

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

**IN RE AUTOMOTIVE PARTS  
ANTITRUST LITIGATION**

**CASE NO. 12-MD-02311**

**HON. MARIANNE O. BATTANI**

**IN RE: AUTOMOTIVE BRAKE HOSES**

**THIS RELATES TO:  
ALL DIRECT PURCHASER ACTIONS**

**2:16-cv-03601-MOB-MKM**

**2:16-cv-14245-MOB-MKM**

**2:19-cv-12720-MOB-MKM**

**NOTICE**

**NOTICE OF PROPOSED SETTLEMENTS OF DIRECT PURCHASER CLASS ACTION WITH HITACHI METALS AND TOYODA GOSEI DEFENDANTS, AND HEARING ON:**

- (1) APPROVAL OF PROPOSED SETTLEMENTS;**
- (2) PLAN OF DISTRIBUTION OF THE SETTLEMENT FUND; AND**
- (3) MOTION OF SETTLEMENT CLASS COUNSEL FOR AWARD OF ATTORNEYS' FEES AND REIMBURSEMENT OF LITIGATION COSTS AND EXPENSES, AND AN INCENTIVE PAYMENT TO THE CLASS REPRESENTATIVE**

**TO: ALL INDIVIDUALS AND ENTITIES THAT PURCHASED AUTOMOTIVE BRAKE HOSES IN THE UNITED STATES DIRECTLY FROM DEFENDANTS (OR THEIR SUBSIDIARIES, AFFILIATES, OR JOINT VENTURES) FROM NOVEMBER 1, 2005 THROUGH AUGUST 28, 2017.**

**PLEASE READ THIS NOTICE CAREFULLY. YOUR LEGAL RIGHTS MAY BE AFFECTED BY LITIGATION NOW PENDING IN THIS COURT.**

**WHAT IS THE PURPOSE OF THIS NOTICE AND WHY WAS IT SENT TO ME?**

This Notice is given pursuant to Rule 23 of the Federal Rules of Civil Procedure and an Order of the United States District Court for the Eastern District of Michigan, Southern Division (the "Court"). The purpose of this Notice is to inform you of a hearing before the Court to consider:

- (1) Proposed settlements with (a) Defendant Hitachi Metals, Ltd. ("Hitachi Metals" or "Hitachi Metals Defendant") and (b) Defendants Toyoda Gosei Co., Ltd, Toyoda Gosei North America Corp., and TG Kentucky, LLC (collectively, "Toyoda Gosei" or "Toyoda Gosei Defendants") (all Defendants referenced in this paragraph are collectively referred to as the "Settling Defendants");
- (2) A proposed plan of distribution of Hitachi Metals and Toyoda Gosei settlement proceeds to Settlement Class members and a proposed Claim Form that you may submit in order to share in the settlement proceeds; and
- (3) Settlement Class Counsel's motion for an award of attorneys' fees and reimbursement of litigation costs and expenses, and an incentive payment to the Class Representative.

This Notice provides information concerning the proposed settlements, the proposed plan of distribution, and the motion for attorneys' fees and reimbursement of litigation costs and expenses, and incentive payment. The Notice also advises you of your rights to: participate in the settlement claims process; exclude yourself from either or both of the Settlement Classes; and object to the terms of the proposed settlements, the plan of distribution, and the request for fees, costs, and expenses, and an incentive payment to the Class Representative in connection with the Court hearing on these matters.

## BACKGROUND

Plaintiff has reached settlements with the Hitachi Metals and Toyoda Gosei Defendants totaling \$4,991,667. Under the terms of the proposed settlements, Hitachi Metals will pay a total of \$2,725,000 (the “Hitachi Metals Settlement Fund”) and Toyoda Gosei will pay a total of \$2,266,667 (the “Toyoda Gosei Settlement Fund”) (the two settlement funds are collectively referred to as the “Automotive Brake Hoses Settlement Fund”). As discussed below, the Hitachi Metals and the Toyoda Gosei settlement amounts are both subject to reduction, based upon valid and timely requests for exclusion by Settlement Class members. The Court has preliminarily approved each of these settlements.

This litigation, and the proposed settlements, are part of coordinated legal proceedings involving a number of parts used in motor vehicles. This litigation and the proposed settlements relate solely to Automotive Brake Hoses purchased in the United States **directly** from a Defendant, or depending on the specific settlement agreement, its parents, subsidiaries, affiliates, or joint ventures. The meaning of the term “Automotive Brake Hoses” is defined in each settlement agreement, but generally refers to flexible hoses that carry brake fluid through the hydraulic brake system of motor vehicles. These proposed settlements do not relate to, and have no effect upon, cases involving any product other than Automotive Brake Hoses.

If you are a member of the Hitachi Metals or Toyoda Gosei Settlement Classes (defined below), you have the rights and options summarized here:

- You may remain in either or both of the Hitachi Metals or Toyoda Gosei Settlement Classes and be eligible to share in the Hitachi Metals or Toyoda Gosei Settlement Funds under a claims procedure that will be instituted in the future;
- You may exclude yourself from either or both of the Hitachi Metals or Toyoda Gosei Settlement Classes, in which case you will **not** be bound by any settlement from which you exclude yourself and will **not** be eligible to share in the proceeds of that settlement;
- If you remain in either or both of the Hitachi Metals or Toyoda Gosei Settlement Classes, you may object to that proposed settlement, to the proposed plan of distribution of the Automotive Brake Hoses Settlement Fund, or to Settlement Class Counsel’s request for an award of attorneys’ fees and reimbursement of litigation costs and expenses, and an incentive payment to the Class Representative. You may also appear at the hearing where the Court will consider these matters;
- You may enter an appearance in the litigation through your own counsel at your own expense; and
- Any Settlement Class member who wishes to participate in the distribution of the Hitachi Metals or Toyoda Gosei Settlement Funds must complete a copy of the Claim Form **on or before May 29, 2020**.

## WHO IS IN THE SETTLEMENT CLASSES?

The Court has provisionally certified a Direct Purchaser Hitachi Metals Settlement Class (the “Hitachi Metals Settlement Class”) and a Direct Purchaser Toyoda Gosei Settlement Class (the “Toyoda Gosei Settlement Class”) for the purpose of disseminating notice of the proposed Hitachi Metals and Toyoda Gosei settlements.

The Hitachi Metals Settlement Class is defined as follows:

All direct purchasers (excluding Defendants and their present and former parents, subsidiaries, and affiliates) of Automotive Brake Hose in the United States from any of the Defendants (or their controlled subsidiaries, affiliates, or joint ventures) between November 1, 2005 and August 28, 2017.

For purposes of the Hitachi Metals Settlement Class definition set forth above, the Defendants are: Hitachi Metals, Ltd., Toyoda Gosei Co., Ltd., Toyoda Gosei North America Corp., and TG Kentucky, LLC.

The Toyoda Gosei Settlement Class is defined as follows:

All individuals and entities who purchased Automotive Brake Hoses in the United States directly from Defendants (or their subsidiaries or affiliates) from November 1, 2005 through August 28, 2017 (“Settlement Class Period”). Excluded from the Settlement Class are Defendants, their present and former parent companies, subsidiaries, and affiliates, federal governmental entities and instrumentalities of the federal government, and states and their subdivisions, agencies and instrumentalities.

For purposes of the Toyoda Gosei Settlement Class definition set forth above, the Defendants are: Toyoda Gosei Co., Ltd., Toyoda Gosei North America Corp., and TG Kentucky, LLC.

Plaintiff Emerald Capital Advisors Corporation, in its capacity as Trustee for the FAH Liquidating Trust, has been appointed by the Court to serve as “Class Representative” for the Hitachi Metals and Toyoda Gosei Settlement Classes.

The Court has appointed the law firms of Freed Kanner London & Millen LLC; Kohn, Swift & Graf, P.C.; Preti, Flaherty, Beliveau & Pachios LLP; and Spector Roseman & Kodroff, P.C. to serve as “Settlement Class Counsel” for the Settlement Classes.

## **WHAT IS THIS LITIGATION ABOUT?**

In complaints filed in December 2016 and September 2019, Plaintiff filed separate class action lawsuits against Hitachi Metals and Toyoda Gosei on behalf of direct purchasers of Automotive Brake Hoses, alleging that they had conspired to suppress and eliminate competition for Automotive Brake Hoses by agreeing to raise, fix, maintain, and stabilize prices, rig bids, and allocate markets and customers for Automotive Brake Hoses sold in the United States, in violation of federal antitrust laws. Plaintiff further alleges that as a result of the conspiracy, it and other direct purchasers of Automotive Brake Hoses were injured by paying more than they would have paid in the absence of the alleged illegal conduct.

The Settling Defendants all deny Plaintiff’s allegations and liability and have asserted defenses to Plaintiff’s claims. The Settling Defendants have agreed to settle this matter to avoid the expense and burden of further litigation. The Court has not issued any findings or rulings with respect to the merits of Plaintiff’s claims or the Settling Defendants’ defenses. These settlements, if approved by the Court, will fully resolve Plaintiff’s claims in this litigation.

## **WHAT RELIEF DO THE PROPOSED SETTLEMENTS PROVIDE?**

Plaintiff, on behalf of the Hitachi Metals Settlement Class, entered into a settlement agreement with the Hitachi Metals on August 28, 2017 (the “Hitachi Metals Settlement Agreement”), in which Hitachi Metals agreed to pay \$2,725,000. The Hitachi Metals Settlement Agreement gives Hitachi Metals the right to reduce the amount of the Hitachi Metals settlement, but under no circumstances to an amount less than \$1,975,000, in the event of valid and timely requests for exclusion by members of the Hitachi Metals Settlement Class.

Plaintiff, on behalf of the Toyoda Gosei Settlement Class, entered into a settlement with Toyoda Gosei on September 20, 2019 (the “Toyoda Gosei Settlement Agreement”), in which Toyoda Gosei agreed to pay \$2,266,667. The Settlement Agreement gives Toyoda Gosei the right to reduce the amount of the Toyoda Gosei settlement, but under no circumstances to an amount less than \$950,000, in the event of valid and timely requests for exclusion by members of the Toyoda Gosei Settlement Class.

As part of their respective settlements, the Hitachi Metals and Toyoda Gosei Defendants have each agreed to cooperate with Settlement Class Counsel in the prosecution of claims against any other Defendant, should the need for such cooperation arise.

This Notice is only a summary of the terms of the proposed settlements. The Hitachi Metals and Toyoda Gosei Settlement Agreements contain other important provisions, including the release of certain claims against Hitachi Metals and Toyoda Gosei (and companies and people affiliated with them). For the complete terms of the settlements, you are referred to the settlement agreements, which are on file with the Clerk of Court and are available online at [www.AutoPartsAntitrustLitigation.com/AutomotiveBrakeHoses](http://www.AutoPartsAntitrustLitigation.com/AutomotiveBrakeHoses). The proposed settlements must receive final approval by the Court to become effective.

If you wish to object to the approval of any of the settlements, you may do so, but only in accordance with the procedures set forth below. If you do not object to a settlement, you do not need to take any action at this time to indicate your support for, or lack of objection to, that settlement.

## **HOW DO I REMAIN IN THE SETTLEMENT CLASSES AND WHAT HAPPENS IF I DO?**

If you are a member of either of the Hitachi Metals or Toyoda Gosei Settlement Classes as defined above, you will automatically remain in that Settlement Class unless you elect to be excluded. If you wish to remain in a Settlement Class, you do not need to take any action at this time with respect to that Settlement Class and your interests will be represented by the Class Representative and by Settlement Class Counsel. If you remain in either of

the Hitachi Metals or Toyoda Gosei Settlement Classes and the proposed settlement with that Defendant is approved and becomes effective, you will be bound by its terms, including the release provisions, whether or not you receive a share of the settlement proceeds attributable to that settlement.

You will have no responsibility to individually pay attorneys' fees or expenses. Any such fees and expenses will be paid solely from amounts obtained from the Defendants, whether by settlement or judgment, and must be approved by the Court after notice to you and a hearing. If you choose, you may also have your own attorney enter an appearance on your behalf and at your expense.

## HOW WILL THE SETTLEMENT FUNDS BE DISTRIBUTED?

The Automotive Brake Hoses Settlement Fund, with accrued interest, less any amounts approved by the Court for payment of attorneys' fees, litigation and settlement administration costs and expenses, and an incentive payment to the Class Representative (the "Net Automotive Brake Hoses Settlement Fund"), will be distributed among the members of the Settlement Classes who complete and timely submit a copy of the Claim Form that is included with this Notice, **postmarked on or before May 29, 2020**.

The Net Automotive Brake Hoses Settlement Fund will be distributed *pro rata* to all Claimants based upon their **direct** purchases of Automotive Brake Hoses in the United States from Defendants during the applicable Class Period. The distribution will take place as soon as practicable after review, determination, and audit of the Claim Forms by the Settlement Administrator and approval by the Court of the Settlement Administrator's recommendations as to the amounts to be paid to the Claimants.

**Do not dispose of any document that reflects your purchases of Automotive Brake Hoses in the United States directly from any Defendant (or its parents, affiliates, subsidiaries, or joint ventures) during the period from November 1, 2005 through August 28, 2017. You may need those documents to complete and substantiate your Claim Form, which will be subject to inquiry and verification.**

## WHAT IF I DO NOT WANT TO REMAIN IN ONE OR MORE OF THE SETTLEMENT CLASSES?

You may exclude yourself from either or both of the Settlement Classes. If you wish to exclude yourself from either or both of the Settlement Classes, you must send a request for exclusion, in writing, by certified mail, return receipt requested, **postmarked no later than April 3, 2020**, to Settlement Class Counsel, and to counsel for the Settling Defendants, at the addresses set forth below, and to the following address:

Automotive Brake Hoses Direct Purchaser Antitrust Litigation  
P.O. Box 3747  
Portland, OR 97208-3747

Your request for exclusion must identify the Settlement Class or Classes from which you are seeking exclusion and must include the full name and address of the purchaser (including any predecessor or successor entities and any trade names). You are also requested to identify the Defendant(s) (or parent, affiliate, subsidiary, or joint venture) from which you purchased Automotive Brake Hoses during the Class Period for the Settlement Class from which you seek exclusion, the Automotive Brake Hoses purchased during the Class Period, and the dollar amount of your purchases. If you validly exclude yourself from either or both of the Settlement Classes, you will not be bound by any decision concerning the Settlement Class or Classes from which you exclude yourself and you may pursue individually any claims you may have against that Defendant (at your own expense), but you will not be eligible to share in the settlement proceeds attributable to that Defendant.

Any potential Settlement Class member who requests exclusion from the Hitachi Metals or Toyoda Gosei Settlement Class shall not be precluded, restricted, barred or limited in any way from participating in any future settlements relating to other Defendants in the Action.

## REQUEST FOR ATTORNEYS' FEES AND EXPENSES, AND AN INCENTIVE PAYMENT

The Court has appointed the law firms identified above as Settlement Class Counsel. These law firms, together with other firms that have worked on this litigation, will file a petition for an award of attorneys' fees and reimbursement of their costs and expenses in prosecuting the case. The request of Settlement Class Counsel for attorneys' fees will not exceed 30 percent (30%) of the Automotive Brake Hoses Settlement Fund.

Settlement Class Counsel will also request an incentive payment to Plaintiff Emerald Capital Advisors Corporation, in its capacity as Trustee for the FAH Liquidating Trust, which was appointed by the Court to serve as Class Representative for the Settlement Classes, in the total amount of \$25,000.

The application for attorneys' fees and litigation costs and expenses and an incentive payment will be filed on or before March 9, 2020. After that date, the petition for attorneys' fees will be available for your review on the settlement website at [www.AutoPartsAntitrustLitigation.com/AutomotiveBrakeHoses](http://www.AutoPartsAntitrustLitigation.com/AutomotiveBrakeHoses). If you remain a member of either of the Settlement Classes and you wish to object to the request for fees and expenses or an incentive payment, you must do so in writing in accordance with the procedures for objections set forth below. If you do not oppose any of these requests, you do not need to take any action in that regard.

## WHEN WILL THE COURT CONSIDER THESE MATTERS AND HOW CAN I TELL THE COURT WHAT I THINK ABOUT THE SETTLEMENTS?

The Court will hold a hearing on June 17, 2020, at 2:00 p.m., at the Theodore Levin United States Courthouse, 231 West Lafayette Boulevard, Detroit, MI 48226, Courtroom 250 (or such other courtroom as may be assigned for the hearing), to determine whether to approve the proposed Hitachi Metals and Toyoda Gosei settlements, the proposed plan of distribution of the Automotive Brake Hoses Settlement Fund, and Settlement Class Counsel's requests for an award of attorneys' fees and reimbursement of litigation costs and expenses, and an incentive payment. The hearing may be rescheduled, continued or adjourned, and the courtroom assigned for the hearing may be changed, without further notice to you.

If you remain a member of the Hitachi Metals or Toyoda Gosei Settlement Classes and you wish to object to that proposed settlement, the proposed plan of distribution of the Automotive Brake Hoses Settlement Fund, or to Settlement Class Counsel's request for an award of attorneys' fees and reimbursement of litigation costs and expenses, and an incentive payment, you must do so in writing and at your own expense. Any such objection must include the caption of this litigation, must be signed, and must be **filed no later than April 3, 2020**, with the Clerk of Court, United States District Court for the Eastern District of Michigan, Southern Division, Theodore Levin United States Courthouse, 231 West Lafayette Boulevard, Detroit, MI 48226, and mailed to the following counsel, **postmarked no later than April 3, 2020**:

Steven A. Kanner  
FREED KANNER LONDON  
& MILLEN LLC  
2201 Waukegan Road, Suite 130  
Bannockburn, IL 60015  
Telephone: (224) 632-4500

Joseph C. Kohn  
KOHNS, SWIFT & GRAF, P.C.  
1600 Market Street, Suite 2500  
Philadelphia, PA 19103  
Telephone: (215) 238-1700

Gregory P. Hansel  
PRETI, FLAHERTY, BELIVEAU  
& PACHIOS LLP  
One City Center, P.O. Box 9546  
Portland, ME 04112-9546  
Telephone: (207) 791-3000

Eugene A. Spector  
SPECTOR ROSEMAN & KODROFF, P.C.  
Two Commerce Square  
2001 Market Street, Suite 3420  
Philadelphia, PA 19103  
Telephone: (215) 496-0300

### *Co-Lead Counsel for the Direct Purchaser Settlement Classes*

A. Paul Victor  
WINSTON & STRAWN LLP  
200 Park Avenue  
New York, NY 10166  
Telephone: (212) 294-4616

### *Counsel for Hitachi Metals, Ltd.*

John Taladay  
BAKER BOTTS L.L.P.  
The Warner  
1299 Pennsylvania Avenue, NW  
Washington, DC 20004-2400  
Telephone: (202) 639-7909

*Counsel for Toyota Gosei*

If you do not object to any of the proposed settlements, or to the related matters set forth above, you do not need to appear at the hearing or take any other action at this time. **You must, however, complete and timely submit a Claim Form if you wish to share in the distribution of the Automotive Brake Hoses Settlement Fund.**

**WHAT SHOULD I DO IF I WANT ADDITIONAL INFORMATION OR IF MY ADDRESS CHANGES?**

If this Notice reached you at an address other than the one on the mailing label, or if your address changes, please send your correct address to: Automotive Brake Hoses Direct Purchaser Antitrust Litigation, P.O. Box 3747, Portland, OR 97208-3747.

The Settlement Agreements, Complaints, and other public documents filed in this litigation are available for review during normal business hours at the offices of the Clerk of Court, United States District Court for the Eastern District of Michigan, Southern Division, Theodore Levin United States Courthouse, 231 West Lafayette Boulevard, Detroit, MI 48226, and through the Court's Public Access to Court Electronic Records (PACER) system after registration and payment of a modest fee. Copies of the Settlement Agreements and certain other documents relevant to this litigation are available at [www.AutoPartsAntitrustLitigation.com/AutomotiveBrakeHoses](http://www.AutoPartsAntitrustLitigation.com/AutomotiveBrakeHoses). Questions concerning the proposed Hitachi Metals and Toyota Gosei settlements, this Notice, or the litigation may be directed to any of the Settlement Class Counsel identified above.

**Please do not contact the Clerk of the Court or the Judge.**

Dated: February 7, 2020

BY ORDER OF:

The United States District Court for the Eastern District  
of Michigan, Southern Division