

**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

**303 RETAILER CLASS SETTLEMENT
STATUS REPORT REGARDING SETTLEMENT ADMINISTRATION AND
PROPOSED DISTRIBUTIONS TO CLASS MEMBERS**

COME NOW Plaintiffs, by and through Class Counsel, and provide the Court the following Status Report Regarding Settlement Administration and Proposed Distribution to Class Members.

I. Review and Evaluation of Class Membership Forms

Class Membership Forms were submitted by claimants whose names and exact purchase information were not contained in the data provided by the Settling Retailer Defendants -- Tractor Supply Company, Rural King, Atwoods, and Orscheln. Claimants submitted more than 3,200 Class Membership Forms which were reviewed and evaluated for validity based on the objective factors set forth in prior Status Reports. After the initial evaluation and review, 764 Class Membership Forms were determined to be valid, and 2,470 Class Membership Forms were determined to be invalid. (Ex. 1, RG/2 Declaration, ¶ 3).

The Settlement Administrator then mailed letters to those Claimants whose Class Membership Forms were denied. The letters set forth the basis of the Class Membership Form denial and advised the Claimants that they had 21 days to contest the denial. Thirty (30) Claimants contested the denials of their Class Membership Forms, and seventeen (17) of those

denials were switched to valid or partially valid based on those contests. (Ex. 1, RG/2 Declaration, ¶ 4). Five additional Class Membership Forms have also been submitted and determined to be valid during the past several months of settlement administration. (Ex. 1, RG/2 Declaration, ¶ 5). During the review process, it was determined that some Class Membership Forms should have been submitted as a Correction Forms and some Corrections Forms should have been submitted as Class Membership Forms. Those were re-categorized into the proper category and are reflected in the new totals. (Ex. 1, RG/2 Declaration, ¶ 6). All totaled, there are now 778 Class Membership Forms that have been determined to be valid for the following specific numbers of the various unit sizes sold by the Settling Retailers:

23,700	Five-Gallon Buckets
244	Two-Gallon Jugs
2	55-Gallon Drums

(Ex. 1, RG/2 Declaration, ¶ 7).

II. Review and Evaluation of Request for Correction Forms

Any Class Member whose purchase information was contained in one or more of the Settling Retailer Defendants' specific purchase data had the opportunity to submit a Request for Correction Form if the number of purchases in that purchase information (which was communicated to the Class Member via the Mailed Notice) did not accurately reflect the total of Defendants' 303 THF Products that Class Member had purchased from the Settling Retailer Defendants during the Class Period. More than 650 Request for Correction Forms were submitted by Class Members. Those Request for Correction Forms were reviewed and evaluated for validity, with 571 Request for Correction Forms determined to be valid and 199 determined to be invalid. (Ex. 1, RG/2 Declaration, ¶ 8). The same objective factors set forth in prior Status

Reports for Class Membership Forms were applied to determine the validity of Request for Correction Forms.

The Settlement Administrator mailed letters to those Class Members whose Request for Correction Forms were denied. The letters set forth the basis of the Request for Correction Form denial and advised the Class Members that they had 21 days to contest the denial. Four Class Members (4) contested the denials of the Request for Correction Forms, and each of those denials was switched to valid or partially valid based on those contests. (Ex. 1, RG/2 Declaration, ¶ 9). No additional Request for Correction Forms have been submitted and determined to be valid during the past several months of settlement administration. However, as stated in Section I above, some claims were re-categorized as they were submitted using the wrong type of form. (Ex. 1, RG/2 Declaration, ¶ 10).

All totaled, there are now 566 Request for Correction Forms that have been determined to be valid for the following specific numbers of the various unit sizes sold by these retailers:

16,559	Five-Gallon Buckets
143	Two-Gallon Jugs
33	55-Gallon Drums

(Ex. 1, RG/2 Declaration, ¶ 11).

III. Purchases Reflected in Retailer Databases

In the Mailed Notice, Class Members whose specific purchase information was contained in the Settling Retailers' purchase databases were informed they did not have to submit claim form in order to be eligible for that part of relief based on bucket purchases. The combined purchase data of all Settling Retailer Defendants contained the following specific numbers of the various unit sizes:

1,398,244	Five-Gallon Buckets
53,988	Two-Gallon Jugs
1,053	55-Gallon Drums

(Ex. 1, RG/2 Declaration, ¶ 12).

Pursuant to the Retailer Class Settlement Agreement, distributions are not made to those whose Mailed Notices were returned as undeliverable and for whom no new address could be located. Adjusting for those, the following are the specific numbers of the various unit sizes which qualify for distributions:

1,370,014	Five-Gallon Buckets
53,110	Two-Gallon Jugs
1,032	55-Gallon Drums

(Ex. 1, RG/2 Declaration, ¶ 13).

IV. Review and Evaluation of Claims for Repairs/Parts/Specific Equipment Damage

A separate Repairs/Parts/Specific Equipment Damage Claim Form could be submitted by any valid Class Member who is listed on one of the four Settling Retailer Defendants' specific purchase data or who submitted a valid Class Membership Form. More than 2,000 Damage Claim Forms were submitted, claiming more than \$28.5 Million combined in repair damages and total loss equipment damages. (Ex. 1, RG/2 Declaration, ¶ 14). The Repairs/Parts/Specific Equipment Damage Claim Forms were reviewed and evaluated for validity, applying objective factors set forth in prior Status Reports.

The Settlement Administrator mailed letters to those Claimants whose claims for Repairs/Parts/Specific Equipment Damage were denied or partially denied. The letters set forth the basis of the denial/partial denial. The claimants had 21 days to contest the denial/partial

denial. Challenges to those denials were reviewed and resulted in 17 of the denied or partially denied claims being determined to be valid or adjusted. (Ex. 1, RG/2 Declaration, ¶ 15).

All totaled, 1,873 Repairs/Parts/Specific Equipment Damage Claim Forms have been determined to be valid for a total valid amount of \$24,978,078.89. (Ex. 1, RG/2 Declaration, ¶ 16).

V. Valid Claim Total and Pro Rata Distribution Percentage

The net settlement amount for distribution to Class Members from this settlement with the Settling Retailer Defendants is \$3,548,324.89. (Ex. 1, RG/2 Declaration, ¶ 17). Pursuant to the Plan of Allocation contained in paragraph 47 of the Retailer Class Settlement Agreement, Class Members are each to receive a pro rata share of their Total Claim Value which includes (1) the General Equipment Damage Claim Value based on the amount of purchases of Defendants' 303 THF Products from the Retailer Defendants; and (2) the Repairs/Parts/Specific Equipment Damage Claim Value.

Paragraph 47(b) notes that the General Equipment Damage portion of the Claim Value was "to provide compensation for the property damage which Plaintiffs allege was generally sustained in each piece of equipment which used Defendants' 303 THF Products." The value assigned to this General Equipment Damage was an estimated 50% of the average price during the Class Period, with the following specific values applying to the various unit sizes:

- 5-Gallon Bucket = \$12
- 2-Gallon Jug = \$6
- 1-Gallon Jug = \$4
- 55-Gallon Drum = \$90

Applying these values to the total number of valid purchases from Class Membership Forms, Request for Correction Forms, and the Settling Retailer Defendants' purchase databases, the total number of units and settlement values are as follows

<u>Unit Size</u>	<u>Total Number</u>	<u>Total Value</u>
5-Gallon Bucket	1,410,273	\$16,923,276
2-Gallon Jug	53,497	\$320,982
55-Gallon Drum	1,067	\$96,030

(Ex. 1, RG/2 Declaration, ¶ 18). Thus, the total of all Class Members' General Equipment Damage Claim Value is \$17,340,288. (Ex. 1, RG/2 Declaration, ¶ 19).

Pursuant to paragraph 47(c) of the Retailer Class Settlement Agreement, the total of all valid specific claims for repairs, parts and/or damage to equipment is the Repairs/Parts/Specific Damage Value. As noted in section IV, the total of all such valid claims submitted by Class Members for specific repairs, parts, and/or damage to equipment is \$24,978,078.89. (Ex. 1, RG/2 Declaration, ¶ 16).

Adding the total General Equipment Damage Claim Value of \$17,340,288 and the Repairs/Parts/Specific Damage Value of \$24,978,078.89, the Total Claim Value for all Settlement Class Members is \$42,318,366.89. (Ex. 1, RG/2 Declaration, ¶ 20). Paragraph 47(d) of the Plan of Allocation portion of the Retailer Class Settlement provides that each Qualified Retailer Settlement Class Member will receive a pro rata share of the portion remaining in the Retailer Settlement Class Fund, which amount is \$3,548,324.89.

As such, the pro rata percentage to be paid to each Class Member is approximately 8.1% of the Members' valid/approved claim, and a contingency amount of \$100,000 will be retained to address any claim amount corrections that may arise after issuance of payments to the Class

Members. (Ex. 1, RG/2 Declaration, ¶ 21). This percentage is within the anticipated range to be paid out through this partial settlement that only involves the Settling Retailer Defendants.

VI. Anticipated Timetable for Distributions

Class Counsel anticipate that distributions to Class Members can begin in December and can be completed in January.

WHEREFORE, as set forth above, Class Counsel submits this Status Report to the Court and requests the Court's approval for the proposed distributions as set forth herein.

Date: December 1, 2022

Respectfully Submitted,

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**LEAD CLASS COUNSEL FOR PLAINTIFFS
AND CLASS MEMBERS**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this document was filed electronically with the United States District Court for the Western District of Missouri, with notice of case activity to be generated and sent electronically by the Clerk of the Court to all designated persons this 1st day of December 2022.

/s/ Dirk Hubbard
