

**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

This document relates to:
All Class Actions

FINAL APPROVAL ORDER

WHEREAS, by order dated June 30, 2021, this Court granted preliminary approval of the proposed Retailer Class Action Settlement between the Plaintiffs and Retailer Defendants in the above-captioned action (the “Action”).

WHEREAS, the Court also provisionally certified a Retailer Settlement Class for settlement purposes only, approved the procedure for giving notice and forms of notice, and set a final fairness hearing to take place on January 6, 2022. On that date, the Court held the duly noticed final fairness hearing to consider: (1) whether the terms and conditions of the Retailer Settlement Agreement and Release are fair, reasonable and adequate; (2) whether a judgment should be entered dismissing with prejudice the claims of the named Plaintiffs and Retailer Settlement Class Members against Retailer Defendants only, as those claims are set forth in the Second Amended Consolidated Complaint; and (3) Class Counsel’s motion for approval of attorney’s fees, expenses, and Class Representative partial incentive awards.

WHEREAS, the Court considered all matters submitted to it at the hearing and otherwise, and first concludes that notice substantially in the form approved by the Court was given in the manner that the Court ordered, with very few opt outs and no objections filed.

WHEREAS, the settlement was the result of extensive arms-length negotiations between counsel for Plaintiffs, on the one hand, and counsel for Retailer Defendants, on the other hand, including, but not limited to, mediation. Counsel for the parties are highly experienced in this type of litigation, with full knowledge of the risks inherent in this Action. The extent of legal research as to the sufficiency of the claims and class certification, independent investigations by counsel for the parties, and the factual record compiled, suffices to enable the parties to make an informed decision as to the fairness and adequacy of the settlement.

WHEREAS, the Court has determined that the proposed settlement of the claims of the Retailer Settlement Class Members against Retailer Defendants, as well as the release of Retailer Defendants and the Released Parties (as that term is defined in the Retailer Settlement Agreement And Release), the significant benefits provided to the Retailer Settlement Class Members as described in the Retailer Settlement Agreement, and the requested award of attorneys' fees and expenses, and the partial incentive awards, are fair, reasonable and adequate.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. The Retailer Settlement Agreement, including the exhibits thereto, is expressly incorporated by reference into this Final Order and Judgment and made a part hereof for all purposes. Except where otherwise noted, all capitalized terms used in this Final Order and Judgment shall have the meanings set forth in the Retailer Settlement Agreement.

2. The Court has personal jurisdiction over the Retailer Defendants and all Retailer Settlement Class Members, and has subject-matter jurisdiction over this Action, including, without limitation, jurisdiction to approve the proposed settlement, to grant final certification of the Retailer Settlement Class, to settle and release all claims arising out of the transactions alleged in Plaintiffs' Second Amended Consolidated Complaint in the Action, and to dismiss the Retailer Defendants from this Action on the merits and with prejudice.

3. The Court finds, for settlement purposes only and conditioned upon the entry of this Final Order and Judgment Relating to Retailer Defendants and upon the occurrence of the

Effective Date, that the requirements for a class action under Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure have been satisfied, for settlement purposes, in that: (a) the number of Retailer Settlement Class Members is so numerous that joinder of all members thereof is impracticable; (b) there are questions of law and fact common to the Retailer Settlement Class; (c) the claims of the Plaintiffs are typical of the claims of the Retailer Settlement Class they seek to represent for purposes of settlement; (d) the Plaintiffs have fairly and adequately represented the interests of the Retailer Settlement Class and will continue to do so, and the Plaintiffs have retained experienced counsel to represent them; (e) for purposes of settlement, the questions of law and fact common to the Retailer Settlement Class Members predominate over any questions affecting any individual Retailer Settlement Class Member; and (f) for purposes of settlement, a class action is superior to the other available methods for the fair and efficient adjudication of the controversy. The Court also concludes that, because Plaintiffs and Retailer Defendants are settling rather than litigating, the Court need not consider manageability issues that might be presented by the trial of a nationwide class action involving the issues in this case. *See Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 620 (1997). In making these findings, the Court has considered, among other factors: (i) the interests of Retailer Settlement Class Members in individually controlling the prosecution or defense of separate actions; (ii) the impracticability or inefficiency of prosecuting or defending separate actions; (iii) the extent and nature of any litigation concerning these claims already commenced; and (iv) the desirability of concentrating the litigation of the claims in a particular forum.

4. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, this Court hereby finally certifies this Action for settlement purposes as a class action on behalf of: “All persons and other entities who purchased Super S Supertrac 303 Tractor Hydraulic Fluid, Super S 303 Tractor Hydraulic Fluid, Cam2 ProMax 303 Tractor Hydraulic Oil, and/or Cam2 303 Tractor Hydraulic Oil from Tractor Supply Company, Orscheln Farm and Home LLC, Rural King Administration, Inc., Rural King Distribution & Management, Inc., Rural King Holding Co., Atwood Distributing, LP, and/or their affiliates, divisions, subsidiaries, and assigns in the United

States at any point in time from December 1, 2013 to present, excluding persons and other entities who solely purchased Super S Supertrac 303 Tractor Hydraulic Fluid in Missouri. Also excluded from the Settlement Class are Defendants, including any parent, subsidiary, affiliate or controlled person of Defendants; Defendants' officers, directors, agents, employees and their immediate family members, as well as the judicial officers assigned to this litigation and members of their staffs and immediate families. As defined in the Retailer Settlement Agreement and Release, "Retailer Settlement Class Member(s)" means any member of the Retailer Settlement Class who does not elect exclusion or opt out from the Retailer Settlement Class pursuant to the terms and conditions for exclusion set out in the Retailer Settlement Agreement and Preliminary Approval Order.

5. The Court confirms its prior appointment of Tricia Campbell, Leader of the Settlement Committee, from the law firm Langdon & Emison, LLC in Kansas City, Missouri; Tom Bender and Dirk Hubbard from the law firm Horn Aylward & Bandy, LLC in Kansas City, Missouri; Bryan White from the law firm White, Graham, Buckley & Carr, L.L.C. in Independence, Missouri; Clayton Jones of the Clayton Jones Law Firm in Raymore, Missouri, Athena Dickson of the Siro Smith Dickson Law Firm in Kansas City, Missouri; John Emerson of the Emerson Firm, PLLC in Little Rock, Arkansas; Mark Bryant from the law firm Bryant Law Center, P.S.C. in Paducah, Kentucky; Christopher Jennings of the Johnson Firm in Little Rock, Arkansas; Stephen Basser from the law firm Barrack, Rodos & Bacine in San Diego, California; Paul Lundberg of the Lundberg Law Firm, P.L.C. in Sioux City, Iowa; James Malter of the law firm Malter, Shepher & Von Holtum in Worthington, Minnesota; Travis Griffith from the law firm Griffith Law Center, PLLC in Charleston, West Virginia; and Jon Robinson and Zachary Anderson from the law firm Bolen Robinson & Ellis, LLP in Decatur, Illinois ("Class Counsel"). The Court finds that Class Counsel are competent and capable of exercising their responsibilities as Class Counsel. The Court designates the named Plaintiffs set forth on Appendix A to the Retailer Class Settlement Agreement as the representatives of the Retailer Settlement Class. The Court finds that the named Plaintiffs and Class Counsel have fully and adequately represented the

Retailer Settlement Class for purposes of entering into and implementing the Retailer Class Settlement Agreement, and have satisfied the requirements of Rule 23(a)(4) of the Federal Rules of Civil Procedure. The Court confirms its appointment of each of the persons and entities listed on Appendix A to the Retailer Settlement as Retailer Settlement Class Representatives.

6. The Court finds that the notice provided to Retailer Settlement Class Members is in accordance with the terms of the Retailer Class Settlement Agreement and this Court's Preliminary Approval Order, and as explained in the submissions filed before the Final Fairness Hearing:

(a) constituted the best practicable notice to Retailer Settlement Class Members under the circumstances of this Action;

(b) was reasonably calculated, under the circumstances, to apprise Retailer Settlement Class Members of (i) the pendency of the Action, (ii) their right to exclude themselves from the Retailer Settlement Class and the proposed settlement, (iii) their right to object to any aspect of the proposed Retailer Settlement (including final certification of the Retailer Settlement Class, the fairness, reasonableness or adequacy of the proposed settlement, the adequacy of the Class Counsel and Plaintiffs' representation of the Retailer Settlement Class, and the award of attorneys' fees, costs, and incentive awards), (iv) their right to appear at the Final Fairness Hearing (either on their own or through counsel hired at their own expense), and (v) the binding effect of the orders and Final Order and Judgment in this Action, whether favorable or unfavorable, on all persons and entities who do not validly and timely request exclusion from the Retailer Settlement Class;

(c) constituted reasonable, due, adequate, and sufficient notice to all persons and entities entitled to be provided with notice; and

(d) fully satisfied the requirements of the Federal Rules of Civil Procedure, including Rule 23(c)(2) and (e) of the Federal Rules of Civil Procedure, the United States Constitution (including the Due Process Clause), the Rules of this Court, and any other applicable law.

7. The terms and provisions of the Retailer Class Settlement Agreement and Release, including any and all amendments and exhibits, have been entered into in good faith and are hereby fully and finally approved as fair, reasonable and adequate as to, and in the best interests of, the Plaintiffs and the Retailer Class Settlement Class Members, and in full compliance with all applicable requirements of the Federal Rules of Civil Procedure, the United States Constitution (including the Due Process Clause), and any other applicable law. The Court finds that the Retailer Class Settlement Agreement and Release is fair, adequate and reasonable based on the following factors, among other things:

(a) There is no fraud or collusion underlying this settlement, and it was reached after good faith, arms-length negotiations, warranting a presumption in favor of approval.

(b) The complexity, expense and likely duration of the litigation favor settlement on behalf of the Retailer Settlement Class, which provides meaningful benefits on a much shorter time frame than otherwise possible. Based on the stage of the proceedings and the amount of investigation and discovery completed, the Parties have developed a sufficient factual record to evaluate their chances of success at trial and the proposed settlement.

(c) The support of Class Counsel, who are highly skilled in class action litigation such as this, and the Plaintiffs, who have participated in this litigation and evaluated the proposed settlement, also favors final approval.

8. The settlement provides meaningful relief to the Retailer Settlement Class, including the monetary relief as set forth in the Plan of Allocation which is expressly approved by the Court, and falls within the range of possible recoveries by the Retailer Settlement Class.

9. The parties are directed to consummate the Retailer Class Settlement Agreement and Release in accordance with its terms and conditions. The Court hereby declares that the Retailer Class Settlement Agreement and Release is binding on all parties and Retailer Class Settlement Class Members, and it is to be preclusive in all pending and future lawsuits or other proceedings.

10. As described more fully in the Retailer Class Settlement Agreement, Defendants

have agreed to a Retailer Class Settlement Fund from which the Settlement Administrator will pay each Qualified Retailer Settlement Class Member an amount based on the Plan of Allocation, which considers each member's total purchases and any repairs/damages claimed during the Class Period. Within 60 days of the date of this Order, Class Counsel will provide the Court a Status Update on the claims review process.

11. Pursuant to Rule 23(h) of the Federal Rules of Civil Procedure, the Court hereby awards Class Counsel attorney's fees in the amount of \$2,040,000.00 and expenses of \$400,000.00. The Court also awards partial incentive awards of \$500.00 to each of the named Class Representatives set forth on Appendix A to the Retailer Class Settlement Agreement. The attorneys' fees are based on a percentage of the gross Retailer Settlement Fund and other non-monetary benefits achieved by the Retailer Settlement, as well as on the amount of time class counsel reasonably expended working on this Action. The attorneys' fees, expenses, and incentive awards are to be paid out of the Retailer Class Settlement Fund. The Settlement Administrator shall pay such attorney's fees and expenses and class representative's partial incentive awards according to the schedule, and in the manner, described in the Retailer Settlement Agreement and Release. Such payment will be in lieu of statutory fees Plaintiffs and their attorneys might otherwise have been entitled to recover from the Retailer Defendants, and this amount shall be inclusive of all fees and costs of Class Counsel in the Action against Retailer Defendants.

12. The claims against the Retailer Defendants in this Action are hereby dismissed with prejudice and without costs as against Retailer Defendants and the Released Parties (as that term is defined in the Settlement Agreement and Release) only.

13. Upon the Effective Date, the Releasing Parties (as that term is defined in the Settlement Agreement and Release) shall be deemed to have, and by operation of the Final Order and Judgment shall have, fully, finally and forever released, relinquished, and discharged all Released Claims against the Released Parties.

14. Members of the proposed Retailer Settlement Class identified in Exhibit 1 to this Order, which is filed under seal, have opted out of, or sought exclusion from, the Retailer

Settlement by the date set by the Court, are deemed not to be “Retailer Settlement Class Members” for purposes of this Order, do not release their claims against the Released Parties by operation of the Retailer Class Settlement Agreement, and will not obtain any benefits of the Retailer Settlement.

15. The Court orders that, upon the Effective Date, the Retailer Class Settlement Agreement and Release shall be the exclusive remedy for any and all Released Claims of Retailer Settlement Class Members against Retailer Defendants. The Court thus hereby permanently bars and enjoins Plaintiffs, all Retailer Settlement Class Members, and all persons acting on behalf of, or in concert or participation with, such Plaintiffs or Retailer Settlement Class Members (including but not limited to the Releasing Parties), from: (a) filing, commencing, asserting, prosecuting, maintaining, pursuing, continuing, intervening in, or participating in, or receiving any benefits from, any lawsuit, arbitration, or administrative, regulatory or other proceeding or order in any jurisdiction based upon or asserting any of the Released Claims against Retailer Defendants; (b) bringing a class action on behalf of Plaintiffs or Retailer Settlement Class Members, seeking to certify a class that includes Plaintiffs or Settlement Class Members, or continuing to prosecute or participate in any previously filed and/or certified class action, in any lawsuit based upon or asserting any of the Released Claims against Retailer Defendants. Nothing in this Order is meant to or shall be interpreted to release, apply to, or settle, or compromise, in any way Plaintiffs’ and/or Retailer Settlement Class Members’ claims against other entities, parties or Defendants, including Manufacturer Defendants Smitty’s Supply, Inc. and CAM2 International, LLC.

16. Neither the Retailer Class Settlement Agreement and Release, nor any of its terms and provisions, nor any of the negotiations or proceedings connected with it, nor any of the documents or statements referred to therein, nor any of the documents or statements generated or received pursuant to the settlement administration process, shall be:

(a) offered by any person or received against Retailer Defendants or any other Released Party as evidence, or be construed as or deemed to be evidence, of any presumption, concession, or admission by any Retailer Defendant or any other Released Party of the truth of the

claims and allegations asserted, or which could have been asserted, by the Plaintiffs or any Retailer Settlement Class Member or the validity of any claim that has been or could have been asserted in the Action or in any litigation, or other judicial or administrative proceeding, or the deficiency of any defense that has been or could have been asserted in the Action or in any litigation, or of any alleged liability, negligence, fault or wrongdoing of any Retailer Defendant or any other Released Party;

(b) offered by any person or received against Retailer Defendants or any other Released Party as evidence of a presumption, concession or admission of any fault, misrepresentation, or omission with respect to any statement or written document approved or made by Retailer Defendants or any other Released Party or any other alleged wrongdoing by any Retailer Defendant or any other Released Party.

17. Certification of the Retailer Settlement Class for settlement purposes only shall not be deemed a concession or admission that certification of a litigation class would be appropriate. Retailer Defendants reserve the right to challenge class certification in any other action. No agreements or statements made by Retailer Defendants in connection with the Settlement, or any findings or rulings by the Court in connection with the Retailer Settlement, may be used by Plaintiffs, Class Counsel, any person in the Settlement Class, or any other person to establish any of the elements of class certification in any litigated certification proceedings, whether in the Action or any other proceeding of any kind against Retailer Defendants.

18. The Court has jurisdiction to enter this Final Order and Judgment as to Claims Against Retailer Defendants. Without in any way affecting the finality of this Final Order and Judgment, this Court expressly retains exclusive and continuing jurisdiction over the Parties, including the Retailer Settlement Class, and all matters relating to the administration, consummation, validity, enforcement and interpretation of the Retailer Class Settlement Agreement and Release and of this Final Order and Judgment, including, without limitation, for the purpose of:

(a) enforcing the terms and conditions of the Retailer Class Settlement

Agreement and resolving any disputes, claims or causes of action that, in whole or in part, are related to or arise out of the Retailer Class Settlement Agreement or this Final Order and Judgment (including, without limitation: whether a person or entity is or is not a Retailer Settlement Class Member; whether claims or causes of action allegedly related to this Action are or are not barred or released by this Final Order and Judgment; and whether persons or entities are enjoined from pursuing any claims against Retailer Defendants or any other Released Party);

(b) entering such additional orders, if any, as may be necessary or appropriate to protect or effectuate this Final Order and Judgment and the Retailer Class Settlement Agreement and Release (including, without limitation, orders enjoining persons or entities from pursuing any claims against Retailer Defendants or any other Released Party), or to ensure the fair and orderly administration of the settlement; and

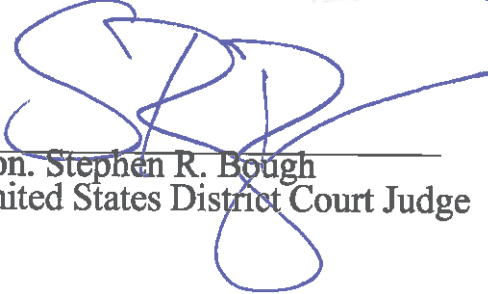
(c) entering any other necessary or appropriate orders to protect and effectuate this Court's retention of continuing jurisdiction over the Retailer Class Settlement Agreement and Release, the settling Parties, and the Retailer Settlement Class Members.

19. Without further order of the Court, the settling Parties may agree to reasonably necessary extensions of time to carry out any of the provisions of the Retailer Class Settlement Agreement and Release.

20. In the event that the Effective Date does not occur, certification of this Retailer Settlement Class shall be automatically vacated and this Final Order and Judgment, and all other orders entered and releases delivered in connection herewith, shall be vacated and shall become null and void.

21. The claims in this MDL against the Manufacturer Defendants are continuing, and nothing in this Final Approval Order affects the ongoing nature of those claims.

IT IS SO ORDERED, this 6 day of Jan., 2022.



Hon. Stephen R. Bough
United States District Court Judge

