

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

JESSE YOAKUM, <i>et al.</i> ,	)	
<i>on behalf of themselves and all others</i>	)	
<i>similarly situated,</i>	)	
	)	
Plaintiffs,	)	
	)	Case No. 4:19-cv-00718-BP
v.	)	
	)	
GENUINE PARTS COMPANY, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**PLAINTIFFS’ MOTION FOR FINAL APPROVAL  
OF CLASS SETTLEMENT AGREEMENT**

COME NOW Plaintiffs, by and through Class Counsel, and move the Court for entry of an order and judgment granting final approval to the Class Settlement Agreement. In support of their Motion, Plaintiffs respectfully state as follows:

**Settlement Class and Proposed Final Approval Order**

1. On or about July 9, 2022, the Defendants and Plaintiffs entered into an Amended Class Settlement Agreement in this case. (“Class Settlement Agreement”). The Class Settlement Agreement makes substantial monetary relief available to Settlement Class Members who have purchased NAPA *Quality* Tractor Hydraulic & Transmission Fluid, Warren 303 Tractor Fluid, Carquest 303 Tractor Hydraulic Fluid, Coastal 303 Tractor Fluid, and/or Lubriguard Tractor Hydraulic and Transmission Oil (collectively referred to as “Warren THF”) during the Class Period. The Amended Class Settlement Agreement, with all exhibits thereto, was attached as Exhibit 1 to the Motion for Preliminary Approval. (Doc. 227-1).

2. On July 26, 2022, this Court entered its Preliminary Approval Order granting

preliminary approval of the Class Settlement Agreement (“Preliminary Approval Order”). (Doc. 229). The following Settlement Class was conditionally certified:

All persons and other entities who purchased NAPA *Quality* Tractor Hydraulic & Transmission Fluid, Warren 303 Tractor Fluid, Carquest 303 Tractor Hydraulic Fluid, Coastal 303 Tractor Fluid, and/or Lubriguard Tractor Hydraulic and Transmission Oil in the United States, its territories, and/or the District of Columbia, at any point in time from July 26, 2014 to present, excluding any persons and/or entities who purchased for resale. The Settlement Class also excludes Defendants, including any parent, subsidiary, affiliate or controlled person of Defendants; Defendants’ officers, directors, agents, employees and their immediate family members, as well as the judicial officers assigned to this litigation and members of their staffs and immediate families.

(Doc. 229, ¶ 6).

3. Since the Court’s Preliminary Approval Order, the Court-appointed Settlement Administrator, RG/2 Claims Administration LLC (“RG/2”), has implemented the Court-approved notice and claims administration process, as set forth in the Class Settlement Agreement and the Preliminary Approval Order. In support of the adequacy and appropriateness of the Class Settlement Agreement, including the notice provided to Settlement Class Members, the processing of claims, and the response of Class Members, the Declaration of Tina Chiango, Director of Claims Administration, Securities, and Antitrust for RG/2, is attached hereto as Exhibit 1. As set forth in RG/2’s Declaration, there have been no objections to the Class Settlement Agreement, and only one potential Class Member has timely requested to be excluded from the Settlement. (Ex. 1, Declaration of Tina Chiango, ¶¶ 15-16).

4. With the objection, opt-out, and claims period having closed on February 20, 2023, Plaintiffs, pursuant to the Class Settlement Agreement and the Court’s Preliminary Approval Order, file this Motion and respectfully request that the Court enter an order, in substantially the same form as Exhibit B to the Class Settlement Agreement, granting final approval of the class

action settlement memorialized in the Class Settlement Agreement. As set forth more fully in Exhibit B to the Class Settlement Agreement and in the Proposed Order which will be provided to the Court, the requested order finally approves the Class Settlement Agreement and, among other things:

- (a) finds that the notice provided satisfies the requirements of due process and Fed. R. Civ. P. 23(e)(1);
- (b) finds that Settlement Class Members have been adequately represented by the Class Representatives and Class Counsel;
- (c) finds that the Class Settlement Agreement is fair, reasonable and adequate to the Settlement Class, that each Settlement Class Member shall be bound by the Class Settlement Agreement, including the release and the covenant not to sue set forth in the Class Settlement Agreement, and that the Settlement Agreement should be and is finally approved;
- (d) dismisses on the merits and with prejudice the claims asserted by the Settlement Class Members against the Defendants, with each Party waiving all rights to appeal and waiving all rights to seek reimbursement of attorneys' fees or costs (except as expressly provided in the Settlement Agreement);
- (e) permanently enjoins each and every Settlement Class Member from bringing, joining, or continuing to prosecute any Released Claims against any of the Released Parties; and,
- (f) retains jurisdiction of all matters relating to the interpretation, administration, implementation, effectuation and enforcement of the Class Settlement Agreement.

#### **Direct Mailed/E-Mailed Notice**

5. Pursuant to this Court's Preliminary Approval Order, on September 23, 2022, the Mailed Class Notice was mailed to 109,814 Members of the Settlement Class who were identified by the Defendants' records as having purchased the Warren THF Products during the Class Period. The Mailed Class Notice provided each Class Member information about the Class Settlement Agreement, a link to the claims online filing portal, ways to submit claims in paper format, as well as information on how to get information and/or assistance in submitting a claim. (Ex. 1, ¶ 7).

6. Of the 109,814 Class Notices mailed to Settlement Class Members, a total of 6,378

were returned as undeliverable. Of those returned, 270 contained a forwarding address, and RG/2 immediately remailed those Notices to the forwarding addresses. RG/2 performed address verification searches (also referred to as “skip tracing”) for those returned as undeliverable without a forwarding address. RG/2 promptly sent the Notice information to 319 Settlement Class Members via U.S. First Class mail at the updated addresses located via skip tracing. After these efforts, 5,789 remained undeliverable. (Ex. 1, ¶ 7).

7. Also on September 23, 2022, RG/2 emailed the information contained in the Mailed Class Notice to 124 Class Members who were identified in Defendants’ data records as having purchased the Warren THF Products but for whom the data had an email address but not a mailing address. (Ex. 1, ¶ 8).

8. With regard to any of Defendants’ data records that included a phone number but not a mailing or emailing address, RG/2 had reverse phone searches done to obtain possible mailing addresses for those Class Members. As a result of those efforts, RG/2 mailed an additional 724 Notices to Class Members. (Ex. 1, ¶ 9).

9. On December 13, 2022, a reminder email was sent to 12,099 Settlement Class Members who had also been previously mailed notice. (Ex. 1, ¶ 10).

#### **Publication of Summary Notice**

10. In addition to emailing and mailing the Notices, and in order to reach additional potential Settlement Class Members, Summary Notice was published in the following publications beginning on August 25, 2022:

- **Progressive Farmer**
- **Farm & Ranch Living**
- **Farm Journal**
- **Successful Farming**

The total circulation of these publications is estimated at 1,265,973. (Ex. 1, ¶ 11).

11. A digital media notice campaign was also implemented. It included Facebook and Google Ads that allowed potential Class Members to click on the ad and be linked to the Settlement website. Overall, this digital media campaign produced over 5 million impressions online. (Ex. 1, ¶ 12).

### **Settlement Website**

12. All Notice and media referred to the Settlement website [www.warrentractorhydraulicfluidsettlement.com](http://www.warrentractorhydraulicfluidsettlement.com), which was established by RG/2. The website includes the following:

- a. A “Homepage” containing a brief summary of the Settlement, advising potential Settlement Class Members of their rights under the Settlement, and providing links to pdf copies of the Long Form Notice and Claim Form;
- b. An “Important Dates” page containing a list of key dates and deadlines;
- c. A “Court Documents” page containing: the Settlement Agreement; the Motion for Preliminary Approval; Suggestions in Support of Preliminary Approval; the Preliminary Approval Order; the Long Form Notice (including Spanish version); the Application for Service Awards, and for Attorneys’ Fees and Expenses; Suggestions in Support of Application for Service Awards, Attorneys’ Fees and Expenses; and the Declaration of Thomas Bender in Support of Application for Service Awards, Attorneys’ Fees and Expenses;
- d. A “Claims Filing” page containing links to the Claim Form portal. This page also contains pdf versions of these forms for printing;
- e. An “FAQs” page containing various questions and answers pertaining to the Settlement; and
- f. A “Contact Us” page containing RG/2’s contact information for any questions or requests for information regarding the settlement.

(Ex. 1, ¶ 13).

13. Potential Class Members were able to utilize the online claims portals to complete and submit the Claim Form. (Ex. 1, ¶ 14).

**No Objections to the Settlement Have Been Asserted by Class Members**

14. In accordance with this Court’s Preliminary Approval Order, Class Members had until February 20, 2023, by which to file objections to the Settlement. No Class Member has filed an objection. (Ex. 2, ¶ 16).

**Opt-Outs/Requests for Exclusion**

15. In accordance with this Court’s Preliminary Approval Order, Class Members had until February 20, 2023, by which to opt-out of the Settlement. One (1) Class Member has timely opted out. (Ex. 1, ¶ 17). The Settlement Administrator also received one email from a Class Member attempting to opt-out after the Bar Date. (Ex. 1, ¶ 17).

**Summary of Claims**

16. At present, 4,479 Part A Claim Forms have been submitted claiming to have purchased various sizes of the Warren THF Products. (Ex. 1, ¶ 17). The total number of fluid purchases claimed on the 4,479 Part A Claim Forms is as follows:

1,742	One-Gallon Jugs
1,183	Two-Gallon Jugs
72,660	Five-Gallon Buckets
1,123,626	Fifty-Five Gallon Drums

(Ex. 1, ¶ 17). The Settlement Administrator and Class Counsel will be reviewing and evaluating these claims pursuant to the terms of the Class Settlement Agreement. (With regard to the number of 55-gallon drum purchases alleged by claimants, there were two obviously-invalid online claims submitted which claimed more than one million purchases). Claim denial emails and/or letters will be sent to claimants whose claims are denied. The claim review and evaluation process is expected to take 30-60 days. (Ex. 1, ¶ 20).

17. In addition, 736 Part B Claim Forms have been submitted seeking equipment damages or losses. (Ex. 1, ¶ 17). The total amount requested on the 736 Part B Claim Forms is

\$17,724,007.39. (Ex. 1, ¶ 19). The Settlement Administrator and Class Counsel will be reviewing and evaluating these claims pursuant to the terms of the Class Settlement Agreement. Claim denial emails and/or letters will be sent to claimants whose equipment damage/loss claims are denied. The claim review and evaluation process is expected to take 30-60 days.

18. Based on the amount in the Settlement Fund and initial review of claims, it is anticipated that each Class Member award will be close to 50% of each's valid bucket and valid repair/damage amounts.

#### **Settlement Administration and Notice Costs to Date**

19. It is anticipated that RG/2 will complete the Settlement Administration process within the budgeted amount of \$402,386.00. (Ex. 1, ¶ 21).

#### **Conclusion**

20. In further support of this Motion, Plaintiffs file concurrently herewith their Suggestions in Support of Motion for Final Approval of Class Settlement Agreement.

21. Upon Final Approval of the Class Settlement Agreement, the Settlement Administrator and Class Counsel will complete the claim review and evaluation process. Class Counsel anticipates reporting back to the Court in 60 days with a status update.

22. Defendants' counsel has indicated that Defendants do not oppose Plaintiffs' Motion for Final Approval and that such Motion is in accord with the terms of the Class Settlement Agreement.

WHEREFORE, Plaintiffs respectfully request the Court enter the proposed Final Approval Order for Class Settlement Agreement and for such other and further relief as is just and proper.

Date: February 23, 2023

Respectfully Submitted,

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