

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

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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

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**303 RETAILER CLASS SETTLEMENT**  
**OCTOBER 2022 STATUS REPORT REGARDING SETTLEMENT ADMINISTRATION**

COME NOW Plaintiffs, by and through Class Counsel, and provide the Court the following October 2022 Status Report Regarding Settlement Administration.

**I. Review and Evaluation of Class Membership Forms**

More than 3,200 Class Membership Forms were submitted by Claimants. Those Class Membership Forms have been reviewed and evaluated for validity. Those reviews resulted in 764 Class Membership Forms determined to be valid and 2,470 Class Membership Forms determined to be invalid. The following objective factors were applied to determine the validity of Class Membership Claims:

1. Whether the THF Product listed by the Claimant was sold at the retailer listed.
2. Whether the THF Product listed by the Claimant was sold in the time period listed.
3. Whether the THF Product listed by the Claimant is one that is part of this Settlement.
4. Whether the THF Product purchase listed by the Claimant was prior to the Class Period.
5. Whether the THF Product purchase listed by the Claimant involved 55-Gallon Drum Purchases, which are not credible.

6. Whether the Claimant provided incomplete retailer information, product information, and/or purchase date information.
7. Whether the Claimant provided incomplete equipment information.
8. Whether there are other indicators that the Claim is not valid and/or fraudulent.
9. Whether the Claimant identified only 2020-2021 purchase dates that are not valid.
10. Whether the Retailer listed by Claimant is a part of the Settlement.
11. Whether the Claimant listed 1-gallon jug purchases which are not valid.

## **II. Denial of Invalid Class Membership Forms and Process for Claimants to Contest Denials**

Pursuant to paragraph 80 of the Retailer Class Settlement Agreement, the Settlement Administrator has 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. Twenty-Eight (28) Claimants contested the denials of the Class Membership Forms, and seventeen (17) of those denials were switched to valid or partially valid based on those contests. Additional Class Membership Forms have been submitted and determined to be valid during the past several months of settlement administration.

## **III. Review and Evaluation of Request for Correction Forms**

Class Members whose purchase information was contained in one or more of the four 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 303 THF Products that Class Member had purchased during the Class Period. More than 650 Request for Correction Forms were submitted by Class Members. Those Request for Correction Forms have been reviewed and evaluated for validity. Those reviews resulted in 571 Request for Correction Forms

determined to be valid and 199 determined to be invalid. The same objective factors set forth above regarding Class Membership Forms were applied to determine the validity of Request for Correction Forms.

**IV. Denial of Invalid Requests for Correction Form Claims and Process for Claimants to Contest Denial**

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. Three Class Members contested the denials of the Class Membership Forms, and each of those denials was switched to valid or partially valid based on those contests. Additional Correction Forms have been submitted and determined to be valid during the past several months of settlement administration.

**V. 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 Retailer Defendants' specific purchase data or who submits a valid Class Membership Form. More than 2,000 Damage Claim Forms were submitted, claiming more than \$21 Million in repair damages and more than \$7.5 Million in total loss equipment damages. The Repairs/Parts/Specific Equipment Damage Claim Forms have now been reviewed and evaluated for validity by Class Counsel and Settlement Administrator RG/2. On June 20, 2022, those reviews were provided to Retailer Defendants' Counsel for their review and input. The following are some of the objective factors that were applied in evaluating those claims:

1. Whether the Claimant is or is not a Class Member; for example, whether the Claimant ever purchased the Manufacturer Defendants' 303 THF Products at all, and whether the purchase was made from one of the four Retailer Defendants.

2. Whether the repairs or damage claimed is the type caused by the Manufacturer Defendants' 303 THF Products as set forth in the notice and claim form.
3. Whether the repairs or damage occurred prior to the Class Period.
4. Whether the repairs or damage occurred prior to the Class Member's purchase of any of the Manufacturer Defendants' 303 THF Products.
5. Whether the Claimant submit a timely Class Membership Form or received direct Mailed Notice with specific purchase information.
6. Whether there are other factors that indicate the claim is not valid and/or fraudulent.
7. Whether the Claimant provided adequate information regarding the equipment repair and/or damage.

As noted, Class Counsel provided the initial determinations of Repairs/Parts/Specific Equipment Damage Claim Forms to counsel for the settling Retailer Defendants in late June. In July, counsel for Settling Retailer Defendant Atwood confirmed Atwood's non-objection/agreement with all of the initial evaluations. On August 17, 2022, counsel for the other three settling Retailer Defendants Rural King, Orscheln, and Tractor Supply provided responses to a portion of the evaluated claims --- 102 claims that were submitted in paper format and that were evaluated as denied in entirety. On September 30, 2022, counsel for these other three settling Retailer Defendants provided approval for all of the 153 online damage claims that had been recommended for denial. Counsel for the three Retailer Defendants has agreed to provide Class Counsel responses with regard to the approximately 130 paper and online claims recommended for partial denial no later than October 10<sup>th</sup> and to provide responses with regard to all paper and online claims recommended for approval no later than October 31<sup>st</sup>.

#### **VI. Denial of Invalid Claims for Repairs/Parts/Specific Equipment Damage**

The Settlement Administrator is mailing letters to those Claimants whose claims for Repairs/Parts/Specific Equipment Damage have been denied or partially denied. The letters set

forth the basis of the denial/partial denial. The claimants will have 21 days to contest the denial/partial denial. Denial letters were previously sent with regard to each of the 102 claims on which the three Retailer Defendants' counsel responded on August 17<sup>th</sup>. Challenges to those denials were reviewed and resulted in eight of the denied claims being determined to be valid. Denial letters have also been sent concerning 153 online claims determined to be invalid and on which Class Counsel just recently heard back from the three Retailer Defendants' counsel. Letters will go out later this week on partially-denial claims after Class Counsel hears back from Retailer Defendants' counsel. Each of these claimants and/or Class Members will have 21 days to contest the denial/partial denials.

#### **VII. Anticipated Timetable for Completion of Review Process and Distributions**

Class Counsel previously advised the Court that we anticipated that determinations on all Claims for Repairs/Parts/Specific Equipment Damage would be completed by July 30<sup>th</sup>. That date was not achieved because the three Retailer Defendants' counsel was unable to respond on the claim evaluations provided by Class Counsel and the Settlement Administrator early enough for the July 30 deadline to be met. The three Retailer Defendants' counsel has now agreed to specific timetables to complete review and provide any feedback to Class Counsel by October 10<sup>th</sup> on the damage claims recommended for partial denial and by October 31<sup>st</sup> on all damage claims evaluated as valid/all remaining claims. Those deadlines must be met because Class Members have been inquiring as to the status of the process and the reasons for the delay, and the settlement administration process needs to move forward so that Class Member payments can go out in November. Once the remaining denial letters and other matters necessary to finalize claim evaluations are completed, the Settlement Administrator will have all information necessary to calculate the pro rata share determinations as to what percentage each Class Member will receive

of their valid claim amount. Class Counsel will provide a Status Update to the Court in early November and prior to the distribution to Class Members which is now anticipated to occur on or before November 30<sup>th</sup>.

WHEREFORE, as set forth above, Class Counsel submits this Status Report to the Court.

Date: October 10, 2022

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 10<sup>th</sup> day of October 2022.

/s/ Dirk Hubbard