

**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 MANUFACTURER DEFENDANTS
SMITTY'S AND CAM2**

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 Manufacturer Defendants Smitty's and CAM2 ("Application"), state as follows:

1. Plaintiffs/Class Representatives in this Action reached a Class Action Settlement and Release with the two Manufacturer Defendants ("Manufacturer Settlement Agreement") which makes available relief to thousands of Class Members who purchased "303" Tractor Hydraulic Fluid manufactured by Smitty's Supply, Inc. and CAM2 International, LLP during the Class Period ("303 THF Products").

2. The Manufacturer Settlement Agreement provides compensation payments to Settlement Class Members through a Class Settlement Fund of \$31,900,000.00 to be used to pay (a) claims of Qualified 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 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 resulted from, in whole or in part, the use of the 303 THF Products during the Class Period.

4. In addition to the awards to Settlement Class Members, Manufacturer Defendants agreed in the Settlement Agreement to pay out of the Class Settlement Fund, if approved by the Court, an incentive award in the amount of (i) \$4,500 to each of the Class Representatives who provided deposition testimony as well as interrogatory responses and documents in discovery and (ii) \$3,000 to each of the Class Representatives who provided interrogatory responses and documents in discovery, but no deposition testimony. The names and amounts sought for each Class Representative are set forth on Exhibit 1. As further discussed in the supporting suggestions, the requested incentive awards for these Class Representatives are appropriate.

5. The Manufacturer Defendants also agreed in the Settlement Agreement to pay out of the Class Settlement Fund the amount of Class Counsel's Court-awarded litigation expenses and the amount of Class Counsel's Court-awarded attorneys' fees, up to \$12,760,000.00. Such a fee award represents a 40% contingency fee on the \$31,900,000.00 Class Settlement Fund. Class Counsel respectfully submits the amount agreed to and sought by this Application is fair, reasonable and justified given the complexity of the issues, the meaningful nature of relief obtained through this Settlement, and the significant amount of work required from Class Counsel. As set forth in Plaintiffs' suggestions in support, the lodestar cross check of this requested fee more than supports the award; in fact, there is no multiplier.

6. Class Counsel's requested expense reimbursement is also supported by the record. To achieve the settlement result for the Class, Class Counsel were required to engage multiple experts for class certification and merits issues, fund class notice in 8 states, and take and attend depositions and inspections in more than 8 states, in addition to the other expense categories reflected in the expense submission.

7. Class Counsel thus seeks reimbursement of Plaintiffs' reasonable litigation costs of \$1,716,535.05 and for Class Counsel reasonable attorneys' fees in the amount \$12,760,000.00.

8. 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 (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 \$1,716,535.05 and attorneys' fees of \$12,760,000.00.

Date: February 14, 2025

Respectfully Submitted,

HORN AYLWARD & BANDY, LLC

BY: /s/ Thomas V. Bender

Thomas V. Bender MO 28099, KS 22860
Dirk Hubbard MO 37936, KS 15130
2600 Grand Boulevard, Ste. 1100
Kansas City, MO 64108
(816) 421-0700
(816) 421-0899 (Fax)
tbender@hab-law.com
dhubbard@hab-law.com

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

Bryan T. White MO 58805, KS 23255
William Carr
Gene Graham
19049 East Valley View Parkway
Independence, Missouri 64055
(816) 373-9080 Fax: (816) 373-9319
bwhite@wagblaw.com

CLAYTON JONES, ATTORNEY AT LAW

Clayton Jones MO 51802
P.O. Box 257
405 W. 58 Hwy.
Raymore, MO 64083
Office: (816) 318-4266
Fax: (816) 318-4267
clayton@claytonjoneslaw.com

GRAY RITTER GRAHAM
Don M. Downing MO 30405
Gretchen Garrison MO 66963
701 Markey Street, Suite 800
St. Louis, MO 63101
Ph: (314) 241-5620
Fax: (314) 241-4140
ddowning@grgpc.com
ggarrison@grgpc.com

**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 14th day of February 2025.

/s/ Dirk Hubbard

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

EXHIBIT 1

To

PLAINTIFFS' 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

DOCKET #1213

APPENDIX A

| <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) Bolln | 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 Mable; Mable 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 |
| MISSOURI | | |
| 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 |
| MONTANA | | |
| Tom Karnatz; Karnatz Tree Service and Logging, LLC | Montana | No |
| NEBRASKA | | |
| 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 |
| NEVADA | | |
| Jeff Jacobson; Jacobson Fab, LLC | Nevada | No |
| NEW HAMPSHIRE | | |
| Alden Dill | New Hampshire | No |
| Joseph Griffiths | New Hampshire | No |
| Tim Towle | New Hampshire | No |
| NEW JERSEY | | |
| 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 | No |
| 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 |

| | | |
|---|-----------------------------------|-----|
| Barnest 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 Stenbridge | Tennessee | Yes |
| Kenneth Seever | Tennessee | No |
| <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 |
|-----------|---------|----|