

1 **SHAMIS & GENTILE, P.A.**  
2 Andrew J. Shamis (Az Bar No. 037343)  
3 ashamis@shamisgentile.com  
4 14 NE 1<sup>st</sup> Avenue, Suite 705  
5 Miami, FL 33132  
6 Tel: (305) 479-2299  
7 Fax: (786) 623-0915

8 *Attorneys for Plaintiff and the Putative Class*

9 **UNITED STATES DISTRICT COURT**  
10 **DISTRICT OF ARIZONA**

11 LAURA RHODES, on behalf of herself and  
12 all others similarly situated,

13 Plaintiff,

14 v.

15 PROGRESSIVE ADVANCED INSURANCE  
16 COMPANY,

17 Defendant.

CASE NO.:

**CLASS ACTION COMPLAINT**

**JURY TRIAL DEMANDED**

18 **CLASS ACTION COMPLAINT**

19 Laura Rhodes (“Plaintiff”) brings this class action on behalf of herself and all others  
20 similarly situated, by and through undersigned counsel, and for her Complaint against Progressive  
21 Advanced Insurance Company (“Defendant” or “Progressive”) states and alleges as follows:

22 **INTRODUCTION**

23 1. This is a class action on behalf of Plaintiff and all other similarly situated claimants  
24 in Arizona who received a payment for the loss of a totaled vehicle from Defendant, where  
25 Defendant used valuation reports prepared by Mitchell International, Inc. (“Mitchell”) to determine  
26 the actual cash value (“ACV”) of the loss vehicles. Through Mitchell’s valuation, Defendant  
27 systemically thumbs the scale when calculating the ACV of claimants’ loss vehicles by applying  
28 so-called “Projected Sold Adjustments” that are: (a) deceptive and unexplained; (b) contrary to  
appraisal standards and methodologies; (c) not based in fact, as they are contrary to the used car  
industry’s market pricing and inventory management practices; (d) not applied by the major

1 competitor of Defendant’s vendor Mitchell; and (e) on information and belief, not applied by  
2 Defendant and Mitchell to insureds in other states like California.

3 2. In the event of a “total loss” to an insured vehicle—*i.e.*, where repair of the vehicle  
4 is impossible or uneconomical—Defendant’s uniform insurance policies with Plaintiff and all  
5 putative Class members (defined below) promises to pay for the loss, limited to the ACV the  
6 vehicle. Attached as Exhibit A is a copy of Plaintiff’s Policy (“Policy”), which is materially  
7 identical to the policy for all members of the putative Class.

8 3. When valuing total loss claims for vehicles, it is improper for an automobile  
9 insurance company, such as Progressive, to undervalue and underpay the claims by manipulating  
10 the data used to determine the ACV of the vehicles. Specifically, under its insurance policy terms  
11 and applicable Arizona law, Defendant has a duty to pay, and represent that they will pay, the ACV  
12 of a loss vehicle when adjusting total loss claims. Notwithstanding these obligations and  
13 representations, Defendant fails to fulfill this obligation by making improper and unreasonable  
14 adjustments to reduce the value of comparable vehicles, which in turn reduces the valuation of the  
15 total loss vehicles and the claim payment to the insured/claimant.

16 4. Specifically, Defendant, through Mitchell, systemically applies a so-called  
17 “Projected Sold Adjustment” that results in a significant downward adjustment to the base values  
18 of the comparable vehicles used to calculate the ACV of Plaintiff’s and Class members’ total loss  
19 vehicles. This reduction is contrary to appraisal standards and methodologies and is not based in  
20 fact, as it is contrary to the used car industry’s market pricing and inventory management practices.  
21 The adjustment is applied to each of the comparable vehicles on top of adjustments for differences  
22 such as mileage, options, and equipment. The only purported explanation for the downward  
23 adjustment appears on the last page of the valuation reports and is a general, nondescript statement  
24 claiming that the reduction is to “reflect consumer purchasing behavior (negotiating a different  
25 price than the listed price).” Exhibit B at p. 10.

26 5. Through Defendant’s deceptive, fraudulent, and unfair scheme, Defendant breached  
27 its contracts and the covenant of good faith and fair dealing and was unjustly enriched.

28 6. As a result of Defendant’s deceptive, fraudulent, and unfair scheme, Plaintiff did

1 not receive the benefit of her bargain, and thus sustained actual damages.

2 7. By this action, Plaintiff, individually and on behalf of the Class, seek damages and  
3 injunctive and declaratory relief.

4 **PARTIES**

5 8. Plaintiff Laura Rhodes, at all relevant times, was an Arizona citizen. At all relevant  
6 times, Plaintiff was contracted with Progressive for automobile insurance. On or about September  
7 2, 2021, Plaintiff was in a car wreck and Defendant deemed her vehicle to be a total loss.

8 9. Defendant Progressive Advanced Insurance Company is an Ohio company with its  
9 principal place of business in Ohio. Defendant provides insurance coverage throughout the United  
10 States for first-party property damage under collision and/or comprehensive coverage.

11 **JURISDICTION AND VENUE**

12 10. Minimal diversity exists under the Class Action Fairness Act (“CAFA”), 28 U.S.C.  
13 §§ 1332(d), 1441(a)-(b), and 1453. Plaintiff and the proposed class members are citizens of the  
14 State of Arizona. Defendant is an Ohio Corporation that has its corporate headquarters in Mayfield  
15 Village, OH, and, at all relevant times hereto, Defendant was engaged in the business of marketing  
16 and selling insurance policies and adjusting insurance claims in the State of Arizona.

17 11. Plaintiff estimates that there are more than 100 putative class members, and the  
18 aggregate compensatory damages (in the amount of the Projected Sold Adjustments that were  
19 deceptively deducted), claimed by Plaintiff and the Class are estimated in good faith to exceed  
20 \$5,000,000.

21 12. Venue is proper in this District under 28 U.S.C. § 1391, as a substantial portion of  
22 the conduct giving rise to Plaintiff’s claim occurred in this District, and Defendant transacts  
23 business in this District.

24 **FACTUAL ALLEGATIONS**

25 13. On September 2, 2021, Plaintiff was involved in a car wreck and sustained physical  
26 damage to her vehicle.

27 14. Like all members of the putative Class, Plaintiff made a property damage claim to  
28 Defendant.

15. Pursuant to the same policies and procedures, Defendant declared Plaintiff’s vehicle

1 to be a total loss and purported to offer her the ACV of her loss vehicle, as Defendant promised and  
2 represented it would under the uniform provisions of its insurance policies and Arizona law.

3 16. When calculating its valuations and claims payments, Defendant systemically  
4 employs a routine “total loss settlement process.” The process has no material differences relevant  
5 to this action, regardless of whether it involves first-party or third-party claimants or which  
6 Progressive Group entities were directly involved in the issuance of the relevant policy. This  
7 process involves obtaining a “Vehicle Valuation Report” from Mitchell and then using and relying  
8 upon the valuation provided by Mitchell to determine the benefit payment under the policy.  
9 Defendant provided a Mitchell Vehicle Valuation Report for Plaintiff on September 21, 2021. *See*  
10 Exhibit B.

11 17. The Mitchell Vehicle Valuation Reports used by Defendant during the relevant  
12 period followed the same process, provided and disclosed the same or substantially the same  
13 material information, and presented that material information in the same or substantially the same  
14 format. These valuation reports purport to contain values for comparable vehicles recently sold or  
15 for sale in the claimant’s geographic area. The reports also contain a purported valuation for the  
16 loss vehicle based upon advertisements for comparable vehicles listed in the report. The report then  
17 adjusts the advertised prices of those comparable vehicles to account for differences in equipment,  
18 mileage, and vehicle configuration. Exhibit B at p. 10.

19 18. In addition, however, the valuation reports used by Defendant make a further  
20 adjustment to each loss vehicle called a “Projected Sold Adjustment.” For Plaintiff, Projected Sold  
21 Adjustments in the amounts of -\$891.00, -\$1,054.00, -\$730.00, and - \$679.00 respectively, were  
22 applied to four of the five comparable vehicles. Exhibit B at pp. 6-8.

23 19. Defendant provides no data specific to the comparable vehicles or any explanation  
24 of industry practices in its valuation reports to support *any* Projected Sold Adjustment, much less  
25 the specific downward adjustments used in Plaintiff’s valuation report. Instead, the *only* explanation  
26 is buried on the last page of each report, stating in full: “Projected Sold Adjustment – an adjustment  
27 to reflect consumer purchasing behavior (negotiating a different price than the listed price).”  
28 Exhibit B at p. 10.

1           20. Defendant’s Projected Sold Adjustments are deceptive. As part of a deceptive ACV.  
2 Moreover, as described above, Defendant provides no explanation or justification for the Projected  
3 Sold Adjustment, much less the specific amount applied, other than the speculation that it “reflect[s]  
4 consumer behavior.” Exhibit B at p. 10.

5           21. In truth, Defendant’s Projected Sold Adjustments do not reflect market realities (the  
6 context in which “consumer behavior” occurs) and run contrary to customary automobile dealer  
7 practices and inventory management, where list prices are priced to reflect the intense competition  
8 in the context of internet pricing and comparison shopping. A negotiated price discount would be  
9 highly atypical and therefore is not proper to include in determining ACV. The inclusion of this  
10 significant downward adjustment purportedly to “reflect consumer purchasing behavior” is  
11 particularly improper in the context of this action—insureds who have suffered a total loss of their  
12 vehicle and need to procure a replacement and have limited time to search out the illusory  
13 opportunity to obtain the below-market deal Defendant assumes always exists without any  
14 explanation or support.

15           22. Defendant’s Projected Sold Adjustments are contrary to appraisal standards. There  
16 are multiple generally-recognized and acceptable methodologies for determining ACV, including  
17 use of comparable vehicles. Defendant begins the process of valuing loss vehicles using  
18 comparative methodology but improperly deviates from that process by thumbing the scales in  
19 favor of Progressive. Defendant documents the loss vehicle’s and each comparable vehicle’s  
20 mileage, options, and trim, which are compared in the report, and make dollar adjustments  
21 accordingly. Plaintiff does not challenge these documented adjustments. At this stage of the  
22 process, Defendant abandons the comparative methodology and applies adjustments that are  
23 contrary to proper appraisal methodologies for determining ACV. Appraisers use advertised prices  
24 and only make adjustments based on observed and verifiable data; appraisal standards do not permit  
25 arbitrary adjustments from the advertised price based upon undocumented and unverifiable  
26 projections.

27           23. The impropriety and arbitrariness of Defendant’s Projected Sold Adjustments is  
28 further demonstrated by the fact that Mitchell’s primary competitor in providing valuation reports

1 to insurance companies—CCC Intelligent Solutions—does not apply projected sold adjustments in  
2 this manner. Instead, CCC Intelligent Solutions uses list prices.

3 24. On information and belief, the impropriety and arbitrariness of Defendant’s  
4 Projected Sold Adjustments are further demonstrated by the fact that Progressive Group entities do  
5 not apply these adjustments when valuing total losses in California. There is no justification for  
6 applying these adjustments when valuing total losses in Arizona while not subjecting California  
7 claimants to the same negative adjustments.

8 25. Plaintiff and each member of the class were damaged by Defendant’s application of  
9 these Projected Sold Adjustments because they were not paid the ACV they would have received  
10 had Defendant applied proper methodologies and appraisal standards.

11 26. Were it not for this deceptive and improper adjustment, the “Base Value” in each  
12 valuation report would have been higher, resulting in a higher “settlement value” and in turn a  
13 higher payment by Defendant for ACV. Specifically, for Plaintiff, were it not for this deceptive  
14 and improper adjustment, the payment of ACV by Defendant would have been \$670.80 higher,<sup>1</sup>  
15 before adding the related increase in payments for applicable sales taxes.

16 **CLASS ALLEGATIONS**

17 27. Plaintiff brings this action individually and as a class action under Fed. R. Civ. P  
18 23(a) and (b), on behalf of the following proposed Class:

19 All Arizona citizens insured by Defendant who, from the earliest  
20 allowable time through the date an Order granting class certification is  
21 entered, received compensation for the total loss of a covered vehicle,  
22 where that compensation was based on a valuation report prepared by  
23 Mitchell and the ACV was decreased based upon Projected Sold  
Adjustments to the comparable vehicles used to determine ACV.

24 28. Excluded from the proposed Class are: (a) Defendant and its agents, officers,  
25 directors, parent companies, subsidiaries, and affiliates; (b) counsel representing Plaintiff and any  
26 person employed by counsel; and (c) any judicial officers assigned to this case and their staff.

27 29. Plaintiff reserves her right to amend the Class definition if discovery and further

28 <sup>1</sup> \$670.80 is the average of the Projected Sold Adjustments applied to four of the five comparable  
vehicles in Plaintiff’s valuation report.

1 investigation reveal that any Class should be expanded or narrowed, divided into additional  
2 subclasses, or modified in any other way.

3 30. **Numerosity (Rule 23(a)(1)).** The members of the Class are so numerous that  
4 individual joinder of all Class members is impracticable. While Plaintiff is informed and believes  
5 that there are thousands of Class members, the precise number is unknown to Plaintiff but may be  
6 ascertained from Defendant's books and records. Class members may be notified of the pendency  
7 of this action by recognized Court-approved notice dissemination methods, which may include U.S.  
8 Mail, electronic mail, Internet postings, and/or published notice..

9 31. **Commonality (Rule 23(a)(2)).** This action involves common questions of law and  
10 fact, which predominate over any questions affecting individual Class members, including, without  
11 limitation:

- 12 a. Whether Whether Defendant systemically used Mitchell's Vehicle Valuation  
13 Reports in adjusting total loss claims to determine ACV;
- 14 b. Whether the Mitchell Vehicle Valuation Reports included Projected Sold  
15 Adjustments to the value of the comparable vehicles that reduced the base value,  
16 and thus the claim amount paid by Defendant for the ACV of Plaintiff's and Class  
17 members' total loss vehicles;
- 18 c. Whether representing to claimants that the Mitchell valuation equated with the  
19 total loss vehicle's ACV was deceptive;
- 20 d. Whether Defendant's deceptive acts and improper practices injured Plaintiff and  
21 members of the Class;
- 22 e. Whether Defendant's acts violated its obligations under the policy of insurance;
- 23 f. Whether Plaintiff and the Class are entitled to compensatory damages, and if so,  
24 the calculation of damages; and
- 25 g. Whether Plaintiff and members of the Class are entitled to an injunction  
26 restraining Progressive's future deceptive acts and practices.

27 32. **Typicality (Rule 23(a)(3)).** The claims of the Plaintiff, who is the representative of  
28 the Class herein, are typical of the claims of the proposed Class, in that the claims of all members

1 of the proposed Class, including the Plaintiff, depend on a showing of the acts of Progressive giving  
2 rise to the right of Plaintiff to the relief sought herein. There is no conflict between the individually  
3 named Plaintiff and the other members of the proposed Class with respect to this action, or with  
4 respect to the claims for relief set forth herein.

5       33.     **Adequacy (Rule 23(a)(4)).** Plaintiff is an adequate representative of the Class  
6 because Plaintiff's interests do not conflict with the interests of the other Class members whom he  
7 seeks to represent, Plaintiff has retained counsel competent and experienced in complex class action  
8 litigation, including successfully litigating class action cases similar to this one, where insurers  
9 breached contracts with insureds. The interests of the Class will be fairly and adequately protected  
10 by Plaintiff and her counsel.

11       34.     **Predominance & Superiority (Rule 23(b)(3)).** Class certification is appropriate  
12 under Rule 23 because the common questions of law and fact in this case predominate over  
13 questions affecting only individual members of the Class, and a class action is the superior method  
14 for fair and efficient adjudication of the controversy. The likelihood that individual members of the  
15 Class will prosecute separate action is remote due to the time and expense necessary to conduct  
16 such litigation. The class action procedure would permit a large number of injured persons to  
17 prosecute their common claims in a single forum simultaneously, efficiently, and without  
18 unnecessary duplication of evidence and effort. Class treatment also would permit the adjudication  
19 of claims by class members who claims are too small and complex to individually litigate against  
20 a large corporate defendant.

21       35.     **Final Declaratory or Injunctive Relief (Rule 23(b)(2)).** Plaintiff also satisfies the  
22 requirements for maintaining a class action under Rule 23(b)(2). Defendant has acted or refused to  
23 act on grounds that apply generally to the proposed Class, making final declaratory or injunctive  
24 relief appropriate with respect to the proposed Class as a whole.

25       36.     **Particular Issues (Rule 23(c)(4)).** Plaintiff also satisfies the requirements for  
26 maintaining a class action under Rule 23(c)(4). Plaintiff's claims consist of particular issues that  
27 are common to all members of the Class and are capable of class-wide resolution that will  
28 significantly advance the litigation.

**FIRST CAUSE OF ACTION**  
**BREACH OF CONTRACT**

1  
2  
3 37. Plaintiff repeats and re-alleges all previously alleged paragraphs as if fully alleged  
4 herein.

5 38. This Count is brought by the Plaintiff on behalf of the Class.

6 39. Plaintiff and each of the other Class members were insured under a policy issued by  
7 Defendant, as described herein.

8 40. Plaintiff and each of the other Class members made claims under their insurance  
9 contracts, which Defendant determined to be first-party total losses under the insurance contract,  
10 and additionally determined to be covered claims.

11 41. Pursuant to the above-described contractual provisions, upon the total loss of their  
12 insured vehicles, Defendant purported to pay Plaintiff and each of the other Class members the  
13 ACV of their totaled vehicles.

14 42. Defendant, however, failed to pay the ACV of Plaintiff's and Class members'  
15 vehicles because Defendant applied an arbitrary and capricious Projected Sold Adjustment to  
16 comparable vehicles in order to reduce their market value and, as a result, Defendant's total-loss  
17 payments to insureds.

18 43. Defendant also failed to comply with Arizona law, which requires insurers who  
19 settle a total loss claim with a cash settlement on the basis of actual cash value to determine the  
20 "actual cost... to purchase a comparable automobile" of a totaled vehicle, determined by "i. The  
21 cost of a comparable automobile in the local market area when a comparable automobile is available  
22 in the local market area" or "ii. One of two or more quotations obtained by the insurer from two or  
23 more qualified dealers located within the local market area when a comparable automobile is not  
24 available in the local market area." Ariz. Admin. Code Section R20-6-801(H)(1)(b). When the basis  
25 for the total loss settlement deviates from either of these methods, "the deviation must be supported  
26 by documentation giving particulars of the automobile condition. Any deductions from such cost,  
27 including deduction for salvage, must be measurable, discernible, itemized and specified as to  
28 dollar amount and shall be appropriate in amount. The basis for such settlement shall be fully  
explained to the first party claimant." Ariz. Admin. Code Section R20-6-801(H)(1)(c).



1 cost of a comparable automobile in the local market area when a comparable automobile is available  
2 in the local market area” or “ii. One of two or more quotations obtained by the insurer from two or  
3 more qualified dealers located within the local market area when a comparable automobile is not  
4 available in the local market area.” Ariz. Admin. Code Section R20-6-801(H)(1)(b). When the basis  
5 for the total loss settlement deviates from either of these methods, “the deviation must be supported  
6 by documentation giving particulars of the automobile condition. Any deductions from such cost,  
7 including deduction for salvage, must be measurable, discernible, itemized and specified as to  
8 dollar amount and shall be appropriate in amount. The basis for such settlement shall be fully  
9 explained to the first party claimant.” Ariz. Admin. Code Section R20-6-801(H)(1)(c).

10 52. As such, Defendant breached the covenant of good faith and fair dealing by, *inter*  
11 *alia*:

- 12 a. Intentionally applying Projected Sold Adjustments to undervalue comparable  
13 vehicles, and, in turn, insureds’ total-loss vehicles;
- 14 b. Failing to pay insureds the ACV of their total-loss vehicles;
- 15 c. Interpreting the terms and conditions of its insurance policies in an unreasonable  
16 manner solely in an effort to understate the value of total-loss vehicles and avoid  
17 paying insureds the ACV on their total-loss claims;
- 18 d. Inventing spurious grounds for undervaluing total-loss claims that are hidden, not  
19 specific in dollar amount, not adequately explained, and unreasonable.

20 53. Defendant’s breaches of the covenant of good faith and fair dealing have caused  
21 damages to Plaintiff and the Class. Plaintiff’s and the Class members’ damages include the amounts  
22 improperly deducted by Defendant from its payments to insureds on the basis of a Projected Sold  
23 Adjustment.

24 **THIRD CAUSE OF ACTION**  
25 **UNJUST ENRICHMENT**

26 54. Plaintiff repeats and re-alleges all previously alleged paragraphs, except those  
27 allegations made under the preceding Counts, as if fully alleged herein.

28 55. This Count is brought by the Plaintiff on behalf of the Class.

56. Plaintiff pleads this claim separately as well as in the alternative to her other claims,

1 as without such claims she would have no adequate legal remedy.

2 57. Defendant requested and received a monetary benefit at the expense of Plaintiff and  
3 Class members in the form of premium payments for automobile insurance coverage.

4 58. Defendant misrepresented, omitted, concealed, and/or failed to disclose material  
5 facts regarding its purported payment of ACV in the event of a total loss, specifically Defendant's  
6 application of an arbitrary Projected Sold Adjustment to comparable vehicles to artificially reduce  
7 its total-loss payments to insureds.

8 59. Defendant also failed to comply with Arizona law, which requires insurers who  
9 settle a total loss claim with a cash settlement on the basis of actual cash value to determine the  
10 "actual cost... to purchase a comparable automobile" of a totaled vehicle, determined by "i. The  
11 cost of a comparable automobile in the local market area when a comparable automobile is available  
12 in the local market area" or "ii. One of two or more quotations obtained by the insurer from two or  
13 more qualified dealers located within the local market area when a comparable automobile is not  
14 available in the local market area." Ariz. Admin. Code Section R20-6-801(H)(1)(b). When the basis  
15 for the total loss settlement deviates from either of these methods, "the deviation must be supported  
16 by documentation giving particulars of the automobile condition. Any deductions from such cost,  
17 including deduction for salvage, must be measurable, discernible, itemized and specified as to  
18 dollar amount and shall be appropriate in amount. The basis for such settlement shall be fully  
19 explained to the first party claimant." Ariz. Admin. Code Section R20-6-801(H)(1)(c).

20 60. If Defendant had not misrepresented, omitted, concealed, and/or failed to disclose  
21 material facts regarding its purported payment of ACV in the event of a total loss, specifically  
22 Defendant's application of an arbitrary Projected Sold Adjustment to comparable vehicles to  
23 artificially reduce its total-loss payments to insureds and its failure to comply with Arizona law,  
24 Plaintiff and the Class members either would not have purchased insurance through Defendant, or  
25 they would have paid less for such insurance coverage.

26 61. Accordingly, Defendant was unjustly enriched by the premiums paid by Plaintiff  
27 and the Class members to the detriment of Plaintiff and the Class members.

28 62. Plaintiff and the Class members are, thus, entitled to restitution and disgorgement in

1 the amount Defendant was unjustly enriched, in an amount to be determined at trial.

2 **FOURTH CAUSE OF ACTION**  
3 **DECLARATORY JUDGMENT**

4 63. Plaintiff repeats and re-alleges all previously alleged paragraphs, except those  
5 allegations made under the preceding Counts, as if fully alleged herein.

6 64. This Count is brought by the Plaintiff on behalf of the Class.

7 65. A dispute between Plaintiff and the Class and Defendant is before this Court  
8 concerning the construction of the auto insurance policies issued by Defendant, and the rights of  
9 Plaintiff and the Class arising under that policy.

10 66. Plaintiff, individually and on behalf of the Class, seeks a declaration of rights and  
11 liabilities of the parties herein. Specifically, Plaintiff seeks a declaration that in paying total-loss  
12 claims by first-party insureds, it is a breach of Defendant's insurance contract, as well as a violation  
13 of law, for Defendant to base the valuation and payment of claims on values of comparable vehicles  
14 that have been reduced by arbitrary Projected Sold Adjustments that are (a) arbitrary, (b) contrary  
15 to industry practices and consumer experiences (and therefore not reflective of the vehicle's fair  
16 market value), and (c) not as reasonably specific or appropriate as to dollar amount.

17 67. Defendant's unlawful common policy and general business practice as described  
18 herein are ongoing. Accordingly, Defendant has breached, and continues to breach, the express  
19 terms of its contracts of insurance with Plaintiff and members of the Class.

20 68. As a result of these breaches of contract, Plaintiff and the Class members have been  
21 injured.

22 **PRAYER FOR RELIEF**

23 WHEREFORE, Plaintiff, individually and on behalf of all others similarly situated,  
24 respectfully seeks judgement in Plaintiff's favor and in favor of the Class as follows:

- 25 A. An Order certifying this action as a Class Action and appointing Plaintiff as Class  
26 Representative and Plaintiff's counsel as Class Counsel;
- 27 B. An award of damages (including actual, compensatory, statutory, and punitive, as  
28 provided by law) and restitution to Plaintiff and the Class in an amount to be determined  
at trial, plus interest, in accordance with law;

- 1 C. Disgorgement of Defendant’s profits;
- 2 D. Appropriate preliminary and/or final injunctive or equitable relief against the conduct of
- 3 Defendant’s described herein;
- 4 E. An award Plaintiff’s and the Class’ costs of suit, including reasonable attorneys’ fees as
- 5 provided by law; and
- 6 F. An award such further and additional relief as is necessary to redress the harm caused by
- 7 Defendant’s unlawful conduct and as the Court may deem just and proper under the
- 8 circumstances.

9 **JURY DEMAND**

10 Plaintiff hereby demands a jury trial on all claims so triable.

11  
12 Dated: May 5, 2022

Respectfully submitted,

13 **SHAMIS & GENTILE, P.A.**

14 */s/ Andrew J. Shamis*

Andrew J. Shamis, Esq.

Arizona Bar No. 037343

ashamis@shamisgentile.com

14 NE 1<sup>st</sup> Avenue, Suite 705

Miami, Florida 33132

17 Telephone: 305-479-2299

18 *Attorneys for Plaintiff and the Putative Class*