

**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

**PLAINTIFFS’ MOTION FOR CLASS CERTIFICATION RESPECTING THE
EIGHT FOCUS STATES OF ARKANSAS, CALIFORNIA, KANSAS,
KENTUCKY, MINNESOTA, MISSOURI, NEW YORK, AND WISCONSIN**

COME NOW Plaintiffs William Anderson, William Edward Anderson Living Trust, Fricker Farms, Inc., MGA Farms, Inc., Alan Hargraves, Jeffery Harrison, J&C Housing Construction, LLC, Jack Kimmich, Soils to Grow, LLC, George Bollin, Adam Sevy, Ross Watermann, Watermann Land and Cattle, LLC, Terry Zornes, Kirk Egner, Tim Sullivan, Tracy Sullivan, Dwayne Wurth, Wurth Excavating, LLC, Joe Asfeld, Brett Creger, Jason Klingenberg, K&J Trucking, Inc., Arno Graves, Mark Hazeltine, Ron Nash; New York: Sawyer Dean, John Miller, Lawrence Wachholder, Mike Hamm, and Dale Wendt (“Plaintiffs”), by and through counsel, and move this Court for its order certifying state-wide classes in the eight focus states of Arkansas, California, Kansas, Kentucky, Minnesota, Missouri, New York, and Wisconsin, to appoint Plaintiffs as class representatives for members in their respective states, and to appoint class counsel. In support of their Motion, Plaintiffs submit Suggestions in Support of Class Certification contemporaneously herewith,¹ and respectfully state as follows:

¹ In accordance with this Court’s April 16,2023 order, the Argument section contained in the Suggestions in Support (excluding Table of Contents, Table of Authorities, Fact Section, signature block, and certificate of service but including Introduction and Applicable Authorities sections) is 75 pages.

1. Plaintiffs from each state bring claims on behalf of themselves and others against Smitty's Supply, Inc. and Cam2 International LLC arising from defendants' marketing and sale of products labeled Super S Super Trac 303 Tractor Hydraulic Fluid, Super S 303 Tractor Hydraulic Fluid, Cam2 Promax 303 Tractor Hydraulic Oil, and Cam2 303 Tractor Hydraulic Oil (together "303 THF"). Plaintiffs assert that although labeled and sold as tractor hydraulic fluid, suitable for tractors and equipment manufactured by leading companies that would provide numerous performance benefits, 303 THF in fact lacked properties needed for tractor hydraulic fluid, met no specifications, did not provide represented performance benefits, and was not actual tractor hydraulic fluid at all. Rather, it was a worthless waste product composed of ingredients like flush oil, line wash, used transformer oil, used turbine oil, and/or other waste oil, without an additive package, not only unsuitable for but damaging to all tractors and equipment in which it was used.

2. Plaintiffs seek certification of eight state-wide classes such that there will be no variation in law applicable to each class and propose three subclasses to accommodate statutory definitions of who may bring a claim for consumer act violations in California, Kansas, and Missouri. The specific classes and subclasses sought are as follows:

Arkansas: All persons and 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 in Arkansas at any point in time from December 1, 2013 to present.

California: All persons and 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 in California at any point in time from December 1, 2013 to present.

CLRA Subclass:

All individuals 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 in California for

personal, family, or household purposes at any point in time from December 1, 2013 to present.

Kansas: All persons and 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 in Kansas at any point in time from December 1, 2013 to present.

KCPA Subclass:

All individuals, husbands and wives, sole proprietors, or family partnerships 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 in Kansas for personal, family, household, business or agricultural purposes at any point in time from December 1, 2013 to present.

Kentucky: All persons and 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 in Kentucky at any point in time from December 1, 2013 to present.

Minnesota: All persons and 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 in Minnesota at any point in time from December 1, 2013 to present.

Missouri: All persons and entities who purchased Super S 303 Tractor Hydraulic Fluid, Cam2 ProMax 303 Tractor Hydraulic Oil, and/or Cam2 303 Tractor Hydraulic Oil in Missouri at any point in time from December 1, 2013 to present.

MMPA Subclass:

All persons and entities who purchased Super S 303 Tractor Hydraulic Fluid, Cam2 ProMax 303 Tractor Hydraulic Oil, and/or Cam2 303 Tractor Hydraulic Oil in Missouri primarily for personal, family, household, purposes at any point in time from December 1, 2013 to present.

New York: All persons and 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 in New York at any point in time from December 1, 2013 to present.

Wisconsin: All persons and 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 in Wisconsin at any point in time from December 1, 2013 to present.

3. For all the reasons set forth in Plaintiffs' Suggestions in Support, all requisite elements of Rule 23(a) are met: The class is so numerous that joinder of all members is impracticable; there are common questions of law or fact; the claims of representative parties are typical of claims of the class; and representative parties will fairly and adequately protect the interests of the class. Requirements of Rule 23(b)(3) also are satisfied. There are multiple common questions of law or fact that predominate over any questions affecting only individual members, and class treatment is superior to other methods for fairly and efficiently adjudicating the controversy. In addition, although not contained in Rule 23, the classes (and subclasses) are ascertainable.

4. Certifying the proposed classes is appropriate and warranted in this case. WHEREFORE, Plaintiffs respectfully request this Court to enter its order certifying eight state-wide classes in each state (and three subclasses), appoint the above-referenced class representatives for each state, and appoint class counsel as set out in the Suggestions in Support, and for any other and further relief the Court deems just and proper.

Date: April 21, 2023

Respectfully submitted,

HORN AYLWARD & BANDY, LLC

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