

**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

**PLAINTIFFS’ UNOPPOSED MOTION FOR PRELIMINARY APPROVAL
OF CLASS ACTION SETTLEMENT**

COME NOW Plaintiffs identified in Appendix A of Exhibit 1 (“Plaintiffs”), with the non-opposition of Defendants Smitty’s Supply, Inc. (“Smitty’s”) and CAM2 International LLC (“CAM2”) (sometimes referred to herein collectively as “Manufacturer Defendants”), and move the Court for an Order preliminarily approving the Class Action Settlement Agreement and Release with Manufacturer Defendants (“Manufacturer Settlement Agreement”) filed herewith. In support of their Motion, Plaintiffs respectfully state as follows:

1. On or about October 2, 2024, the Parties entered into the Manufacturer Settlement Agreement which makes relief available to more than 100,000 proposed Manufacturer Settlement Class Members comprised of persons who have purchased Super S Super Trac 303 Tractor Hydraulic Fluid, Super S 303 Tractor Hydraulic Fluid, CAM2 Promax 303 Tractor Hydraulic Oil, and/or CAM2 303 Tractor Hydraulic Oil (“Smitty’s/CAM2 303 THF”) in the United States at any point in time from December 1, 2013 to present, excluding persons and entities who purchased for resale or solely purchased Super S Super Trac 303 Tractor Hydraulic Fluid in Missouri.

2. The Manufacturer Settlement Agreement, with the following exhibits thereto, is attached as Exhibit 1 to this Motion:

- Exhibit A – Preliminary Approval Order
- Exhibit B – Final Approval Order
- Exhibit C – Manufacturer Settlement Claim Form
- Exhibit D – Long Form Manufacturer Settlement Notice
- Exhibit E – Summary Class Notice
- Exhibit F – Mailed Class Notice
- Exhibit G – Repairs/Parts/Specific Equipment Damage Claim Review Process
- Exhibit H – Settlement Administration and Notice Plan

3. The Manufacturer Settlement Agreement provides meaningful relief and benefits through a Class Settlement Fund of \$31,900,000.00, from which shall be paid (a) all Settlement Administration and Notice expenses, (b) claims of Qualified Manufacturer Settlement Class Members, (c) incentive awards to Class Representatives as ordered by the Court, and (d) attorneys' fees and expenses of Class Counsel as ordered by the Court. No amount of the Manufacturer Settlement Class Fund shall revert to Manufacturer Defendants.

4. Pursuant to the Manufacturer Settlement Agreement, Plaintiffs now respectfully request that the Court enter an Order, in substantially the form of the proposed Preliminary Approval Order attached hereto as Exhibit 1-A, in summary, as follows:

- (i) Preliminarily approving the terms and conditions set forth in the Manufacturer Settlement Agreement, including all exhibits thereto, as fair, reasonable, and adequate.
- (ii) Conditionally certifying, for settlement purposes only, the following settlement class: All persons and other entities who purchased Super S Super Trac 303 Tractor Hydraulic Fluid, Super S 303 Tractor Hydraulic Fluid, CAM2 Promax 303 Tractor Hydraulic Oil, and/or CAM2 303 Tractor Hydraulic Oil in the United States at any point in time from December 1, 2013 to present, excluding persons and entities who purchased for resale or solely purchased Super S Super Trac 303 Tractor Hydraulic Fluid in Missouri. Also excluded from the Manufacturer Settlement Class are Manufacturer Defendants, including their immediate family members, as well as the MDL judicial officers assigned to the Action and their immediate family and staff members.
- (iii) Conditionally finding, for settlement purposes only and conditioned upon entry of the Final Approval Order, and the occurrence of the Effective Date (as defined in the attached Manufacturer Settlement

Agreement), that the prerequisites for a class action under Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure have been satisfied in that: (a) the number of members of the Manufacturer Settlement Class is so numerous that joinder of all members thereof is impracticable; (b) there are questions of law and fact common to the Manufacturer Settlement Class for purposes of settlement; (c) the claims of the Plaintiffs are typical of the claims of the Manufacturer Settlement Class for purposes of settlement; (d) Plaintiffs have fairly and adequately represented the interests of the Manufacturer Settlement Class and will continue to do so, and Plaintiffs have retained experienced counsel to represent them; (e) for purposes of settlement, the questions of law and fact common to the members of the Manufacturer Settlement Class predominate over any questions affecting any individual members of the Manufacturer Settlement Class; 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.

- (iv) Appointing Tom Bender and Dirk Hubbard from the law firm Horn Aylward & Bandy, LLC in Kansas City, Missouri; Bryan White, Bill Carr, and Gene Graham 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; Don Downing and Gretchen Garrison of Gray Ritter Graham in St. Louis, Missouri; Patricia Campbell of Krause & Kinsman in Kansas City, 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 Jennings PLLC in Little Rock, Arkansas; Stephen Basser and Sam Ward 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, as counsel for the Settlement Class (“Class Counsel”).
- (v) Designating named Plaintiffs in Appendix A to the Manufacturer Settlement Agreement as Class Representatives for the Manufacturer Settlement Class.
- (vi) Appointing RG/2 Claims Administration LLC to serve as the Settlement Administrator.
- (vii) Setting a Final Fairness Hearing (as defined in the attached Manufacturer Settlement Agreement) to be held before this Court to

determine whether the terms and conditions set forth in the Manufacturer Settlement Agreement are fair, reasonable, and adequate and should receive final approval.

- (viii) Staying, pending the Final Fairness Hearing, the proceedings in the Action, other than proceedings necessary to carry out or enforce the terms and conditions of the Manufacturer Settlement Agreement.
- (ix) Approving the Mailed Class Notice (attached hereto as Exhibit 1-F), the Long Form Notice (attached as Exhibit 1-D), the Summary Class Notice (attached hereto as Exhibit 1-E), the Manufacturer Settlement Claim Form (attached hereto as Exhibit 1-C), the Repairs/Parts/Specific Equipment Damage Claim Review Process (attached hereto as Exhibit 1-G), the Settlement Administration and Notice Plan (attached hereto as Exhibit 1-H), and the notice and settlement administration process set forth in the Manufacturer Settlement Agreement and exhibits thereto attached to this Motion, finding that it is the best practicable notice under the circumstances, it provides individual notice to all Manufacturer Settlement Class Members who can be identified through a reasonable effort, and it is reasonably calculated, under all the circumstances, to apprise the members of the Manufacturer Settlement Class of the pendency of the Action, the terms of the Settlement, and their right to object to the Settlement or exclude themselves from the Manufacturer Settlement Class.
- (x) Approving the timetable and process for exclusion from the Manufacturer Settlement Class or objection to the Manufacturer Settlement Agreement by any Manufacturer Settlement Class Member.
- (xi) Approving the timetable and process for Class Counsel to file their Application for incentive awards for the Class Representatives and for reasonable attorneys' fees and expenses.

5. In further support of the adequacy and appropriateness of the Notice Plan, the declaration of a representative of the proposed Settlement Administrator, RG/2 Claims Administration LLC, is attached hereto as Exhibit 2.

6. In further support of this Motion, Plaintiffs file concurrently herewith their Suggestions in Support of Unopposed Motion for Preliminary Approval of Proposed Class Settlement with Manufacturer Defendants.

7. Manufacturer Defendants' Counsel have indicated that Manufacturer Defendants

do not oppose Plaintiffs' Motion for Preliminary Approval and that such Motion is in accord with the terms of the Manufacturer Settlement Agreement.

WHEREFORE, Plaintiffs respectfully request the Court enter the proposed Preliminary Approval Order attached hereto as Exhibit 1-A and for such other and further relief as is just and proper.

Date: October 2, 2024

Respectfully submitted,

HORN AYLWARD & BANDY, LLC

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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 2nd day of October 2024.

/s/ Dirk Hubbard
