

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

**IN RE AUTOMOTIVE PARTS  
ANTITRUST LITIGATION**

**IN RE: AUTOMOTIVE HOSES CASES**

**THIS DOCUMENT RELATES TO:  
ALL DIRECT PURCHASER CASES**

**Master File No. 12-md-02311  
Honorable Sean F. Cox**

**2:15-cv-03201-SFC-RSW  
2:16-cv-10001-SFC-RSW  
2:18-cv-12711-SFC-RSW**

**NOTICE**

**NOTICE OF PROPOSED SETTLEMENTS OF DIRECT PURCHASER CLASS ACTION WITH SUMITOMO RIKO 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 SERVICE AWARD TO THE CLASS REPRESENTATIVE**

**TO:** ALL INDIVIDUALS AND ENTITIES THAT PURCHASED AUTOMOTIVE HOSES IN THE UNITED STATES DIRECTLY FROM DEFENDANTS (OR THEIR SUBSIDIARIES OR AFFILIATES) FROM FEBRUARY 1, 2004 THROUGH NOVEMBER 1, 2018.

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 Defendants: Sumitomo Riko Company Limited, Sumitomo Riko America, Inc.; and SumiRiko Tennessee, Inc. (collectively, the "Sumitomo Riko Defendants"); and Toyoda Gosei Co., Ltd.; Toyoda Gosei North America Corp.; and TG Missouri Corp. (collectively, the "Toyoda Gosei Defendants") (all Defendants referenced in this paragraph are collectively referred to as the "Settling Defendants");**
- (2) A proposed plan of distribution of the Sumitomo Riko and Toyoda Gosei settlement proceeds to Settlement Class members and a proposed Claim Form that you may submit 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 a service award 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 a service award. 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 requests for fees, costs and expenses, and service award to the Class Representative in connection with the Court hearing on these matters.

## **BACKGROUND**

Plaintiffs have reached settlements with the Sumitomo Riko Defendants and the Toyoda Gosei Defendants totaling \$8,455,555. Under the terms of the proposed settlements, Sumitomo Riko will pay \$900,000 (the “Sumitomo Riko Settlement Fund”) and Toyoda Gosei will pay \$7,555,555 (the “Toyoda Gosei Settlement Fund”) (the two settlement funds are collectively referred to as the “Automotive Hoses Settlement Fund”). The Court has preliminarily approved each of these settlements. As discussed below, the Toyoda Gosei Settlement Agreement is subject to reduction based upon valid requests for exclusion by members of the Toyoda Gosei Settlement Class.

This litigation, and the proposed settlements, are part of coordinated legal proceedings involving numerous parts used in motor vehicles. This litigation and the proposed settlements relate solely to Automotive Hoses purchased in the United States **directly** from a Defendant, or its subsidiaries or affiliates. The term “Automotive Hoses” refers to “low-pressure rubber hoses used in automobile engine compartments and plastic and resin tubes used in automobile engine compartments and fuel tank modules.”

These proposed settlements do not relate to, and have no effect upon, cases involving any product other than Automotive Hoses.

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

- You may remain in either or both of the Sumitomo Riko or Toyoda Gosei Settlement Classes and be eligible to share in the proceeds of, and be bound by the terms of, those settlements in which you elect to remain;
- You may exclude yourself from either or both of the Sumitomo Riko 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;<sup>1</sup>
- If you remain in either or both of the Sumitomo Riko or Toyoda Gosei Settlement Classes, you may object to that proposed settlement, to the proposed plan of distribution of the Automotive Hoses Settlement Fund, or to Settlement Class Counsel’s requests for an award of attorneys’ fees and reimbursement of litigation costs and expenses, and a service award 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 Sumitomo Riko or Toyoda Gosei Settlement Funds must complete and submit a copy of the Claim Form on or before February 26, 2021.

## **WHO IS IN THE SETTLEMENT CLASSES?**

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

The Sumitomo Riko and Toyoda Gosei Settlement Classes are defined as follows:

All individuals and entities who purchased Automotive Hoses in the United States directly from Defendants (or their subsidiaries or affiliates) from February 1, 2004 through November 1, 2018. Excluded from the Settlement Classes 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 Sumitomo Riko Settlement Class, the following entities are Defendants: Sumitomo Riko Company Limited; Sumitomo Riko America, Inc.; SumiRiko Tennessee, Inc.; Toyoda Gosei Co., Ltd.; Toyoda Gosei North America Corp.; and TG Missouri Corp.

<sup>1</sup> Any potential Settlement Class Member who requests exclusion from the Sumitomo Riko 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.

For purposes of the Toyoda Gosei Settlement Class, the following entities are Defendants: Toyoda Gosei Co., Ltd.; Toyoda Gosei North America Corp.; and TG Missouri Corp.

Plaintiff VITEC L.L.C. has been appointed by the Court to serve as “Class Representative” for the Sumitomo Riko 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 January 2016 and August 2018, Plaintiff filed class action complaints against Defendants on behalf of direct purchasers of “Automotive Hoses.” Plaintiff alleges that Defendants conspired to raise, fix, maintain, and stabilize prices, rig bids, and allocate markets and customers for Automotive Hoses sold in the United States in violation of federal antitrust laws. Plaintiff further alleges that because of the conspiracy, it and other direct purchasers of Automotive Hoses were injured by paying more for those products than they would have paid in the absence of the alleged illegal conduct.

Defendants deny Plaintiff’s allegations and liability and have asserted defenses to Plaintiff’s claims. 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 Defendants’ defenses. These settlements, if approved by the Court, will fully resolve the claims asserted in this litigation.

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

Plaintiff, on behalf of the Sumitomo Riko Settlement Class, entered into a settlement agreement with Sumitomo Riko on August 5, 2020 (the “Sumitomo Riko Settlement Agreement”), under which the Sumitomo Riko Defendants agreed to pay \$900,000.

Plaintiff, on behalf of the Toyoda Gosei Settlement Class, entered into a settlement agreement with the Toyoda Gosei Defendants on November 1, 2018 (the “Toyoda Gosei Settlement Agreement”), under which the Toyoda Gosei Defendants agreed to pay \$7,555,555. The Toyoda Gosei Settlement Agreement gives Toyoda Gosei the right to reduce the amount of the settlement to no less than \$3,167,000, based upon valid requests for exclusion by members of the Toyoda Gosei Settlement Class.

As part of their respective settlements, the Sumitomo Riko and Toyoda Gosei Defendants have each agreed to provide specified cooperation with Settlement Class Counsel in the prosecution of claims against any remaining Defendant, should the need for such cooperation arise.

This Notice is only a summary of the terms of the proposed settlements. The Sumitomo Riko and Toyoda Gosei Settlement Agreements contain other important provisions, including the release of certain claims against the Settling Defendants (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 on-line at [www.AutoPartsAntitrustLitigation.com/AutomotiveHoses](http://www.AutoPartsAntitrustLitigation.com/AutomotiveHoses). The proposed settlements must receive final approval by the Court to become effective.

If you wish to object to the approval of either or both of the proposed Sumitomo Riko or Toyoda Gosei settlements, you may do so, but only in accordance with the procedures set forth below. If you do not object to either 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 or both of the Sumitomo Riko 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 or both of the Sumitomo Riko 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 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 a service award to the Class Representative (the "Net Automotive 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 February 26, 2021.**

The Net Automotive Hoses Settlement Fund will be distributed *pro rata* to all Claimants based upon their **direct** purchases 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 Hoses in the United States directly from any Defendant (or its subsidiaries or affiliates) during the period from February 1, 2004 through November 1, 2018. 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 Sumitomo Riko or Toyota Gosei 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 January 6, 2021**, to Settlement Class Counsel, and to counsel for the Settling Defendants, at the addresses set forth below, and to the following address:

Automotive Hoses Direct Purchaser Antitrust Litigation  
P.O. Box 6659  
Portland, OR 97228-6659

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 subsidiary or affiliate) from which you purchased Automotive Hoses during the Class Period for the Settlement Class from which you seek exclusion, the Automotive 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.

### **REQUEST FOR ATTORNEYS' FEES AND EXPENSES, AND SERVICE AWARD**

Settlement Class Counsel, together with other law 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 Hoses Settlement Fund.

Settlement Class Counsel will also request a service award to Plaintiff VITEC L.L.C., which was appointed by the Court to serve as Class Representative for the Settlement Classes, in the amount of \$25,000.

The application for attorneys' fees and litigation costs and expenses and a service award will be filed on or before December 7, 2020. After that date, the petition for attorneys' fees will be available for your review on the settlement website at [www.AutoPartsAntitrustLitigation.com/AutomotiveHoses](http://www.AutoPartsAntitrustLitigation.com/AutomotiveHoses). If you remain a member of either of the Settlement Classes and you wish to object to the requests for fees and expenses or the service award, 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 February 11, 2021, at 2:00 p.m., at the Theodore Levin United States Courthouse, 231 West Lafayette Boulevard, Detroit, MI 48226, Courtroom 817 (or such other courtroom as may be assigned for the hearing), to determine whether to approve: the proposed Sumitomo Riko and Toyoda Gosei settlements; the proposed plan of distribution of the Automotive Hoses Settlement Fund; and Settlement Class Counsel's requests for an award of attorneys' fees and reimbursement of litigation costs and expenses, and a service award to the Class Representative. If the Court believes that it is appropriate, the hearing may be conducted remotely by telephone or other electronic means. If the Court determines to hold the hearing remotely, Settlement Class Counsel shall post that information on the website devoted to the direct purchaser litigation ([www.AutoPartsAntitrustLitigation.com/AutomotiveHoses](http://www.AutoPartsAntitrustLitigation.com/AutomotiveHoses)) and provide any Settlement Class member that has informed the Court that it intends to participate at the hearing the information required to do so remotely. The Fairness 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 either or both of the Sumitomo Riko or Toyoda Gosei Settlement Classes and you wish to object to either proposed settlement, or to the proposed plan of distribution of the Automotive Hoses Settlement Fund, or to Settlement Class Counsel's requests for an award of attorneys' fees and reimbursement of litigation costs and expenses, and a service award to the Class Representative, you must do so in writing and at your own expense. Any such objection must include the caption of this litigation, specify which settlement(s) are being objected to, must be signed, and must be **filed no later than January 6, 2021**, 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 January 6, 2021**:

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

Joseph C. Kohn  
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Gregory P. Hansel  
PRETI, FLAHERTY, BELIVEAU  
& PACHIOS LLP  
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Portland, ME 04112-9546  
Telephone: (207) 791-3000

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

*Counsel for the Direct Purchaser Settlement Classes*

J. Clayton Everett, Jr.  
MORGAN, LEWIS & BOCKIUS LLP  
1111 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004-2541  
Telephone: (202) 739-3000

*Counsel for the Sumitomo Riko Defendants*

John Taladay  
BAKER BOTTS L.L.P.  
700 K Street, N.W.  
Washington, D.C. 20001  
Telephone: (202) 639-7700

*Counsel for the Toyoda Gosei Defendants*

If you do not object to either 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 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 Hoses Direct Purchaser Antitrust Litigation, P.O. Box 6659 Portland, OR 97228-6659.

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/AutomotiveHoses](http://www.AutoPartsAntitrustLitigation.com/AutomotiveHoses). Questions concerning the proposed Sumitomo Riko and Toyoda 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: November 6, 2020

BY ORDER OF:

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