

**STATE OF MISSOURI  
CIRCUIT COURT OF CASS COUNTY**

MONTE BURGESS,	)	
DAN CHEVALIER,	)	
ROBERT CAVINESS,	)	
RAYMOND BIERI, and	)	
JAMES KIRCHER,	)	
on behalf of themselves and others	)	
similarly situated,	)	
Plaintiffs,	)	
	)	
v.	)	Case No.19CA-CC00084
	)	
MARTIN OPERATING PARTNERSHIP, LP	)	
d/b/a MARTIN LUBRICANTS	)	
	)	
Defendant.	)	

**APPLICATION FOR INCENTIVE AWARDS FOR CLASS REPRESENTATIVES AND  
FOR AWARD OF ATTORNEYS' FEES AND EXPENSES**

COME NOW PLAINTIFFS, by and through Class Counsel, and for their Application for Incentive Awards for Class Representatives and for an Award of Attorneys' Fees and Expenses ("Application"), state as follows:

1. The Parties to this Action reached a Class Action Settlement which provides substantial relief to thousands of Class Members who purchased "303" Tractor Hydraulic Fluid manufactured by Defendant during the Class Period ("303 THF Products").
  
2. The Settlement provides significant compensation payments to Settlement Class Members through a Class Settlement Fund of \$450,000.00, from which shall be paid the bucket claims and repair fund claims of Qualified Settlement Class Members
  
3. The Class Settlement Fund is sufficient to provide each Qualified Settlement Class Member with a monetary award of 25% return of the average purchase price paid for the units of 303 THF Products purchased by each such Settlement Class Member during the Class Period.

4. The Class Settlement Fund is also sufficient to provide Class Members with additional monetary relief for the costs of any repairs, parts, and specific equipment damage that the Settlement Class Member contends resulted from, in whole or in part, the use of the 303 THF Products during the Class Period.

5. In addition to these awards to Settlement Class Members, Defendant agreed to separately pay, in addition to the Class Settlement Fund, if approved by the Court, an incentive award to each named Plaintiff in the amount of \$5,000.00. As is set out in the supporting suggestions, the requested \$5,000.00 incentive award for each Class Representative is appropriate. Except as provided in the Settlement Agreement, the five Class Representatives will receive no compensation for their service to the Class.

6. Defendant also agreed in the Settlement to separately pay, in addition to the Class Settlement Fund, the amount of Class Counsel's Court-awarded attorneys' fees and expenses, up to a maximum of \$150,000.00. Such award will be paid separately and will not reduce the \$450,000.00 Class Settlement Fund available to Settlement Class Members. Such an award represents a 33% contingency fee on the \$450,000.00 Class Settlement Fund and a 25% fee on the total Settlement of \$600,000.00, inclusive of the attorneys' fee amount. Class Counsel respectfully submits the amount agreed to and sought by this Application is fair and reasonable given the complexity of the issues and the relief obtained.

7. Class Counsel thus seeks reimbursement of Plaintiffs' reasonable litigation costs and for Class Counsel reasonable attorneys' fees in the total amount \$150,000.00. As noted, Defendant has agreed to pay this amount, if awarded by the Court, separate and apart from the \$450,000.00 Class Settlement Fund.

8. In further support of this Application, Plaintiffs submit their Suggestions in Support.

WHEREFORE, Plaintiffs pray for an order of this Court approving (a) incentive awards of \$5,000.00 to each of the five Class Representatives, to be paid separately by Defendant; and (b) Class Counsel's attorneys' fees and expense totaling \$150,000.00, also to be separately paid by Defendant in addition to the \$450,000.00 Class Settlement Fund.

Date: January 21, 2021

Respectfully Submitted,

**HORN AYLWARD & BANDY, LLC**

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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 Missouri CaseNet, with notice of case activity to be generated and sent electronically by CaseNet to all designated persons this 21<sup>st</sup> day of January, 2021.

/s/ Dirk Hubbard