

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

NICHOLUS JOHNSON, TAMARA EWING,
KOSMOE MALCOM, KWANZA
GARDNER, AQUEELAH COLEMAN, and
TODRA WASHINGTON, individually and
on behalf of all others similarly situated,

Plaintiffs,

v.

GEICO INDEMNITY COMPANY,
GOVERNMENT EMPLOYEES
INSURANCE COMPANY, and GEICO
GENERAL INSURANCE COMPANY,
Maryland corporations,

Defendants.

Case No.: 5:20-cv-00165-MTT

**DEFENDANTS' ANSWER TO PLAINTIFFS'
THIRD AMENDED CLASS ACTION COMPLAINT**

Defendants GEICO Indemnity Company, Government Employees Insurance Company, and GEICO General Insurance Company (collectively, "GEICO" or "Defendants") hereby respond to Plaintiffs' Third Amended Class Action Complaint ("Complaint"), dated August 11, 2022, as follows:

NATURE OF THE CASE

1. This is a Georgia class action lawsuit by Plaintiffs, individually, and on behalf of a putative class of persons, who were insureds under GEICO private passenger auto ("PPA") insurance policies, who submitted covered first-party total loss auto claims, and who were not paid the full taxes and fees due under the policies.

Answer: GEICO denies each and every allegation contained in paragraph 1 of the Complaint except admits that Plaintiffs were each insured under GEICO Georgia Family

Automobile Insurance Policies issued by either GEICO Indemnity Company, GEICO General Insurance Company or Government Employees Insurance Company.

2. The GEICO PPA insurance policies (the “Policies”) insuring Plaintiffs and all putative class members (“Class Members”) have identical material language relating to coverage provided for first-party total loss claims. The materially identical language covering Plaintiff and each Class Member is in the “form” policy attached hereto as Exhibit A.

Answer: GEICO denies each and every allegation contained in paragraph 2 of the Complaint except admits that Plaintiffs were each insured by a GEICO entity under GEICO’s Georgia Family Automobile Insurance Policy, policy forms A30GA (04-07) or A70GA (04-07) (the “Policies”).

3. The Policies require payment on total losses of “actual cash value,” which is defined by the Policies as “the replacement cost of the auto or property less depreciation or betterment.” *See* Exhibit A at 8 (Policy Form) (original emphasis omitted). Plaintiffs bring claims for breach of contract because GEICO failed to pay Plaintiffs and Class Members the mandatory replacement costs on their total loss claims.

Answer: GEICO denies each and every allegation contained in paragraph 3 of the Complaint except admits that the Policies define “*Actual cash value*” as “the replacement cost of the auto or property less *depreciation* or *betterment*.” GEICO further states that the complete terms, conditions, exclusions and limitations of the Policies speak for themselves.

4. Georgia law expressly requires insurers to pay applicable taxes and fees in the replacement of total loss vehicles. Ga. Comp. R. & Regs. R. 120-2-52-.06, Total Loss Vehicle Claims (insurer shall include in total loss coverage payments “all applicable taxes, license fees and other fees incident to the transfer of ownership of a comparable automobile”).

Answer: No response is required to paragraph 4 of the Complaint because it states Plaintiffs’ contentions and conclusions of law. To the extent a response is required, GEICO denies each and every allegation contained in paragraph 4 of the Complaint. GEICO further states Ga. Comp. R. & Regs. R. 120-2-52-.06 speaks for itself.

5. These mandatory replacement costs due upon the replacement of any total loss vehicle, and therefore due under the Policies, include the Georgia title ad valorem tax (“TAVT”) (which replaced Georgia’s mandatory auto sales tax in 2013), a minimum title transfer fee of \$18.00, and a minimum license plate transfer fee of \$5.00.

Answer: No response is required to paragraph 5 of the Complaint because it states Plaintiffs’ contentions and conclusions of law. To the extent a response is required, GEICO denies each and every allegation contained in paragraph 5 of the Complaint.

6. GEICO breached the Policies and Georgia law by failing to pay the mandatory replacement costs of TAVT, title transfer fees, and/or license plate transfer fees on first-party covered total loss claims.

Answer: GEICO denies each and every allegation contained in paragraph 6 of the Complaint.

7. Base value is market value of a similar make, model, and condition vehicle. In adjusting a total loss claim, GEICO determines, *inter alia*, the base value and adjusted value of the total loss vehicle. Plaintiffs do not dispute GEICO’s determination of the values of total loss vehicles for purposes of determining the vehicle value component of total loss claims. Because there is no dispute relating to property value, there is no vehicle valuation issue that could be resolved by appraisal. Instead, the only disputes raised in this lawsuit are related to insurance coverage: i.e., whether the Policies required GEICO to include TAVT, title transfer fees, and/or license plate transfer fees on payments for covered total loss claims, and the amounts of TAVT, title transfer fees, and license plate transfer fees. Whether the Policies required payment of such fees, and the amounts of such fees, are solely questions of law, and are not proper questions for appraisal.

Answer: No response is required to paragraph 7 of the Complaint because it states Plaintiffs’ contentions and conclusions of law. To the extent a response is required, GEICO denies each and every allegation contained in paragraph 7 of the Complaint.

THE PARTIES

8. Plaintiff Ewing is and was domiciled in Fulton County, Georgia, and was a Georgia citizen at all times relevant to this lawsuit.

Answer: GEICO lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 8 of the Complaint.

9. Plaintiff Johnson is and was domiciled in Dougherty County, Georgia, and was a Georgia citizen at all times relevant to this lawsuit.

Answer: GEICO lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 9 of the Complaint.

10. Plaintiff Malcom is and was domiciled in Rockdale County, Georgia, and was a Georgia citizen at all times relevant to this lawsuit.

Answer: GEICO lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 10 of the Complaint.

11. Plaintiff Gardner is and was domiciled in Chatham County, Georgia, and was a Georgia citizen at all times relevant to this lawsuit.

Answer: GEICO lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 11 of the Complaint.

12. Plaintiff Coleman is and was domiciled in DeKalb County, Georgia, and was a Georgia citizen at all times relevant to this lawsuit.

Answer: GEICO lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 12 of the Complaint.

13. Plaintiff Washington is and was domiciled in Fulton County, Georgia, and was a Georgia citizen at all times relevant to this lawsuit.

Answer: GEICO lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 13 of the Complaint.

14. GEICO Indemnity at all relevant times is and was a foreign corporation located in, incorporated in, and with its principal place of business in Maryland. GEICO Indemnity transacts business in Georgia and has its total loss salvage department, total loss claims handling, and maintains much of the documents and data relevant to this case in this district and division.

Answer: GEICO denies each and every allegation contained in paragraph 14 of the Complaint except admits that GEICO Indemnity's principal place of business is in Maryland and

further states that GEICO Indemnity is incorporated in Nebraska and is an insurance company authorized to write private passenger auto insurance in the state of Georgia.

15. Government Employees at all relevant times is and was a foreign corporation located in, incorporated in, and with its principal place of business in Maryland. Government Employees transacts business in Georgia and has its total loss salvage department, total loss claims handling, and maintains much of the documents and data relevant to this case in this district and division.

Answer: GEICO denies each and every allegation contained in paragraph 15 of the Complaint except admits that Government Employees Insurance Company's principal place of business is in Maryland and further states that Government Employees Insurance Company is incorporated in Nebraska and is an insurance company authorized to write private passenger auto insurance in the state of Georgia.

16. GEICO General at all relevant times is and was a foreign corporation located in, incorporated in, and with its principal place of business in Maryland. GEICO General transacts business in Georgia and has its total loss salvage department, total loss claims handling, and maintains much of the documents and data relevant to this case in this district and division.

Answer: GEICO denies each and every allegation contained in paragraph 16 of the Complaint except admits that GEICO General's principal place of business is in Maryland and states that GEICO General is incorporated in Nebraska and is an insurance company authorized to write private passenger auto insurance in the state of Georgia.

JURISDICTION AND VENUE

17. This Court has jurisdiction over this action under 28 U.S.C. § 1332(d)(2) because (a) Plaintiffs are members of the putative class, which consists of at least 100 members; (b) Plaintiffs are Georgia citizens; (c) Defendants are Maryland citizens; and (d) the amount in controversy exceeds the sum of \$5 million exclusive of interest and costs. This Court has supplemental jurisdiction, pursuant to 28 U.S.C. § 1367, over claims for expenses of litigation made pursuant to O.C.G.A. § 13-6-11.

Answer: GEICO lacks knowledge or information sufficient to form a belief as to the truth of Plaintiffs' citizenship, and denies that any class can lawfully be certified and that the Court has

supplemental jurisdiction, pursuant to 28 U.S.C. § 1367, over claims for expenses of litigation made pursuant to O.C.G.A. § 13-6-11 as there are no such claims in this case. GEICO admits the remaining allegations contained in paragraph 17 of the Complaint.

18. Venue is proper in this Court because Defendants are subject to personal jurisdiction in this district and division, and a substantial portion of the acts and course of conduct giving rise to the claims alleged occurred within this district and division.

Answer: GEICO lacks knowledge or information sufficient to form a belief as to the truth of where the alleged events or omissions giving rise to the claims occurred. GEICO admits the remaining allegations contained in paragraph 18 of the Complaint.

STATEMENT OF FACTS

19. GEICO's Policies covered each Plaintiff and Class Member based on standardized policy language with identical material terms for collision and comprehensive coverage on first-party total loss physical damage claims. These terms are set forth in the "form" policy attached hereto as Exhibit A.

Answer: GEICO denies each and every allegation contained in paragraph 19 of the Complaint except admits that Plaintiffs were each insured by a GEICO entity under GEICO's Georgia Family Automobile Insurance Policy, policy form A30GA (04-07) or A70GA (04-07). GEICO states that Exhibit A of the Complaint speaks for itself.

I. During the Period of Plaintiffs' Total Losses, Georgia Imposed a Title Ad Valorem Tax for Used Cars Based on the Value Set forth in the Georgia Motor Vehicle Assessment Manual for Title Ad Valorem Tax.

20. On March 1, 2013, Georgia eliminated sales tax on motor vehicle purchases and replaced the sales tax with a title ad valorem tax ("TAVT").

(b)(1)(A) Except as otherwise provided in this subsection, any motor vehicle for which a title is issued in this state on or after March 1, 2013, shall be exempt from sales and use taxes to the extent provided under paragraph (95) of Code Section 48-8-3 and shall not be subject to the ad valorem tax as otherwise required under Chapter 5 of this title. Any such motor vehicle shall be titled as otherwise required under Title 40 but shall be subject to a state title fee and a local title fee which shall be alternative ad valorem taxes as authorized by Article VII, Section I, Paragraph III(b)(3) of the Georgia Constitution.

O.C.G.A. § 48-5C-1(b)(1)(A).

Answer: No response is required to paragraph 20 of the Complaint because it states Plaintiffs' contentions and conclusions of law. To the extent a response is required, GEICO denies each and every allegation contained in paragraph 20 of the Complaint. GEICO further states O.C.G.A. § 48-5C-1(b)(1)(A) speaks for itself.

21. For the period March 1, 2013 through December 31, 2019, TAVT was determined by applying the TAVT percentage rate to the fair market value of the vehicle set as of the day of purchase by the Georgia Motor Vehicle Assessment Manual for Title Ad Valorem Tax.¹ O.C.G.A. § 48-5C-1(a)(1)(A) (versions for the period 3/1/13 through 12/31/19). The applicable Georgia Motor Vehicle Assessment Manuals for the class period are at <https://dor.georgia.gov/georgia-motor-vehicle-assessment-manual-title-ad-valorem-tax> (last visited 1/19/21). The fair market value of the total loss vehicle for purposes of TAVT is not subject to appraisal because it is a set amount determined by the manual that only relates to the TAVT due on the claim. Each of the Plaintiffs' total loss vehicles have values set by the applicable assessment manuals.

Answer: No response is required to paragraph 21 of the Complaint or Footnote 1 to paragraph 21 of the Complaint because they state Plaintiffs' contentions and conclusions of law. To the extent a response is required, GEICO denies each and every allegation contained in paragraph 21 of the Complaint and Footnote 1 to paragraph 21 of the Complaint. GEICO further states that O.C.G.A. § 48-5C-1(a)(1), *et seq.* and the contents of the Georgia Motor Vehicle Assessment Manuals speak for themselves.

22. The percentage TAVT to be applied to the assessment value for the following time periods was:

<u>Time Period</u>	<u>TAVT %</u>
3/1/13 – 12/31/2013:	6.50%

¹ For vehicles not listed in the Assessment Manual, the fair market value for purposes of determining TAVT was set as the "value from the bill of sale or the value from a reputable used car market guide designated by the commissioner, whichever is greater, and, in the case of a used car dealer, less any reduction for the trade-in value of another motor vehicle." O.C.G.A. § 48-5C- 1(a)(1)(B) (versions for the period 3/1/13 through 12/31/19). A taxpayer can submit a written application with supporting documentation to "deviate from the fair market value in the Assessment Manual based upon mileage and condition of the used vehicle." O.C.G.A. § 48-5C- 1(a)(1)(C) (versions for the period 3/1/13 through 12/31/19).

1/1/14 – 12/31/2014: 6.75%

1/1/15 – 12/31/2019: 7.00%

1/1/20 – present: 6.60%

O.C.G.A. § 48-5C-1(b)(1)(A) (all prior versions).

Answer: No response is required to paragraph 22 of the Complaint because it states Plaintiffs’ contentions and conclusions of law. To the extent a response is required, GEICO denies each and every allegation contained in paragraph 22 of the Complaint.

23. The total loss vehicles for all Plaintiffs and the great majority of Class Members are listed in the Assessment Manuals. The minimum TAVT due on the vehicle is thus easy to identify: (1) find the vehicle value listed in the Assessment Manual; (2) apply the percentage TAVT to the value.

Answer: GEICO denies each and every allegation contained in paragraph 23 of the Complaint.

II. GEICO Indemnity Breached Its Policy with Plaintiff Ewing By Failing to Pay Replacement Costs on Her Total Loss Claim.

24. Plaintiff Ewing entered a Georgia PPA policy agreement to be insured by GEICO Indemnity under terms contained in the “form” policy attached as Exhibit A.

Answer: GEICO denies each and every allegation contained in paragraph 24 of the Complaint except admits that Plaintiff Ewing was insured by GEICO Indemnity under a Georgia Family Automobile Insurance Policy, form A30GA (04-07). GEICO further states that Exhibit A of the Complaint speaks for itself.

25. The Policy provided physical damage coverage for Plaintiff Ewing’s 2013 Cadillac ATS Luxury RWD, VIN 1G6AB5R36D0143777 (“Ewing Vehicle”).

Answer: GEICO admits that Plaintiff Ewing insured a 2013 Cadillac ATS Luxury, VIN 1G6AB5R36D0143777, under a Georgia Family Automobile Insurance Policy with GEICO

Indemnity, policy number 4314-88-57-67, with a policy term of March 11, 2017 through September 11, 2017 (the “Ewing Policy”) providing physical damage coverages.

26. On or about May 1, 2017, Plaintiff Ewing was involved in an auto collision while operating the Ewing Vehicle. Plaintiff Ewing filed a claim with GEICO Indemnity for the Ewing Vehicle’s physical damage caused by the collision, claim number 047911412-0101-101.

Answer: GEICO denies each and every allegation contained in paragraph 26 of the Complaint except admits a loss was reported under the Ewing Policy, claim number 0479114120101101, for physical damage to a 2013 Cadillac ATS Luxury, VIN 1G6AB5R36D0143777, arising out of an accident occurring on or about May 1, 2017.

27. GEICO Indemnity determined that the Ewing Vehicle was a total loss and that the claim was a covered claim.

Answer: GEICO admits that following submission of Plaintiff Ewing’s claim, claim number 0479114120101101, Plaintiff Ewing’s 2013 Cadillac ATS Luxury, VIN 1G6AB5R36D0143777, was determined to be a total loss, and that GEICO Indemnity made a claim settlement payment with respect to the claim.

28. GEICO Indemnity, through its vehicle valuation provider CCC Information Services, Inc., determined the Ewing Vehicle had a base value of \$17,841.00. *See* Exhibit B at 2 (Ewing Market Valuation Report). Plaintiffs do not dispute GEICO Indemnity’s determination that the Ewing Vehicle had a base value of \$17,841.00 for purposes of identifying the vehicle value component of the total loss claim.

Answer: GEICO denies each and every allegation contained in paragraph 28 of the Complaint except admits that a CCC Information Services Market Valuation Report was generated with respect to Plaintiff Ewing’s claim, claim number 0479114120101101, which reflected a value before deductible of \$17,841.00. GEICO further states that Exhibit B to the Complaint speaks for itself.

29. GEICO Indemnity subtracted the deductible of \$2,500.00 and added \$18.00 for state and regulatory fees but did not include any amount for license plate transfer fees or TAVT.

GEICO Indemnity made a final payment of \$15,359.00 to Plaintiff Ewing. *See* Exhibit C (Ewing Settlement Explanation).

Answer: GEICO denies each and every allegation contained in paragraph 29 of the Complaint except admits that after a deduction of \$2,500 for Plaintiff Ewing's deductible GEICO Indemnity paid Plaintiff Ewing \$15,359.00 in relation to her claim, claim number 0479114120101101, which included \$18 in state and local regulatory fees. GEICO admits that GEICO Indemnity's payment did not include amounts for Title Ad Valorem Taxes or license plate transfer fees. GEICO further states GEICO Indemnity has since paid Plaintiff Ewing an amount for Title Ad Valorem Taxes. GEICO states that Exhibit C to the Complaint speaks for itself.

30. The TAVT owed on Plaintiff Ewing's claim was a minimum of \$1,239.00 because the applicable TAVT was 7% and the value of the Ewing Vehicle in the 2017 Georgia Motor Vehicle Assessment Manual for Title Ad Valorem Tax was \$17,700.00. (*See* 2017 Assessment Manual at <https://dor.georgia.gov/georgia-motor-vehicle-assessment-manual-title-ad-valorem-tax>).

Answer: GEICO denies each and every allegation contained in paragraph 30 of the Complaint.

31. The license plate transfer fee owed on Plaintiff Ewing's claim was \$5.00 because Georgia mandates a minimum license plate transfer fee of \$5.00.

Answer: GEICO denies each and every allegation contained in paragraph 31 of the Complaint.

32. GEICO Indemnity breached the Policy by failing to pay the mandatory replacement costs including the full TAVT and license plate transfer fee, which were reasonably likely to be incurred on the replacement of the total loss vehicle.

Answer: GEICO denies each and every allegation contained in paragraph 32 of the Complaint.

33. Plaintiff Ewing was damaged by GEICO Indemnity's breach.

Answer: GEICO denies each and every allegation contained in paragraph 33 of the Complaint.

III. Government Employees Breached Its Policy with Plaintiff Johnson By Failing to Pay Replacement Costs on His Total Loss Claim.

34. Plaintiff Johnson entered a Georgia PPA policy agreement to be insured by GEICO Indemnity under terms contained in the “form” policy attached as Exhibit A.

Answer: GEICO denies each and every allegation contained in paragraph 34 of the Complaint except admits that Plaintiff Johnson was insured by GEICO Indemnity under a Georgia Family Automobile Insurance Policy, form A30GA (04-07). GEICO further states that Exhibit A of the Complaint speaks for itself.

35. The Policy provided physical damage coverage for Plaintiff Johnson’s 2014 Dodge Journey, VIN 3C4PDCBB0ET270939 (“Johnson Vehicle”).

Answer: GEICO admits that Plaintiff Johnson insured a 2014 Dodge Journey, VIN 3C4PDCBB0ET270939, under a Georgia Family Automobile Insurance Policy with GEICO Indemnity, policy number 4478-80-57-34, with a policy term of March 2, 2018 through September 2, 2018 (the “Johnson Policy”) providing physical damage coverages.

36. On or about August 20, 2018, Plaintiff Johnson was involved in an auto collision while operating the Johnson Vehicle. Plaintiff Johnson filed a claim with GEICO Indemnity for the Johnson Vehicle’s physical damage caused by the collision, claim number 058861511-0101-024.

Answer: GEICO denies each and every allegation contained in paragraph 36 of the Complaint except admits a loss was reported under the Johnson Policy, claim number 0588615110101024, for physical damage to a 2014 Dodge Journey, VIN 3C4PDCBB0ET270939, arising out of an accident occurring on or about August 20, 2018.

37. GEICO Indemnity determined that the Johnson Vehicle was a total loss and that the claim was a covered claim.

Answer: GEICO admits that following submission of Plaintiff Johnson’s claim, claim number 0588615110101024, Plaintiff Johnson’s 2014 Dodge Journey, VIN

3C4PDCBB0ET270939, was determined to be a total loss, and that GEICO Indemnity made a claim settlement payment with respect to the claim.

38. GEICO Indemnity, through its vehicle valuation provider CCC Information Services, Inc., determined the Johnson Vehicle had a base value of \$11,651.00, and made a “pre-loss condition adjustment” of \$1,034.00, for an adjusted vehicle value of \$10,617.00. See Exhibit L at 2 (Johnson Market Valuation Report). Plaintiffs do not dispute GEICO Indemnity’s determination that the Johnson Vehicle had a value of \$10,617.00 for purposes of identifying the vehicle value component of the total loss claim.

Answer: GEICO denies each and every allegation contained in paragraph 38 of the Complaint except admits that a CCC Information Services Market Valuation Report was generated with respect to Plaintiff Johnson’s claim, claim number 0588615110101024, which reflected an adjusted vehicle value of \$10,617. GEICO further states that Exhibit L to the Complaint speaks for itself.

39. GEICO Indemnity subtracted the deductible of \$1,000.00 and added \$18.00 for state and regulatory fees and \$743.19 for taxes but did not include any amount for license plate transfer fees. GEICO Indemnity added \$743.19. GEICO Indemnity made a final payment of \$10,378.19 to Plaintiff Johnson. See Exhibit M (Johnson Settlement Explanation).

Answer: GEICO denies each and every allegation contained in paragraph 39 of the Complaint except admits that after a deduction of \$1,000 for Plaintiff Johnson’s deductible GEICO Indemnity paid Plaintiff Johnson’s lienholder Capital One Auto Finance \$10,378.19 in relation to his claim, claim number 0588615110101024, which included \$18 in state and local regulatory fees and \$743.19 in tax. GEICO admits that GEICO Indemnity’s payment did not include license plate transfer fees. GEICO states that Exhibit M to the Complaint speaks for itself.

40. The TAVT owed on Plaintiff Johnson’s claim was a minimum of \$829.50 because the applicable TAVT was 7% and the value of the Johnson Vehicle in the 2018 Georgia Motor Vehicle Assessment Manual for Title Ad Valorem Tax was \$11,850.00. (See 2018 Assessment Manual at <https://dor.georgia.gov/georgia-motor-vehicle-assessment-manual-title-ad-valorem-tax>). GEICO Indemnity thus underpaid the TAVT due to Plaintiff Johnson by \$86.31 (\$829.50 - \$743.19).

Answer: GEICO denies each and every allegation contained in paragraph 40 of the Complaint.

41. The license plate transfer fee owed on Plaintiff Johnson's claim was \$5.00 because Georgia mandates a minimum license plate transfer fee of \$5.00.

Answer: GEICO denies each and every allegation contained in paragraph 41 of the Complaint.

42. GEICO Indemnity breached the Policy by failing to pay the mandatory replacement costs including the full TAVT and license plate transfer fee, which were reasonably likely to be incurred on the replacement of the total loss vehicle.

Answer: GEICO denies each and every allegation contained in paragraph 42 of the Complaint.

43. Plaintiff Johnson was damaged by GEICO Indemnity's breach.

Answer: GEICO denies each and every allegation contained in paragraph 43 of the Complaint.

IV. Government Employees Breached Its Policy with Plaintiff Malcom By Failing to Pay Replacement Costs on His Total Loss Claim.

44. Plaintiff Malcom entered a Georgia PPA policy agreement to be insured by Government Employees under terms contained in the policy form attached as Exhibit A.

Answer: GEICO denies each and every allegation contained in paragraph 44 of the Complaint except admits that Plaintiff Malcom was insured by Government Employees under a Georgia Family Automobile Insurance Policy, form A70GA (04-07). GEICO further states that Exhibit A of the Complaint speaks for itself.

45. The Policy provided physical damage coverage for Plaintiff Malcom's 2015 Nissan Versa S Automatic, VIN 3N1CN7AP3FL806335 ("Malcom Vehicle").

Answer: GEICO admits that Plaintiff Malcom insured a 2015 Nissan Versa, VIN 3N1CN7AP3FL806335, under an Georgia Family Automobile Insurance Policy with Government

Employees, policy number 4415-93-30-11, with a policy term of November 3, 2018 through May 3, 2019 (the “Malcom Policy”) providing physical damage coverages.

46. On or about March 19, 2019, Plaintiff Malcom was involved in an auto collision while operating the Malcom Vehicle. Plaintiff Malcom filed a claim with Government Employees for the Malcom Vehicle’s physical damage caused by the collision, claim number 0109940530101275-01.

Answer: GEICO denies each and every allegation contained in paragraph 46 of the Complaint except admits a loss was reported under the Malcom Policy, claim number 0109940530101275, for physical damage to a 2015 Nissan Versa, VIN 3N1CN7AP3FL806335, arising out of an accident occurring on or about March 19, 2019.

47. Government Employees determined that the Malcom Vehicle was a total loss and that the claim was a covered claim.

Answer: GEICO admits that following submission of Plaintiff Malcom’s claim, claim number 0109940530101275, Plaintiff Malcom’s 2015 Nissan Versa, VIN 3N1CN7AP3FL806335, was determined to be a total loss, and that Government Employees made a claim settlement payment with respect to the claim.

48. Government Employees, through its vehicle valuation provider CCC Information Services, Inc., determined the Malcom Vehicle had a base value of \$5,525.00, and made a “pre-loss deduction” of \$433.00, for an adjusted vehicle value of \$5,092.00. *See* Exhibit D (Malcom Total Loss Settlement Explanation). Plaintiffs do not dispute GEICO’s determination that the Malcom Vehicle had a base value of \$5,525.00 for purposes of identifying the vehicle component of the total loss claim.

Answer: GEICO denies each and every allegation contained in paragraph 48 of the Complaint except admits that a CCC Information Services Market Valuation Report was generated with respect to Plaintiff Malcom’s claim, claim number 0109940530101275, which reflected a value before deductible of \$5,885.00, which included a negative \$433.00 “Condition Adjustment” and positive \$408.00 “adjust[ment] for comps found.” GEICO further states that Exhibit D to the Complaint speaks for itself.

49. Government Employees subtracted the deductible of \$500.00 and added \$385.00 for TAVT and \$18.00 for a title transfer fee but did not include any amount for license plate transfer fees. Government Employees made a final payment of \$4,995.00 to Plaintiff Malcom. *See Id.*

Answer: GEICO denies each and every allegation contained in paragraph 49 of the Complaint except admits that after a deduction of \$500 for Plaintiff Malcom's deductible Government Employees paid Plaintiff Malcom \$5,403.00 in relation to the claim, claim number 0109940530101275, which included \$385.00 in tax and \$18 in state and local regulatory fees. GEICO further admits that Government Employees' payment did not include amounts for license plate transfer fees. GEICO further states Exhibit D to the Complaint speaks for itself.

50. The TAVT due on Plaintiff Malcom's claim was a minimum of \$449.75, which is 7% of the fair market value of \$6,425.00 set for the vehicle in the 2019 Georgia Motor Vehicle Assessment Manual for Title Ad Valorem Tax Georgia TAVT Assessment Manual. (*See* 2019 Assessment Manual at <https://dor.georgia.gov/georgia-motor-vehicle-assessment-manual-title-ad-valorem-tax>.) (*see also*, Exhibit G, 2019 Assessment Manual excerpt with the Malcom Vehicle value highlighted yellow). Government Employees thus underpaid the TAVT due to Malcom by \$64.75 (\$449.75 - \$385.00).

Answer: GEICO denies each and every allegation contained in paragraph 50 of the Complaint. GEICO further states that Exhibit G to the Complaint speaks for itself.

51. The license plate transfer fee owed on Malcom's claim was \$5.00 because Georgia mandates a minimum license plate transfer fee of \$5.00.

Answer: GEICO denies each and every allegation contained in paragraph 51 of the Complaint.

52. Government Employees breached the Policy by failing to pay all mandatory replacement costs including all the TAVT due and the license plate transfer fee, which were reasonably likely to be incurred on the replacement of the total loss vehicle.

Answer: GEICO denies each and every allegation contained in paragraph 52 of the Complaint.

53. Plaintiff Malcom was injured by Government Employees' breach.

Answer: GEICO denies each and every allegation contained in paragraph 53 of the Complaint.

V. GEICO General Breached Its Policy with Plaintiff Gardner By Failing to Pay Replacement Costs on His Total Loss Claim.

54. Plaintiff Gardner entered a Georgia PPA policy agreement to be insured by GEICO General under terms contained in the policy form attached as Exhibit A.

Answer: GEICO denies each and every allegation contained in paragraph 54 of the Complaint except admits that Plaintiff Gardner was insured by GEICO General under a Georgia Family Automobile Insurance Policy, form A30GA (04-07). GEICO further states that Exhibit A of the Complaint speaks for itself.

55. The Policy provided physical damage coverage for Plaintiff Gardner's 2011 Chevy Cruze LS, VIN 1G1PD5SH5B7207585 ("Gardner Vehicle").

Answer: GEICO admits that Plaintiff Gardner insured a 2011 Chevy Cruze LS, VIN 1G1PD5SH5B7207585, under a Georgia Family Automobile Insurance Policy with GEICO General, policy number 4480-37-29-62, with a policy term of September 30, 2018 through March 30, 2019 (the "Gardner Policy") providing physical damage coverages.

56. On or about November 20, 2018, Plaintiff Gardner was involved in an auto collision while operating the Gardner Vehicle. Plaintiff Gardner filed a claim with GEICO General for the Gardner Vehicle's physical damage caused by the collision, claim number 058958558-0101-037.

Answer: GEICO denies each and every allegation contained in paragraph 56 of the Complaint except admits a loss was reported under the Gardner Policy, claim number 0589585580101037, for physical damage to a 2011 Chevy Cruze LS, VIN 1G1PD5SH5B7207585, arising out of an accident occurring on or about November 20, 2018.

57. GEICO General determined that the Gardner Vehicle was a total loss and that the claim was a covered claim.

Answer: GEICO admits that following submission of Plaintiff Gardner's claim, claim number 0589585580101037, Plaintiff Gardner's 2011 Chevy Cruze LS, VIN 1G1PD5SH5B7207585, was determined to be a total loss, and that GEICO General made a claim settlement payment with respect to the claim.

58. GEICO General, through its vehicle valuation provider CCC Information Services, Inc., determined the Gardner Vehicle had an adjusted base value of \$4,861.00. *See* Exhibit E at 2 (Gardner Market Valuation Report). Plaintiffs do not dispute GEICO's determination that the Gardner Vehicle had a base value of \$4,861.00 for purposes of identifying the vehicle component of the total loss claim.

Answer: GEICO denies each and every allegation contained in paragraph 58 of the Complaint except admits that a CCC Information Services Market Valuation Report was generated with respect to Plaintiff Gardner's claim, claim number 0589585580101037, which reflected a base value of \$4,911.00 and a value before deductible of \$4,861.00 following a \$50 deduction for prior unrepaired damage. GEICO further states that Exhibit E to the Complaint speaks for itself.

59. GEICO General subtracted the deductible of \$500.00, added \$340.27 for TAVT, and added \$18.00 for state and regulatory fees but did not include any amount for license plate transfer fees. GEICO General made a final payment of \$4,719.27 to Plaintiff Gardner. *See* Exhibit F (Gardner Settlement Explanation).

Answer: GEICO denies each and every allegation contained in paragraph 59 of the Complaint except admits that following a deduction of \$500 for Plaintiff Gardner's deductible GEICO General paid Plaintiff Gardner \$4,719.27 in relation to the claim, claim number 0589585580101037, which included \$340.27 in tax and \$18 in state and local regulatory fees. GEICO further admits that GEICO General's payment did not include amounts for license plate transfer fees. GEICO further states Exhibit F to the Complaint speaks for itself.

60. The license plate transfer fee owed on Plaintiff Gardner's claim was \$5.00 because Georgia mandates a minimum license plate transfer fee of \$5.00.

Answer: GEICO denies each and every allegation contained in paragraph 60 of the Complaint.

61. GEICO General breached the Policy by failing to pay all mandatory replacement costs including the license plate transfer fee, which were reasonably likely to be incurred on the replacement of the total loss vehicle.

Answer: GEICO denies each and every allegation contained in paragraph 61 of the Complaint.

62. Plaintiff Gardner was injured by GEICO General's breach.

Answer: GEICO denies each and every allegation contained in paragraph 62 of the Complaint.

63. All Plaintiffs satisfied all terms of the Policies and all conditions precedent, such that their insurance policies were in effect and operational at the time of the collisions, and such that their total loss claims were deemed covered claims by GEICO.

Answer: No response is required to paragraph 63 of the Complaint because it states Plaintiffs' contentions and conclusions of law. To the extent a response is required, GEICO denies each and every allegation contained in paragraph 63 of the Complaint.

VI. Government Employees Breached Its Policy with Plaintiff Coleman By Failing to Pay Replacement Costs on Her Total Loss Claim.

64. Plaintiff Coleman entered a Georgia PPA policy agreement to be insured by Government Employees under terms contained in the policy form attached as Exhibit A.

Answer: GEICO denies each and every allegation contained in paragraph 64 of the Complaint except admits that Plaintiff Ewing was insured by Government Employees Insurance Company under a Georgia Family Automobile Insurance Policy, form A30GA (04-07). GEICO further states that Exhibit A of the Complaint speaks for itself.

65. The Policy provided physical damage coverage for Plaintiff Coleman's 2011 Honda Civic, VIN 2HGFA1F56BH543546 ("Coleman Vehicle").

Answer: GEICO admits that Plaintiff Coleman insured a 2011 Honda Civic, VIN 2HGFA1F56BH543546, under a Georgia Family Automobile Insurance Policy with Government Employees Insurance Company, policy number 4361-12-40-52, with a policy term of August 15, 2016 through February 15, 2017 (the “Coleman Policy”) providing physical damage coverages.

66. On or about November 30, 2016, Plaintiff Coleman was involved in an auto collision while operating the Coleman Vehicle. Plaintiff Coleman filed a claim with Government Employees for the Coleman Vehicle’s physical damage caused by the collision, claim number 051146103-0101-048.

Answer: GEICO denies each and every allegation contained in paragraph 66 of the Complaint except admits a loss was reported under the Coleman Policy, claim number 0511461030101048, for physical damage to a 2011 Honda Civic, VIN 2HGFA1F56BH543546, arising out of an accident occurring on or about November 30, 2016.

67. Government Employees determined that the Coleman Vehicle was a total loss and that the claim was a covered claim.

Answer: GEICO admits that following submission of Plaintiff Coleman’s claim, claim number 0511461030101048, Plaintiff Coleman’s 2011 Honda Civic, VIN 2HGFA1F56BH543546, was determined to be a total loss, and that Government Employees Insurance Company made a claim settlement payment with respect to the claim.

68. Government Employees, through its vehicle valuation provider CCC Information Services, Inc., determined the Coleman Vehicle had a base value of \$8,026.00, and made a “pre-loss deduction” of \$76.00, for an adjusted vehicle value of \$7,950.00. *See* Exhibit H (Coleman Total Loss Settlement Explanation). Plaintiffs do not dispute GEICO’s determination that the Coleman Vehicle had a base value of \$8,026.00 with a pre-loss deduction of \$76.00 for purposes of identifying the vehicle value component of the total loss claim.

Answer: GEICO denies each and every allegation contained in paragraph 68 of the Complaint except admits that a CCC Information Services Market Valuation Report was generated with respect to Plaintiff Coleman’s claim, claim number 0511461030101048, which reflected a

value before deductible of \$8,506.50. GEICO further states that Exhibit H to the Complaint speaks for itself.

69. Government Employees subtracted the deductible of \$500.00 and added \$556.50 for TAVT and \$18.00 for a title transfer fee but did not include any amount for license plate transfer fees. Government Employees made a final payment of \$8,024.50 to Plaintiff Coleman. *See Id.*

Answer: GEICO denies each and every allegation contained in paragraph 69 of the Complaint except admits that after a deduction of \$500 for Plaintiff Coleman's deductible GEICO paid Plaintiff Coleman \$8,024.50 in relation to the claim, claim number 0511461030101048, which included \$18 in state and local regulatory fees and \$556.50 in tax. GEICO further admits that Government Employees Insurance Company's payment did not include amounts for license plate transfer fees. GEICO states that Exhibit H to the Complaint speaks for itself.

70. The TAVT due on Plaintiff Coleman's claim was \$600.25, which is 7% of the fair market value of \$8,575.00 set for the vehicle in the 2016 Georgia Motor Vehicle Assessment Manual for Title Ad Valorem Tax Georgia TAVT Assessment Manual. (*See* 2016 Assessment Manual at <https://dor.georgia.gov/georgia-motor-vehicle-assessment-manual-title-ad-valorem-tax>.); (*see also*, Exhibit I, 2016 Assessment Manual excerpt with Coleman vehicle value highlighted yellow). Government Employees thus underpaid the TAVT due to Coleman by \$43.75 (\$600.25 - \$556.50).

Answer: GEICO denies each and every allegation contained in paragraph 70 of the Complaint. GEICO states Exhibit I to the Complaint speaks for itself.

71. The license plate transfer fee owed on Coleman's claim was \$5.00 because Georgia mandates a minimum license plate transfer fee of \$5.00.

Answer: GEICO denies each and every allegation contained in paragraph 71 of the Complaint.

72. Government Employees breached the Policy by failing to pay all mandatory replacement costs including all of the TAVT and the license plate transfer fee due, which were reasonably likely to be incurred on the replacement of the total loss vehicle.

Answer: GEICO denies each and every allegation contained in paragraph 72 of the Complaint.

73. Plaintiff Coleman was injured by Government Employees' breach.

Answer: GEICO denies each and every allegation contained in paragraph 73 of the Complaint.

VII. GEICO General Breached Its Policy with Plaintiff Washington By Failing to Pay Replacement Costs on Her Total Loss Claim.

74. Plaintiff Washington entered a Georgia PPA policy agreement to be insured by GEICO General under terms contained in the policy form attached as Exhibit A.

Answer: GEICO denies each and every allegation contained in paragraph 74 of the Complaint except admits that Plaintiff Washington was insured by GEICO General under a Georgia Family Automobile Insurance Policy, form A30GA (04-07). GEICO further states that Exhibit A of the Complaint speaks for itself.

75. The Policy provided physical damage coverage for Plaintiff Washington's 2013 Mercedes-Benz E-Class E350, VIN WDDHF5KB9DA740861 ("Washington Vehicle").

Answer: GEICO admits that Plaintiff Malcom insured a 2013 Mercedes-Benz E-Class E350, VIN WDDHF5KB9DA740861, under a Georgia Family Automobile Insurance Policy with GEICO General, policy number 4503-88-31-51, with a policy term of August 2, 2018 through February 2, 2019 (the "Washington Policy") providing physical damage coverages.

76. On or about December 28, 2018, Plaintiff Washington was involved in an auto collision while operating the Washington Vehicle. Plaintiff Washington filed a claim with GEICO General for the Washington Vehicle's physical damage caused by the collision, claim number 028147221-0101-045.

Answer: GEICO denies each and every allegation contained in paragraph 76 of the Complaint except admits a loss was reported under the Washington Policy, claim number 0281472210101045, for physical damage to a 2013 Mercedes-Benz E-Class E350, VIN WDDHF5KB9DA740861, arising out of an accident occurring on or about December 28, 2018.

77. GEICO General determined that the Washington Vehicle was a total loss and that the claim was a covered claim.

Answer: GEICO admits that following submission of Plaintiff Washington's claim, claim number 0281472210101045, Plaintiff Washington's 2013 Mercedes-Benz E-Class E350, VIN WDDHF5KB9DA740861, was determined to be a total loss, and that GEICO General made a claim settlement payment with respect to the claim.

78. GEICO General, through its vehicle valuation provider CCC Information Services, Inc., determined the Washington Vehicle had a base value of \$14,793.00, and made a "pre-loss condition adjustment" of +\$759.00, for an adjusted vehicle value of \$15,552.00. *See* Exhibit J (Washington Total Loss Settlement Explanation). Plaintiffs do not dispute GEICO's determination that the Washington Vehicle had a value of \$15,552.00 for purposes of identifying the vehicle value component of the total loss claim.

Answer: GEICO denies each and every allegation contained in paragraph 78 of the Complaint except admits that a CCC Information Services Market Valuation Report was generated with respect to Plaintiff Washington's claim, claim number 0281472210101045, which reflected an adjusted vehicle value of \$15,552.00 following a positive \$759 "Condition Adjustment." GEICO further states that Exhibit J to the Complaint speaks for itself.

79. GEICO General subtracted the deductible of \$500.00 and added \$1,088.64 for TAVT and \$18.00 for a title transfer fee but did not include any amount for license plate transfer fees. GEICO General made a final payment of \$16,158.64 to Plaintiff Washington. *See Id.*

Answer: GEICO denies each and every allegation contained in paragraph 79 of the Complaint except admits that after a deduction of \$500 for Plaintiff Washington's deductible GEICO General paid Plaintiff Washington \$16,158.64 in relation to the claim, claim number 0281472210101045, which included \$1,088.64 in tax and \$18 in state and local regulatory fees. GEICO further admits that GEICO General's payment did not include amounts for license plate transfer fees. GEICO further states Exhibit J to the Complaint speaks for itself.

80. The TAVT due on Plaintiff Washington's claim was \$1,256.50, which is 7% of the fair market value of \$17,950.00 set for the vehicle in the 2018 Georgia Motor Vehicle Assessment Manual for Title Ad Valorem Tax Georgia TAVT Assessment Manual. (*See* 2018 Assessment Manual at <https://dor.georgia.gov/georgia-motor-vehicle-assessment-manual->

[title-ad-valorem-tax](#).) (*see also*, Exhibit K, 2018 Assessment Manual excerpt with Washington vehicle value highlighted yellow). GEICO General thus underpaid the TAVT due to Washington by \$167.86 (\$1,256.50 - \$1,088.64).

Answer: GEICO denies each and every allegation contained in paragraph 80 of the Complaint. GEICO further states Exhibit K to the Complaint speaks for itself.

81. The license plate transfer fee owed on Washington's claim was \$5.00 because Georgia mandates a minimum license plate transfer fee of \$5.00.

Answer: GEICO denies each and every allegation contained in paragraph 81 of the Complaint.

82. GEICO General breached the Policy by failing to pay all mandatory replacement costs including all of the TAVT and the license plate transfer fee due, which were reasonably likely to be incurred on the replacement of the total loss vehicle.

Answer: GEICO denies each and every allegation contained in paragraph 82 of the Complaint.

83. Plaintiff Washington was injured by GEICO General's breach.

Answer: GEICO denies each and every allegation contained in paragraph 83 of the Complaint.

VIII. GEICO Breached Its Policies with All Class Members by Failing to Pay the Mandatory Replacement Costs on Their Total Loss Claims.

84. Each Class Member was insured by GEICO for total losses under the same material terms as the Policies insuring Plaintiffs.

Answer: GEICO denies each and every allegation contained in paragraph 84 of the Complaint.

85. Like Plaintiffs, each Class Member submitted a claim to GEICO during the class period, which GEICO determined was a covered total loss.

Answer: GEICO denies that any class could lawfully be certified and denies the allegations contained in paragraph 85 of the Complaint except admits that named Plaintiffs each submitted a

claim to their respective GEICO insurer for physical damage coverage under their Policies as a result of a loss to an insured vehicle. During the course of adjusting named Plaintiffs' claims it was determined that each of their insured vehicles was a total loss.

86. GEICO breached its insurance policy with each Class Member by failing to pay all mandatory replacements costs on the Class Member's total loss claim.

Answer: GEICO denies that a class could lawfully be certified and denies each and every allegation contained in paragraph 86 of the Complaint.

87. All Class Members satisfied all terms of the Policies and all conditions precedent, such that their insurance policies were in effect and operational at the time of the collisions, and their total loss claims were deemed covered claims by GEICO.

Answer: GEICO lacks knowledge or information sufficient to form a belief as to the truth of the allegations regarding all "Class Members." GEICO denies that any class could lawfully be certified and denies the remaining allegations contained in paragraph 87 of the Complaint.

IX. The Policies Required GEICO To Pay Actual Cash Value, Including Mandatory Replacement Costs TAVT, Title Transfer Fees, And License Plate Transfer Fees on All Total Loss Claims.

88. The Policies required GEICO to pay "actual cash value" ("ACV") on first-party total loss claims.

Answer: No response is required to paragraph 88 of the Complaint because it states Plaintiffs' contentions and conclusions of law. To the extent a response is required, GEICO denies each and every allegation contained in paragraph 88 of the Complaint. GEICO further states that the terms, conditions, exclusions and limitations of the Policies speak for themselves.

89. The Policies define ACV as "the replacement cost of the auto or property less depreciation or betterment." See Exhibit A at 8.

Answer: GEICO denies each and every allegation contained in paragraph 89 of the Complaint except admits that the Policies define "*Actual cash value*" as "the replacement cost of

the auto or property less *depreciation* or *betterment*.” GEICO further states that the complete terms, conditions, exclusions and limitations of the Policies speak for themselves.

90. The Policies do not exclude from coverage the mandatory TAVT, title transfer fees, and/or license plate transfer fees.

Answer: No response is required to paragraph 90 of the Complaint because it states Plaintiffs’ contentions and conclusions of law. To the extent a response is required, GEICO denies each and every allegation contained in paragraph 90 of the Complaint. GEICO further states that the complete terms, conditions, exclusions and limitations of the Policies speak for themselves.

91. The Policies provide as follows relating to PPA physical damage collision coverage:

We will pay for *collision loss* to the *owned* or *non-owned auto* for the amount of each *loss* less the applicable deductible.

Id. at 9. (emphasis in original).

Answer: GEICO denies each and every allegation contained in paragraph 91 of the Complaint except admits that the quoted language appears in the Policies. GEICO further states that the complete terms, conditions, exclusions and limitations of the Policies speak for themselves.

92. The Policies provide as follows relating to PPA physical damage comprehensive coverage:

We will pay for each *loss* less the applicable deductible caused other than by *collision* to the *owned* or *non-owned auto*.

Id. (emphasis in original).

Answer: GEICO denies each and every allegation contained in paragraph 92 of the Complaint except admits that the quoted language appears in the Policies. GEICO further states that the complete terms, conditions, exclusions and limitations of the Policies speak for themselves.

93. In the same section, under a provision entitled “LIMIT OF LIABILITY,” the Policies state, in pertinent part:

The limit of our liability for loss:

1. Is the *actual cash value* of the property at the time of the *loss*;

...
Actual cash value of property will be determined at the time of the *loss* and will include an adjustment for *depreciation/betterment* and for the physical condition of the property.

Id. at 10. (emphasis original).

Answer: GEICO denies each and every allegation contained in paragraph 93 of the Complaint except admits that the quoted language appears in the Policies. GEICO further states that the complete terms, conditions, exclusions and limitations of the Policies speak for themselves.

94. The Policies incorporate the mandates of Georgia law:

TERMS OF POLICY CONFORMED TO STATUTES

Any terms of this policy in conflict with the statutes of Georgia are amended to conform to those statutes.

Id. at 17.

Answer: GEICO denies each and every allegation contained in paragraph 94 of the Complaint except admits that the quoted language appears in the Policies. GEICO further states that the complete terms, conditions, exclusions and limitations of the Policies speak for themselves.

95. The Policies impose no condition that an insured replace a total loss vehicle in order to receive full coverage under the Policies.

Answer: No response is required to paragraph 95 of the Complaint because it states Plaintiffs' contentions and conclusions of law. To the extent a response is required, GEICO denies each and every allegation contained in paragraph 95 of the Complaint. GEICO further states that the complete terms, conditions, exclusions and limitations of the Policies speak for themselves.

96. The Policies contain no provision setting out a difference in coverage based on whether a total loss vehicle is leased, owned, or financed.

Answer: No response is required to paragraph 96 of the Complaint because it states Plaintiffs' contentions and conclusions of law. To the extent a response is required, GEICO denies each and every allegation contained in paragraph 96 of the Complaint. GEICO further states that the complete terms, conditions, exclusions and limitations of the Policies speak for themselves.

97. The Policies contain no provision setting out a difference in coverage based on whether a total loss vehicle is actually replaced after the total loss.

Answer: No response is required to paragraph 97 of the Complaint because it states Plaintiffs' contentions and conclusions of law. To the extent a response is required, GEICO denies each and every allegation contained in paragraph 97 of the Complaint. GEICO further states that the complete terms, conditions, exclusions and limitations of the Policies speak for themselves.

X. Georgia Law Required GEICO to Pay TAVT, Title Transfer Fees, and License Plate Transfer Fees Under the Policies.

98. Georgia State Rules and Regulations, Rule 120-2-52-.06, Total Loss Vehicle Claims, is promulgated by the Georgia Commissioner of Insurance pursuant to the authority set forth in O.C.G.A. §§ 33-2-9 and 33-34-8. Rule 120-2-52-.06 requires that when insurers pay for total losses in money (rather than actually providing a replacement vehicle), the insurers must include in such payments "all applicable taxes, license fees and other fees incident to the transfer of ownership of a comparable automobile. The amount payable on taxes, license fees, and transfer fees shall be limited to the amount that would have been paid on the totaled, insured vehicle at the time of settlement."

Answer: No response is required to paragraph 98 of the Complaint because it states Plaintiffs' contentions and conclusions of law. To the extent a response is required, GEICO denies each and every allegation contained in paragraph 98 of the Complaint. GEICO further states that Georgia State Rules and Regulations, Rule 120-2-52-.06, speaks for itself.

99. This requirement set out in the Georgia Rule is expressly incorporated into the terms of the Policies. Exhibit A at 17 (incorporating all Georgia statutory provisions).

Answer: No response is required to paragraph 99 of the Complaint because it states Plaintiffs' contentions and conclusions of law. To the extent a response is required, GEICO denies

each and every allegation contained in paragraph 99 of the Complaint. GEICO further states that the complete terms, conditions, exclusions and limitations of the Policies speak for themselves.

100. TAVT, title transfer fees, and license plate transfer fees are taxes and fees incident to transfer of ownership and should have been paid by GEICO under the Policies and Georgia law.

Answer: No response is required to paragraph 100 of the Complaint because it states Plaintiffs' contentions and conclusions of law. To the extent a response is required, GEICO denies each and every allegation contained in paragraph 100 of the Complaint.

XI. TAVT, Title Transfer Fees, and License Plate Transfer Fees are Fees Incident to the Transfer of Ownership and Mandated by Georgia Law.

101. Throughout the class period, Georgia law imposed a mandatory TAVT of between 6.6 and 7.00 percent based on the fair market value of the vehicle on any purchase, transfer, or lease of a private passenger vehicle. O.C.G.A. § 48-5C- 1(b)(1)(A).

Answer: No response is required to paragraph 101 of the Complaint because it states Plaintiffs' contentions and conclusions of law. To the extent a response is required, GEICO denies each and every allegation contained in paragraph 101 of the Complaint. GEICO further states that O.C.G.A. § 48-5C- 1(b)(1)(A) speaks for itself.

102. Throughout the class period, Georgia prohibited the purchase, transfer, or lease of a vehicle without the transfer of title, and the payment of a minimum \$18.00 title transfer fee. O.C.G.A. § 40-3-32(b); O.C.G.A. § 40-3-38(c).

Answer: No response is required to paragraph 102 of the Complaint because it states Plaintiffs' contentions and conclusions of law. To the extent a response is required, GEICO denies each and every allegation contained in paragraph 102 of the Complaint. GEICO further states that O.C.G.A. § 40-3-32(b) and O.C.G.A. § 40-3-38(c) speak for themselves.

103. Throughout the class period, Georgia prohibited the purchase, transfer, or lease of a private passenger vehicle without proper registration, and the payment of a minimum \$5.00 license plate transfer fee. O.C.G.A. § 40-2-20(a)(1)(A); O.C.G.A. § 40-2-42(b).

Answer: No response is required to paragraph 103 of the Complaint because it states Plaintiffs' contentions and conclusions of law. To the extent a response is required, GEICO denies each and every allegation contained in paragraph 103 of the Complaint. GEICO further states that O.C.G.A. § 40-2-20(a)(1)(A) and O.C.G.A. § 40-2-42(b) speak for themselves.

CLASS ACTION ALLEGATIONS

104. Plaintiffs bring this lawsuit as a class action seeking representation of a class pursuant to Fed. R. Civ. P. 23(a) and 23(b)(3).

Answer: No response is required to paragraph 104 of the Complaint because it states Plaintiffs' contentions and conclusions of law. To the extent a response is required, GEICO denies each and every allegation in paragraph 104 of the Complaint except admits that Plaintiffs bring this action as a class action. GEICO specifically denies that class treatment is appropriate.

105. Plaintiffs assert claims for breach of contract on behalf of a class (hereafter the "Class") defined as follows:

All insureds under a Georgia policy issued by GEICO covering a private passenger auto for physical damage who submitted a physical damage claim on a loss occurring during the period six years before the filing of this lawsuit through December 31, 2019, determined by GEICO to be a covered total loss claim, whose total loss vehicles were listed in the motor vehicle ad valorem assessment manual in effect at the time of loss, and whose claim's total loss payment did not include title ad valorem tax greater than the title ad valorem tax due based on the fair market value identified by the motor vehicle ad valorem assessment manual.

Answer: No response is required to paragraph 105 of the Complaint because it states Plaintiffs' contentions and conclusions of law. To the extent a response is required, GEICO denies that Plaintiff Gardner asserts claims on behalf of a class, but admits that the other Plaintiffs seek to certify the class described in paragraph 105 of the Complaint. GEICO specifically denies that class treatment is appropriate.

106. Excluded from the Class are all officers and employees of GEICO and its affiliates, parents, and subsidiaries; all persons who make a timely election to be excluded from the Class;

government entities; and the judges to whom this case is assigned and their immediate family and court staff.

Answer: No response is required to paragraph 106 of the Complaint because it states Plaintiffs' contentions and conclusions of law. To the extent a response is required, GEICO admits that Plaintiffs seek to certify the class described in paragraphs 105 and 106 of the Complaint. GEICO specifically denies that class treatment is appropriate.

Fed. R. Civ. P. 23(a)

107. **Numerosity.** Class Members are believed to exceed 10,000 for each GEICO Defendant and are so numerous and geographically dispersed throughout Georgia that separate joinder of each is impracticable.

Answer: GEICO denies each and every allegation contained in paragraph 107 of the Complaint and specifically denies that class treatment is appropriate.

108. **Ascertainability.** The Class Members are ascertainable and readily identifiable from GEICO's information and data.

Answer: GEICO denies each and every allegation contained in paragraph 108 of the Complaint and specifically denies that class treatment is appropriate.

109. **Commonality.** Common questions of law and fact predominate, which are susceptible to common answers:

- a. Whether the Policies require GEICO to pay TAVT on first-party total loss claims, and how much;
- b. Whether the Policies require GEICO to pay title transfer fees on first-party total loss claims;
- c. Whether the Policies require GEICO to pay license plate transfer fees on first-party total loss claims;
- d. Whether GEICO breached the Policies by failing to pay TAVT, title transfer fees, and/or license plate transfer fees without precondition; and
- e. The amount of TAVT and license plate transfer fees covered by the Policies.

Answer: GEICO denies each and every allegation contained in paragraph 109 of the Complaint and specifically denies that class treatment is appropriate.

110. **Typicality.** Plaintiffs' claims and defenses are typical of the claims of all Class Members. GEICO injured Plaintiffs and Class Members through uniform misconduct and

Plaintiffs' legal claims arise from the same core practices— GEICO's failure to pay full ACV, including TAVT, title transfer fees, and/or license plate transfer fees, on first-party total loss claims under PPA Georgia physical damage policies with the same material total loss coverage provisions. Plaintiffs suffered the same harm as all Class Members: damages for unpaid TAVT, title transfer fees, and license plate transfer fees under the Policies.

Answer: GEICO denies each and every allegation contained in paragraph 110 of the Complaint and specifically denies that class treatment is appropriate.

111. **Adequacy.** Plaintiffs are adequate class representatives because their interests do not conflict with Class Members' interests, and they will fairly and adequately protect these interests. Plaintiffs' counsel are experienced in litigating consumer class actions and complex litigation. Plaintiffs' counsel have specific experience successfully litigating similar disputes as class counsel.

Answer: GEICO denies the allegations contained in paragraph 111 of the Complaint and specifically denies that class treatment is appropriate.

Fed. R. Civ. P. 23(b)(3).

112. Plaintiffs' claims are maintainable on behalf of the Class pursuant to Fed. R. Civ. P. 23(b)(3).

Answer: GEICO denies each and every allegation contained in paragraph 112 of the Complaint and specifically denies that class treatment is appropriate.

113. Questions of law and fact, including the common questions identified above, predominate over any questions only affecting individual Class Members.

Answer: GEICO denies each and every allegation contained in paragraph 113 of the Complaint and specifically denies that class treatment is appropriate.

114. A class action is superior to all other available methods of fairly and efficiently adjudicating this dispute. Class Members' individual damages, while meaningful, are too small to prosecute individually. Given the relatively small damages individually suffered, individual Class Members appear to have little interest in controlling the prosecution of this matter in separate actions. Thousands of individual lawsuits seeking relatively small recoveries based on the same legal theories would burden the court system. A class action presents far fewer management difficulties and provides the benefits of a single adjudication, economies of scale, and comprehensive supervision by a single court. Plaintiffs' counsel are unaware of likely difficulties in managing this class action.

Answer: GEICO denies each and every allegation contained in paragraph 114 of the Complaint and specifically denies that class treatment is appropriate.

115. It is desirable to concentrate the litigation of these claims in this forum because the class action involves Georgia claims under Georgia law, the great majority of Class Members reside in Georgia, many Class Members reside in this district and division, and substantial evidence relating to this class action is located in this district and division.

Answer: GEICO denies each and every allegation contained in paragraph 115 of the Complaint and specifically denies that class treatment is appropriate.

116. Plaintiffs are unaware of other pending litigation on behalf of Class Members involving these Georgia claims against GEICO.

Answer: GEICO lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 116 of the Complaint.

COUNT I
BREACH OF CONTRACT

117. The allegations in the above are hereby incorporated by reference.

Answer: GEICO repeats and reiterates its response to each and every allegation contained in paragraphs 1 through 116 of the Complaint as though fully set forth herein.

118. Plaintiffs and all Class Members were covered insureds under Policies with GEICO and complied with all Policy terms relating to their total loss claims.

Answer: GEICO denies each and every allegation contained in paragraph 118 of the Complaint except GEICO lacks knowledge or information sufficient to form a belief as to the allegations relating to all class members and admits that Plaintiffs were covered insureds under their respective Policies.

119. Each Plaintiff and Class Member made a claim under their Policy that GEICO determined to be a first-party total loss covered claim.

Answer: GEICO denies each and every allegation contained in paragraph 119 of the Complaint except GEICO lacks knowledge or information sufficient to form a belief as to class members' claims.

120. The Policies and Georgia law required that GEICO pay Plaintiffs and all Class Members mandatory replacement costs which were reasonably likely to be incurred on the replacement of their total loss vehicles. Such costs include full TAVT, title transfer fees, and license plate transfer fees on total losses because such taxes and fees are mandatory replacement costs for total loss insured vehicles.

Answer: GEICO denies each and every allegation contained in paragraph 120 of the Complaint.

121. GEICO failed to pay Plaintiffs and all Class Members all of the TAVT, title transfer fees, and/or license plate transfer fees that were reasonably likely to be incurred on the replacement of their total loss vehicles, which breached the Policies on their first-party total loss claims.

Answer: GEICO denies each and every allegation contained in paragraph 121 of the Complaint.

122. GEICO's failure to provide coverage, and to pay Plaintiffs and Class Members TAVT, title transfer fees, and/or license plate transfer fees breached GEICO's Policies.

Answer: GEICO denies each and every allegation contained in paragraph 122 of the Complaint.

123. As a result of GEICO's breaches, Plaintiffs and Class Members have suffered damages and are entitled, under their Policies, to sums representing all unpaid TAVT, title transfer fees, and license plate transfer fees, as well as prejudgment and post judgment interest, attorneys' fees, and all costs and expenses of litigation.

Answer: GEICO denies each and every allegation contained in paragraph 123 of the Complaint.

124. Plaintiffs do not dispute the base values determined by GEICO for total loss vehicles for purposes of identifying the vehicle value component of the total loss claim. This case only presents disputes as to insurance coverage: are TAVT, title transfer fees, and/or license plate transfer fees required to be paid under the Policies on first-party total loss claims and if so the proper amounts of such tax and fees.

Answer: GEICO denies each and every allegation contained in paragraph 124 of the Complaint.

125. The characteristics of (and duty under the Policies to pay) TAVT, title transfer fees, and license plate transfer fees are the same because TAVT, title transfer fees, and license plate transfer fees are replacement costs mandated by Georgia law and reasonably likely to be incurred on the purchase and/or replacement of a total loss vehicle.

Answer: GEICO denies each and every allegation contained in paragraph 125 of the Complaint.

The remaining allegations in the Complaint are prayers for relief to which no response is necessary. To the extent a response is required, GEICO denies that Plaintiffs are entitled to any relief.

All allegations in the Complaint not hereto admitted, denied or otherwise explained are specifically denied as though set forth individually and separately denied.

DEFENSES

GEICO sets forth the following affirmative and other defenses to Plaintiffs' Complaint. GEICO does not intend to assume the burden of proof with respect to any matters as to which Plaintiffs bear the burden under applicable law.

FIRST DEFENSE

Plaintiffs' Complaint fails to state a claim upon which relief can be granted.

SECOND DEFENSE

Plaintiffs' and putative class members' claims are barred by the doctrine of unclean hands.

THIRD DEFENSE

The granting of Plaintiffs' demand in the Complaint would result in unjust enrichment.

FOURTH DEFENSE

Plaintiffs' and putative class members' grievances should be addressed by the Georgia Department of Insurance and/or the Georgia Department of Revenue and therefore this court lacks jurisdiction.

FIFTH DEFENSE

The alleged conduct of GEICO is permitted under the laws and regulations of the State of Georgia.

SIXTH DEFENSE

GEICO, at all times, complied with and fulfilled all of its obligations under any and all insurance laws and regulations, including the applicable guidance issued by the Georgia Department of Insurance and court opinions interpreting the applicable insurance.

SEVENTH DEFENSE

Plaintiffs' and putative class members' claims are barred in whole or in part by the appraisal provision in GEICO's insurance policies.

EIGHTH DEFENSE

Plaintiffs' and putative class members' claims are barred because they did not sustain any ascertainable losses or damages.

NINTH DEFENSE

Plaintiffs and putative class members are not entitled to attorneys' fees.

TENTH DEFENSE

GEICO at all times complied with its contractual obligations and did not breach any contract provisions.

ELEVENTH DEFENSE

Plaintiffs fail to identify any breached contract provisions.

TWELFTH DEFENSE

Plaintiffs and putative class members have failed, refused, and/or neglected to mitigate or avoid the damages complained of in the Complaint, if any.

THIRTEENTH DEFENSE

Plaintiffs and putative class members have failed to timely and completely exhaust the requisite administrative remedies, statutory and/or contractual remedies, and/or policy conditions precedent available to them prior to commencing this action.

FOURTEENTH DEFENSE

Plaintiffs' and putative class members' claims are barred because, without admitting (and specifically denying) GEICO owed any duty to Plaintiffs or putative class members, any duty or obligation owed was fully performed, satisfied, and/or discharged.

FIFTEENTH DEFENSE

Plaintiffs' and putative class members' claims may be barred by the doctrine of collateral estoppel.

SIXTEENTH DEFENSE

The claims of Plaintiffs and some putative class members may be barred by res judicata.

SEVENTEENTH DEFENSE

The claims of Plaintiffs and some putative class members may be barred by their lack of standing to bring the claims alleged in the Complaint.

EIGHTEENTH DEFENSE

The claims of Plaintiffs and some putative class members may be barred by offset, set-off and/or recoupment.

NINETEENTH DEFENSE

The claims of Plaintiffs and some putative class members may be barred by release.

TWENTIETH DEFENSE

The claims of Plaintiffs and some putative class members are barred by accord and satisfaction.

TWENTY-FIRST DEFENSE

The claims of Plaintiffs and some putative class members may be barred by statute of limitations, waiver, and/or laches.

TWENTY-SECOND DEFENSE

The claims of Plaintiffs and putative class members may be barred by discharge in bankruptcy.

TWENTY-THIRD DEFENSE

This suit may not be properly maintained as a class action because: (1) Plaintiffs have failed to plead, and cannot establish, the necessary procedural elements for class treatment; (2) a class action is not an appropriate method for the fair and efficient adjudication of the claims described in the Complaint; (3) common issues of fact or law do not predominate; to the contrary, individual issues predominate; (4) Plaintiffs' claims are not representative or typical of the claims of the putative class; (5) Plaintiffs are not proper class representatives; (6) counsel for Plaintiffs and the putative class are not adequate representatives; (7) Plaintiffs cannot satisfy any of the requirements for class action treatment, and class action treatment is neither appropriate nor constitutional; (8) there is not a well-defined community of interest in the questions of law or fact affecting Plaintiffs and the members of the putative class; and (9) the putative class is not ascertainable, nor are its members identifiable.

TWENTY-FOURTH DEFENSE

GEICO opposes class certification and disputes the propriety of class treatment.

TWENTY-FIFTH DEFENSE

The claims of Plaintiffs and/or class members are barred because they were fully paid and/or Plaintiffs and/or class members were paid more than the amounts owed under the Policies or Plaintiffs' liability theory.

TWENTY-SIXTH DEFENSE

GEICO expressly reserves its right to assert additional defenses as may be warranted by facts obtained during the course of its investigation and/or discovery in this litigation.

WHEREFORE, having fully answered, Defendants pray that judgment be entered against Plaintiffs, that the Complaint be dismissed with prejudice, along with any other relief as this Court may deem just, proper, and equitable.

Dated: August 25, 2022

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General Insurance Company**

CERTIFICATE OF SERVICE

I hereby certify that on August 25, 2022, I electronically filed a true and exact copy of the foregoing document with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all attorneys of record, including the following:

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