

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

SHAWN HORNBECK, et al.)	
each on behalf of himself and others)	
similarly situated,)	
)	
Plaintiffs,)	
)	
v.)	Case No. 4:18-CV-00523
)	
TRACTOR SUPPLY COMPANY, and)	
SMITTY’S SUPPLY, INC.,)	
)	
Defendants.)	

**PLAINTIFFS’ MOTION TO PROVIDE MAILED NOTICE
TO ADDITIONAL CLASS MEMBERS**

COME NOW PLAINTIFFS, by and through Class Counsel, and file this Motion to Provide Mailed Notice to Additional Class Members (“Motion”). In support of this Motion, Plaintiffs further state as follows:

1. The Parties to this Action reached a Class Action Settlement which provides substantial relief to Class Members who purchased SuperTrac 303 Tractor Hydraulic Fluid (“SuperTrac 303”) in the State of Missouri between May 30, 2013 and the present.
2. The Settlement provides significant compensation payments to the Class Members through a Class Settlement Fund which will provide for at least a 50% return of purchase price for the units of SuperTrac 303 purchased in Missouri, and it also provide reimbursement for repairs, parts, and or specific damage to Class Members’ tractors and equipment.
3. Pursuant to the Settlement, direct mailed notice was provided to those Class Members who purchased the SuperTrac 303 from Tractor Supply Company (“TSC”), if TSC records contained address information.
4. The Settlement also calls for information regarding other Class Members to be obtained, if

possible, from other retailers of the SuperTrac 303 product in Missouri. One such retailer, Cape Warehouse, had now provided a list of more than 500 Missouri purchasers of the SuperTrac 303. Class Counsel has obtained addresses for a large percentage of those purchasers.

5. Plaintiffs bring this Motion to provide these additional known Class Members with mailed notice of the Class Settlement.

6. The Class Member information provided by Cape Warehouse also includes the exact number of SuperTrac 303 purchases made by each. Each of those Class Members should thus be provided a claim process which does not require them to submit a Claim Form for the Part A, purchase price relief if the amount of purchases obtained from Cape Warehouse is accurate for that Class Member. As part of this Motion, Plaintiffs attach as Exhibit A the Direct Mailed Notice Form and the Request for Correction Form that Plaintiffs propose to constitute the mailed notice to these additional Missouri SuperTrac 303 purchasers. (Note that these Class Members will have to submit a Claim Form if they wish to apply for the additional Part B relief for repairs, parts, or specific damage to equipment.)

7. The Settlement Administrator has confirmed the appropriateness of the proposed mailed notice to these additional Class Members and process proposed. RG/2 has also confirmed that the costs of said additional notice can be paid out of the existing funds for notice and settlement administration, and there will be no additional funds required of Defendants. The Declaration of the Settlement Administrator, including the cost estimate, is attached as Exhibit B.

8. Plaintiffs propose the Settlement Administrator mail this notice to additional Class Members on or before January 20, 2020.

9. Defendants have been provided a copy of this Motion, but Defendants have not yet indicated to Plaintiffs whether they have any opposition to the Motion.

WHEREFORE, Plaintiffs respectfully request an Order of this Court approving the mailed notice to additional Class Members and process set forth herein and on Exhibit A.

Date: January 7, 2020

Respectfully Submitted,

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

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**ATTORNEYS 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 7th day of January, 2020.

/s/ Dirk Hubbard

EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
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TRACTOR SUPPLY COMPANY, and)	
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Defendants.)	

**ADDITIONAL DIRECT MAIL NOTICE,
CLAIM FORM AND INSTRUCTIONS**

Hornbeck, et al. v. Tractor Supply Co., et al., Case No., 4:18-cv-00523-NKL
United States District Court for the Western District of Missouri

This is an Official Court-Approved Notice.

**Please read all of the following instructions carefully before filling out your Claim Form.
(If you already submitted a Part A and Part B Claim Form, you may disregard this Notice.)**

1. Please review the Long Form Class Notice (the “Notice”) that is available on the settlement website at www.supertrac303settlement.com or by calling the Settlement Administrator at 1-_____.

2. Under the terms of the Settlement in this class-action lawsuit, you are entitled to receive a monetary award estimated to be at least \$12 for each 5-gallon bucket of Super S Super Trac 303 Tractor Hydraulic Fluid you purchased in Missouri during the Class Period, \$6 for each 2-gallon jug, \$4 for each 1-gallon jug, and \$90 for each 55-gallon drum.

3. You do not have to submit Section A of the Claim Form to receive a monetary award based on your purchase(s) of the Super S Super Trac 303 Tractor Hydraulic Fluid if your purchases of the Super S Super Trac 303 Tractor Hydraulic Fluid product are accurately set forth as follows: _____ Buckets. If this amount based on Cape Warehouse’s records is correct, you do not need to do anything in order to receive a check for at least the above-stated amounts per bucket if the Court grants final approval to this Settlement. If this amount is not correct, you may complete and submit a Part A Claim Form, enclosed herein, which also can be completed and submitted on line at www.supertrac303settlement.com.

4. You are also entitled to reimbursement for any losses, repairs, part purchases and/or specific equipment damage that resulted, in whole or in part, from your use of a Product during the relevant Class Period. If you wish to receive this relief, you must timely complete and submit Part A and Part B of the Claim Form which is enclosed herein. You must submit a Part B Claim Form to be eligible for any losses, repairs, parts, and/or equipment damage relief, even if your purchases were accurately set forth above. Be sure to attach all supporting documents as well as any further information you have supporting your claim for additional funds due to alleged equipment losses, repairs and/or parts purchases.
5. To submit the Claim Form for this Part B additional relief, you **must do one of the following**: (i) complete an electronic claim form and submit it via the settlement website at www.supertrac303settlement.com on or before February 17, 2020; or (ii) complete a paper Claim Form and send it via fax to 215-827-5551, via United States mail, postage prepaid to Hornbeck v. Tractor Supply SuperTrac 303 Settlement, c/o RG/2 Claims Administration, P.O. Box 59479, Philadelphia, PA 19102-9479, or via e-mail to supertrac303settlement@rg2claims.com by February 17, 2020.
6. Once your Claim Form is received, the Settlement Administrator will review the Claim Form. The Claims Administrator may contact you for additional information.
7. Keep a copy of your completed Claim Form for your records.

CLAIM FORM AND INSTRUCTIONS

The Settlement Administrator must receive this form no later than **[INSERT BAR DATE]** in order for it to be considered.

Hornbeck, et al., v. Tractor Supply Company., et al.,

Case Number 4:18-cv-00523-NKL (U.S. Dist. Court, W.D. Mo.)

Please read all of the following instructions carefully before filling out your Claim Form.

1. Please review the Long Form Class Notice (the “Notice”) and have the Notice with you when you complete your Claim Form. If you do not have the Notice, or if you misplaced it, a copy is available on the settlement website at www.supertrac303settlement.com or by calling the Settlement Administrator at **[INSERT SETTLEMENT PHONE NUMBER]**.
2. Under the terms of the Settlement in this class-action lawsuit, you may be entitled to receive a monetary award based on your purchase(s) of Super S Super Trac 303 Tractor Hydraulic Fluid in Missouri from May 25, 2013 to the present. **You must timely complete and submit Section A of the Claim Form to receive a monetary award based on your purchase(s) of Super S Super Trac 303 Tractor Hydraulic Fluid.** The monetary award is estimated to be \$12 for each 5-gallon bucket of Super S Super Trac 303 Tractor Hydraulic Fluid you purchased in Missouri during the Class Period, \$6 for each 2-gallon jug, \$4 for each 1-gallon jug, and \$90 for each 55-gallon drum.
3. You also may be entitled to reimbursement for any losses, repairs, part purchases and/or specific equipment damage that resulted, in whole or in part, from your use of Super S Super Trac 303 Tractor Hydraulic Fluid during the class period. **If you wish to receive this relief, you must timely complete and submit Sections A and B of the Claim Form. You must submit a Claim Form to be eligible for any losses, repairs, parts, and/or equipment damage relief.** You should be sure and attach all supporting documents as well as any further information you have supporting your claim for additional funds due to alleged equipment losses, repairs and/or parts purchases.
4. If you would like to receive a monetary award, complete the attached form. Please type or print legibly in black ink.
5. If you desire an acknowledgment of receipt of your Claim Form, send it by Certified Mail, Return Receipt Requested.
6. To submit the Claim Form, you **must do one of the following**: (i) complete an electronic claim form and submit it via the settlement website at www.supertrac303settlement.com on or before **[INSERT BAR DATE]**; or (ii) complete a paper Claim Form and send it via fax to **[INSERT SETTLEMENT FAX NUMBER]**, via United States mail, postage prepaid to **[INSERT SETTLEMENT MAILING ADDRESS]**, or via e-mail to **[INSERT SETTLEMENT E-MAIL ADDRESS]** by **[INSERT BAR DATE]**.
7. Once your Claim Form is received, the Settlement Administrator will review the Claim Form for compliance.
8. Keep a copy of your completed Claim Form for your records. If your claim is rejected, the Settlement Administrator will notify you by U.S. Mail or e-mail of the rejection and the reasons for such rejection.

CLAIM INFORMATION – PART A

Claimant Name:

Phone Number:

Street Address:

Email Address:

City, State, Zip Code:

List your purchases of Super S Super Trac 303 Tractor Hydraulic Fluid in Missouri from May 25, 2013 to present. Do not list any purchases that you returned to the store after purchase.

5-Gallon Pails of Super S Super Trac 303 Tractor Hydraulic Fluid			
Appx. Date	Store (Name & Location)	Qty.	Payment Method
2-Gallon Jugs of Super S Super Trac 303 Tractor Hydraulic Fluid			
Appx. Date	Store (Name & Location)	Qty.	Payment Method
1-Gallon Jugs of Super S Super Trac 303 Tractor Hydraulic Fluid			
Appx. Date	Store (Name & Location)	Qty.	Payment Method

CLAIM INFORMATION – PART B

Complete Section B of this Claim Form only if you seek reimbursement for any repairs, parts purchases, and/or specific equipment damage that you contend resulted, in whole or in part, from your use of Super S Super Trac 303 Tractor Hydraulic Fluid from May 25, 2013 to the present.

1. Plaintiffs allege that use of Super S Super Trac 303 Tractor Hydraulic Fluid can cause damage to tractors and other equipment in which it is used. As part of this Class Settlement, Class Members are entitled to submit claims for reimbursement for losses they sustained because of such damage and for repairs and/or parts purchases related to equipment damage that the Class Member contends resulted, in whole or in part, from use of Super S Super Trac 303 Tractor Hydraulic Fluid during the class period.
2. Such losses may include, without limitation, repairs, parts and equipment purchases required to remedy damage to seals, pumps, filters, gears, clutch and brake systems, power take-off (PTO) systems and losses incurred as a result of equipment being damaged beyond reasonable repair as a result of damage and increased or excessive wear resulting from use of Super S Super Trac 303. Such increased wear and damage may include, without limitation, scratching, corrosive wear, rippling, ridging, pitting, spalling and scoring of the gears and metal components, seal damage, spiral gear damage, metal abrasion, corrosion, surface wear, clutch wear and breakage, wet brake damage, pump failure, leakage, and damage from deposits, sludging and thickening.
3. To recover losses sustained from this Repairs/Parts/Specific Equipment Damage portion of the Settlement Fund, you must provide the information requested in #5, below. You should also submit any additional narrative information describing the equipment malfunction, repairs and/or parts purchases or other losses sustained as necessary to fully describe what occurred and what repair/parts or other actions were required by any such losses or damage. You must also submit the cost of the repairs and/or parts as well as the date said repair were done and/or parts purchased. If you contend the equipment was damaged beyond reasonable repair, you must submit a description of the damage and the reasons you contend repairs were not reasonable, justified or feasible. You should submit any documentation you have supporting your claim and/or the amounts sought for losses, repairs and/or parts purchases.
4. In the event there are more valid claims than funds available, repair costs/parts purchases/specific equipment damage will be reimbursed *pro rata* based on the amount of each Class Member's valid claim submission for losses, repair costs and/or parts purchases.
5. For each piece of equipment listed by you in Part A in which you used the Super S Super Trac 303 Tractor Hydraulic Fluid, set forth below each repair/parts purchase or other loss, along with the date, of each repair and/or parts purchase or loss that you contend resulted,

If you have any questions about this form or the Settlement, please contact the Settlement Administrator at:

Settlement Administrator

[INSERT SETTLEMENT MAILING ADDRESS]

[INSERT SETTLEMENT PHONE NUMBER]

www.supertrac303settlement.com

You may also contact Class Counsel at:

Thomas V. Bender

Horn Aylward & Bandy, LLC

2600 Grand Boulevard, Ste. 1100

Kansas City, MO 64108

(816) 421-0700 (phone)

(816) 421-0899 (fax)

tbender@hab-law.com

Please do not contact Defendants, the Court, or the Court Clerk's Office about the Settlement.

EXHIBIT B

**IN THE UNITED STATES DISTRICT COURT
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WESTERN DIVISION**

SHAWN HORNBECK, et al.)
 each on behalf of himself and others)
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v.)
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TRACTOR SUPPLY COMPANY, and)
SMITTY’S SUPPLY, INC.,)
 Defendants.)

Case No. 4:18-CV-00523

**DECLARATION OF TINA CHIANGO REGARDING
MAILED NOTICE TO ADDITIONAL CLASS MEMBERS**

I, Tina Chiango, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the following is true and correct:

1. I am the Director of Claims Administration, Securities, and Antitrust for RG/2 Claims Administration LLC (“RG/2”), the Settlement Administrator retained in this matter, located at 30 S. 17th Street, Philadelphia, PA 19103. I am over 21 years of age and am not a party to this action. I have personal knowledge of the facts set forth herein and, if called as a witness, could and would testify competently thereto.

2. RG/2 is a full-service class action settlement administrator offering notice, claims processing, allocation, distribution, tax reporting, and class action settlement consulting services. RG/2’s experience includes the provision of notice and administration services for settlements arising from antitrust, consumer fraud, civil rights, employment, negligent disclosure, and securities fraud allegations. Since 2000, RG/2 has administered and distributed in excess of \$1.2 billion in class action settlements.


3. RG/2 is not related to or affiliated with any of the attorneys comprising Class Counsel or counsel for Defendant.

4. RG/2 was retained by the parties and approved by the Court to serve as Settlement Administrator, which includes amongst other tasks, disseminating notice to the class via first class mail; contracting and overseeing published notice; receiving and tracking requests for exclusion and objections; responding to Class Member inquiries; processing Claim Forms; calculating, preparing and mailing Settlement Award checks to all Eligible Settlement Class Members; and any additional tasks as the parties mutually agree upon or the Court orders RG/2 to perform.

5. RG/2 has advised and worked with Class Counsel to prepare the Additional Direct Mail Notice which is proposed to be sent to the additional Class Members for whom RG/2 has been provided mailing addresses and exact purchase information. As Settlement Administrator and based on our experience, RG/2 states that this Additional Direct Mail Notice is appropriate to undertake and that the process of not requiring a claim form submission for Part A relief is appropriate, given that the data provided exact purchase information with regard to those Class Members. The Amended Direct Mail Notice is also appropriate in its content. The cost of this additional Amended Direct Mail Notice is estimated to be less than \$5,000.00. There are sufficient funds in the Class Settlement Fund to pay for this additional notice and still fund the awards to current and anticipated Class Members who file claims.

6. Based on my knowledge, skill, and experience in class-action notice and claims administration, and based on the documents and information set forth above, it is my opinion that the Additional Direct Mail Notice will provide the Settlement Class with appropriate opportunity to submit claims and the best notice that is practicable under the circumstances, in accordance with applicable standards under Fed. R. Civ. P. 23 and due process.

Dated: January 6, 2020



Tina Chiango