

**You have received this Letter because you had an auto insurance policy in Washington issued by **COMMERCE WEST INSURANCE COMPANY** (a subsidiary of MAPFRE Insurance Company) and received payment to cover damage to your vehicle after May 29, 2013. Therefore, you may be able to get a payment from this class action Settlement.**

**The Pierce County Superior Court for the State of Washington authorized this Notice. This is not a solicitation from a lawyer.**

- Subject to Court Approval, the Settlement will provide up to \$390,960.00 (less legal fees and costs) to pay claims from those who properly submit Claim Forms by September 7, 2020.
- The Settlement affects the rights of all Washington insureds of COMMERCE WEST INSURANCE COMPANY (“CWIC”) who received payment under their uninsured or underinsured motorist property damage (“UMPD”) coverage for property damage to their insured automobiles between May 29, 2013 and February 28, 2020, and who meet certain other requirements (set forth below).

<b>Your legal rights and options in this Settlement:</b>	
<b>Submit a Claim Form</b>	This is the only way to get a payment. The Claim Form is enclosed with this Notice. You must submit a Claim Form to receive a payment in connection with this Settlement.
<b>Comment (including Objections)</b>	Write to the Court about what you think about the Settlement.
<b>Go to the hearing</b>	If you would like, you may ask to speak in Court about the fairness of the Settlement. You do not need to do this to receive a payment under the Settlement.
<b>Do nothing</b>	You will get no payment if you do not submit a Claim Form and you will still be bound by the terms of the Settlement.
<b>Ask to be excluded</b>	Get out of this Settlement. Get no benefits from it. Keep your rights.

## **1. Why did I get this Letter?**

You have received this letter (called a “Notice”), and the enclosed Claim Form, because the records of CWIC show that you were an insured who received payment under your UMPD coverage for property damage to your insured automobile for an accident occurring between May 29, 2013 and February 28, 2020, and who meet certain other requirements (set forth in Section 5, below)

The class action suit has been pending since May 29, 2019. It has now been resolved for up to \$390,960.00. If the Settlement is approved, you may be eligible for benefits that will be provided as part of the proposed Settlement. This Notice explains the lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them. If you wish to receive money from or comment upon the Settlement (including stating any objection to the Settlement) you must do so following the procedures described below. If you do nothing, you will not receive any money but will be bound by the Settlement terms and any final judgment.

The Court in charge of the case is the Pierce County Superior Court, state of Washington, and the case is known as *BALL v. Commerce West Insurance Company*, Case No. 19-2-08244-1. The person who brought this suit is called the Plaintiff.

## **2. What is this lawsuit about?**

In the lawsuit, Plaintiff claims that when certain automobiles sustain damage to their structural systems and bodies, they cannot be fully repaired to their pre-accident condition, causing the vehicles to suffer a loss in value called “diminished value.” Plaintiff alleges that CWIC failed to pay or pay adequately for this type of loss under its Washington insurance policies’ UMPD coverage, and that such an alleged failure to pay is a breach of CWIC’s automobile insurance contracts. CWIC denies that it did anything wrong and contends that it paid the full and appropriate amounts for diminished value, where applicable, as part of its regular claim adjusting process.

## **3. Why is this a class action?**

In a class action, one or more people called Class Representatives, sue on behalf of people who have similar claims. All of these people are part of a “Class.” One court resolves the issues for all Class Members, except for those who have previously excluded themselves from the Class. Pierce County Superior Court Judge Stephanie Arend is presiding over this class action.

## **4. Why is there a Settlement?**

After this matter was filed, both sides agreed to a Settlement, which, if approved, brings the litigation to an end. That way, Plaintiff and the Defendant avoid the cost, delay, and uncertainty of moving forward in litigation to trial and possible appeals, and the Class Members may get payments. The Class Representative and her attorneys think the Settlement is best for the Class Members.

You may be eligible to receive money from this Settlement, if you are a Class Member and you submit a valid claim form.

## 5. How do I know if I am part of the Settlement?

You are a member of the Class if the COMMERCE WEST INSURANCE COMPANY paid to have your insured vehicle repaired under the UIM PD provision of a COMMERCE WEST INSURANCE COMPANY policy issued in Washington; and

1. the repair estimate on your vehicle (including any supplements) totaled at least \$1,000; and
2. your vehicle was no more than six years old (model year plus five years) and had less than 90,000 miles on it at the time of the accident; and
3. your vehicle suffered structural (frame) damage and/or deformed sheet metal and/or required body or paint work.

You are not a part of the Class if, at the time of your accident, (a) your vehicle was leased, (b) your vehicle was declared a total loss, or (c) your covered accident was before May 29, 2013.

## 6. How much might my payment be?

Each Class Member who submits a valid claim form will receive a payment that will depend on his or her vehicle repair costs. Here's how it works: each Class Member is entitled to request a payment. For Class Members who qualify for a payment, that payment will be calculated as the Class Member's repair cost times the portion of the Settlement paid to Class Members (i.e., \$390,960.00 minus attorneys' fees and costs and incentive payments to the Class Representative) divided by the aggregate value of all Class Members' repair costs, less any past payments for diminished value to the Class Member. Not everyone who receives this Notice will be eligible for payment. The average payment for qualified Class Members will likely be in the range of several hundred dollars per Class Member, depending on how much, if any, payment for diminished value the claimant has already received. You can only receive your share of the Settlement if you submit a Valid Claim Form by September 7, 2020.

## 7. How can I receive a payment?

To qualify for payment, you must be an eligible Class Member (see Section 5, above) and submit a valid Claim Form. The Claim Form, which is two pages, is enclosed with this Notice. Read the instructions carefully and, if you wish to make a claim, fill out the form, sign it, and submit it online, or by mail postmarked by September 7, 2020. If you had two (or more) qualifying accidents, you will receive a Claim Form for each, and will, if you wish to assert a claim for each, need to submit a Claim Form for each qualifying accident.

If you would like to submit a claim electronically, please use the CPT ID and Passcode on the enclosed Claim Form to access your online Claim Form at [www.CWICSettlement.com](http://www.CWICSettlement.com).

## 8. When would I get my payment?

The Court will hold a hearing on July 24, 2020 at 9:00 a.m., to decide whether to approve the Settlement. If the Court approves the Settlement, and there are no appeals, we estimate that

checks will be mailed around January 2021. You will get your payment after all appeals have been concluded and the Settlement is approved with no further appeals possible.

We will provide regular updates of the status of the Settlement to all people who submit Claim Forms at [www.CWICSettlement.com](http://www.CWICSettlement.com). Please be patient.

#### **9. What do I do to be excluded?**

If you exclude yourself from the Class by “opting out,” you won’t get any money or benefits from this Settlement. However, you will retain any right you currently have to make your own claim against CWIC.

To ask to be excluded, you must send a signed letter, stating that you want to be excluded from BALL v. COMMERCE WEST INSURANCE COMPANY. Be sure to include your name and address and sign the letter. You must mail your Exclusion Request postmarked by June 24, 2020, to: BALL v. COMMERCE WEST INSURANCE COMPANY SETTLEMENT ADMINISTRATOR, c/o CPT Group, Inc., 50 Corporate Park, Irvine, CA 92606.

#### **10. Do I have a lawyer in this case?**

The Court has decided that the attorneys bringing this suit are qualified to represent you and all Class Members. Together these lawyers are called “Class Counsel.” They are experienced in handling similar cases against other insurers. Class Counsel appointed by the Court are Scott P. Nealey and Stephen M. Hansen. They can be reached to answer any questions you may have at 415-231-5311 or 253-302-5955, respectively.

Your lawyers’ fees and costs will be determined by the Court and subtracted from the Settlement. Other than that, you will not be charged for these lawyers’ work in securing the Settlement benefits for you and the other Class Members. You owe nothing if you participate in the Settlement. If you want to be represented by your own lawyer, you may hire one at your own expense.

#### **11. How will the lawyers be paid?**

Class Counsel will ask the Court for an award of their attorneys’ fees up to 23.33% of the common fund, together with reimbursement of their costs according to the terms of the Stipulation of Settlement. Since even before filing this lawsuit, Class Counsel have worked continuously on this case, but have not received any money for that work. The attorneys’ fees and costs, as awarded by the Court, shall be paid from the \$390,960.00 available to the Class Members in this Settlement. In addition, Class Counsel will apply to the Court for a service award of \$7,500.00 for ARLENE BALL. This service award is being requested in recognition of the time, effort, and risk incurred by the Class Representative in securing this Settlement for you and the other Class Members.

#### **12. If I want to, how Can I tell the Court that I like or don’t like the Settlement?**

If you’re a Class Member, and you do not exclude yourself, you can – but need not – comment on or object to the Settlement. You can give reasons why you think the Court should or should not approve it. The Court will consider your views. To be effective, a notice of intent to object to the Settlement must: (1) Contain a heading that includes the name of the case and case

number; (2) Provide the name, address, telephone number and signature of the Class Member filing the objection; (3) Be filed with the Clerk of the Court not later than thirty (30) days before the Final Settlement Hearing; (4) Be served on Class Counsel and counsel for the Defendant at the addresses below by first-class mail, postmarked no later than thirty (30) days before the Final Settlement Hearing; (5) Contain the name, address, bar number and telephone number of the objecting Class Member's counsel, if represented by an attorney. If you are represented by an attorney, you must comply with all applicable laws and rules for filing pleadings and documents in the Court; and State whether you intend to appear at the Final Settlement Hearing, either in person or through counsel. In addition to the foregoing, a notice of intent to object must contain the following information, if you or your attorney request permission to speak at the Final Settlement Hearing: (1) A detailed statement of the specific legal and factual basis for each and every objection; and (2) A detailed description of any and all evidence you may offer at the Final Settlement Hearing, including photocopies of any and all exhibits which you may introduce at the Final Settlement Hearing.

<p>Class Counsel:</p> <p>Mr. Stephen M. Hansen 1821 Dock Street #103 Tacoma, WA 98402 253-302-5955</p>	<p>Counsel for COMMERCE WEST INSURANCE COMPANY:</p> <p>Mr. Gavin Skok Fox Rothschild LLP 1001 4<sup>th</sup> Ave, Suite 4500 Seattle, WA 98154</p>
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Any comments or objections which do not comply with the above or are not timely served on both counsels will not be considered by the Court.

**13. When and where will the Court decide whether to approve the Settlement?**

The Court will hold a Final Settlement Hearing at 9:00 a.m. on July 24, 2020 at the Pierce County Superior Court, 930 Tacoma Ave. S., Tacoma, WA 98402. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. Judge Stephanie Arend will, if the requisite notice of intent to appear and speak is filed, listen to anyone at the hearing who asks to speak, and if objections were timely served, he will consider them. The Court will also decide how much to pay Class Counsel and the Class Representative. The Final Settlement Hearing may be postponed without further notice to the Class.

**14. Do I have to come to the hearing?**

No. Counsel will answer questions the Judge may have. But you are welcome to come at your own expense. If you send a comment (including an objection), you don't have to come to Court to talk about it. As long as you mail it on time, the Court will consider it. You may also pay your own lawyer to attend, but it's not necessary.

**15. May I speak at the hearing?**

You may ask the Court for permission to speak at the Final Settlement Hearing. To do so, you must send a letter to both lawyers listed in Section 12, above, saying that it is your "Notice of Intention to Appear at the Final Settlement Hearing in *BALL v. COMMERCE WEST INSURANCE COMPANY*". You must include your name, address, telephone number, and signature. Your

Notice of Intention to Appear must be postmarked by June 24, 2020. You cannot speak at the hearing if you previously opted out of the Class, because the case no longer affects you.

**16. What happens if I do nothing at all?**

If you do nothing, you will get no money from this Settlement. **To receive a payment you must submit a qualifying claim form.**

**Getting More Information**

**17. Are there more details about the Settlement?**

This Notice summarizes the proposed Settlement. More details are in the Stipulation of Settlement. You can view and print a copy of the Stipulation of Settlement and other information about the lawsuit by visiting [www.CWICSettlement.com](http://www.CWICSettlement.com), where you will find answers to common questions about the Settlement, and other information to help you determine whether you are a Class Member and whether you are eligible for a payment. The website will also have instructions for filling out, and submitting, your Claim Form online.

**Please do not call the Court, the Court clerk's office, or Commerce West Insurance Company or its lawyers to inquire about this Settlement. They will be unable to help you.**

By order of the Pierce County Superior Court, Pierce County Washington, in Tacoma.

Dated: February 28, 2020

Stephanie Arend  
Superior Court Judge