Notable Q2 Updates In Insurance Class Actions

By **Mathew Drocton** (August 14, 2025)

This article is part of a quarterly column that follows insurance class action litigation across the country. This installment focuses on the use of projected sale adjustments across circuits, time limitations for invoking appraisal and consumers' driving data.

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This quarter has been a blockbuster one for the subset of vehicle valuation cases challenging the use of projected sale adjustments, or PSAs. Up until now, the trend has strongly favored insureds and certification. But this quarter, the U.S. Court of Appeals for the Third Circuit and the U.S. Court of Appeals for the Seventh Circuit reversed class certification orders. And the U.S. Court of Appeals for the Sixth Circuit just heard argument in its own PSA case, and thus another circuit decision is expected in the coming months.

Rounding out the quarter are a couple of threads from the prior quarter: time limitations placed on invoking appraisal clauses and insurers facing suit over consumer driving data.

Big Wins for Insurers in Projected Sales Adjustment Cases

In Jama v. State Farm Insurance Co., the U.S. Court of Appeals for the Ninth Circuit previously affirmed the divide between PSA cases and condition adjustment cases. There, the court affirmed the U.S. District Court for the Western District of Washington's decertification of a condition adjustment class while reversing the decision to decertify a negotiated discount (PSA) class.[1]

On June 16, the U.S. Supreme Court denied the insurer's cert petition, and thus the Ninth Circuit's division between condition adjustment and PSA classes stands.[2]

But insureds have fared much better at the circuit courts this quarter.

On July 7, the Third Circuit reversed class certification in a PSA case, Drummond v. Progressive Specialty Insurance Co.[3] In doing so, the court distinguished Jama on the basis that the plaintiffs there alleged PSAs were wholesale impermissible under Washington law.[4]

In contrast, the plaintiffs in Drummond alleged a breach of the policy by failure to pay actual cash value.[5] That means, to prove their claims, the plaintiffs and the putative class would each need to prove the insurer paid them less than the value of their vehicles, and the mere existence of a PSA does not necessarily mean an underpayment occurred.

Also, the insurer did not just rely on the Mitchell value with the PSA but instead also reviewed the National Automobile Dealers Association value for the vehicle and averaged the two numbers.[6] The court recognized that in some claims the difference between the NADA value and Mitchell value (with the PSA) is greater than the PSA, and thus "the insured has suffered no actual injury."[7]

Similarly, on July 25, the Seventh Circuit reversed class certification of another PSA case, Schroeder v. Progressive Paloverde Insurance Co.[8]

The court reasoned that even if cars only sell for their list price (not at a lower PSA), that "would not establish that [the insurer] underpaid each putative class member," because "[i]t would remain possible that the comparable cars in a given valuation report for a putative class member's totaled car were more valuable than the totaled car in ways that [the insurer's] other adjustments did not capture, offsetting any negative effect from applying Projected Sold Adjustments."[9]

The court went on to reject the idea that proof that the PSA itself is biased would resolve the concerns of individualized issues. Instead, the court concluded that it would necessitate "individualized evidence about how J.D. Power derived each Projected Sold Adjustment included in her car's valuation report."[10]

On May 1, in Clippinger v. State Farm, the Sixth Circuit heard argument in a case seeking to vacate class certification in a PSA case.[11] There, the court heard two main arguments: (1) The named plaintiff received payment based on an appraisal, and thus is not a member of the class; and (2) the policy does not require a specific valuation method.

No opinion has issued yet, but it will be interesting to see whether the Sixth Circuit follows the recent decisions out of the Third and Seventh Circuits decertifying, or the more dated decision out of the Ninth Circuit in favor of certification.

In contrast to the courts of appeals decisions this quarter, on May 14, the U.S. District Court for the Middle District of North Carolina certified a projected sales adjustment class in Franco v. Progressive Casualty Insurance Co.[12]

In doing so, the court rejected the argument that ascertaining injury and damages requires individual inquiries.[13] That is an argument that proved successful in cases challenging the application of a condition adjustment.[14]

Interestingly, the judge previously granted summary judgment in an insurer's favor on a claim that use of a similar vehicle valuation product resulted in an undervaluation.[15] The difference between the two cases is the type of adjustment challenged: a PSA in the current case and a condition adjustment in the prior case.

Oregon Supreme Court Reverses Class Cert in Disclosure Law Action

On April 3, in Bellshaw v. Farmers, the Oregon Supreme Court reversed and remanded a $26 million class action judgment for alleged violations of state disclosure laws.[16]

There, an Oregon law requires motor vehicle insurers to provide insureds with notice regarding repair shop selection laws.[17] The insurer provided insureds with an old version of the Oregon law, which the lower courts found to violate the insurer's obligation. But the Oregon Supreme Court disagreed, determining that as long as the insurance director approves the disclosure, no liability attaches — even if the approved disclosure contained incomplete information.[18]

Time Limitations Placed on Appraisal

The 2025 Q1 update discussed the U.S. Court of Appeals for the Second Circuit's decision in Milligan v. Geico General Insurance Co. on an insurer's ability to invoke appraisal provision in response to lawsuits challenging vehicle valuations.[19] Based on specific policy language, the Second Circuit held that appraisal must be invoked within 60 days of an insured filing a proof of loss.[20]

Just weeks later, on April 11, the U.S. District Court for the Western District of New York relied upon the Milligan opinion to deny a motion to compel appraisal in Marcelletti v. Geico, a case challenging the nonpayment of sales tax for a motor vehicle claim.[21]

Sales Tax Depreciation Class Certified

On June 18, in Pitkin v. State Farm, the U.S. District Court for the Northern District of California certified a class of homeowners seeking recovery of sales tax depreciation.[22] In reaching this conclusion, the court likened the challenge to the PSA class in the Ninth Circuit's Jama case.[23]

The court explained that

> the plaintiffs' theory is not that State Farm failed to follow the correct procedure when fulfilling their claims, but rather that California law does not permit State Farm to depreciate sales tax when calculating ACV, meaning that every time State Farm depreciated sales tax in calculating ACV — which happened to every putative class member — the calculation yielded a too-low ACV, which was used to fulfill their claim.[24]

In a prior case, Ramyead v. State Farm, a California trial court held that depreciating sales tax is legally proper and thus granted summary judgment on similar claims.[25] But that ruling was appealed and affirmed on different grounds: the contractual limitations period.[26] Therefore, the permissibility of depreciating sales tax remains an open question in California.

Driving History Data Suits Continue

The 2025 Q1 update reported a trio of data privacy suits filed against insurers that obtain and utilize driving history data from insureds. This quarter, on April 21, in Siefke v. Toyota Motor NA Inc., a new putative class action was filed in the U.S. District Court for the Eastern District of Texas against Toyota and an insurer, alleging improper collection and sale of consumer driving data.[27]

The driving history privacy claims will likely be a hotbed for suits in the coming quarters.

Conclusion

The vehicle valuation challenges continue apace. But while prior quarters have been filled with challenges to the condition adjustment and payment of fees, this quarter has focused on challenges to the use of a PSA. Many of these cases favored the insureds at the trial court, but at the circuit courts, insurers have been scoring victories on class certification decisions.

Looking ahead, consumer driving data claims are quickly becoming an active area on the privacy side.

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Starting next quarter, BakerHostetler partner Kevin Zimmerman will be writing this column.

[1] Jama v. State Farm Mut'l Auto. Ins. Co., 113 F.4th 924, 927 (9th Cir. 2024).

[2] State Farm Mut'l Auto. Ins. Co. v. Jama, Case No. 24-933 (June 6, 2025).

[3] Drummond v. Progressive Specialty Ins. Co., 142 F.4th 149 (3d Cir. 2025).

[4] Id. at *7.

[5] Id.

[6] Id. at *6.

[7] Id.

[8] Schroeder v. Progressive Paloverde Ins. Co., No. 24-1559, 2025 U.S. App. LEXIS 18347 (7th Cir. July 24, 2025).

[9] Id. at *6.

[10] Id. at *7.

[11] Clippinger v. State Farm Ins. Co., Case No. 24-5421 (6th Cir.).

[12] Franco v. Progressive Cas. Ins. Co., No. 1:24-CV-225, 2025 U.S. Dist. LEXIS 92796 (M.D.N.C. May 14, 2025).

[13] Id. at *8.

[14] See Lara v. First Nat'l Ins. Co. of Am., 25 F.4th 1134 (9th Cir. 2022).

[15] Fortson v. Garrison Prop. & Cas. Ins. Co., No. 1:19-CV-2942022 WL 198782, at *8 (M.D.N.C. Jan. 13, 2022).

[16] Bellshaw v. Farmers Ins. Co. of Or., 567 P.3d 434, 436 (Or. 2025).

[17] See ORS 746.290.

[18] Bellshaw, 567 P.3d at 445.

[19] Milligan v. GEICO General Insurance Company, No. 22-2950, 2025 WL 799276 (2d Cir. Mar. 13, 2025).

[20] Id. at *4.

[21] Marcelletti v. GEICO Gen. Ins. Co., No. 6:23-CV-06211, 2025 WL 1085152, at *3 (W.D.N.Y. April 11, 2025).

[22] Pitkin v. State Farm Fire & Cas. Co., No. 23-cv-00924-WHO, 2025 WL 1939588, at *1 (N.D. Cal. July 15, 2025).

[23] Jama v. State Farm Mut'l Auto. Ins. Co., 113 F.4th 924, 927 (9th Cir. 2024).

[24] Pitkin, 2025 WL 1939588, at *17.

[25] Ramyead v. State Farm Gen. Ins. Co., No. 20STCV06274, 2023 Cal. Super. LEXIS 25326, at *1 (Cal. Super. Ct. April 12, 2023).

[26] Ramyead v. State Farm Gen. Ins. Co., No. B329614, 2025 Cal. App. Unpub. LEXIS 2604 (Cal. Ct. App. April 29, 2025).

[27] Siefke v. Toyota Motor North America, Inc., Case No. 4:25-CV-00406 (E.D. Tex. April 21, 2025).