, many new car buyers also purchase
24 gap insurance. Gap insurance covers the difference between what a vehicle is currently worth--
25 which the standard insurance policy purports to pay--and the amount the insured owes on the loan.
26 Most gap insurance is sold by dedicated gap insurance companies—not by retail automobile
27 insurers such as the INSURANCE COMPANY DEFENDANTS.

1 164. When an INSURANCE COMPANY DEFENDANT undervalues the insured's
2 vehicle and short-changes the insured on the settlement, the "gap" between what the insured owes
3 and what the total loss vehicle's "value" increases. The gap insurance provider absorbs that amount
4 and covers the difference, thereby increasing the gap provider's indemnity loss on account of the
5 loss-reduction Scheme. The INSURANCE COMPANY DEFENDANTS thereby pass on the cost
6 of its Scheme to the gap provider.

7 165. Additionally, most gap insurance policies contain a provision that provides for a
8 refund of unearned premiums if (a) the subject vehicle is sold; (b) the loan is paid off; or (c) a total
9 loss occurs that does not require gap. For example, assume that the loan balance is \$15,000, the
10 true ACV of a subject vehicle is \$17,000, but an INSURANCE COMPANY DEFENDANT
11 determines an inaccurate ACV of \$13,000 using a modified and customized WCTL. Under these
12 circumstances, the gap provider pays \$2000 (the difference between the inaccurate ACV (\$13,000)
13 and the loan (\$15,000), which harms the gap provider and also deprives the insured of a premium
14 refund. If the INSURANCE COMPANY DEFENDANT had paid the true ACV of \$17,000, there
15 would be no "gap," and the insured would be entitled to a refund of unearned premiums on the gap
16 insurance. For example, if the gap policy was 4 years because it was a 4-year loan, but the car was
17 totaled after 2 years, the insured should have received a refund of half the gap premiums.

18 **3. Lenders and Financial Institutions Providing Services in California**

19 166. DEFENDANTS' conduct harms automotive financing loan providers by chipping
20 away at the liquidity of the loan. In the event of a total loss, where an INSURANCE COMPANY
21 DEFENDANT has undervalued the settlement and the insured is "upside down" in the loan, the
22 financier must collect the balance from borrower, write it off as bad debt, or sell it to a collection
23 agency for pennies on the dollar. Of course, these circumstances can also lead to damage to the
24 insured's credit and affect their ability to purchase a vehicle in the future or the cost of financing
25 in the future.
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168. At all relevant times, the INSURANCE COMPANY DEFENDANTS and VALUATION DEFENDANTS fraudulently conceal the Scheme and failed to disclose its unlawful conduct.

At all relevant times, the INSURANCE COMPANY DEFENDANTS and ON DEFENDANTS fraudulently conceal the Scheme and failed to disclose its conduct.

170. Furthermore, pursuant to section 332 of the Insurance Code, each INSURANCE COMPANY DEFENDANT is obliged to tell the insured in good faith all facts within its knowledge, which are material to the contract and for which the insured has no means to ascertain.

1 as their own policies, procedures, and guidelines. The INSURANCE COMPANY DEFENDANTS
2 misrepresent their valuation and payments to their insureds as a *bona fide*, genuine, fair, and good
3 faith determination of benefits under the respective policy. By failing to disclose the truth to their
4 insureds—despite their duty to do so—the INSURANCE COMPANY DEFENDANTS
5 fraudulently induce insureds to obtain and retain insurance policies under false pretenses.

6 172. On information and belief, the INSURANCE COMPANY DEFENDANTS conceal
7 their wrongdoings behind certain express and implied statements to their insureds, which they each
8 represent as true statements of fact. In stating a value for ACV to their insureds as part of the claims
9 handling process, the INSURANCE COMPANY DEFENDANTS make, at the least, each of the
10 following implied representations, which are inherent to their duty of good faith and fair dealing:

- 11 a. The INSURANCE COMPANY DEFENDANT conducted its analysis and
12 assessment of the insured's claim in good faith;
 - 13 b. The INSURANCE COMPANY DEFENDANT conducted a fair, unbiased
14 analysis and assessment of the insured's claim;
 - 15 c. The INSURANCE COMPANY DEFENDANT complied with California
16 law in adjusting the insured's claim, including, but not limited to, the
17 Additional Standards Applicable to Automobile Claims (10 Cal. Code
18 Regs. § 2695.8(b));
 - 19 d. The INSURANCE COMPANY DEFENDANT reviewed and considered
20 the insured's underwriting file, including the underwriting value of the total
21 loss vehicle, in adjusting the insured's claim and issuing its settlement offer;
 - 22 e. The INSURANCE COMPANY DEFENDANT calculated an accurate, fair,
23 unbiased, and objective value for insured's total loss vehicle;
 - 24 f. The INSURANCE COMPANY DEFENDANT's use of a MVR resulted in
25 a proper calculation of the insured's vehicle's actual cash value;
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- 1 g. The MVR, which the INSURANCE COMPANY DEFENDANT obtained
2 from a VALUATION DEFENDANT for the insured's total loss vehicle,
3 was accurate;
- 4 h. The MVR, which The INSURANCE COMPANY DEFENDANT obtained
5 from VALUATION DEFENDANT for the insured's total loss vehicle,
6 presented an accurate assessment of the vehicle's condition;
- 7 i. The INSURANCE COMPANY DEFENDANT's use of a MVR comported
8 with its duties as an insurer to its insured;
- 9 j. The INSURANCE COMPANY DEFENDANT acted without placing its
10 own interests ahead of its insured;
- 11 k. The INSURANCE COMPANY DEFENDANT met its indemnity
12 obligations under the policy; and
- 13 l. The INSURANCE COMPANY DEFENDANT based its decision on the
14 insured's claim on a truthful, objective, fair, and unbiased investigation and
15 evaluation.

16 173. On information and belief, the INSURANCE COMPANY DEFENDANTS make
17 an array of additional express representations to their insureds, which will be revealed in detail in
18 discovery.

19 174. All the INSURANCE COMPANY DEFENDANTS' misrepresentations, whether
20 implied and/or express, are material to the insured's interests and the duties owed to each insured.

21 175. Additionally, the INSURANCE COMPANY DEFENDANTS take certain
22 affirmative actions that exacerbate the harmful impact of their misrepresentations, including, but
23 not limited to, (a) transmitting to its insureds—either orally or directly via mail—a sham MVR
24 purporting to state the ACV of the insured's total loss vehicle, including the multitude of deceptive
25 values and adjustments made therein; (b) transmitting its insureds—either orally or directly via
26 mail—the sham offer to settle the insured's total loss claim; and (c) taking title to the salvage
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1 vehicle and selling it at auction, preventing the insured from ever unraveling the impact of the
2 Scheme.

3 176. The INSURANCE COMPANY DEFENDANTS' misrepresentations are inherent
4 to or expressly included in communications to their insureds, including, but not limited to, letters
5 and claims center communications memorialized in the respective insured's claim file. The claim
6 file is wholly and exclusively in the INSURANCE COMPANY DEFENDANTS' care, custody,
7 and control. Each INSURANCE COMPANY DEFENDANT has full notice of all such
8 communications, their contents, and the representations contained therein. Each INSURANCE
9 COMPANY DEFENDANT's representations are inherent to the fraudulent MVRs it produces on
10 each respective insured's total loss vehicle, which it then delivers to the insured—often on multiple
11 occasions—during the claims settlement process.

12 177. The INSURANCE COMPANY DEFENDANTS bolster the purported veracity of
13 their misstatements, ostensibly and fraudulently, through their relationship to each insured as their
14 insurer—a relationship based on the INSURANCE COMPANY DEFENDANT's resultant
15 superior bargaining power, knowledge, and authoritative position over its insureds.

16 178. At all relevant times, each INSURANCE COMPANY DEFENDANT acts with full
17 or, at the least, constructive knowledge of the falsity of its statements. Nonetheless, each
18 INSURANCE COMPANY DEFENDANT presents its false statements to its insureds as true,
19 correct, and accurate assertions of fact. Each INSURANCE COMPANY DEFENDANT knows
20 the valuations it provides are understated; their use of the highly customized MVRs is purposefully
21 and intentionally designed to bring about the objective of reducing its indemnity payments. And,
22 at all relevant times, each INSURANCE COMPANY DEFENDANT conceals these details from
23 its insureds.

24 179. The INSURANCE COMPANY DEFENDANTS' insureds have no way of
25 discovering the Scheme in the normal course of the relationship with their insurer. Even in filing
26 a claim, the Scheme goes undetected. Nevertheless, DEFENDANTS had full knowledge, whether
27 actual and/or constructive, insureds would reasonably rely to their detriment on the conclusions of
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any MVR and flawed valuation an INSURANCE COMPANY DEFENDANT presents to them as *bona fide*, fair, accurate, genuine, and made in good faith.

180. Further, INSURANCE COMPANY DEFENDANTS have actual knowledge their insureds reasonably relied to their detriment on the conclusions of the MVR and flawed valuation presented to them. This is evidenced in substantial and meaningful part by the fact that almost all INSURANCE COMPANY DEFENDANT total loss insureds (a) fail to challenge the INSURANCE COMPANY DEFENDANT's settlement offer, whether by suit or through the appraisal process; and (b) transfer title to their total loss vehicle to the INSURANCE COMPANY DEFENDANT as part of the undervalued total loss settlement.²⁶

181. The Scheme—and, specifically, the INSURANCE COMPANY DEFENDANTS' intentional concealment of their wrongful acts to the detriment of their insureds—is an artifice intended to prevent insureds from having knowledge of the facts surrounding the Scheme. The Scheme includes a litany of affirmative acts of concealment, as well as numerous material misrepresentations, which individually and collectively eluded suspicion and prevented inquiry on insureds' parts.

182. The INSURANCE COMPANY DEFENDANTS fail to disclose to their insureds (a) the adjustments they make to the so-called "comparable" vehicles used to arrive at the artificially adjusted value and thereby devalue the insured's vehicle; and (b) the inherent incentive to devalue the total loss vehicle. The INSURANCE COMPANY DEFENDANTS' ability to profit from the resale of the vehicle amplifies its motive to effectively purchase the vehicle from insured through settlement at a lesser value.

183. Concealment of the Scheme places insureds on a decidedly unlevel playing field that allows the INSURANCE COMPANY DEFENDANTS to undervalue insureds' total loss claims and profit at insureds' expense and detriment.

²⁶ The INSURANCE COMPANY DEFENDANT subsequently sells the total loss vehicle at auction to recoup its indemnity payments to its insured (*i.e.*, its indemnity losses). This subsequent auction sale is part of the Scheme.

VIII. CAUSES OF ACTION

FIRST CAUSE OF ACTION

Violation of California's Unfair Competition Law
Bus. & Prof. Code, § 17200, *et seq.*
(Unlawful, Unfair and Fraudulent Business Acts or Practices)
(All Defendants)

184. The PEOPLE incorporate by reference all preceding paragraphs and allegations as if fully set forth herein.

185. At all relevant times, the INSURANCE COMPANY DEFENDANTS issued policies of insurance coverage and entered into binding contracts for insurance coverage with insureds in California. The INSURANCE COMPANY DEFENDANTS further engaged in the handling and adjustment of claims for indemnity for automobile total loss claims under the policies it sold to insureds. Pursuant to these business acts and/or practices, *inter alia*, the INSURANCE COMPANY DEFENDANTS used VALUATION DEFENDANT MVRs to understate the value of its insured's total loss vehicles and thereby reduce the cost of settlement to the detriment of their insureds.

186. The VALUATION DEFENDANTS provided the INSURANCE COMPANY DEFENDANTS their respective MVR toolkit, underlying software, and matrices needed to perpetuate the Scheme.

187. MITCHELL did so at the PROGRESSIVE DEFENDANTS' behest, in full and direct concert with the PROGRESSIVE DEFENDANTS, and with full knowledge of the PROGRESSIVE DEFENDANTS' intended outcome: the undervaluation of insureds' total loss vehicles and resultant reduction of indemnity expenses to PROGRESSIVE's insureds' detriment.

188. CCC did so at the USAA DEFENDANTS' behest, in full and direct concert with the USAA DEFENDANTS, and with full knowledge of the USAA DEFENDANTS' intended outcome: the undervaluation of insureds' total loss vehicles and resultant reduction of indemnity expenses to PROGRESSIVE's insureds' detriment.

189. DEFENDANTS' business acts and/or practices are/were unlawful as follows:

1 **A. Defendants' Business Acts and/or Practices Are Unlawful Under the UCL.²⁷**

2 190. DEFENDANTS' business acts and/or practices are unlawful under the UCL by
3 violating the following laws:

4 **1. Insurance Claims Fraud; Cal. Pen. Code § 550(b)(2)-(3).**

5 191. DEFENDANTS' conduct violates section 550(b) of the Penal Code, which makes
6 it

7 unlawful to [...], or to knowingly assist or conspire with any person to [...]
8 p]repare or make any written or oral statement that is intended to be
9 presented to ... any insurance claimant in connection with, or in support of
10 or opposition to, any claim or payment or other benefit pursuant to an
11 insurance policy, knowing that the statement contains any false or
misleading information concerning any material fact.... [or to c]onceal, or
knowingly fail to disclose the occurrence of, an event that affects any
person's initial or continued right or entitlement to ... the amount of any
benefit or payment to which the person is entitled.

12 Cal. Pen. Code § 550(b)(2)-(3).

13 192. With the assistance of co-conspirator VALUATION DEFENDANTS, each
14 INSURANCE COMPANY DEFENDANT prepared and/or made written statements in the form
15 of a MVR or other written or oral statements derived from an MVR that were presented to insureds
16 in connection with and/or in opposition to their payment of total loss indemnity claims. At all
17 relevant times, each INSURANCE COMPANY DEFENDANT knew the MVRs or other written
18 or oral statements derived from the MVRs contained false and/or misleading misinformation
19 concerning the ACV of the subject vehicle and/or concealed or failed to disclose material
20 information about the use of MVR software or the inaccuracy of the MVRs (*see* Fraudulent
21 Concealment, Section VII), which affects insureds' entitlement to full benefits under the policy or
22 the amount of indemnity insureds receive for a total loss claim. The VALUATION
23 DEFENDANTS knowingly assisted and/or conspired therein to assist the respective INSURANCE
24 COMPANY DEFENDANTS to achieve the goals of the Scheme.

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26 ²⁷ As explained below, each of the following enumerated violations of law also supports the
27 PEOPLE's allegations that DEFENDANTS' business acts and/or practices are unfair and/or
fraudulent under the UCL.

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Every person who knowingly and designedly, by any false or fraudulent representation or pretense, defrauds any other person of money, labor, or property, whether real or personal, or who causes or procures others to report falsely of his or her wealth or mercantile character, and by thus imposing upon any person obtains credit, and thereby fraudulently gets possession of money or property, or obtains the labor or service of another, is punishable in the same manner and to the same extent as for larceny of the money or property so obtained.

194. The INSURANCE COMPANY DEFENDANTS, by means of their purposeful use of VALUATION DEFENDANT MVRs, knowingly and designedly defrauded their insureds of benefits lawfully owed under each insured's policy—namely, indemnify dollars for which and in anticipation thereof each insured dutifully paid premiums to their respective INSURANCE COMPANY DEFENDANT. Each INSURANCE COMPANY DEFENDANT did so by false/fraudulent representation or pretense: that the MVR constituted an accurate and good faith calculation of the total loss vehicle's ACV and the INSURANCE COMPANY DEFENDANT was acting at all times in accord with the lawful duties it owed to its insureds. The VALUATION DEFENDANTS knowingly assisted and/or conspired with their respectively contracted INSURANCE COMPANY DEFENDANTS therein.

- a. The INSURANCE COMPANY DEFENDANTS' advertising of insurance coverage paying "up to the actual cash value" less deductible of the vehicle in the event of total loss;
- b. The VALUATION DEFENDANTS advertising MVR products as providing "accurate" and/or "transparent" ACVs when they know the INSURANCE COMPANY DEFENDANTS' use thereof renders that representation false. Although the VALUATION DEFENDANTS'

misrepresentations do not directly harm their own consumers, their marketing of products in this way furthers the Scheme in a substantial and meaningful way;

c. The INSURANCE COMPANY DEFENDANTS' provision of an MVR, which purports to state an accurate calculation of ACV, to insureds. This act carries with it the implied representation based upon the INSURANCE COMPANY DEFENDANT's duty to act in good faith that the ACV is accurate and its underlying calculation are made in good faith;

d. Any express representations by an INSURANCE COMPANY DEFENDANT or VALUATION DEFENDANT about the accuracy or reliability of the ACV provided to insureds; and

e. DEFENDANTS' fraudulent concealment of full information from the insureds re the ACVs when there was a duty to disclose.

3. Criminal Conspiracy; Cal. Pen. Code § 182.

196. DEFENDANTS have committed criminal conspiracy, which occurs when two or more persons conspire:

(1) To commit any crime. [or]

(4) To cheat and defraud any person of any property, by any means which are in themselves criminal, or to obtain money or property by false pretenses or by false promises with fraudulent intent not to perform those promises. [or]

(5) To commit any act injurious to the public health, to public morals, or to pervert or obstruct justice, or the due administration of the laws.

Cal. Pen. Code § 182.

197. Each INSURANCE COMPANY DEFENDANT conspired with its respectively contracted VALUATION DEFENDANT to violate the provisions of Cal. Pen. Code § 550(b)(2)-(3), Insurance Claim Fraud and of Cal. Pen. Code § 532, Criminal Fraud, as more fully set forth in paragraphs 190-195, respectively.

198. Each INSURANCE COMPANY DEFENDANT conspired with its respectively contracted VALUATION DEFENDANT to cheat and defraud its insureds who filed automobile total loss claims by underpaying such total loss claims, by any means which are in themselves criminal.

199. Each INSURANCE COMPANY DEFENDANT conspired with its respectively contracted VALUATION DEFENDANT to cheat and defraud its insureds by false pretenses that MVRs accurately state the ACV of subject vehicles and the false promise that it would pay an accurate and full indemnity amount for total loss vehicles using MVRs.

200. Each INSURANCE COMPANY DEFENDANT and each contracted VALUATION DEFENDANT committed overt acts in furtherance of the conspiracy, including, but not limited to, designing and modifying the MVR software, disseminating MVRs with understated ACVs to insureds.

4. Common Law Prohibition Against Civil Conspiracy.

201. A civil conspiracy requires willful conduct in furtherance of (1) the formation of a group of two or more persons who agreed or formed a common plan or design to commit a tortious act; (2) a wrongful act committed pursuant to the agreement; and (3) resulting injury.

202. The PEOPLE incorporate by reference the allegations in paragraphs 196-200.

203. Each VALUATION DEFENDANT willfully agreed to design and produce a modified deployment their MVR software, and, in fact, designed and produced and deployed a modified version of that software that would produce MVRs with undervalued ACVs, all in furtherance of the Scheme. Each VALUATION DEFENDANT entered into this agreement with its respectively contracted INSURANCE COMPANY DEFENDANT to reduce its indemnity payments to the detriment of its insureds, in violation of its duty of good faith and fair dealing.

1 DEFENDANTS' conduct resulted in widespread economic harm to the livelihood of California
2 residents and businesses throughout the State.

3 **5. Common Law Violation of the Duty of Good Faith and Fair Dealing.**

4 204. Each INSURANCE COMPANY DEFENDANT's conduct violates its legal duty
5 of good faith and fair dealing, which it owes to its insureds in the claims handling and settlement
6 process.

7 205. Under California law, every insurance policy includes an implied covenant of good
8 faith and fair dealing that neither party will do anything which will injure the right of the other to
9 receive the benefits of the agreement. Violations of this duty give rise to remedies in tort.

10 206. By systematically and intentionally undervaluing the ACV to reduce its indemnity
11 payments in breach of its standard form contracts, each INSURANCE COMPANY DEFENDANT
12 places its own loss reduction interests ahead of its insureds' well-being, foists its loss reduction
13 upon its insureds to their detriment, and deprives its insureds of benefits owed under California
14 common law.

15 **6. California Insurance Code § 332.**

16 207. California Insurance Code Section 332 obligates each INSURANCE COMPANY
17 DEFENDANT to disclose to its insureds all facts within its knowledge, which are or which may
18 reasonably be material to the insurance contract, and as to which the insurer makes no warranty,
19 and which the insured has not the means of ascertaining.

20 208. By failing to disclose to its insureds its intent to use of MVRs in adjusting claims
21 filed under the Policy, pursuant to the Scheme, each INSURANCE COMPANY DEFENDANT
22 violates California Insurance Code § 332.

23 **7. California Insurance Code § 790, et seq.**

24 209. California's Unfair Insurance Practices Act, California Insurance Code §§ 790-
25 790.15 ("UIPA") prohibits *inter alia* unfair practices by insurers in the adjustment and handling
26 of insurance claims.

210. Each INSURANCE COMPANY DEFENDANT's business acts and/or practices violate the UIPA, including, but not limited to, the following specific prohibitions:

- a. Making statements that misrepresent the term of the policy (§790.03(a));
- b. Misrepresenting to claimants pertinent facts and/or policy provisions (§790.03(h)(1));
- c. Failing to adopt and implement reasonable standards for the prompt investigation and processing of claims arising under insurance policies (§790.03(h)(3));
- d. Not attempting in good faith to effectuate prompt, fair, and equitable settlements of claims in which liability has become reasonably clear (§790.03(h)(5));
- e. Compelling insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by the insureds, when the insureds have made claims for amounts reasonably similar to the amounts ultimately recovered (§790.03(h)(6));
- f. Attempting to settle a claim by an insured for less than the amount to which a reasonable person would have believed he or she was entitled by reference to written or printed advertising material accompanying or made part of an application (§790.03(h)(7)); and
- g. Failing to provide promptly a reasonable explanation of the basis relied on in the insurance policy, in relation to the facts or applicable law, for the denial of a claim or for the offer of a compromise settlement (§790.03(h)(13)).

1 **8. Intentional Interference with Contractual Relations (VALUATION**
2 **DEFENDANTS only).**

3 211. The VALUATION DEFENDANTS knew that their respectively contracted
4 INSURANCE COMPANY DEFENDANTS were party to contracts with their insureds. They
5 knew these contracts obliged the respective INSURANCE COMPANY DEFENDANT to pay an
6 honest, fair, accurate, and statistically valid fair market values of the insureds' vehicles within the
7 local market area when making a total loss determination.

8 212. The VALUATION DEFENDANTS' conduct prevented each respective
9 INSURANCE COMPANY DEFENDANT's performance of its contractual obligations owed to
10 its insureds.

11 213. The VALUATION DEFENDANTS intended to disrupt each respective
12 INSURANCE COMPANY DEFENDANT's performance on these contracts or knew that
13 disruption of performance was certain or substantially certain to occur.

14 214. Insureds were harmed by the VALUATION DEFENDANTS' conduct, and that
15 conduct was a substantial factor in causing harm to insureds.

16 **B. Defendants' Business Acts and/or Practices Are Unfair Under the UCL.**

17 215. DEFENDANTS committed unfair business acts and/or practices within the
18 meaning of the UCL by:

19 a. Engaging in conduct that is violative of an established public policy—that
20 underly duties owed by insurers to their insureds and the obligations
21 insurers owe to handle insurance claims in good faith;

22 b. Engaging in conduct that is immoral, unethical, oppressive, unscrupulous,
23 and/or substantially injurious to consumers. Defendants concealed from
24 insureds material information regarding their Scheme to undervalue the
25 ACV using a modified and customized version of MVR software,
26 information that would be critically important to insureds when selecting
27 amongst insurance providers. Each INSURANCE COMPANY
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1 DEFENDANT acted in bad faith prioritizing its own economic interests
2 above that of its insureds, and unfairly positioning their insureds to secretly
3 reduce their coverage, while the VALUATION DEFENDANTS—at all
4 times—knowingly assisted and/or conspired therein as a co-conspirator in
5 the Scheme;

6 c. Engaging in conduct that is (i) the cause of substantial injury to consumers
7 by reducing the amount paid to insureds facing total loss by thousands of
8 dollars; (ii) not outweighed by any countervailing benefits, as each
9 INSURANCE COMPANY DEFENDANT is already required by law to
10 calculate and disclose in the first instance an accurate ACV; and (iii) not
11 reasonably avoided, including because the injury flows from transactions
12 where insureds suffer in the absence of full information known only to
13 Defendants; and

14 d. Engaging in conduct that violates or undermines legislatively declared
15 policy, including California’s laws prohibiting fraud and conspiracy and
16 bad faith acts by an insurer to gain advantage over the insured.

17 216. On information and belief, each INSURANCE COMPANY DEFENDANT has
18 knowingly misrepresented to claimants pertinent facts or insurance policy provisions relating to
19 any coverages at issue when it:

20 a. failed to attempt in good faith to effectuate prompt, fair, and equitable
21 settlements of claims in which liability has become reasonably clear;

22 b. compelled insureds to institute litigation to recover amounts due under an
23 insurance policy by offering substantially less than the amounts ultimately
24 recovered in actions brought by the insureds, when the insureds have made
25 claims for amounts reasonably similar to the amounts ultimately recovered;

26 c. settled claims by insureds for less than the amount to which a reasonable
27 person would have believed he or she was entitled by reference to written
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1 or printed advertising material accompanying or made part of an
2 application;

3 d. failed, after payment of a claim, to inform insureds or beneficiaries, upon
4 request by them, of the coverage under which payment has been made; and

5 e. failed to provide promptly a reasonable explanation of the basis relied on in
6 the insurance policy, in relation to the facts or applicable law, for the denial
7 of a claim or for the offer of a compromise settlement.

8 217. Every insurer must disclose to a first party claimant or beneficiary, all benefits,
9 coverage, time limits or other provisions of any insurance policy issued by that insurer that may
10 apply to the claim presented by the claimant. When additional benefits might reasonably be
11 payable under an insured's policy upon receipt of additional proof of claim, the insurer must
12 immediately communicate this fact to the insured and cooperate with and assist the insured in
13 determining the extent of the insurer's additional liability. Where an insurer denies or rejects a first
14 party claim, in whole or in part, it must provide to the claimant a written statement listing all bases
15 for such rejection or denial and the factual and legal bases for each reason given for such rejection
16 or denial which is then within the insurer's knowledge. Where an insurer's denial of a first party
17 claim, in whole or in part, is based on a specific statute, applicable law or policy provision,
18 condition or exclusion, the written denial must include reference thereto and provide an
19 explanation of the application of the statute, applicable law or provision, condition or exclusion to
20 the claim. Insurers may not attempt to settle a claim by making a settlement offer that is
21 unreasonably low.

22 218. Furthermore, each enumerated violation of law set forth above in Paragraphs 190-
23 214 (UCL unlawful prong allegations) further indicate the ways in which DEFENDANTS'
24 business acts and/or practices are unfair.

25 219. Consumer injury resulting from the Scheme—including each respective
26 INSURANCE COMPANY DEFENDANT's use of MVRs—is substantial. Examination of
27 DEFENDANTS' business acts and/or practices shows their impact and harm caused far outweighs
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1 DEFENDANTS' reasons, justifications, and/or motives for implementing them—that is, the
2 gravity of the harm far outweighs any arguable utility to DEFENDANTS or any others. No
3 impacted insured has or had any reasonable means to avoid their injuries.

4 220. As such, DEFENDANTS' business acts and/or practices are immoral, unethical,
5 oppressive, unscrupulous, and/or substantially injurious to consumers. DEFENDANTS concealed
6 the Scheme from consumers and insureds, when each respective INSURANCE COMPANY
7 DEFENDANT's insureds were entitled to disclosure of all information material to the Scheme.
8 Because each respective INSURANCE COMPANY DEFENDANT failed to disclose material
9 information to their insureds about the Scheme, the INSURANCE COMPANY DEFENDANTS
10 placed their insureds in an unfair and unjust position with respect to the issue of indemnity. The
11 VALUATION DEFENDANTS knowingly assisted and/or conspired therein as a co-conspirator
12 with each of their respectively contracted INSURANCE COMPANY DEFENDANTS

13 **C. Defendants' Business Acts and/or Practices Are Fraudulent under the UCL.**

14 221. DEFENDANTS' business acts and/or practices were fraudulent and likely to
15 deceive a significant portion of the public. An ordinary member of the public acting reasonably,
16 upon receipt of a MVR from their insurer in support of a proffered settlement, would likely rely
17 upon that statement of ACV as being accurate, justified, and made in good faith.

18 222. DEFENDANTS' act of creating an intentionally misleading MVR, which
19 understates ACV for the intended purpose of justifying an undervalued payment to an insured, is
20 inherently fraudulent.

21 223. Moreover, DEFENDANTS' fraudulent business acts and/or practices include, but
22 are not limited to:

- 23 a. The INSURANCE COMPANY DEFENDANTS' advertising of insurance
24 coverage paying "up to the actual cash value" less deductible of the vehicle
25 in the event of total loss;
- 26 b. The VALUATION DEFENDANTS advertising MVR products as
27 providing "accurate" and/or "transparent" ACVs when they know the

1 INSURANCE COMPANY DEFENDANTS' use there of renders that
2 representation false. Although the VALUATION DEFENDANTS'
3 misrepresentations do not directly harm their own consumers, their
4 marketing of products in this way furthers the Scheme in a substantial and
5 meaningful way;

6 c. The INSURANCE COMPANY DEFENDANTS' provision of an MVR,
7 which purports to state an accurate calculation of ACV, to insureds. This
8 act carries with it the implied representation based upon the INSURANCE
9 COMPANY DEFENDANT's duty to act in good faith that the ACV is
10 accurate and its underlying calculation are made in good faith;

11 d. Any express representations by an INSURANCE COMPANY
12 DEFENDANT or VALUATION DEFENDANT about the accuracy or
13 reliability of the ACV provided to insureds; and

14 e. DEFENDANTS' fraudulent concealment of full information from the
15 insureds re the ACVs when there was a duty to disclose.

16 224. Furthermore, each enumerated violation of law set forth above in Paragraphs 190-
17 214 (UCL unlawful prong allegations) further indicate the ways in which DEFENDANTS'
18 business acts and/or practices are fraudulent.

19 225. DEFENDANTS' business acts and/or practices deceived insureds and caused
20 substantial injury to them, as evidenced by the overwhelming majority of insureds who do not
21 challenge the settlement through suit or appraisal, and transfer title to their vehicle to their
22 INSURANCE COMPANY DEFENDANT in reliance upon the many artifices of the Scheme.

23 **D. Defendants' Business Acts and/or Practices Were Targeted at Protected Citizens.**

24 226. DEFENDANTS' business acts and/or practices were targeted at protected
25 citizens—Senior Citizen, Disabled Persons, Service Members, and/or Veterans—as protected
26 under Cal. Bus. & Prof. Code §§ 17206.1 and 17206.2.

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SECOND CAUSE OF ACTION

**Violation of California's False Advertising Law
Bus. & Prof. Code, § 17500, *et seq.*
(All Defendants)**

227. The PEOPLE incorporate by reference all preceding paragraphs and allegations as if fully set forth herein.

228. DEFENDANTS, by and through the business acts and/or practices described herein, have made or disseminated or caused to be made or disseminated statements which are untrue or misleading, and which are known to DEFENDANTS, or which by the exercise of reasonable care should be known, to be untrue or misleading.

229. DEFENDANTS' untrue and/or misleading statements include, but are not limited to:

- a. The INSURANCE COMPANY DEFENDANTS' advertising of insurance coverage paying "up to the actual cash value" less deductible of the vehicle in the event of total loss;
- b. The VALUATION DEFENDANTS advertising MVR products as providing "accurate" and/or "transparent" ACVs when they know the INSURANCE COMPANY DEFENDANTS' use thereof renders that representation false. Although the VALUATION DEFENDANTS' misrepresentations do not directly harm their own consumers, their marketing of products in this way furthers the Scheme in a substantial and meaningful way;
- c. The INSURANCE COMPANY DEFENDANTS' provision of an MVR, which purports to state an accurate calculation of ACV, to insureds. This act carries with it the implied representation based upon the INSURANCE COMPANY DEFENDANT's duty to act in good faith that the ACV is accurate and its underlying calculation are made in good faith;

- 1 d. Any express representations by an INSURANCE COMPANY
2 DEFENDANT or VALUATION DEFENDANT about the accuracy or
3 reliability of the ACV provided to insureds; and
4 e. DEFENDANTS' fraudulent concealment of full information from the
5 insureds re the ACVs when there was a duty to disclose.

6 **IX. PRAYER FOR RELIEF**

7 230. The PEOPLE incorporate by reference all preceding paragraphs as if fully set forth
8 herein.

9 231. The PEOPLE respectfully request the Court provide the following relief:

- 10 a. An order enjoining DEFENDANTS from engaging in unfair, unlawful, and
11 fraudulent business practices described above;
12 b. An award of statutory penalties of \$2,500.00 per violation of the UCL and
13 FAL pursuant to §§ 17206, 17500;
14 c. A separate award of statutory penalties of \$2,500.00 per violation
15 perpetrated against a Senior Citizen or Disabled Person pursuant to
16 § 17206.1;
17 d. A separate award of statutory penalties of \$2,500.00 per violation
18 perpetrated against a Service Member or Veteran pursuant to § 17206.2;
19 e. Disgorgement of DEFENDANTS' ill-gotten gains pursuant to Government
20 Code § 12527.6;
21 f. Restitution and any other equitable relief as the Court deems appropriate;
22 and
23 g. Attorney's Fees and Costs of Litigation.

1 Dated: April 26, 2024

PAMELA Y. PRICE

District Attorney of Alameda County, California

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4 By: SIMONA FARRISE BEST (SBN 171708)

Head, Consumer Justice Bureau

Senior Assistant District Attorney