

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

IN RE: SMITTY’S/CAM2 303 TRACTOR
HYDRAULIC FLUID MARKETING, SALES
PRACTICES, AND PRODUCTS LIABILITY
LITIGATION

MDL No. 2936

Master Case No. 4:20-MD-02936-SRB

ALL ACTIONS

**APPLICATION FOR INCENTIVE AWARDS FOR CLASS REPRESENTATIVES AND
FOR AWARD OF ATTORNEYS’ FEES AND EXPENSES
RELATED TO CLASS SETTLEMENT WITH RETAILER DEFENDANTS**

COME NOW PLAINTIFFS, by and through Class Counsel, and for their Application for Incentive Awards for Class Representatives and for an Award of Attorneys’ Fees and Expenses Related to Class Settlement with Retailer Defendants (“Application”), state as follows:

1. Plaintiffs/Class Representatives in this Action reached a Retailer Class Action Settlement and Release with the four Retailer Defendants (“Retailer Class Settlement Agreement”) which provides partial relief to thousands of Class Members who purchased “303” Tractor Hydraulic Fluid manufactured by Smitty’s Supply, Inc./CAM2 International, LLP and sold by Tractor Supply Company, Rural King, Orscheln, and Atwoods during the Class Period (“303 THF Products”).

2. The Retailer Class Settlement Agreement provides partial compensation payments to Settlement Class Members through a Class Settlement Fund of \$7,200,000.00 to be used to pay (a) claims of Qualified Retailer Settlement Class Members, (b) all settlement administration and notice costs, (c) all incentive awards to Class Representatives as Ordered by the Court; and (d) Class Counsel’s attorneys’ fees and expenses.

3. The Class Settlement Fund will provide each Qualified Settlement Class Member with an award that represents a partial payment that will be determined based on (a) the units of 303 THF Products purchased by each such Settlement Class Member during the Class Period; and, (b) the costs of any repairs, parts, and specific equipment damage that the Settlement Class Member contends resulted from, in whole or in part, the use of the 303 THF Products during the Class Period.

4. In addition to the monetary aspect of this Retailer Settlement Agreement, the four Retailer Defendants also agreed not to sell any tractor hydraulic fluid that is labeled, or otherwise held out to customers and the public, as "303" or as meeting specifications of John Deere 303. The Retailer Defendants also agreed to monitor the quality of the tractor hydraulic fluid sold in their retail stores, to reasonably review customer complaints to identify problems with tractor hydraulic fluid products, and to consult with tractor hydraulic fluid vendors/manufacturers to help ensure those vendors/manufacturers are providing the retailers with products that meet product specifications and labeling/packaging requirements.

5. The Retailer Settlement Agreement also provided for direct and published notice to be disseminated to Settlement Class Members through which each can be advised about Plaintiffs' allegations concerning the Manufacturer Defendants' 303 THF Products and the potential damage to their equipment, allowing those Settlement Class Members to stop using the defective fluid and flush the fluid from their equipment if they can afford it.

6. In addition to the awards to Settlement Class Members and the nonmonetary relief noted above, Retailer Defendants agreed in the Retailer Class Settlement Agreement to pay out of the Class Settlement Fund, if approved by the Court, an incentive award to each Class

Representative in the amount of \$500.00. As is set out in the supporting suggestions, the requested \$500.00 incentive award for each Class Representative is appropriate.

7. The Retailer Defendants also agreed in the Retailer Class Settlement Agreement to pay out of the Class Settlement Fund up to \$400,000 for Class Counsel's Court-awarded litigation expenses and up to \$2,040,000.00 for Class Counsel's Court-awarded attorneys' fees. Such a fee award represents a 30% contingency fee on the \$7,200,000.00 Class Settlement Fund. Class Counsel respectfully submits the amount agreed to and sought by this Application is fair and reasonable given the complexity of the issues and the meaningful nature of relief obtained through this 303 THF Retailer Settlement, especially in light of the partial nature of the Settlement.

8. Class Counsel thus seeks reimbursement of Plaintiffs' reasonable litigation costs of \$400,000 and for Class Counsel reasonable attorneys' fees in the amount \$2,040,000.00. These fees and expenses are based on a percentage of the fund and the partial nature of this 303 THF Retailer Settlement, and they represent only a partial payment of Class Counsel's time and expenses in this litigation.

9. In further support of this Application, Plaintiffs submit their Suggestions in Support.

WHEREFORE, Plaintiffs pray for an order of this Court approving (a) incentive awards of \$500.00 to each of the Class Representatives; and (b) Class Counsel's expenses of \$400,000.00 and attorneys' fees of \$2,040,000.00.

Date: December 15, 2021

Respectfully Submitted,

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