

**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' UNOPPOSED AMENDMENT TO
APPLICATION FOR INCENTIVE AWARDS FOR CLASS REPRESENTATIVES AND
FOR AWARD OF ATTORNEYS' FEES AND EXPENSES
RELATED TO CLASS SETTLEMENT WITH MANUFACTURER DEFENDANTS
SMITTY'S AND CAM2**

COME NOW PLAINTIFFS, by and through Class Counsel, and submit this Amendment to their Application for Incentive Awards for Class Representatives and for an Award of Attorneys' Fees and Expenses Related to Class Settlement with Manufacturer Defendants Smitty's and CAM2 ("Application"), stating as follows:

1. Plaintiffs file this amendment to correct the calculation of the attorneys' fees requested. Plaintiffs do not seek fees in the amount of 40% of the total common fund. Rather, Plaintiffs seek an award of fees in the amount of 40% of the common fund after the expense reimbursement amount is deducted from the total common fund settlement amount. Thus, by this amendment Plaintiffs reduce the fee amount originally requested by \$692,487.02, for an amended request of \$12,067,512.98, calculated as follows: \$31,900,000 (total settlement) - \$1,731,217.55 (amended litigation expenses sought to be reimbursed) = \$30,168,782.45 x 40% = \$12,067,512.98. This results in Plaintiffs' fee request being 37.8%, not 40%, of the total settlement/common fund.

2. Since filing the initial application, Plaintiffs have also identified \$13,410.00 in additional mediation expenses and \$1,272.50 in document management vendor services that were

not included in their original Application. Plaintiffs thus seek to add \$21,272.50 to their expense reimbursement request for a new total of \$1,731,217.55.

3. Finally, Plaintiffs also seek to correct Exhibit 1 to their Application by deleting one Class Representative (Seever -- TN) who was listed twice and by noting that another Class Representative (Creger – ND) did provide a deposition. This will result in a net \$1,500 reduction in the total amount of incentive awards sought for all Class Representatives. A corrected Exhibit 1 is attached.

4. Class Counsel thus seeks reimbursement of Plaintiffs' reasonable litigation costs of \$1,731,217.55 and for Class Counsel reasonable attorneys' fees in the amount \$12,067,512.98.

WHEREFORE, Plaintiffs pray for an order of this Court approving (a) incentive awards of (i) \$4,500 to each Class Representative who provided deposition testimony as well as interrogatory responses and documents in discovery, and (ii) \$3,000 to each Class Representative who provided interrogatory responses and documents in discovery, but no deposition testimony; and (b) Class Counsel's expenses of \$1,731,217.55 and attorneys' fees of \$12,067,512.98.

Date: February 28, 2025

Respectfully Submitted,

HORN AYLWARD & BANDY, LLC

BY: /s/ Thomas V. Bender

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WHITE, GRAHAM, BUCKLEY,
& CARR, L.L.C

Bryan T. White MO 58805, KS 23255

EXHIBIT 1		
<u>Name</u>	<u>State(s)</u>	<u>Deposition</u>
<u>ALABAMA</u>		
Robert Shane Morgan; R.S. Morgan Farms, LLC	Alabama	No
Joe Jackson	Alabama	Yes
<u>ARIZONA</u>		
Mark Engdahl	Arizona	No
Michael Gallegos	Arizona	No
Ben Monday	Arizona	No
Susan Whitehead	Arizona	No
<u>ARKANSAS</u>		
Donald Snyder	Arkansas	Yes
Jeffery (Jeff) Harrison; J&C Housing Construction, LLC	Arkansas	Yes
Kyle Boyd	Arkansas	Yes
William Anderson; William Edward Anderson Living Trust; Fricker Farms, Inc.; MGA, Inc.	Arkansas	Yes
Alan Hargraves	Arkansas	Yes
Donald Louis Herbert	Arkansas	Yes
Jeff Jones	Arkansas	Yes
<u>CALIFORNIA</u>		
Jack Kimmich; Soils to Grow, LLC	California	Yes
<u>COLORADO</u>		
Ross Watermann; Watermann Land and Cattle LLC	Colorado and Kansas	Yes
Jim Guire; The Meadows Ranch, LLC	Colorado	No

Larry Lempka; Los Rios Farm, LLC	Colorado	No
CONNECTICUT		
Todd Carusillo	Connecticut	No
FLORIDA		
Thomas Brett	Florida	No
John Raburn; Raburn Ranch, LLC	Florida	No
Pete Rumore	Florida	No
GEORGIA		
Anthony Shaw	Georgia	Yes
Rusty Shaw	Georgia	No
Cline (Tommy) Fricks	Georgia	No
Eddie Chavis	Georgia and South Carolina	No
ILLINOIS		
Joshua Lesko; Busted Knuckles Landscaping	Illinois	No
Kyle Feldkamp	Illinois	No
Norman Fohne	Illinois	No
Steve Burgdorf	Illinois	No
Keith Wilson;Twin Mills Timber & Tie Co.	Illinois	No
INDIANA		
Frank James	Indiana	No
Rick Hardin	Indiana	No
Bernard Rudd	Indiana	No
IOWA		
Terry Blackmore	Iowa	No
Wayne Rupe	Iowa	Yes
Jason Klingenberg; J & K Trucking, Inc.	Iowa and Minnesota	Yes
Jim Beck	Iowa	No
Russell Faubion	Iowa	No
KANSAS		
Adam Sevy	Kansas	Yes

George (Butch) Bollin	Kansas	Yes
Terry Zornes	Kansas	Yes
Greg Vanderree	Kansas and Oklahoma	Yes
<u>KENTUCKY</u>		
Dwayne Wurth; Wurth Excavating, LLC	Kentucky	Yes
Kirk Egner	Kentucky	Yes
Tim Sullivan	Kentucky	Yes
Tracy Sullivan	Kentucky	Yes
Ricky Peck	Kentucky	Yes
Wildie Coleman	Kentucky	Yes
<u>LOUISIANA</u>		
Simon Vicknair	Louisiana	No
Pat Beaver	Louisiana	No
Charles Jarreau	Louisiana	No
<u>MAINE</u>		
Christopher Curtis	Maine	No
Harry Boynton	Maine	No
Donald Ouelette	Maine and New Hampshire	No
Travis White	Maine	No
<u>MARYLAND</u>		
Vonda Moreland	Maryland and West Virginia	No
<u>MASSACHUSETTS</u>		
Cosimo Ferrante	Massachusetts	No
<u>MICHIGAN</u>		
Douglas Clough	Michigan	No
Michael Dahlke	Michigan	No
Craig Dow	Michigan	No
Jacob Mabie; Mabie Trucking, Inc.	Michigan and Texas	Yes
<u>MINNESOTA</u>		
Joe Asfeld	Minnesota	Yes
<u>MISSISSIPPI</u>		

Samuel Blakeney	Mississippi	No
Charles "Bubba" Woods	Mississippi	No
James Still	Mississippi	No
<u>MISSOURI</u>		
Arno Graves	Missouri and Oklahoma	Yes
Ron Nash	Missouri and Oklahoma	Yes
Gary Goodson	Missouri	Yes
Mark Hazeltine	Missouri	Yes
Dennis Irwin	Missouri	No
Jacob Ruhl	Missouri	Yes
<u>MONTANA</u>		
Tom Karnatz; Karnatz Tree Service and Logging, LLC	Montana	No
<u>NEBRASKA</u>		
Larry and Wyatt Loeffler	Nebraska	No
Gerald Lunkwitz	Nebraska	No
Brian Riessland; B & A Riessland Farms, Inc.	Nebraska	No
Ed Chauncey	Nebraska and South Dakota	No
Jay Simpson	Nebraska	No
<u>NEVADA</u>		
Jeff Jacobson; Jacobson Fab, LLC	Nevada	No
<u>NEW HAMPSHIRE</u>		
Alden Dill	New Hampshire	No
Joseph Griffiths	New Hampshire	No
Tim Towle	New Hampshire	No
<u>NEW JERSEY</u>		
John Miller	New Jersey and New York	Yes

Jess Metzger; Jemco Excavating, LLC	New Jersey	No
<u>NEW MEXICO</u>		
Clyde Garduno	New Mexico	No
Ruben Quiroga	New Mexico and Texas	No
<u>NEW YORK</u>		
Sawyer Dean	New York	Yes
Lawrence G. Wachholder	New York	Yes
<u>NORTH CAROLINA</u>		
Justin Lemonds	North Carolina	NO
William White	North Carolina	No
John Sigmon	North Carolina	No
Steve Upchurch	North Carolina	No
<u>NORTH DAKOTA</u>		
Brett Creger	North Dakota and Minnesota	Yes
Trent Guthmiller	North Dakota	No
<u>OHIO</u>		
Brian Hayes; Hayes Brothers Joint Ventures - -Partnership	Ohio	No
Matt Ortner; Ortner Grass Fed Beef, LLC; Associated Contractors Inc.	Ohio	No
Robert Gosche	Ohio	No
Todd Mantz	Ohio	No
Doug Ronau	Ohio	No
<u>OKLAHOMA</u>		
Joe Pate	Oklahoma and Texas	No
Wayne Wells	Oklahoma	Yes
<u>PENNSYLVANIA</u>		
Kyle Minich	Pennsylvania	No
Joshua Farley; Farley Farms, LLC	Pennsylvania	No

Earnest Jenkins; Jenkins Timber & Wood, Inc.	Pennsylvania and West Virginia	Yes
Ter Puskarich	Pennsylvania	No
Robert Stanton	Pennsylvania	No
<u>SOUTH CAROLINA</u>		
Mike Ping	South Carolina	No
George Kirven	South Carolina	No
<u>SOUTH DAKOTA</u>		
Patrick Gisi	South Dakota	No
Curtis Hoff	South Dakota	No
Leonard Saathoff	South Dakota	No
<u>TENNESSEE</u>		
William James	Tennessee	No
Will Dobson	Tennessee	No
Tim Grissom	Tennessee and Mississippi	No
Kenneth Seever	Tennessee	No
Howard Stembridge	Tennessee	Yes
<u>TEXAS</u>		
Daniel Denton	Texas	No
Stanley Richardson	Texas	No
Reginald Morris	Texas	No
Robert Wilkinson	Texas	No
<u>VIRGINIA</u>		
Robert Boone	Virginia	No
Cal Moore	Virginia	No
<u>WEST VIRGINIA</u>		
Clinton Curry	West Virginia	No
Roger Bias	West Virginia	No
<u>WISCONSIN</u>		
Michael Hamm	Wisconsin	Yes
Dale Wendt	Wisconsin	Yes
David Gretzinger	Wisconsin	Yes
Russell Heise	Wisconsin	Yes
<u>WYOMING</u>		
Dan Smith	Wyoming	No