

**YES** / NO  
**EXHIBITS**

CASE NO. 2020 CH 180

DATE: 1/7/20

CASE TYPE: CLASS ACTION

PAGE COUNT: 18

**CASE NOTE**

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Return Date: No return date scheduled  
Hearing Date: 5/6/2020 10:00 AM - 10:00 AM  
Courtroom Number: 2510  
Location: District 1 Court  
Cook County, IL

FILED  
1/7/2020 3:41 PM  
DOROTHY BROWN  
CIRCUIT CLERK  
COOK COUNTY, IL  
2020CH00180

**CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION**

George Pappas, individually and on behalf )  
of a class of similarly situated persons, )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
Auto Club Insurance Association, )  
 )  
Defendant. )

7979203

**Case No.** 2020CH00180

**CLASS ACTION**

**JURY TRIAL DEMANDED**

**CLASS ACTION COMPLAINT**

Plaintiff, George Pappas (“Plaintiff”), through his attorneys, brings this class action lawsuit on behalf of himself and all other persons similarly situated, who were insureds under Defendant, Auto Club Insurance Association’s (“ACIA” or “Defendant”) policies of automobile insurance (the “Policies”), and except as to those allegations pertaining to Plaintiff and his own actions, which allegations are based upon personal knowledge, Plaintiff alleges the following upon information and belief and investigation of their counsel against ACIA:

**NATURE OF THE ACTION**

1. This is a class action for breach of contract and for unjust enrichment.
2. Plaintiff is a customer of ACIA, which issued an insurance policy to Plaintiff for private passenger auto insurance including Comprehensive and Collision Car Damage Coverages for damage to Plaintiff’s automobile.
3. The Policies require payment on total loss private passenger auto physical damage claims of either the “actual cash value” (“ACV”) of the damaged vehicle or the “amount necessary to repair or replace” the damaged vehicle with another of “like make, model and year.” ACV is “determined by the market value, age and condition at the time the loss occurred.”

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4. Defendant also is responsible to pay title, registration and license plate fees, and applicable taxes. These fees are part of ACV and also part of the “amount necessary” to replace the vehicle because they are mandatory costs involved with the purchase of any vehicle in Illinois and many other states, and therefore part of the replacement cost of any vehicle.

5. When Plaintiff suffered a total loss of his insured vehicle, however, Defendant failed to pay him the full amount to which he was entitled to receive for his first-party total loss claims under his ACIA insurance policy.

6. More particularly, Defendant failed to pay the full amount of the title, registration and license plate fees involved with the purchase of a replacement vehicle. Title, registration and license plate fees are mandatory fees involved with the purchase of any vehicle, and therefore part of the ACV and replacement cost of any vehicle.

7. The underpayment to Plaintiff was not, on information and belief, an isolated incident. To the contrary, it is a fundamental component of Defendant’s business practices.

8. Simply stated, Defendant has systematically underpaid its insureds—including Plaintiff and the other Class members—who have suffered the total loss of their vehicles, by failing to pay the full costs of mandatory title, registration and license plate fees, despite being legally obligated to pay such costs.

9. As a result, on information and belief, Defendant has unfairly and unjustly retained substantial sums that should have been paid to policyholders who suffered a total loss of their insured vehicles. Defendant thereby breached its contract with Plaintiff and other Class members and was unjustly enriched through its unlawful practice.

10. This lawsuit is brought on behalf of Plaintiff George Pappas, individually and on behalf of a Class, the members of which were not paid the full costs of mandatory title,

registration and license plate fees as part of their first-party total loss claims.

11. Through this class action, Plaintiff seeks to recover damages for those Class members who have been damaged by Defendant's unlawful practice, alternatively to require restitution of those amounts, and to enjoin Defendant from continuing to engage in the conduct complained of herein.

### **PARTIES**

12. At all times relevant to this action, Plaintiff is and was a citizen and resident of Illinois, domiciled in Cook County. On or about August 6, 2019, Plaintiff suffered a total loss of a vehicle covered by a policy of insurance issued by ACIA to Plaintiff.

13. On information and belief, the American Automobile Association, Inc. ("AAA") is a not-for-profit, non-stock corporation organized and existing under the laws of Connecticut, with its principal place of business and headquarters located in Heathrow, Florida. AAA provides more than 59 million members with products and services throughout the United States and Canada. AAA's services include automobile insurance. AAA provides its services through a federation of 34 motor clubs and nearly 1,100 branch offices across North America, including The Auto Club Group (the "ACG").

14. On information and belief, ACG, also is based in Dearborn, Michigan, is the second largest AAA club in North America, and operates AAA Michigan, AAA Minnesota/Iowa, AAA Nebraska, AAA North Dakota, AAA Wisconsin, Auto Club South (AAA Florida, AAA Georgia, and AAA Tennessee), and the Chicago Motor Club. ACG and its affiliates provide membership, travel, insurance, transportation, automotive, safety, advocacy, discounts and financial services offerings to approximately 9.1 million members across 11 states and two U.S. territories including Florida, Georgia, Iowa, Michigan, Nebraska, North Dakota,

Tennessee, Wisconsin, Puerto Rico and the U.S. Virgin Islands; most of Illinois and Minnesota; and a portion of Indiana.<sup>1</sup>

15. On information and belief, at all times relevant to this action, Defendant ACIA is and was insurance company incorporated in the State of Michigan and with its principal place of business and headquarters located in Dearborn, Michigan. ACIA is part of the Auto Club Group.

16. On information and belief, ACIA is a leading automobile insurer is licensed to do business and write automobile insurance in, among others: Illinois, Michigan, Minnesota, Nebraska, New York, North Dakota, Pennsylvania, and Wisconsin.<sup>2</sup>

17. On information and belief, in 2018, ACIA wrote \$53,727,307 in direct premiums for private passenger automobile physical damage insurance coverage.<sup>3</sup>

18. On information and belief, in 2017, ACIA with over \$32.6 million in direct premiums written, claimed 1.01 percent of the Illinois private passenger auto physical damage insurance market, according to the Illinois Department of Insurance Market Share Report. That ranked them as the 15th-largest auto insurance company in the state in that market.

19. On information and belief, ACIA is the underwriting insurance company a AAA Automobile Insurance Policy, policy number AUT062024684, effective August 1, 2019 to August 1, 2020, issued to George Pappas, as principal named insured.

### **JURISDICTION AND VENUE**

20. Jurisdiction is proper pursuant to 735 ILCS 5/2-209, and venue is proper pursuant

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<sup>1</sup> See <https://www.linkedin.com/company/the-auto-club-group/about/>

<sup>2</sup> See [https://www.naic.org/cis\\_refined\\_results.htm?TABLEAU=CIS\\_LICENSING&COCODE=21202&REALM=PROD](https://www.naic.org/cis_refined_results.htm?TABLEAU=CIS_LICENSING&COCODE=21202&REALM=PROD)

<sup>3</sup> See [https://www.naic.org/cis\\_refined\\_results.htm?TABLEAU=CIS\\_FINANCIAL&COCODE=21202&:refresh](https://www.naic.org/cis_refined_results.htm?TABLEAU=CIS_FINANCIAL&COCODE=21202&:refresh)

to 735 ILCS 5/2-101 because Plaintiff is a resident of Cook County, Illinois, Defendant does business, issues insurance policies and settles claims for automobile losses in Illinois, and in doing so, has engaged in substantial activity in Illinois. Defendant thus has sufficient minimum contacts with Illinois, rendering the exercise of jurisdiction by this Court permissible under traditional notions of fair play and substantial justice.

### **FACTUAL ALLEGATIONS**

#### **A. The ACIA Policies.**

21. At all relevant times, Plaintiff had an Automobile Insurance Policy underwritten and issued by ACIA, policy number AUT062024684, providing coverage for the policy period from August 1, 2019 to August 1, 2020 (the “Policy”). The Policy provided physical damage coverage (Car Damage Coverage) for Plaintiff’s 2012 Jeep Compass Latitude FWD (the “Insured Vehicle”). The Policy provided Car Damage Coverage under terms and conditions contained in policy form 6500-42244-IL2-0413. A copy of the Policy Renewal Declarations and policy form 6500-42244-IL2-0413 are attached as Exhibit A.

22. On information and belief, policy form 6500-42244-IL2-0413 is a standard policy form that has been in use ACIA for its Automobile Insurance Policies across the states in which it writes coverage.

23. Upon information and belief, Automobile Insurance Policy forms used by ACIA prior to its implementation of policy form 6500-42244-IL2-0413 have substantially comparable or identical material terms relating to the physical damage coverage at issue here.

24. Upon information and belief, each Class member was insured under ACIA Automobile Insurance Policies using policy form 6500-42244-IL2-0413, or a policy otherwise containing pertinent coverage terms that were materially identical to those in Plaintiff’s Policy.

25. The Policy provides “Collision Coverage” in Part V, Car Damage Coverage, which provides, in pertinent part, that ACIA “will pay for **loss** caused by the **collision** to the **insured car** when operated by or in the care of an **insured person**.”

26. The Policy defines “collision” to mean, in pertinent part, “impact of the insured car with another object or upset of the insured car.”

27. The Policy defines “Loss” to mean “direct and accidental physical damage to or theft of the insured car, including its equipment and extra equipment.”

28. The Policy provides that ACIA will pay to repair or replace the damaged or stolen property, up to its limit of liability.

29. The Policy represents that the limit of ACIA’s liability for such a loss will not exceed the lesser of: (1) the actual cash value (“ACV”) at the time of loss of the damaged property; or (2) the amount necessary to repair or replace the stolen or damaged property.

30. The Policy further provides that ACV “is determined by the market value, age and condition at the time the loss occurred.”

31. The Policy provides that ACIA, may “pay the named insured and lienholder as interests may appear for the loss in money, or by repairing or replacing the damaged or stolen property.”

**B. The Replacement Cost For A Total Loss Includes Applicable Title, Registration And License Plate Fees And Taxes Involved With The Purchase Of A Replacement Vehicle.**

32. Vehicles must be properly titled in order to be legally driven on roadways. *See, e.g., 625 ILCS 5/3-101* (“every owner of a vehicle which is in this State and for which no certificate of title has been issued by the Secretary of State shall make application to the Secretary of State for a certificate of title of the vehicle”).

33. Vehicles also must have proper license plates (or tags) in order to be legally driven on roadways. *See, e.g.*, 625 ILCS 5/3-401, 625 ILCS 5/3-502, 625 ILCS 5/3-801, 625 ILCS 5/3-815.

34. Upon information and belief, each of the fifty states imposes a form of title fees, registration fees and/or license plate fees relating to the purchase of a private passenger vehicle.

35. As a consequence, under the law in every state, an insured vehicle cannot be replaced without payment of applicable title fees, registration fees and/or license plate fees. Those mandatory costs are, quite literally, part of the replacement cost of every totaled vehicle.

36. Although the Policy references, but does not explicitly define a “total loss,” the limit of coverage provided is either the ACV or the replacement cost. The Policy therefore requires payment of ACV or replacement cost for a total loss.

37. In addition, at least twenty-eight states specifically require, through applicable statute or regulation, that insurers pay all mandatory title, registration and license plate fees in connection with a total loss: Alabama, Alaska, Arizona, Arkansas, California, Colorado, Georgia, Hawaii, Idaho, Illinois, Iowa, Kansas, Kentucky, Maryland, Minnesota, Mississippi, Nebraska, Nevada, New Jersey, New Mexico, Ohio, Oklahoma, Oregon, Rhode Island, Utah, Vermont, Virginia, Washington.<sup>4</sup>

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<sup>4</sup> *See* Ala. Admin. Code § 482-1-125-.08; Alaska. Admin. Code § 26.080, AK Bulletin 93-8; Ariz. Admin. Code § R20-6-801(H)(1); Ark. Admin. Code § 054.00.43-10(A), AR Rule 43-10; Cal. Code of Regs. Tit. 10 § 2695.8(B); C.R.S. § 10-4-639; Ga. Comp. R. & Regs. § 120-2-52-.06; Haw. Rev. Stat. § 431:10C-312; [http://www.doi.idaho.gov/consumer/claim\\_faq.aspx](http://www.doi.idaho.gov/consumer/claim_faq.aspx); Ill. Admin. Code tit. 50, § 919.80(C); Iowa A.D.C. § 191-15.43(507B); Kan. Admin. Regs. § 40-1-34; 806 Ky. Admin. Regs. § 12:095, KY Bulletin 81-DM-007; Md. Code Regs. § 31.15.12.04, MD Ins Order 11-25-80; M.S.A. § 72A.201; MS Bulletin 2007-4; NE Bulletin CB-49; Nev. Admin. Code § 686A.680; N.J. Admin. Code § 11:3-10.4; <http://www.nmprc.state.nm.us/consumerrelations/docs/settlement-total-loss.pdf>; Ohio Admin. Code 3901-1-54; Okla. Stat. Ann. tit. 36, § 1250.8; Or. Admin. R. § 836-080-0240; R.I. Code R. § 11-5-73:8; Utah Admin. Code r. § R590-190; 4-3 Vt. Code R. § 7:8, VT Bulletin 58, VT ADC Ins 79-2; Va. Insurance Order No. 11607; Wash. Admin. Code § 284-30-391.



38. ACIA, consistent with industry standard and the specific requirements of myriad state laws, explains to its insureds suffering a total loss, in form correspondence, that they will receive payment that includes applicable state title fees.

39. Title fees, registration fees and license plate fees are “applicable” to the replacement of any vehicle because a vehicle cannot be replaced without payment of such title fees, registration fees and license plate fees.

40. ACIA’s statements that compensation under the Policy includes applicable mandatory fees and taxes also is consistent with the reasonable expectation of an insured. An insured pays for the maximum coverage under a policy (in this case either the ACV or replacement cost) with the expectation of receiving such protection when the insured suffers the maximum loss (a total loss of the vehicle).

**C. ACIA Does Not Pay Required Mandatory State Vehicle Replacement Costs.**

41. By representing that it will pay the actual cash value or the amount necessary to replace the damaged vehicle with another of like kind and quality in the event of a total loss, ACIA, through the Policy, promises to pay the mandatory vehicle replacement costs, including title, registration and license plate fees and taxes, as part of its automobile insurance coverage.

42. Contrary to its legal obligations, and specific representations, however, ACIA does not pay the applicable mandatory state vehicle replacement costs to its total loss insureds.

43. By failing to include the full amount of the mandatory state vehicle replacement costs, including title, registration and license plate fees and taxes, in making total loss payments to Plaintiff and the other Class members, ACIA breached its contracts with Plaintiff and the other Class members, and was unjustly enriched through its unlawful practice.

44. The aforementioned scheme – promising to pay the mandatory state vehicle

replacement costs in full but declining to actually do so – is, on information and belief, a common scheme implemented by ACIA in a uniform and identical manner.

**D. Plaintiff Suffered A Total Loss And Was Not Paid Applicable Mandatory State Vehicle Replacement Costs As Required By The Policy And State Law.**

45. On or about August 6, 2019, the Insured Vehicle was involved in a collision that rendered the vehicle a total loss. As a result, Plaintiff filed a property damage claim under the Policy with ACIA (the “Claim”).

46. Following the filing of the Claim, ACIA determined that Plaintiff’s Insured Vehicle was a total loss with an actual cash value of \$8,892.00. *See* Exhibit B (Market Valuation Report); and email correspondence dated August 6, 2019, attached as Exhibit C.

47. The value of the Insured Vehicle was calculated by a third-party vendor, CCC One (“CCC”), which estimates vehicles’ valuations on the cost to purchase similar vehicles with similar conditions and mileage. CCC included in its Market Valuation Report a note indicating that the vehicle value stated in the report did not reflect “other factors” such as license plate and other fees that “may need to be taken into account.”

48. ACIA contracts with CCC to provide Market Valuation Reports for its use. ACIA then uses those Market Valuation Reports as a basis to determine the ACV of insured vehicles for purposes of claim resolution.

49. ACIA, however, paid Plaintiff and the other Class members only the ACV of the damaged vehicle calculated by CCC, along with 7.25% sales tax on that amount, and a “title fee” amount of \$120.00. *See* email correspondence dated August 9, 2019, attached as Exhibit D.

50. Title fees, registration fees and license plate fees are mandatory under applicable law, they constitute an inextricable part of a vehicle purchase, and thus they are items which ACIA was contractually obligated to pay.

51. At the time that Plaintiff purchased his replacement vehicle, the applicable total fee for title, registration and license plates for a standard vehicle in Illinois was \$251.00. *See* 625 ILCS 5/3-821; *see also* Exhibit E.

52. When Plaintiff purchased his replacement vehicle, he was assessed and paid a charge \$251.00 for the mandatory title, registration and license plate fees. ACIA's payment of the claim, which included a flat sum of \$120.00 for "title fee," thus underpaid those mandatory fees by \$131.00. *See* Exhibit E.

53. ACIA breached its contract with Plaintiff, and was unjustly enriched, by not including the full amount of the mandatory title, registration and license plate fees when making the payment for Plaintiff's total loss. Plaintiff has been damaged in the minimum amount of \$131.00 by ACIA's failure to pay the mandatory replacement costs.

#### **CLASS ACTION ALLEGATIONS**

54. Plaintiff brings this action pursuant to 735 ILCS 5/2-801, individually and on behalf of all other persons similarly situated individuals and entities defined as follows:

All persons who insured a vehicle for physical damage coverage under an automobile insurance policy issued by ACIA who suffered a total loss of a covered vehicle at any time during the applicable period of limitations prior to the filing of this lawsuit, who were not paid the full amount of the mandatory state vehicle replacement costs, including all title, registration and license plate fees.

Excluded from the Class are ACIA and its employees and agents and members of the Judiciary. Plaintiff reserves the right to amend the Class definition upon completion of class discovery when the contours and the parameters of class become apparent.

55. Certification of Plaintiff's claims for class-wide treatment is appropriate because Plaintiff can prove the elements of his claims on a class-wide basis using the same evidence as would be used to prove those elements in individual actions alleging the same claims.

56. The Class meets the criteria for certification under 735 ILCS 5/2-801 in that:

(a) **Numerosity:** The members of the Class are so numerous that their individual joinder herein is impracticable. While Plaintiff is informed and believes that the Class consists of more than forty (40) and likely several thousand persons, the precise number of Class members is presently unknown to Plaintiff, but may be ascertained from ACIA's books and records. The members of the Class are easily ascertainable and readily identifiable from information and records in ACIA's possession, control, or custody. Upon information and belief, ACIA maintains records of all total loss claims made by its insureds and paid by ACIA. These records include a form of claim settlement explanation that itemizes what categories of costs were and were not paid. These categories include taxes, title fees, registration fees and license plate fees. Members of the Class may be notified of the pendency of this action by recognized, court-approved notice dissemination methods, which may include U.S. Mail, electronic mail, Internet postings, and/or published notice.

(b) **Commonality and Predominance:** This action involves common questions of law and fact applicable to each class member that predominate over questions that affect only individual class members. Thus, proof of a common set of facts will establish the right of each class member to recover. Questions of law and fact common to the claims of the Plaintiff and members of the putative Class, which predominate over any individual issues, include, among others:

- (i) whether ACIA's contractual agreement obligated it to pay the full amount of mandatory title, registration and license plate fees when making a payment for total loss;
- (ii) whether ACIA breached its contracts with Plaintiff and other Class

members by failing to pay the full amount of mandatory state vehicle replacement costs, including title, registration and license plate fees, when making a payment for total loss;

(iii) whether ACIA was unjustly enriched by failing to pay the full amount of mandatory state vehicle replacement costs, including title, registration and license plate fees, when making a payment for total loss; and

(iv) the amount and nature of relief to be awarded to Plaintiff and the other Class members.

(c) **Typicality:** Plaintiff's claims are typical of the claims of the proposed Class. All claims are based on the same legal and factual issues. Plaintiff's claims are typical of the Class' claims because, among other things, all members of the Class were comparably injured through ACIA's uniform misconduct described above. Plaintiff and the other Class members were all similarly affected by ACIA's failure to pay the full amount of mandatory title, registration and license plate fees when making a payment for total loss. Plaintiff's claims are based on the same legal theories as those of the other Class members. Plaintiff and the other Class members similarly sustained damages as a direct and proximate result of the same wrongful practices in which ACIA engaged. Plaintiff's claims arise from the same practices and course of conduct that give rise to the claims of the other Class members. In addition, there are no defenses available to ACIA that are unique to Plaintiff or to any particular members of the Class. At its core, this is a breach of contract claim involving identical issues on identical (in all relevant respects) contracts across the Class. There are no material differences among the state laws governing breach of contract pertaining to the simple contract interpretation issue presented here. ACIA's breach of contract can be proven with common proof.

(d) **Adequacy of Representation:** Plaintiff will fairly and adequately represent and protect the interests of the Class and he has retained counsel competent and experienced in complex class actions. Neither Plaintiff nor Plaintiff's counsel have any interests that conflict with or are antagonistic to the interests of the Class members. Defendants have no defenses unique to Plaintiff. The questions of law and fact common to the proposed class members predominate over any questions affecting only individual Class members. Plaintiff and Plaintiff's counsel have the necessary resources to adequately and vigorously litigate this class action, and Plaintiff and his counsel are aware of their fiduciary responsibilities to the Class members and will diligently discharge those duties by vigorously seeking relief and recovery for the Class. The interests of the Class will be fairly and adequately protected by Plaintiff and his counsel.

(e) **Declaratory and Injunctive Relief:** ACIA acted or refused to act on grounds generally applicable to Plaintiff and the other Class members, thereby making appropriate final injunctive relief and declaratory relief, as described below, with respect to the Class members as a whole. ACIA has created and implemented a uniform claims handling practice based on identical or materially indistinct policy language that is applicable to all Class members. ACIA's practice of failing to pay full amount of title fees, registration fees and license plate fees for first-party total loss claims applies generally to all Class members and is ongoing. There is a serious and imminent risk and substantial likelihood of irreparable injury in the future to Plaintiff and Class members if injunctive relief is not granted. There is a bona fide, actual, present, and practical need for the injunctive relief sought because ACIA's improper conduct has harmed Plaintiff and Class members, and will continue to harm other insureds who in the future will not receive full payment, as required by their insurance contracts.

57. In addition, a class action is an appropriate and superior method for adjudicating this controversy fairly and efficiently. The interest of the individual Class members in individually controlling the prosecution of separate claims is small and individual actions are not economically feasible.

(a) **Insufficiency of Separate Actions:** Absent a representative class action, members of the Class would continue to suffer the harm described herein, for which they would have no remedy. Even if separate actions could be brought by individual policyholders, the resulting multiplicity of lawsuits would cause undue burden and expense for both the Court and the litigants, as well as create a risk of inconsistent rulings and adjudications that might be dispositive of the interests of similarly situated purchasers, substantially impeding their ability to protect their interests, while establishing incompatible standards of conduct for ACIA.

(b) **Superiority:** A class action is superior to any other available means for the fair and efficient adjudication of this controversy, and no unusual difficulties are likely to be encountered in the management of this class action. The damages or other financial detriment suffered by Plaintiff and the other Class members are relatively small compared to the burden and expense that would be required to individually litigate their claims against ACIA, so it would be impracticable for the Class members to individually seek redress for ACIA's wrongful conduct. Even if the Class members could afford litigation the court system could not. Individualized litigation creates a potential for inconsistent or contradictory judgments and increases the delay and expense to all parties and the court system. By contrast, the class action device presents far fewer management difficulties, and provides the benefits of single adjudication, economy of scale, and comprehensive supervision by a single court.

**CAUSE OF ACTION**

**COUNT I**  
**BREACH OF CONTRACT**

58. Plaintiff incorporates paragraphs 1 through 57 above, as if fully stated herein.

59. Plaintiff asserts a breach of contract claim against ACIA, on behalf of himself, and the Class.

60. Plaintiff, and each member of the Class, were parties to an insurance contract with ACIA.

61. Plaintiff, and each member of the Class, were insured by a policy of insurance issued by ACIA, as described herein.

62. Plaintiff, and each member of the Class, complied with the conditions precedent in their insurance contracts.

63. The pertinent insurance policies are form contracts containing certain uniform provisions.

64. The interpretation of all such insurance contracts is governed by common law, and the law of all of the states is the same with regard to the interpretation of the contractual provisions at issue in this lawsuit.

65. Plaintiff and each of the other Class members made claims under their insurance contracts, which ACIA determined to be first-party total losses under the insurance contracts, and additionally determined to be covered claims.

66. ACIA, by paying on the total loss claim, determined that Plaintiff and each Class member complied with the terms of their insurance contracts and fulfilled all of their duties that the insurance contracts imposed for them to be paid on their total loss.

67. Pursuant to the above-described contractual provisions, upon the total loss of



their insured vehicles, Plaintiff and each of the other Class members were each owed the Actual Cash Value of their vehicles, or amount necessary to repair or replace the damaged vehicle with another of like kind and quality, along with mandatory title, registration and license plate fees.

68. ACIA failed to pay the requisite mandatory title, registration and license fees in full to Plaintiff and the other Class members on their total loss claims.

69. ACIA's failure to pay the requisite mandatory title, registration and license plate fees in full constitutes a material breach of their contracts with Plaintiff and each of the other Class members.

70. As a result of these contractual breaches, Plaintiff and each of the other Class members have been damaged, and are entitled to sums representing the benefits owed for mandatory title, registration and license plate fees, as well as costs, pre-judgment and post-judgment interest, injunctive relief, and other relief as appropriate.

**COUNT II**  
**UNJUST ENRICHMENT (IN THE ALTERNATIVE)**

71. Plaintiff incorporates paragraphs 1 through 57 above, as if fully stated herein.

72. Should this Court find that no contract or contractual provision expressly governs the claims arising from the allegations of this Complaint, Plaintiff asserts that Defendant knowingly retained benefits from him and the other members of the Class under circumstances that render Defendant's retention of such benefits unfair, improper and unjust.

73. An action for unjust enrichment is founded upon the equitable principle that no one ought unjustly to enrich himself at the expense of another.

74. Defendant unfairly retained and unjustly benefitted from financial gain achieved by failing to pay the full amount of mandatory state vehicle replacement costs, including title, registration and license plate fees and taxes involved with the purchase of a replacement vehicle,

to Plaintiff and the other members of the Class.

75. A claim for unjust enrichment is maintainable in all cases where one has received money under such circumstances that, in equity and good conscience, he ought not to retain it, and it belongs to another.

76. As a direct and proximate result of Defendant's actions, Defendant has been unjustly enriched.

77. Defendant's retention of the financial gain it achieved by failing to pay the full amount of mandatory state vehicle replacement costs, involved with the purchase of a replacement vehicle is unjust and inequitable. Plaintiff and the Class thus seek disgorgement of all such amounts unjustly retained, as well as costs, pre-judgment and post-judgment interest, and other relief as appropriate.

**WHEREFORE**, Plaintiff George Pappas, individually and on behalf of all others similarly situated, prays that judgment be entered in their favor and against Defendant, Auto Club Insurance Association, as follows:

A. That the Court adjudge, decree and certify that the present case may be properly maintained as a class action, appoint Plaintiff as the representative of the Class, and appoint Plaintiff's counsel as counsel for the Class;

B. That the Court grant judgment in favor of Plaintiff and the Class, and against ACIA;

C. That the Court award compensatory damages, and all other available damages, for Plaintiff and the other Class members against ACIA;

D. Alternatively, that the Court order restitution for disgorgement of monies wrongfully retained by Defendant;

E. That the Court enjoin ACIA from continuing to engage in the conduct complained of herein, and for other injunctive relief as is proven to be appropriate in this matter;

F. That the Court award prejudgment interest on any damage amounts awarded;

G. That the Court award post-judgment interest on any judgment entered;

H. That the Court award reasonable attorneys' fees, expenses and litigation costs as appropriate pursuant to applicable law; and

I. That the Court grant such further relief as it deems just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury of all claims in this Complaint so triable.

Dated: January 7, 2020.

Respectfully submitted,

GEORGE PAPPAS, individually, and on behalf of  
all others similarly situated,

By: /s/ Jeffrey A. Berman  
One of his Attorneys

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Jeffrey A. Berman  
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Counsel for the Plaintiff and the Class

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Auto Club Insurance Association Underpaid Total Loss Claims, Class Action Alleges](#)

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