

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

IN RE: SMITTY’S/CAM2 303)	MDL NO. 2936
TRACTOR HYDRAULIC FLUID)	
MARKETING, SALES PRACTICES)	
AND PRODUCTS LIABILITY)	
LITIGATION)	Master Case No. 4:20-MD-02936-SRB

ALL ACTIONS

ORDER

This Order is to advise the parties of issues that are of immediate concern.

1. The Judicial Panel on Multidistrict Litigation has designated this Court as the transferee court for MDL No. 2936 - *In re: Smitty’s/Cam2 303 Tractor Hydraulic Fluid Marketing, Sales Practices and Products Liability Litigation*. The actions referenced were transferred to this Court pursuant to 28 U.S.C. § 1407 for coordination or consolidated pretrial proceedings. For the convenience of the parties and the Court, the Clerk of the Court will maintain a master docket with a single docket number and master record under the style: *In re: Smitty’s/Cam2 303 Tractor Hydraulic Fluid Marketing, Sales Practices and Products Liability Litigation*, MDL 2936, Master Case No. 20-MD-02936-SRB.

When an order, pleading, or other document is filed and docketed in the master docket, it shall be deemed filed and docketed in each individual case to the extent applicable. To ensure that all documents are filed accurately, counsel shall select the master MDL case number. The caption of any order, pleading, or other document shall contain a notation indicating whether the document relates to all cases or only to specified cases. If a document generally applies to all of the cases in MDL 2936, the caption shall include a notation of “ALL ACTIONS.” If a document applies to a particular case or cases, the caption shall include the Western District of Missouri case number(s) and the name(s) of the individual case(s) to which it applies in addition to the

MDL case number. Additionally, if a document applies only to a particular case or cases, the case number(s) should be indicated in the docket entry text when the pleading is electronically filed.

2. All papers filed with the Court must be filed electronically via the ECF system. Information on electronic filing procedures is available on the Court's website at www.mow.uscourts.gov or at <http://ecf.mowd.uscourts.gov>. Attorneys are directed to refer to the CM/ECF Civil and Administrative Procedures Manual for instructions regarding the handling of exhibits. To create a CM/ECF account you must fill out the application found at www.mow.uscourts.gov/court/ecfregform.pdf and send it in to the appropriate address found on the form. You may also contact Robin Jones, Operations Manager, at (816) 512-5055.

3. Attorneys are advised to review the docket to ensure that their appearances have been properly entered. If an attorney is not listed on the docket, he or she should file a notice of appearance in the MDL case. Motions to appear pro hac vice are not required. Any attorney not listed on the docket sheet and not registered to use the electronic filing system will not receive notice from the Clerk's Office of orders and other documents filed by the Court.

4. The parties shall file submissions formally notifying the Court of their selections of lead counsel, members of "committees of counsel," etc. The Notifications should include a statement indicating the responsibilities and powers of such individuals or groups. Any submission as to the organization of such counsel shall be filed no later than fourteen days after receipt of this order, and any submissions responding thereto shall be filed no later than fourteen days after the Notification is filed.

5. All submissions to the Court shall be in the form of motions; captioned, filed, and served as set forth in this Order. Notices of motions shall not be filed.

6. No motion shall be filed under Federal Rule of Civil Procedure 11, 12, or 56 without leave of Court. Should the parties be unable to resolve any discovery-related disputes after good-faith efforts to meet and confer, such disputes shall be presented to the Court at the earliest opportunity consistent with Local Rule 37.1.

7. The parties are directed to meet and confer to develop a Joint Proposed Discovery Plan, which shall be filed with the Court on or before fourteen (14) days of the Court's order appointing class counsel. If the parties cannot agree on particular aspects of the Proposed Plan, they should file a statement indicating the aspects upon which they disagree and setting forth their respective positions.

8. The parties are directed to meet and confer to develop a report describing the lawsuit and preliminarily identifying the legal and factual issues that must be addressed or resolved while the case is consolidated in this Court. The report shall be filed on or before fourteen (14) days of the Court's order appointing class counsel.

9. Defendant's lead counsel shall develop a statement identifying, for each defendant, all parent companies, subsidiaries (except wholly-owned subsidiaries) and affiliates that have issued shares to the public. If a defendant has no parent companies, subsidiaries, or affiliates, lead counsel shall so indicate with respect to that defendant. *See* Local Rule 3.1. This statement shall be filed on or before fourteen (14) days of the Court's order appointing class counsel.

10. Once the parties have exchanged the disclosures required by Fed. R. Civ. P. 26, they shall file a notice to that effect. The disclosures should be completed on or before fourteen (14) days of the Court's order appointing class counsel, with such disclosures to be supplemented as appropriate thereafter.

11. Consolidated Amended Complaints shall be filed within forty-five (45) days after the Court's order appointing class counsel. Responses to Consolidated Amended Complaints shall be filed within sixty (60) days of the filing of the Consolidated Amended Complaints.

12. An initial Scheduling Hearing will be held on **Wednesday, July 8, 2020, at 10:00 a.m. CST**. The topics to be discussed at the hearing include, but are not necessarily limited to:

- a) any oral argument regarding submissions for appointment of class counsel under Federal Rule of Civil Procedure 23(g);
- b) the parties' Joint Proposed Discovery Plan;
- c) the need for Court orders related to preservation of documents and other evidence, creation of a website or document repository, or other methods of preserving and centralizing evidence;
- d) the wisdom of requiring "Plaintiff fact sheets," mandatory disclosures, or other requirements for cases added as "tag-alongs" by the MDL Panel; and
- e) the need for and time frame for filing consolidated or "Master" complaints, answers, or other pleadings.

Attendance by each party at the hearing is neither required nor prohibited, although attendance by all attorneys acting as lead counsel is required. The hearing shall be held in Courtroom 7B, United States District Court, 400 East 9th Street, Kansas City, MO 64106.

13. The deadline for the filing of answers or other responsive pleadings is suspended pending further order of the Court.

14. Proceedings and all items filed shall comply with the Western District of Missouri Local Rules. For convenience, the Local Rules are posted on the Court's website at www.mow.uscourts.gov.

IT IS SO ORDERED.

/s/ Stephen R. Bough
STEPHEN R. BOUGH
UNITED STATES DISTRICT JUDGE

Dated: June 19, 2020