Notable Q4 Updates In Insurance Class Actions

By **Kevin Zimmerman** (February 13, 2026)

This article is part of a quarterly column that follows insurance class action litigation across the country. This installment features a new approach to rental car reimbursement, updates in the circuit split on total loss actions, questions about illusory underinsured motorist coverage and a suit blaming climate change for higher premiums.



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The fourth quarter of 2025 brought class certification of a novel property and casualty insurance theory stemming from rental reimbursement coverage. Meanwhile, the trend of courts denying class certification in total loss valuation class actions continued.

In the state courts, a decision from the Idaho Supreme Court may have broader application for defendants facing claims of illusory uninsured/underinsured motorist coverage.

Finally, a new class action in the U.S. District Court for the Western District of Washington seeks to hold fossil fuel producers and distributors accountable for allegedly increasing insurance premiums.

Class Certified in Novel Car Rental Reimbursement Action

In early December, the U.S. District Court for the District of Massachusetts certified a class of insureds in Watts v. Liberty Mutual Personal Insurance Co. under a novel theory applicable to rental car reimbursement.

An endorsement in the insurer's automobile insurance policies required that if the insurer declared a vehicle to be a total loss, the insurer would provide rental car reimbursement for the "period of time reasonably required to repair or replace your covered auto," up to a maximum of 30 days.[1]

The plaintiffs, however, asserted that their insurer failed to conduct any analysis of the time reasonably required to repair or replace the loss vehicles. The plaintiffs thus sought certification of a class of all insureds who made a claim for rental reimbursement but were afforded less than 30 days of coverage.[2]

The insurer argued that class certification was inappropriate because the court would have to individually adjudicate the time reasonably required for each putative class member.

However, the plaintiffs' theory was that the failure to conduct a reasonableness determination could, itself, constitute a breach of contract. As the court explained: "Under Plaintiffs' interpretation, 30 days of benefits is the starting point under the policies that may be limited only by [the insurer's] insured-specific determination that a shorter time is all that is reasonably required."[3]

The court held that this framing of the plaintiffs' theory was sufficient to support class certification. According to the court, if the insurer's failure to conduct a reasonableness determination constituted a breach of contract in the first place, then "the results of any determination that should have been made (but was not)" would be irrelevant,[4] and, until this initial question of breach had been established, the court could not conclude that

individual determinations predominate over common issues.[5]

The insurer has petitioned the U.S. Court of Appeals for the First Circuit for leave to appeal under Rule 23(f).[6] The First Circuit may have an interest in accepting the petition because the district court's analysis arguably flipped the burden of proof for class certification by requiring the defendant to disprove predominance.

Further, as seen in several cases from the third quarter of 2025, multiple circuit courts have recently rejected certification of insurance class actions where individualized inquiries would be required to determine which class members were actually underpaid. If adopted by the First Circuit, those holdings may undermine the district court's analysis here.

Another Victory for Insurers in Total Loss Class Actions

As we reported in the third quarter, a circuit split has developed over the propriety of class certification in cases challenging adjustments used by third-party valuation services to estimate the preaccident value of totaled vehicles.

Courts in the Third, Fourth, Seventh and Ninth Circuits have held that class certification was inappropriate because there were individualized issues as to which class members were paid less than they were owed under their insurance contracts.[7] On the other hand, the U.S. Court of Appeals for the Sixth Circuit held that class certification would be appropriate based on the plaintiffs' argument that application of the adjustment was always a breach of contract and forbidden by state regulations.[8]

However, the Sixth Circuit has now granted the insurer's petition for rehearing en banc. Meanwhile, a district court in the Eighth Circuit joined the majority of the circuit split holding that class certification was inappropriate.[9]

In Bartee v. Progressive, decided in September in the U.S. District Court for the Eastern District of Missouri, the plaintiffs similarly challenged the "projected sold adjustment" used to value total loss vehicles, arguing that the adjustment "is a categorically impermissible deduction that breaches the terms of their insurance policies."[10]

However, the Eastern District of Missouri recognized that the application of the adjustment "does not constitute a categorical breach of [the insurer's] contractual duty" because the insurer's ultimate obligation was to determine the actual cash value of the totaled vehicle prior to the accident.[11] Class certification was therefore inappropriate because the unique value of any particular vehicle depended on "all the facts surrounding a particular insured's [covered] loss."[12]

Idaho Supreme Court: Insureds Cannot Assert Claims for Allegedly Illusory Underinsured Motorist Coverage Without Underlying Claim

In February 2022, in Pena v. Viking Insurance Company of Wisconsin, the Idaho Supreme Court held that when an insured purchases underinsured motorist coverage that is subsequently excluded, the coverage may be illusory.[13]

Soon after Pena, an insured brought putative class claims against his insurer, asserting in Gilbert v. Progressive Northwest Insurance Company that his underinsured motorist coverage was illusory under Pena.[14] However, the insured had never actually filed a claim under the policy or suffered an accident that would trigger underinsured motorist coverage.[15]

In its October 2025 decision in Gilbert, the Idaho Supreme Court analyzed whether such an insured could bring claims against their insurer for allegedly illusory coverage.

Idaho's highest court first held that the insured had standing to bring the alleged claims because he suffered an economic injury: "He paid money for a product with no real-world utility."[16] Nonetheless, the court held that the plaintiff could not assert a claim for breach of contract or breach of the covenant of good faith and fair dealing without evidence that the insurer actually denied or delayed payment on a claim.[17]

As the court explained, a bad faith claim first requires that there be coverage for the claim under the policy.[18] However, since the insured never submitted an insurance claim, there could be no breach for failure to provide coverage and thus no bad faith.[19] Nor could the insured prove damages for any fraud or constructive fraud claim.[20] Without an actual insurance claim, the insured's claims for illusory coverage were properly dismissed.

In recent years, insureds in various states have tried to challenge aspects of underinsured motorist coverage as illusory.[21] It remains to be seen whether courts in these other states will adopt the same rule as the Idaho Supreme Court for allegedly illusory coverage without an underlying insurance claim.

Climate Change Premium Spike Theory

Finally, a new class action in the Western District of Washington was not brought against insurance companies but instead stems from allegedly increasing insurance premiums.[22]

In Kennedy and Hazard v. Exxon Mobil Corp., filed in late November, the plaintiffs allege that climate change has driven insurance premiums up across the country due to increases in the frequency and intensity of disasters that insurers will have to cover.[23]

However, instead of challenging the rate increases themselves, the plaintiffs assert that their lawsuit is about "holding the fossil fuel Defendants accountable for the increased homeowners' insurance premiums."[24] The plaintiffs therefore assert putative class claims on behalf of a nationwide class against various fossil fuel producers and distributors, alleging that their "conduct contributing to climate change" and "their coordinated and deliberate scheme to hide the truth about climate change and the effects of burning fossil fuels" caused the plaintiffs' rate increases.[25]

The court has not yet issued any substantive orders. The plaintiffs and certain defendants stipulated to an initial briefing schedule for responsive motions, including motions challenging the court's personal jurisdiction, motions asserting the plaintiffs' failure to state a claim and motions under anti-SLAPP laws.[26]

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[1] Watts v. Liberty Mutual Personal Insurance Company, No. CV 23-12845-BEM, 2025 WL 3458298, at *2 (D. Mass. Dec. 2, 2025).

[2] Id.

[3] Id. at *4.

[4] Id. at * 4-6.

[5] Id. at *6; see also id. at *4 ("The question of whether the OTEC Endorsement requires a determination of the reasonable time to find a replacement vehicle is central to the breach of contract. The question of what time was reasonably required for each insured is relevant only if Plaintiffs' interpretation of the policies is wrong.").

[6] See Case No. 25-8032 (1st Cir.).

[7] See Drummond v. Progressive Specialty Ins. Co., 142 F.4th 149 (3d Cir. 2025); Schroeder v. Progressive Paloverde Ins. Co., 146 F.4th 567 (7th Cir. 2025); Freeman v. Progressive Direct Ins. Co., 149 F.4th 461 (4th Cir. 2025); Ambrosio v. Progressive Preferred Ins. Co., 154 F.4th 1107 (9th Cir. 2025).

[8] Clippinger v. State Farm Auto. Ins. Co., 156 F.4th 724 (6th Cir. 2025).

[9] Bartee v. Progressive Advanced Ins. Co., No. 4:22-CV-00342-MTS, 2025 WL 2829109, at *1 (E.D. Mo. Sept. 30, 2025).

[10] Id. at *2.

[11] Id. at *6.

[12] Id. at *7 (quoting In re: State Farm Fire & Cas. Co., 872 F.3d 567, 577 (8th Cir. 2017)).

[13] Pena v. Viking Insurance Co. of Wisconsin, 169 Idaho 730, 736 (2022).

[14] Gilbert v. Progressive Nw. Ins. Co., No. 51467, --- P.3d ---, 2025 WL 2809170, at *1 (Idaho Oct. 3, 2025).

[15] Id. at *2.

[16] Id. at *4.

[17] Id. at *6.

[18] Id. at *7.

[19] Id.

[20] Id. at *7-8.

[21] See, e.g., Jones v. GEICO Choice Ins. Co., 617 F. Supp. 3d 275, 279 (E.D. Pa. 2022), aff'd, Case No. 22-2231, 2023 WL 4418219 (3d Cir. July 10, 2023); Crutcher v. Liberty Mutual Insurance Co. et al., 2022-NMSC-001, 501 P.3d 433.

[22] See Richard Kennedy and Margaret Hazard v. Exxon Mobil Corporation et al., Case No. 25-cv-02378 (W.D. Wash, Nov. 25, 2025), ECF No. 1 (Complaint).

[23] Id. ¶ 3.

[24] Id. ¶ 4.

[25] Id.

[26] See id. at ECF No. 23.