

**IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
AT INDEPENDENCE**

JACKSON COUNTY, MISSOURI,)
individually and on behalf of a class of)
others similarly situated,)
)
Plaintiff,)
v.)
TRINITY INDUSTRIES, INC., et al.)
)
Defendants.)

Case No. 1516-CV23684
Division 2

PLAINTIFF’S MOTION FOR ATTORNEYS’ FEES, COSTS, AND SERVICE AWARD

Plaintiff hereby moves the Court for an award of attorneys’ fees and costs to Class Counsel and a service award for Plaintiff Jackson County, Missouri. In support of its motion, Plaintiff states as follows:

1. Plaintiff and Trinity entered into a Class Action Settlement Agreement (the “Settlement Agreement”), which the Court preliminarily approved on May 19, 2022. Consistent with the Settlement Agreement, the settlement administrator mailed notice of the settlement to class members on June 13, 2022. As of the date of this filing, no class members have objected to the attorneys’ fees and expenses, the service award, or any other aspect of the settlement.

2. As part of the Settlement Agreement, Trinity agreed to separately pay Class Counsel’s combined attorneys’ fees and expenses in the amount of \$11,400,000, subject to approval by the Court. In addition, Trinity agreed to pay Plaintiff Jackson County a \$50,000 service award, separate from and in addition to the relief to class members, and in recognition of its time and effort in prosecuting this case on behalf of the class. As explained and analyzed in

the contemporaneously filed suggestions in support of this motion, the requested fees, expenses and service award are reasonable.

3. In support of this motion, we file (1) Suggestions in Support and two exhibits, the Settlement Agreement and a Stueve Siegel Hanson Firm Resume; and (2) an affidavit of Bradley T. Wilders.

4. Thus, and in advance of the close of the objection period, Class Counsel requests an order for (1) an award of \$11,400,000 in attorney’s fees and costs; and (2) a \$50,000 service award to Plaintiff Jackson County, Missouri.

Dated: June 28, 2022

Respectfully submitted,

STUEVE SIEGEL HANSON LLP

/s/ Patrick J. Stueve

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CLASS COUNSEL

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on June 28, 2022 the foregoing document was filed with the Clerk of the Court using the Missouri e-filing system, which sent notification of such filing to all counsel of record.

/s/ Patrick J. Stueve

Class Counsel

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JACKSON COUNTY, MISSOURI,)
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others similarly situated,)

Plaintiff,)

v.)

TRINITY INDUSTRIES, INC., et al.)

Defendants.)

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**PLAINTIFF’S SUGGESTIONS IN SUPPORT OF
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INTRODUCTION

Class Counsel achieved an extraordinary result for class members and the people of Missouri. The settlement in this case—the first action by a state or local government to successfully recover against Trinity for its allegedly defective 4-inch ET Plus guardrail end terminal—confers more than \$56 million in value to class members. Not only does this settlement offer make-whole relief to class members, but, most importantly, it provides for the removal of thousands of the subject end terminals from Missouri roads and for their replacement with newer, safer products without costing the taxpayers a cent.

This remarkable settlement was the product of nearly seven years of work by the attorneys representing Plaintiff and the class—time and money that was advanced on a fully contingent basis. To that end, after reaching agreement with Trinity on the substantive settlement terms benefitting class members, Trinity agreed to a separate and additional payment of \$11,400,000 for Class Counsel’s attorneys’ fees and expenses. Class Counsel now ask this Court to approve this agreed award as reasonable in connection with final approval of the settlement.

Missouri Courts may evaluate attorneys’ fees in class actions under either the lodestar or percentage-of-the benefit approach. Here, either method leads to the same conclusion: the agreed fee is reasonable. After reimbursement of nearly \$1 million in advanced expenses, the agreed fee represents a modest 1.07 multiplier on the lodestar—a multiplier that will only decrease as Class Counsel continues to work on this case during the six-year claim period. Alternatively, viewed as a percentage-of-the-benefit, the fee award represents approximately 18.5% of the value created by the settlement, which is well below typical contingency fees awarded by courts. Given the extraordinary results, the time, expense, risk, and skill required to achieve those results, and the nature of the requested fee as an *agreed-upon* award negotiated separate from and in addition to the relief made available to the class, the requested fees and expenses are reasonable.

The Court should likewise approve Plaintiff Jackson County’s request for a \$50,000 service award (also to be paid by Trinity separate from any other relief under the settlement) for many of the same reasons, including Plaintiff Jackson County’s significant commitment of time and resources to the case and the result achieved for the class.

FACTUAL BACKGROUND

The Missouri Supreme Court has identified factors that bear on the reasonableness of attorneys’ fees in class actions, including “the result achieved,” “the nature and character of the services rendered,” “the degree of professional ability required,” “the nature and importance of the subject matter,” and “the vigor of the opposition,” among others. *Berry v. Volkswagen Grp. of Am., Inc.*, 397 S.W.3d 425, 431 (Mo. 2013) (citations omitted). Given these factors, Class Counsel details for the Court the factually and legally complex nature of the claims, the vigorous litigation history, and the significant results achieved. These factors all support the conclusion that the agreed award of attorneys’ fees and expenses is reasonable.

I. The Litigation Was Complex, Lengthy, and Contested

A. The Nature of the Claims.

Class Counsel¹ filed a Class Action Petition on behalf of Plaintiff Jackson County on November 5, 2015 seeking the cost of removing and replacing thousands of Trinity 4-inch ET Plus guardrail end terminals from class member roads. Plaintiff asserted negligence, strict liability, negligent supplying of a dangerous instrumentality, and declaratory judgment claims against both

¹ Patrick J. Stueve, Bradley T. Wilders, and Alexander T. Ricke of Stueve Siegel Hanson LLP have represented the class since November 2018. Prior to that time, the class was represented by other counsel which has remained involved in the litigation as Plaintiff Jackson County’s outside counsel. Class Counsel has also requested assistance from and coordinated with Theresa Otto and Patrick Hunt of Baty Otto Coronado Scheer P.C., who are outside counsel for class member the Missouri Department of Transportation (“MoDOT”). As used in this brief, “Class Counsel” refers to all of these lawyers.

Trinity Industries, Inc. and Trinity Highway Products, LLC (collectively referred to throughout as “Trinity”). Central to each claim was the allegation that Trinity had altered the design of its ET Plus by shortening the feeder chutes (also known as guide channels) from 5 inches to 4 inches, that the design modification was concealed from federal and state regulators, and that the design modification rendered the ET-Plus defective and unreasonably dangerous. Affidavit of Bradley T. Wilders (“Wilders Aff.”), at ¶ 8.

The scope of this case was significant. Class Counsel and Plaintiff Jackson County sought to represent a class of similarly situated counties, the City of St. Louis, and the Missouri Department of Transportation to remove many thousands of 4-inch ET Plus devices from thousands of roadway miles. Trinity’s sales records showed that it had sold more than 15,000 4-inch ET Plus devices for installation on class member roads. *Id.* at ¶ 9. The vigorous and contested nature of the litigation reflected the significant stakes of the case. *Id.* at ¶ 6.

B. Class Counsel Defeated Trinity’s Early Attempts at Removal and Dismissal.

Over the course of the litigation, Trinity attempted to move or have the case dismissed multiple times. The first such attempt occurred in January 2016 when Trinity removed the litigation to the U.S. District Court for the Western District of Missouri arguing that the traditional diversity jurisdiction was satisfied under 28 U.S.C. § 1332(a). Class Counsel, however, filed a motion to remand the litigation back to the Circuit Court of Jackson County, asserting that the federal district court did not possess subject matter jurisdiction over the case. After full briefing from the parties, the Hon. Fernando Gaitan granted the motion. *Jackson Cty., Mo. v. Trinity Indus., Inc.*, No. 16-cv-0004, 2016 WL 10650701, at *3 (W.D. Mo. Feb. 29, 2016); Wilders Aff. at ¶ 10.

While the litigation was still pending in federal court, however, Trinity filed a motion to dismiss for failure to state a claim and lack of standing due to (purportedly) no injury in fact. *See Jackson Cty., Mo. v. Trinity Indus., Inc.*, No. 16-cv-0004 (W.D. Mo.), Doc. 15. This was the first

time—but far from the last—that Trinity raised the specter of the economic loss doctrine as an alleged complete bar to Plaintiff’s tort claims for the cost of removing and replacing the 4-inch ET Plus. Class Counsel’s motion to remand to the Circuit Court of Jackson County was granted while the motion to dismiss was pending, and the parties filed supplemental briefs before this Court. This Court denied Trinity’s motion to dismiss on April 24, 2017. *Wilders Aff.* at ¶ 11.

C. Class Counsel Obtained Class Certification.

In January 2017, Class Counsel and Plaintiff Jackson County moved to certify the following class pursuant to Rule 52.08(a) and (b)(3):

All Missouri counties with populations of 10,000 or more persons as determined by the Missouri Census Data Center as of July 1, 2014, including the independent city, the City of St. Louis; and the State of Missouri’s transportation authority, that have or had ET-Plus guardrail end terminals with 4-inch wide feeder chutes installed on roadways they own and maintain.

The parties briefed class certification between January and May 2017, which included Trinity filing supplemental briefing. The Court conducted a class certification hearing on May 24, 2017 and solicited proposed findings of fact and conclusions of law from the parties. In December 2017, the Court certified the proposed class. The case was then stayed to allow Trinity to petition the appellate courts to review this Court’s class certification order. *Wilders Aff.* at ¶ 12.

As expected, Trinity petitioned the Missouri Court of Appeals pursuant to Rule 52.08(f) to review the Court’s class certification order. Class Counsel opposed the petition, and it was denied. Trinity then filed a petition for a writ of prohibition in the Missouri Supreme Court. Class Counsel opposed the petition, which was also denied. *Id.* at ¶ 13. With the litigation proceeding as a class action, the discovery was significant and contentious.

D. Class Counsel Conducted Significant Discovery.

Discovery in this case was extensive. With respect to document discovery, Plaintiff Jackson County produced over 14,000 documents. Trinity produced well over 476,000

documents. A class member—MoDOT—produced over 12,000 documents. And Plaintiff Jackson County subpoenaed documents from five Missouri-based contractors who installed the 4-inch ET Plus, resulting in the production of nearly 3,000 documents. These hundreds of thousands of documents span millions of pages. Wilders Aff. at ¶ 14.

The parties likewise served multiple rounds of interrogatories and requests for admissions. In addition, there were over 20 depositions conducted across the country during the litigation—from Portland, Maine to Phoenix, Arizona and many places in between. Class Counsel produced four expert witnesses for depositions (three of whom were deposed twice)—Dr. Marthinus C. van Schoor (liability), Mr. Eric C. Frye (damages), Mr. Thomas E. Green (crash reconstruction and other similar incidents), and Dr. Brian Coon (liability), who was withdrawn. Class Counsel also deposed Trinity’s expert witnesses—Donald F. Tandy, Jr. (crash reconstruction and other similar incidents), Dr. Malcolm H. Ray (liability), and Dr. Mark A. Israel (damages). Further, Class Counsel produced Plaintiff’s rebuttal expert witnesses for depositions—Mr. Kevin Schrum (rebuttal to Dr. Ray and Mr. Tandy), Mr. Eric C. Frye (rebuttal to Dr. Israel) and Dr. Norma F. Hubele (statistical analysis of ET-Plus crash data). Wilders Aff. at ¶ 15.

The parties also had a number of discovery disputes that required resolution by either the Court or Special Master Charlie J. Harris, Jr. For example, Trinity issued a subpoena to MoDOT seeking discovery regarding the ET Plus. The parties then fully briefed Class Counsel’s motion for a protective order to quash the subpoena in March 2019, which the Court ultimately granted. The Missouri Court of Appeals for the Western District then refused to disturb this Court’s ruling on that discovery issue after Trinity filed a petition for a writ of prohibition. Similarly, in January 2020, Class Counsel moved to compel discovery responses while Trinity submitted a motion for

a protective order limiting deposition topics to Special Master Harris. These discovery disputes were routine throughout the litigation. Wilders Aff. at ¶¶ 16-17.

E. Class Counsel Defeated Trinity's Motion for Summary Judgment.

Throughout the case, Trinity asserted that Plaintiff Jackson County's claims and those of class members were barred by the economic loss doctrine. In January 2020, Trinity filed a motion for summary judgment entirely focused on the economic loss doctrine. Class Counsel opposed the motion arguing, principally, that Missouri's economic loss doctrine did not apply because Trinity had breached a duty in tort by designing and selling a product that put people at risk of harm and damaged other property because the product was unreasonably dangerous. Class Counsel relied on, among other cases, *Sch. Dist. of City of Indep., Mo., No. 30 v. U.S. Gypsum Co.*, 750 S.W.2d 442 (Mo. App. W.D. 1988) and *Kansas City v. Keene Corp.*, 855 S.W.2d 360 (Mo. banc 1993), which both held that government entities may proceed in strict liability to recover the cost of removing and replacing asbestos from government buildings. Wilders Aff. at ¶ 18.

Additional contested briefing flowed from Trinity's motion for summary judgment. Specifically, Class Counsel opposed Trinity's motion to strike the affidavits of Plaintiffs' experts submitted in opposition to summary judgment. The Court ultimately denied Trinity's motion for summary judgment in July 2020. Though Class Counsel Plaintiff prevailed on this issue, there is no doubt Trinity would have pursued these arguments on appeal had it lost at trial. *Id.* at ¶ 19.

F. Class Counsel Defeated Trinity's Motion to Decertify the Class.

With its motion for summary judgment denied, Trinity had one last arrow in its quiver to potentially avoid a class action trial: a motion to decertify the class. In December 2020, Trinity moved for class decertification, arguing principally that the class did not satisfy numerosity due to the alleged number of class members, and that typicality and predominance were not satisfied based on the economic loss doctrine. In response, Class Counsel demonstrated that the class was

sufficiently numerous based on Trinity's own sales records and again rebutted Trinity's economic loss doctrine arguments. After significant and contested briefing, the Court denied Trinity's motion to decertify the class. Wilders Aff. at ¶ 20.

But, Trinity was not done. Trinity filed a petition under Rule 52.08(f) with the Missouri Court of Appeals for the Western District arguing that the Court abused its discretion in refusing to decertify the class. Again, Class Counsel opposed Trinity's request for interlocutory appeal, which was denied in December 2021. *Id.* at ¶ 21.

II. The Arms' Length Settlement Negotiations Overseen by Judge Atwell (Ret.)

In January of 2021, the Court set a firm trial date of April 4, 2022. The trial had been continued several times due to COVID-19, but Class Counsel was confident that the April 4, 2022 special trial setting was firm. The trial date spurred settlement discussions. Wilders Aff. at ¶ 23.

The parties first mediated on February 26, 2020 with the Hon. Charles E. Atwell (Ret.). However, the Court had not yet ruled on Trinity's motion for summary judgment, nor had Trinity filed its motion to decertify the class. Though the parties made little progress and did not resolve the case, the parties did, for the first time, discuss a settlement that would include both cash and products geared toward removing and replacing 4-inch ET Plus devices. *Id.* at ¶ 24.

In April 2021, Trinity reached out to Class Counsel regarding a possible settlement structure that included products and cash to enable class members to remove and replace 4-inch ET Plus devices. Between April and December 2021, the parties exchanged drafts of a term sheet outlining a potential settlement structure. Once the parties agreed to a potential structure, they remained at an impasse on dollar amounts and other material settlement terms. As a result, the parties re-engaged Judge Atwell to mediate the case. On January 11, 2022, the parties conducted a full-day mediation with Judge Atwell. Although significant process was made, the parties did not reach a settlement. *Id.* at ¶ 25.

Over the next five weeks, Judge Atwell continued to work the phones on a near-daily basis with Class Counsel and Trinity's counsel until, on February 18, 2022, the parties executed a binding term sheet containing the material terms of the settlement now before the Court. At the time the case settled, Class Counsel was preparing the case for the April 4, 2022 trial date, including preparing deposition designations, motions in limine, and other trial preparations. *Id.* at ¶ 26.

III. Class Counsel Obtained Preliminary Approval of the Settlement and Sent Notice

Class Counsel took the labouring oar drafting the Settlement Agreement as well as the Settlement Notice, the Claim Notice, and the Claim Form. The settlement documents were revised by the parties over a period of nearly three months. On May 19, 2022, Class Counsel filed a motion and supporting brief moving for preliminary approval of the settlement, which the Court granted on May 30, 2022. Consistent with the Settlement Agreement, the settlement administrator mailed notice of the settlement to class members on June 13, 2022. As of the date of this filing, no class members have objected to the attorneys' fees and expenses, the service award, or any other aspect of the settlement. *Wilders Aff.* at ¶ 13. The deadline for class members to object is July 28, 2022. Class Counsel will supplement the record in this case if an objection is submitted. *Id.*

IV. Class Counsel Obtained an Extraordinary Settlement

This settlement provides \$56,475,000 in value to class members. In addition to separately covering the costs associated with litigation and settlement (*i.e.*, service award, notice administration, claims administration, and attorneys' fees and expenses), the settlement provides three forms of recovery for class members. Importantly, these categories are not mutually exclusive; in other words, class members may submit claims for each form of relief for which they qualify. The purpose of the settlement relief is three-fold: (1) reimburse class members who proactively removed these devices; (2) provide class members the means to locate these devices

that are still on their roads; and (3) provide class members the means to remove and replace these devices with safer MASH standard devices at no cost to the class members.

First, the settlement creates a non-reversionary \$3,500,000 common fund to compensate class members for costs they previously incurred to remove and replace undamaged 4-inch ET Plus devices. This fund will be available for a one-year period following the Effective Date and will pay approved claims on a rolling basis. *See* Ex. 1 (Settlement Agreement), at § 6.

Second, the settlement creates a non-reversionary \$2,500,000 common fund to compensate class members for the costs of locating 4-inch ET Plus devices on their roads. This fund will be available for a 90-day period following the Effective Date and will pay approved claims shortly thereafter to enable class members to locate these devices for removal. *Id.* at § 7.

Third, the settlement provides class members with the means to remove and replace each undamaged 4-inch ET Plus on their roads at no cost to the class member. For a six-year period following the Effective Date, class members may submit as many claims as necessary to remove and replace these devices. *Id.* at § 8. For each undamaged 4-inch ET Plus identified, claimed, and approved, the class member will receive one MoDOT-approved Type A MASH tangent end terminal plus a flat payment of \$1,700 to cover the costs of removal and replacement. *Id.* Each Type A MASH tangent end terminal has a retail value of approximately \$2,000, meaning that each class member will receive approximately \$3,700 in cash and products for each replaced 4-inch ET Plus. *Wilders Aff.* at ¶ 31. Given that Plaintiffs' damages expert calculated that there are approximately 10,500 4-inch ET Plus devices on class member roads as of February 2022, this component of the settlement confers an approximately \$38,000,000 on class members. *Id.* When these three types of settlement relief are combined with the attorneys' fees and expenses, the cost

of settlement administration, and the service award, the settlement provides a value of over \$56,000,000. *Id.*

Equally important to the cash value it provides is the fact that this settlement will result in a significant, state-wide upgrade of many thousands of guardrail end terminals from the dangerous and defective 4-inch ET Plus (a product tested to the less exacting NCHRP 350 standard) to new, safer, MASH end terminals. Consequently, many of the ET Pluses being replaced are being replaced with new technology that did not exist at the time of the initial installation. This settlement will thus help prevent death and serious injury. Wilders Aff. at ¶ 31.

In exchange for this considerable settlement relief, class members will release only those claims that were investigated and litigated as part of the case. In other words, the release is not broader than appropriate. In fact, the release carves out certain claims class members may have against Trinity related to deaths or personal injuries suffered on class member roads involving a 4-inch ET Plus. *See* Ex. 1, at §§ 1.21-1.22, 9.1-9.2.

As noted above, as far as Class Counsel is aware, this is the first successful resolution of product liability claims against Trinity on behalf of government entities seeking the cost of removing and replacing the company's 4-inch ET Plus devices. Wilders Aff. at ¶ 7.

ARGUMENT

I. The Standard for Determining Reasonable Attorneys' Fees

Missouri follows the "American Rule" that parties typically bear their own attorneys' fees and expenses in litigation. Two exceptions to that rule are relevant here. First, "attorneys' fees may be awarded when," as here, "they are provided for in a contract." *Berry v. Volkswagen Grp. of Am., Inc.*, 397 S.W.3d 425, 431 (Mo. banc. 2013) (citing *Lucas Stucco & EIFS Design, LLC v. Landau*, 324 S.W.3d 444, 445 (Mo. banc 2010)). In this case, the Settlement Agreement provides

that “Trinity Industries, Inc. agrees to separately pay Class Counsel’s reasonable attorneys’ fees and litigation expenses of \$11,400,000,” subject to the Court’s approval. See Ex. 1, at § 10.1.

Second, when lawyers for a class have created a common benefit, they are entitled in equity to a percentage of that benefit from class members as compensation for their work. *Gerken v. Sherman*, 351 S.W.3d 1, 13 (Mo. App. W.D. 2011). In this case, Class Counsel have created a common benefit to class members valued at more than \$56 million, from which equity permits them to a reasonable percentage-based fee. *Wilders Aff.* at ¶ 31.

As noted above, Trinity has agreed to separately pay Class Counsel’s combined attorneys’ fees and expenses in the amount of \$11,400,000, subject to approval by the Court. Therefore, the only inquiry before the Court is whether this separately negotiated and agreed-upon fee is reasonable. In evaluating the reasonableness of attorneys’ fees in class actions, Missouri Courts can employ either the lodestar or percentage of the benefit method. *State ex rel. Byrd v. Chadwick*, 956 S.W.2d 369, 388 (Mo. App. W.D. 1997). Both methods confirm that the requested fee—which Trinity has agreed to pay separate from and in addition to the relief made available to the class—is reasonable.

II. The Lodestar Method Confirms the Requested Attorneys’ Fees are Reasonable

To calculate the lodestar, the Court multiplies the reasonable number of hours spent on the case by a reasonable hourly rate. *Berry*, 397 S.W.3d at 432. In this case, Class Counsel expended 14,688.6 hours at their current hourly rates for a lodestar of \$9,726,814.50. *Wilders Aff.* at ¶¶ 32, 35. Given that the agreed aggregate award of \$11,400,000 includes Class Counsel’s advanced expenses of \$951,964.78, the portion of the agreed-upon award attributable to attorneys’ fee comes out to \$10,448,035. *Id.* at ¶ 40. Therefore, the agreed fee represents a modest multiplier of 1.07 on Class Counsel’s lodestar. *Id.* But given that Class Counsel will continue to work on this case

for the *next six years* covering the claim period, this fee will likely result in a slight negative multiplier on Class Counsel’s time. *See* Ex. 1, at § 1.2; *Wilders Aff.* at ¶ 41.

Courts assess several factors in assessing the reasonableness of the lodestar fee, including “the result achieved,” “the nature and character of the services rendered,” “the degree of professional ability required,” “the nature and importance of the subject matter,” and “the vigor of the opposition,” among others. *Berry*, 397 S.W.3d at 431(citations omitted). Each of these factors weighs in favor of a finding that Class Counsel’s requested attorneys’ fees are reasonable.

A. The Agreed Fee—Essentially a Lodestar Fee—is Reasonable.

As of the filing of this motion, the agreed fee represents a 1.07 multiplier on Class Counsel’s lodestar; in other words, the agreed fee is effectively coextensive with the lodestar. In turn, Class Counsel’s calculated lodestar fee of \$9,726,814.50 is based on reasonable hours expended by Class Counsel at a reasonable rate for their services.

First, the number of hours Class Counsel expended—close to 15,000 and counting—is reasonable. *Wilders Aff.* at ¶ 32. As detailed at length above, Trinity’s vigorous and thorough defense of the case required Class Counsel to exhaustively litigate this case for nearly seven years. *Id.* at ¶¶ 8-22. There were more than 20 depositions. Class Counsel deposed three of Trinity’s expert witnesses and produced five of their own expert witnesses for depositions (three of whom were produced for depositions twice). *Id.* at ¶ 15. The parties exchanged and reviewed millions of pages of documents, including significant third-party discovery. *Id.* at ¶ 14. Class Counsel obtained class certification, defeated Trinity’s motion for summary judgment, defeated Trinity’s motion to decertify the class, and defeated four petitions for interlocutory appeal. *Id.* at ¶¶ 12-22. And Class Counsel twice prepared this case for trial, after the initially-scheduled trial was postponed due to COVID-19. *Wilders Aff.* at ¶¶ 23, 26.

Likewise, Class Counsel’s lodestar results in a reasonable blended hourly rate of \$662 per hour. *Id.* at ¶ 37. Class Counsel’s hourly rates are reasonable and have been repeatedly affirmed by state and federal courts in the Kansas City area and around the country. *See, e.g., In re Equifax Inc. Customer Data Security Breach Litig.*, 2020 WL 256132, at *39 (N.D. Ga. March 17, 2020) (where a Stueve Siegel Hanson lawyer served as co-lead counsel, approving as reasonable the firm’s 2019 rates up to \$935 and co-counsel’s rates up to \$1,050), *aff’d in relevant part*, 999 F.3d 1247 (11th Cir. 2021).² Courts have also approved comparable rates for lawyers who have obtained extraordinary results in complex class action litigation in the Kansas City area. *Pollard v. Remington Arms Co., LLC*, 320 F.R.D. 198, 222 (W.D. Mo. 2017), *aff’d*, 896 F.3d 900 (8th Cir. 2018) (finding rates up to \$897 per hour “are not dissimilar to those hourly rates charged in the Kansas City area.”).³

² *See also Yellowdog Partners, LP v. CURO Group Holdings Corp.*, No. 18-cv-2662-JWL-KGG, ECF Doc. 99-14 at 2 (D. Kan. Nov. 13, 2020) (setting forth Stueve Siegel Hanson’s 2020 rates, including \$845 for a Stueve Siegel Hanson partner); *id.*, ECF Doc. 107, at 1-3 (D. Kan. Dec. 18, 2020) (approving the motion for attorneys’ fees); *In re Syngenta AG MIR162 Corn Litig.*, No. 14-md-2591-JWL-JPO, ECF Docs. 3587-5 (D. Kan. July 10, 2018) (expert analyzing counsel’s submitted rates in the MDL, including rates from Stueve Siegel Hanson, and finding that 2017 hourly rates ranging up to \$985 per hour for a partner were reasonable and commensurate with market rates in Kansas City for complex litigation); *id.* at ECF Doc. No. 3849 at 33-34 (approving motion for attorneys’ fees); *Larson v. John Hancock Life Ins. Co. (U.S.A.)*, No. RG16813803 (Cal. Sup. Ct. Alameda Cnty. May 8, 2018) (approving Stueve Siegel Hanson rates as high as \$895 for partners and \$550 for associates); *Spangler v. Nat’l Coll. of Tech. Instruction*, No. 14-cv-3005-DMS (RBB), 2018 WL 846930, at *2 (S.D. Cal. Jan. 5, 2018) (approving Stueve Siegel Hanson’s 2016 rates of \$795 to \$825 per hour for partners and up to \$525 per hour for associates in contested lodestar fee application); *Bruner v. Sprint/United Mgmt. Co.*, 2009 WL 2058762, at *10 (D. Kan. July 14, 2009) (awarding Stueve Siegel Hanson a blended hourly rate of \$590.91 on lodestar fee application nearly 13 years ago).

³ *Tussey v. ABB, Inc.*, No. 2:06-cv-04305, 2015 WL 8485265, at *3 (W.D. Mo. Dec. 9, 2015), *vacated and remanded on other grounds*, 850 F.3d 951 (8th Cir. 2017) (awarding attorneys’ fees nearly seven years ago based on a \$514.60 blended hourly rate in an ERISA class action).

Because both the time expended and hourly rates are reasonable, the requested fee—essentially a lodestar fee—is reasonable under the lodestar analysis.⁴ This is confirmed by an analysis of the factors that Missouri courts consider in assessing the reasonableness of a request for attorney’s fees.

1. Class Counsel Achieved an Extraordinary Result for the Class

The first factor Missouri courts consider in assessing the reasonableness of a fee request is the result achieved for the class. Here, Class Counsel achieved an extraordinary settlement for the class. The first-of-its-kind settlement with Trinity regarding the 4-inch ET Plus confers make-whole relief on class members valued at more than \$56 million. Further, the settlement will systematically upgrade upwards of 10,000 guardrail end terminals to newer, safer MASH products throughout Missouri, which will help prevent avoidable death and catastrophic injury. Wilders Aff. ¶¶ 30-31. To Class Counsel’s knowledge, no other lawyers have achieved a settlement that provides the cash and/or products to remove and replace 4-inch ET Plus devices in any other state; in fact, a number of federal and state *qui tam* actions against Trinity have been dismissed. *Id.* ¶ 7; *see also, United States ex rel. Harman v. Trinity Indus. Inc.*, 872 F.3d 645, 670 (5th Cir. 2017) (reversing jury verdict in federal *qui tam* action regarding 4-inch ET Plus and rendering verdict for Trinity).⁵ This is an exceptional result that more than justifies the requested fee. Wilders Aff.

⁴ Given the length of this case and the voluminous nature of Class Counsel’s time records, Class Counsel submits the lodestar and hours information by attestation. Wilders Aff. ¶¶ 32-40. Class Counsel will provide time records to the Court *in camera* should the Court request it.

⁵ In Trinity’s most recent Annual Report Form 10-k filed with the SEC on February 17, 2022, the company informed shareholders that it had secured dismissals of *qui tam* claims seeking similar relief in Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Minnesota, Montana, Nevada, Rhode Island, New Jersey, and California. Available at: <https://sec.report/Document/0000099780-22-000013/>.

at ¶ 32; *Berry*, 397 S.W.3d at 431 (Stueve Siegel Hanson’s lodestar was justified because “Class counsel achieved a high degree of success for Class in Missouri.”).

2. This Case Required a High Degree of Professional Ability

Next, as to the skill they bring to the case, Class Counsel are recognized as among the top class action and commercial litigation lawyers in the country. *See, e.g.*, Ex. 2 (Stueve Siegel Hanson Firm Resume); *Wilders Aff.* ¶ 36. All of that skill was brought to bear in this case. Class Counsel obtained and maintained class certification, defeated summary judgment, and defeated four interlocutory appeals. On the verge of trial, Class Counsel obtained a \$56 million, make-whole settlement for class members and did so in the face of a well-financed and vigorously defended Fortune 1000 company. And as further evidence of Class Counsel’s skill, no other lawyers have obtained comparable results (whether by verdict or settlement) with Trinity, despite the prevalence of the 4-inch ET Plus on America’s highways. *Wilders Aff.* ¶ 7. Therefore, the experience, skill, and reputation of Class Counsel justify the requested fee. *Hale v. Wal-Mart Stores, Inc.*, No. 01-CV-218710, Nos. 01-CV-218710, 02-CV-227674, 2009 WL 2206963, at ¶ 24 (Mo. Cir. May 15, 2009) (Midkiff, J.) (attorneys’ fees justified as “the results obtained for the Class . . . evidence the skill and quality of Class Counsel.”).

3. The Nature and Subject Matter of This Case Justifies the Requested Fee

The important nature of this case justifies the requested fee. This case is about public safety. For nearly seven years, Class Counsel prosecuted this case against vigorous opposition to obtain the cash and products necessary to remove and replace thousands of 4-inch ET Plus devices. That is what this settlement delivers. Class Counsel’s important work on behalf of the public should be compensated accordingly. *Berry*, 397 S.W.3d at 431 (affirming Stueve Siegel Hanson’s

lodestar as, among other things, “Class counsel engaged in litigation that would protect the class members from errors made by Volkswagen in the production of its vehicles.”).

4. Class Counsel Achieved this Result Over Significant and Vigorous Opposition

Trinity was defended in this case by six different law firms, including some of the most sophisticated defense firms in the country. At various times, Trinity’s primary counsel in this case included Bartlit Beck LLP, Gibson Dunn & Crutcher LLP, and Akin Gump Strauss Hauer & Feld LLP. Further, Trinity engaged specialty Missouri firms for appeals (Robertson Law Group) and Sunshine Act issues (Cook Vetter Doerhoff & Landwehr P.C.), and a well-respected firm as local counsel (Scharnhorst Ast Kennard Griffin PC).

Trinity likewise spared no expense in defending this case, both substantively and procedurally, and at every stage. As detailed above, the parties engaged in countless discovery disputes, including several resolved by this Court and Special Master Harris. Trinity retained three expert witnesses to oppose and rebut Plaintiffs’ experts, contested class certification at every level of the Missouri courts, then tried to decertify the class both before this Court and the appellate courts, and filed a motion for summary judgment that sought to dismiss the entire case. And ultimately, Trinity took this case right up to trial before agreeing to a settlement. *Wilders Aff.* at ¶¶ 12-22. Yet despite this well-funded and vigorous defense, Class Counsel obtained make-whole relief for class members. Consideration of this factor justifies Class Counsel’s lodestar fee. *Hale*, 2009 WL 2206963, at ¶ 15 (lodestar multiplier in \$90 million settlement “is fully justified here given the effort required, the hurdles faced and overcome, and the results achieved.”).

In sum, considering the adversarial nature of each stage of the litigation, the nature of the claims, the skill of counsel, and the excellent result achieved, this Court can readily conclude that Class Counsel’s lodestar of \$9,726,814.50—which, again, is nearly co-extensive with the agreed-

upon attorneys' fees—is reasonable. *See, e.g., Berry*, 397 S.W.3d at 432 (affirming trial court's finding that Stueve Siegel Hanson's lodestar was reasonable on contested attorneys' fee application in connection with a products liability class action settlement).

B. The Modest Lodestar Multiplier is Reasonable

Further, the agreed-upon attorneys' fee represents (at most) a modest 1.07 multiplier of Class Counsel's current lodestar fee. *See Berry*, 397 S.W.3d at 430 (“An enhancement to the lodestar amount may be made when there are superior results obtained as a result of superior attorney performance.”). But that multiplier is almost certainly overstated. Class Counsel still has significant work to do in this case as they must move for final approval of the settlement agreement and the claims period runs for six years after the Court grants final approval. Given the work that is still-to-come, it is reasonable to conclude that the current 1.07 multiplier will decrease to become a flat lodestar fee or, more likely, a negative multiplier on Class Counsel's time. *Wilders Aff.* at ¶¶ 33, 40-41. As the relevant factors would justify a significantly higher multiplier, this Court should approve this modest (and potentially negative) multiplier as reasonable.

For example, in assessing whether to apply a multiplier to a lodestar, courts consider whether “[t]aking this case precluded class counsel from accepting other employment that would have been less risky.” *Berry*, 397 S.W.3d at 432. That is the case here. There is no question that Class Counsel's significant expenditure of time and money—totaling close to 15,000 hours and nearly \$1 million in expenses on behalf of the class over nearly seven years—precluded Class Counsel from other employment. Absent this commitment of resources to this case, Class Counsel would have been engaged in numerous other matters. *Wilders Aff.* at ¶ 34; *see generally Berry*, 397 S.W.3d at 432-33 (2.0 multiplier on lodestar justified based on, among other things, the finding that 7,000 hours over five years precluded Stueve Siegel Hanson from other gainful employment).

Next, the contingent nature of Class Counsel’s fee arrangement (as opposed to non-contingent hourly fees) justifies the use of a lodestar multiplier. In this case, Class Counsel has advanced this time and money for nearly seven years. Wilders Aff. at ¶ 39. And not only did Class Counsel risk a *delay* in payment, Class Counsel risked *non-payment*. Class Counsel would have recovered nothing if Trinity had succeeded at trial, or with respect to any of the following issues: class certification (and two petitions to appeal), class decertification (and one petition to appeal), and summary judgment. *Id.* Given Class Counsel’s considerable investment of time and money, the contingent risk alone would have justified a lodestar multiplier of at least 2.0. *Berry*, 397 S.W.3d at 432-33 (affirming 2.0 lodestar multiplier to Stueve Siegel Hanson based, among other things, on trial court’s finding that “the fee to be received by class counsel was always contingent, unlike the fees received by counsel for Defendant.”); *Tussey v. ABB, Inc.*, No. 06-cv-04305, 2019 WL 3859763, at *3 (W.D. Mo. Aug. 16, 2019) (holding that “unless that risk is compensated with a commensurate award, no firm, no matter how large or well-financed, will have the incentive to consider pursuing a case such as this” regarding a 10-year class action against well-financed defendant). Class Counsel thus accepted a smaller-than-reasonable fee in order to secure the full benefits for the class. Wilders Aff. ¶ 41.

In sum, as consideration of the relevant factors would have justified a significant lodestar multiplier in this case, this Court may readily conclude that the modest 1.07 multiplier on the lodestar fee (which may ultimately turn into a negative lodestar) is reasonable. *See, e.g., Berry*, 397 S.W.3d at 432 (affirming 2.0 multiplier on Stueve Siegel Hanson’s lodestar in contested attorneys’ fee application in connection with settlement of complex products liability class action).

III. The Percentage of the Benefit Method Confirms the Requested Attorneys' Fees are Reasonable

The alternative method of calculating attorneys' fees, the percentage-of-the-benefit method, serves to underscore the reasonableness of the agreed-upon fee for Class Counsel in this case. Here, the agreed-upon fee for attorneys' time is \$10,448,035—representing the \$11,400,000 aggregate award of attorneys' fees and expenses, less \$951,964.78 in expenses. Thus, when compared to the \$56,475,000 in value this settlement confers on class members, the requested fee represents an approximately 18.5% percentage-of-the-benefit award. *Wilders Aff.* at ¶ 42.

This percentage is significantly lower than the percentages that Missouri Courts have recognized as typical and reasonable in cases involving common benefit contingency fees. *See Hale*, 2009 WL 2206963, at ¶ 30 (38.3% of \$90 million settlement is “customary and well in line with attorneys' fees awards in similar cases”); *Bachman v. A.G. Edwards, Inc.*, 344 S.W.3d 260, 267 (Mo. App. E.D. 2011) (affirming award of \$21 million, or one-third of settlement value, in attorneys' fees and noting that “in cases involving complex litigation or in the class action context, a one-third contingent fee award is not unreasonable”); *Doyle v. Fluor Corp.*, 400 S.W.3d 316, 320 n.2 (Mo. App. E.D. 2013) (affirming class action settlement where attorneys' fees represented 25% of \$55 million settlement).

The requested 18.5% fee is likewise considerably lower than percentages awarded in federal courts around the country, including the Eighth Circuit. *See, e.g.*, Theodore Eisenberg & Geoffrey P. Miller, *Attorney Fees in Class Action Settlements: an Empirical Study*, 1 J. of Empirical Legal Studies 27, 35 (2004) (In cases that do *not* proceed to trial, “[s]ubstantial empirical evidence indicates that a one-third fee is a common benchmark in private contingency fee cases.”); *In re U.S. Bancorp Litig.*, 291 F.3d 1035, 1038 (8th Cir. 2002) (36% common-fund fee award reasonable in class action settlement). Thus, viewed as a percentage-of-the-benefit, the requested

fee is considerably lower than what is typically awarded in highly successful class action settlements like this one.

IV. No Class Members Have Objected to Class Counsel's Requested Fees or Expenses

The deadline for class members to object to the settlement, including Class Counsel's attorneys' fees and expenses, is July 28, 2022. To date, no class member has done so. Wilders Aff. at ¶ 13. To the extent a timely objection is served, Class Counsel will present it to the Court and provide a response. *See Hale*, 2009 WL 2206963, at ¶ 32 (noting that lack of class member opposition to requested attorneys' fees "strongly evidences" that fees were fair and reasonable).

V. Class Counsel's Expenses are Reasonable

As part of the aggregate \$11,400,000 award, Class Counsel requests reimbursement of their reasonable expenses totaling \$951,964.78. These advanced expenses include expert witness fees, travel expenses (including those related to the more than 20 depositions around the country that occurred in this case), transcript costs, costs of online legal research, and ESI and document hosting fees, among others. Wilders Aff. at ¶ 38. These are the types of expenses that Class Counsel would typically bill to non-contingent fee-paying clients. *Id.*; *Hale*, 2009 WL 2206963, at ¶¶ 39-40 ("Attorneys may recover their reasonable expenses that would typically be billed to paying clients in non-contingency matters... [such as] computer-assisted research, photocopying, telephone, facsimile charges, postal, messenger, express mail, deposition fees, transcripts, expert witnesses, travel and meals, and subpoena services are reasonably incurred in connection with the prosecution of a modem, complex litigation.").

Although these expenses are considerable, they are commonplace in complex litigation and are in-line with the significant work required over the seven-year prosecution of this case, to the verge of trial. *See, e.g., id.* ¶¶ 38-41 (in settlement of \$90 million Missouri wage and hour class

action, awarding \$2.7 million for “expenses incurred in pursuing this litigation”). Class Counsel’s expenses are reasonable and should be approved.⁶

VI. The Requested Service Award is Reasonable

Plaintiff Jackson County was instrumental in the filing, litigation, and settlement of this important class action. Absent Plaintiff Jackson County’s willingness to subject itself to litigation on behalf of its fellow class members, the benefit to anyone who drives on Missouri roads would not have been attained. In recognition of its crucial role in achieving this result, Trinity has agreed to pay Plaintiff Jackson County a \$50,000 service award, separate from and in addition to the relief going to class members. *See Ex. 1, at § 11.*

The “purpose of incentive awards ... for class representatives is to encourage people with significant claims to pursue actions on behalf of others similarly situated.” *Hale*, 2009 WL 2206963, at ¶ 43 (citing *In re Cardizem CD Antitrust Litig.*, 218 F.R.D. 508, 535 (E.D. Mich. 2003)). To that end, relevant considerations in assessing the reasonableness of a requested service award include: (1) the actions the named class representatives have taken to protect the interests of the class; (2) the degree to which the class has benefited from those actions; and (3) the amount of time and effort the named class representatives expended in pursuing the litigation. *Id.* (citing *Cook v. Niedert*, 142 F.3d 1004, 1016 (7th Cir. 1998)). Here, each factor weighs in favor of approving the requested service award.

Plaintiff Jackson County’s unusually significant work as a class representative produced a material benefit for class members. *Wilders Aff.* at ¶¶ 44-48. As explained at length above, these class members are made whole by the settlement and can obtain their proportional share of a \$3.5 million fund for previously removed and replaced 4-inch ET Plus devices, their proportional share

⁶ Class Counsel will provide detailed expense records to the Court *in camera* should the Court request it.

of a \$2.5 million fund to locate 4-inch ET Plus devices currently on their roads, and one MASH Type A tangent end terminal plus a flat \$1,700 payment for each undamaged 4-inch ET Plus currently on their roads. Valued at more than \$56 million, this settlement makes class members whole. A \$50,000 service award—that Trinity is paying separately and that will not reduce the relief to class members—is warranted and consistent with service awards in other cases that required such significant efforts by the class representative.⁷

⁷ See, e.g., *In re Syngenta AG Mir162 Corn Litig.*, No. 2:14-MD-02591-JWL-JPO, 2018 WL 7254709, at *40 (D. Kan. Nov. 21, 2018) (recommending \$100,000 to four class representatives in class action that required trial), *report and recommendation adopted in material parts*, 2018 WL 6839380, at *16 (D. Kan. Dec. 31, 2018); *In re: Urethane Antitrust Litig.*, No. 04-1616-JWL, 2016 WL 4060156, at *8 (D. Kan. July 29, 2016) (granting requested incentive payments of \$150,000-200,000 for representatives who went to trial); see also *Erica P. John Fund, Inc. v. Halliburton Company, et al.*, No. 3:02-cv-1152-M, ECF No. 844 at 29 (N.D. Texas Apr. 25, 2018) (awarding \$100,000 to class representative); *Castro v. Sanofi Pasteur Inc.*, No. CV117178JMVMAH, 2017 WL 4776626, at *10 (D.N.J. Oct. 23, 2017) (awarding \$100,000 to each of three class representatives for their “significant roles,” including participation in depositions and production of “thousands of pages of documents”); *In re High-Tech Employee Antitrust Litig.*, No. 11-CV-02509-LHK, 2015 WL 5158730, at *17-18 (N.D. Cal. Sept. 2, 2015) (awarding \$100,000-\$140,000 to each of five class representatives who had significant involvement in litigation that resulted in “a substantial benefit” to the class); *Marchbanks Truck Serv. v. Comdata Network, Inc.*, No. 07-CV-1078, Doc. 713 at 6-8 (E.D. Pa. July 14, 2014) (awarding \$150,000 to one class representative and \$75,000 to two other class representatives); *In re Neurontin Antitrust Litig.*, No. Civ. A. No. 02-1830, ECF No. 114 at ¶ 31 (D. N.J. Aug. 6, 2014) (awarding \$100,000 to each class representative for “their active participation and assistance in the prosecution of this case, including responding to document requests . . . appearing for deposition” and thus “contribut[ing] to the benefits conferred upon the Class through the Settlement.”); *In re Titanium Dioxide Antitrust Litig.*, No. 10-CV-00318 RDB, 2013 WL 6577029, at *1 (D. Md. Dec. 13, 2013) (awarding \$125,000 to one class representative and \$25,000 to each of two class representatives); *Been v. O.K. Indus., Inc.*, No. CIV-02-285-RAW, 2011 WL 4478766, at *12-13 (E.D. Okla. Aug. 16, 2011), *report and recommendation adopted*, No. CIV-02-285-RAW, 2011 WL 4475291 (E.D. Okla. Sept. 26, 2011) (awarding \$100,000 to each of 5 class representatives who had “devoted substantial time and energy representing the interests of the Class” and were “critical to the Class obtaining a successful judgment in this case.”); *Columbus Drywall & Insulation, Inc. v. Masco Corp.*, No. 1:04-CV-3066-JEC, 2008 WL 11319972, at *3 (N.D. Ga. Mar. 4, 2008) (awarding \$100,000 to each class representative as they had been “actively engaged in this litigation,” including by giving depositions and reviewing documents, and have thus “conferred a significant benefit to the class.”); *Ivax Corp. v. Aztec Peroxides, LLC*, No. 1:02CV00593, Doc. 78 at 2 (D.D.C. Aug. 24, 2005) (awarding \$100,000 to each of two class representatives “for their respective roles in bringing about the recovery on behalf of the class”).

CONCLUSION

Based on the foregoing, Plaintiff requests the Court award Class Counsel the aggregate amount of \$11,400,000 in attorneys' fees and expenses and award Plaintiff Jackson County a \$50,000 service award with both sums to be paid separately by Trinity as provided by the Settlement Agreement.

Dated: June 28, 2022

Respectfully submitted,

STUEVE SIEGEL HANSON LLP

/s/ Patrick J. Stueve

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CLASS COUNSEL

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on June 28, 2022 the foregoing document was filed with the Clerk of the Court using the Missouri e-filing system, which sent notification of such filing to all counsel of record.

/s/ Patrick J. Stueve

Class Counsel

EXHIBIT 1

**IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
AT INDEPENDENCE**

JACKSON COUNTY, MISSOURI,)	
individually and on behalf of a class of)	
others similarly situated,)	
)	
Plaintiff,)	
)	Case No. 1516-CV23684
v.)	
)	Division 2
TRINITY INDUSTRIES, INC., and)	
TRINITY HIGHWAY PRODUCTS, LLC.)	
)	
Defendants.)	

CLASS ACTION SETTLEMENT AGREEMENT

This Class Action Settlement Agreement (“Agreement”), dated May 3, 2022, is entered into by Class Representative Jackson County, Missouri, on behalf of itself and a certified class, and Defendants Trinity Industries, Inc. and Trinity Highway Products, LLC (collectively, the “Parties”). The purpose of this Agreement is to settle and compromise the above-captioned Litigation.

Section 1: Definitions

The defined terms in this section will have the meanings set forth below for purposes of this Agreement.

1.1 “Claim Form” means the claim form Class Members may use to submit a claim to the Settlement Administrator for relief provided by this Agreement. The Claim form is attached to this Agreement as **Exhibit C**.

1.2 “Claim Period” means the six-year period following the Effective Date.

1.3 The “Class” means the class certified by the Court’s Order dated December 6, 2017, specifically all Missouri counties with populations of 10,000 or more persons as determined by the Missouri Census Data Center as of July 1, 2014, including the independent city, the City of St. Louis, and the State of Missouri’s transportation authority, that have or had ET-Plus guardrail end terminals with 4-inch wide feeder chutes installed on roadways they own and maintain.

1.4 “Class Counsel” means Patrick J. Stueve, Bradley T. Wilders, and Alexander T. Ricke of Stueve Siegel Hanson LLP.

1.5 “Class Member” and “Class Members” means any member of the Class.

1.6 “Class Representative” means Jackson County, Missouri.

1.7 “Common Fund for Prior ET Plus Replacement” means the \$3,500,000 (USD) common fund created pursuant to this Agreement to reimburse Class Members for costs, specified in Section 6.6, they incurred before February 18, 2022, to remove and replace undamaged 4-inch ET Plus devices on roads owned and maintained by the respective Class Members.

1.8 “Common Fund for ET Plus Location” means the \$2,500,000 (USD) common fund created pursuant to this Agreement to reimburse Class Members for the cost of locating and identifying undamaged 4-inch ET Plus devices currently on roads owned and maintained by the respective Class Members.

1.9 “Court” means the Circuit Court of Jackson County at Independence, Missouri where the Litigation was filed, is pending, and the Settlement will be submitted for approval.

1.10 “Defendant” or “Defendants” means Defendants Trinity Industries, Inc. and Trinity Highway Products, LLC, including their past, present and future direct or indirect parent companies, affiliate companies, subsidiary companies, assigns, and successor entities

1.11 “Defense Counsel” mean Defendants’ counsel of record in the Litigation, including: Bartlit Beck LLP and Scharnhorst Ast Kennard Griffin PC.

1.12 “Effective Date” means the date of the Final Judgment.

1.13 “4-inch ET Plus” means the ET Plus guardrail end terminal with 4-inch wide guide channels manufactured and sold by Trinity Highway Products, LLC. For purposes of this Agreement, the term “feeder chutes” is synonymous with the term “guide channels.”

1.14 The term “undamaged” in reference to a 4-inch ET Plus means that the device is not materially damaged to the point that an ordinary person exercising reasonable care in maintaining roads would remove the device. Ordinary wear and tear does not render a 4-inch ET Plus “damaged” as that term is used in this Agreement.

1.15 “Final Judgment” means (a) if no appeal from the Final Approval Order is filed, the date of expiration of the time for the filing or noticing of any appeal from the Judgment; or (b) if an appeal from the Final Approval Order is filed, and the Final Approval Order is affirmed or the appeal dismissed (“Appellate Judgment”), the date of such affirmance or dismissal; or (c) if a petition for review of the Appellate Judgment is filed and denied, the date the petition is denied; or (d) if a petition for review of the Appellate Judgment is filed and granted, or the Missouri Supreme Court orders review of the Appellate Judgment on its own motion, the date the Appellate Judgment is affirmed or the review proceeding dismissed, provided no other appeals or certiorari petitions may be filed; or (e) if any further appeal or certiorari petition is filed and not dismissed or denied, the date the Final Approval Order is upheld on appeal in all material respects and is no longer subject to any further appellate review.

1.16 “Litigation” means the lawsuit captioned *Jackson County, Missouri v. Trinity Industries, Inc., et al.*, Case No. 1516-CV23684, pending in the Circuit Court of Jackson County at Independence, Missouri.

1.17 “Settlement Notice” means the class action notice of settlement, substantially in the form of **Exhibit A** hereto, to be published on the settlement website and disseminated to Class Members by first class mail following the entry of the Preliminary Approval Order.

1.18 “Claim Notice” means the notice to Class Members, substantially in the form of **Exhibit B** hereto, to be published on the settlement website and disseminated to Class Members by first class mail following the entry of the Final Approval Order. The Claim Notice will also include a copy of the Claim Form.

1.19 “Preliminary Approval Order” means the Court’s order granting preliminary approval of this Agreement and ordering dissemination of the Settlement Notice. The parties will work together in good faith to submit a joint proposed preliminary approval order to the Court. Class Counsel will draft the initial joint proposed preliminary approval order.

1.20 “Final Approval Order” means the Court’s order granting final approval of this Agreement and entering judgment on the Agreement. The parties will work together in good faith to submit a joint proposed final approval order to the Court. Class Counsel will draft the initial joint proposed final approval order.

1.21 “Released Claims” means any claims that were or could have been asserted against the “Released Entities,” or against any other person or entity involved in any manner with the design, development, testing, patent, purchase, license, marketing, sale, manufacture, assembly, distribution, delivery, installation, supervision of installation, repair, maintenance, or approval of the 4-inch ET Plus end terminals at issue, by any Class Member based on the facts alleged in the Petition dated November 5, 2015, provided, however, that Class Members shall not release any claims arising out of personal injury or wrongful death claims or lawsuits against any Class Member.

1.22 “Released Entities” means Defendants Trinity Industries, Inc. and Trinity Highway Products, LLC, including their past, present and future direct or indirect parent companies, affiliate companies, subsidiary companies, assigns, and successor entities and each of their affiliates, and the past, present and future direct or indirect officers, directors, shareholders, employees, predecessors, parents, subsidiaries, insurers, agents, attorneys, assigns, affiliates, stockholders, owners, controlling persons, members, managers, contractors, licensors, licensees, dealers, patent holders, manufacturers, servants, successors, trustees, representatives, heirs, executors, and assigns of all of the foregoing people and entities.

1.23 “Settlement” means the terms of the settlement set out in this Agreement.

1.24 “Settlement Administrator” means the third-party settlement and claims administrator agreed upon by the Parties and appointed by the court to administer the notice program and claims process.

Section 2: Settlement Consideration

Pursuant to this Agreement, Defendants will provide six types of consideration to Class Members, subject to the terms of this Agreement. The Settlement Administrator, and not Defendants, shall be responsible for distributing any funds to Class Members – including any determinations of who, when, and how much to pay – all as specified in this Agreement. The Settlement Agreement notes that Trinity Industries, Inc. will pay all of the settlement consideration discussed within this Agreement; however, Defendants are jointly and severally liable for all consideration required of Defendants under this Agreement.

2.1 **Common Fund for Prior ET Plus Replacement.** Pursuant to this Agreement, Trinity Industries, Inc. will pay \$3,500,000 into the Qualified Settlement Fund maintained by the Settlement Administrator to reimburse Class Members for the costs, as specified in Section 6.6, incurred removing and replacing, before February 18, 2022, undamaged 4-inch ET Plus devices from roads owned and maintained by the respective Class Members. The claims process and terms and conditions for the Common Fund for Prior ET Plus Replacement are described in Section 6.

2.2 **Common Fund for ET Plus Location.** Pursuant to this Agreement Trinity Industries, Inc. will pay \$2,500,000 (USD) into the Qualified Settlement Fund maintained by the Settlement Administrator to reimburse Class Members for the cost of locating and identifying undamaged 4-inch ET Plus devices on roads owned and maintained by the respective Class Members. The claims process and terms and conditions for the Common Fund for ET Plus Location is described in Section 7.

2.3 **Replace ET Plus Devices.** During the Claim Period, Class Members will be able to make a claim for the replacement of any undamaged 4-inch ET Plus existing on roads, on or after February 18, 2022, owned and maintained by the Class Members, consistent with the claims process and terms and conditions described in Section 8. For each eligible, undamaged 4-inch ET Plus a Class Member identifies and obtains approval for consistent with the claims process described in this Agreement, Trinity Industries, Inc. will provide, or pay for others to provide, one SoftStop end terminal or other Missouri Department of Transportation-approved Type A MASH tangent end terminal (at Trinity Industries, Inc.'s option) at no charge to the Class Member. For each eligible undamaged 4-inch ET Plus a Class Member identifies and obtains approval for consistent with the claims process identified in Section 8, the Class Member will be entitled to \$1,700 (USD) from the Qualified Settlement Fund toward the costs associated with removal and replacement of the 4-inch ET Plus, subject to the terms of Section 8.

2.4 **Class Counsel's Attorneys' Fees, Costs, and Expenses.** As described in Section 10, Trinity Industries, Inc. agrees to pay Class Counsel's reasonable attorneys' fees and litigation expenses in the aggregate amount of \$11,400,000 (USD), subject to Court approval.

2.5 **Class Representative Service Award.** As described in Section 11, Trinity Industries, Inc. agrees to pay Class Representative Jackson County, Missouri a service award in the amount of \$50,000 (USD), subject to Court approval.

2.6 Notice and Claims Administration. As described in Section 3, Trinity Industries, Inc. agrees to pay the reasonable costs of notice to the Class Members and claims administration. However, Defendants' obligation to pay the cost of notice and claims administration is capped at \$175,000 (USD). Notwithstanding the foregoing, to the extent Defendants challenge the Settlement Administrator's decision to approve a Class Member's claim, Trinity Industries, Inc. will separately be responsible for the administrative costs associated with the challenge, which the Settlement Administrator will separately track and bill to Trinity Industries, Inc. Administrative costs incurred by the Settlement Administrator related to any challenge by Defendants will not count toward the \$175,000 notice and administration cap.

Section 3: Settlement Notice to Class Members

3.1 Class Counsel and Defendants agree, subject to Court approval, to use Analytics Consulting LLC as the Settlement Administrator.

3.2 Defendants will separately pay the reasonable costs of notice and claims administration as quoted by the Settlement Administrator. However, those costs will be capped at \$175,000 (USD), subject to Section 2.6. To the extent the costs of notice and claims administration exceed \$175,000 (USD), those costs will be paid from the portion of the Qualified Settlement Fund funded by the \$1,700 (USD) payments for future 4-inch ET Plus replacements. The Settlement Administrator will invoice Trinity Industries, Inc. monthly.

3.3 The Settlement Administrator will implement a direct mail and website notice program for the Settlement Notice consistent with this Agreement and with the Preliminary Approval Order to apprise Class Members of their rights under the Agreement.

3.4 Within 14 days of the Preliminary Approval Order, the Settlement Administrator will send the Settlement Notice, along with this Agreement, by first class mail to each Class Member. The Settlement Administrator will utilize its best efforts and practices to obtain updated contact information for each Class Member since the class action certification notice was issued in the Litigation in or around June 2019.

3.5 Within 14 days of the Preliminary Approval Order, the Settlement Administrator will create and host a settlement website that contains information for Class Members regarding their rights and obligations under this Agreement. The settlement website will contain, at least, the Petition, the Answer, the Court's December 6, 2017 Order granting class certification, the Settlement Notice, Plaintiff's motion for preliminary approval of the settlement, Plaintiff's motion for final approval of the settlement, and any further motions and orders regarding the Agreement as appropriate. The settlement website will be maintained until the conclusion of the Claim Period.

3.6 Class Members will have 45 days from the date the Settlement Notices are mailed to object to the Agreement. Any objections must be submitted in writing and contain: (1) identification of the Class Member and reasonable supporting documentation evidencing the objector's right to act on behalf of the Class Member, including proof that objector is a Class Member; (2) identification of any counsel representing the objecting Class Member; (3) the factual

and legal basis for the objection; and (4) a statement of whether the Class Member plans to appear in person at the final fairness hearing. Any objections must be mailed to the Settlement Administrator, who shall promptly remit copies to Class Counsel and Defendants' Counsel. Any objection that is not postmarked on or before 45 days from the date of the mailing of the Settlement Notices will be untimely and not considered.

3.7 The Settlement Administrator will timely make available to Defendants any and all materials of whatever kind that any and all Class Members submit or otherwise make available to the Settlement Administrator.

Section 4: Establishing and Funding the Qualified Settlement Fund

4.1 Within 14 days of the Effective Date, the Settlement Administrator will create a Qualified Settlement Fund pursuant to Treas. Reg. §1.468B-1 that will hold all payments from Defendants for the Common Fund for Prior ET Plus Replacement, the Common Fund for ET Plus Location, and the Common Fund for the \$1,700 (USD) payments for future 4-inch ET Plus replacements, to be accounted for separately. The Settlement Administrator will be responsible for all compliance and tax filings for the Qualified Settlement Fund. The costs associated with maintaining the Qualified Settlement Fund will be paid from the Qualified Settlement Fund.

4.2 Upon creation of the Qualified Settlement Fund, the Settlement Administrator will provide wire instructions and a W-9 for the account to Defendants.

4.3 Within 21 days of receiving the wire instructions and W-9 from the Settlement Administrator as provided in Section 4.2, Trinity Industries, Inc. will wire \$6,000,000 (USD) into the Qualified Settlement Fund (representing \$3,500,000 (USD) for the Common Fund for Prior ET Plus Replacement and \$2,500,000 (USD) for the Common Fund for ET Plus Location).

Section 5: Claim Notice to Class Members

5.1 The Settlement Administrator will implement a direct mail and website notice program for the Claim Notice consistent with this Agreement to apprise Class Members of their rights and obligations under the Agreement following the entry of the Final Approval Order.

5.2 Within 14 days of the Effective Date, the Settlement Administrator will send the Claim Notice (including the Claim Form) by first class mail to each Class Member. The Settlement Administrator will utilize its best efforts and practices to obtain updated contact information for each Class Member.

5.3 Within 14 days of the Effective Date, the Settlement Administrator will post the information contained in the Claim Notice (including the Claim Form) on the settlement website. The Settlement Administrator will maintain the settlement website for the duration of the Claim Period.

5.4 For the duration of the Claim Period, the Settlement Administrator will maintain a post office box, email address, and ShareFile (or other equivalent electronic file transfer service)

to receive Class Member claims pursuant to this Agreement. The Settlement Administrator will post these methods of submitting a claim on the settlement website and maintain it there for the duration of the Claim Period.

5.5 For the duration of the Claim Period, the Settlement Administrator will provide quarterly reports to Class Counsel and Defendants regarding claims activity, including identifying claims submitted to the Settlement Administrator; identifying whether the Settlement Administrator has approved or denied the claims; identifying whether Defendants have paid the claims; and any outstanding issues regarding unpaid claims. This is in addition to claims reporting obligations required elsewhere in this Agreement.

Section 6: Claims Process for the Common Fund for Prior ET Plus Replacement

6.1 As described above in Section 4.3, Trinity Industries, Inc. will pay \$3,500,000 (USD) into the Qualified Settlement Fund specifically for Class Members to make claims against the Common Fund for Prior ET Plus Replacement. If, after the passage of the one-year period following the Effective Date, the Common Fund for Prior ET Plus Replacement is not exhausted by Class Member claims for the costs incurred removing and replacing, before February 18, 2022, undamaged 4-inch ET Plus devices from roads owned and maintained by the respective Class Members, the fund may be used to fund Defendants' other obligations under this Agreement, but it shall not revert to Defendants.

6.2 For a one-year period following the Effective Date, Class Members will be eligible to make a claim against the Common Fund for Prior ET Plus Replacement. Claims will be paid on a quarterly basis until the expiration of the one-year period following the Effective Date or until the funds are exhausted, whichever is earlier.

6.3 Only undamaged 4-inch ET Plus devices that were removed and replaced from roads owned and maintained by a Class Member on or before February 18, 2022, are eligible for reimbursement.

6.4 To make a claim against the Common Fund for Prior ET Plus Replacement under this Section, Class Members must submit a claim to the Settlement Administrator. Class Members may use the Claim Form or submit a letter that includes the information required in the Claim Form. In addition, Class Members must submit with their Claim Form (or equivalent letter) reasonable supporting documentation showing the date, location, number of undamaged 4-inch ET Plus devices replaced, and cost of removal and replacement of each undamaged 4-inch ET Plus device on roads the Class Member owns and maintains.

6.5 For purposes of this section, reasonable supporting documentation for each undamaged 4-inch ET Plus device replaced includes any documents sufficient to show the removal and replacement of an undamaged 4-inch ET Plus device, and the date, location, and cost of removal and replacement. These documents include, but are not limited to, contracts, bid documents, invoices, payments, change orders, and other project documents. These documents can also be accompanied by an attestation from the Class Member explaining the documentation submitted with the Claim Form and the basis for the claim. The Settlement Administrator will

approve any claim from a Class Member for the cost of removal and replacement under this Section that reasonably establishes that one or more undamaged 4-inch ET Plus devices were removed and replaced, on or before February 18, 2022, from roads owned and maintained by a Class Member and the location, date, and cost of each such removal and replacement.

6.6 The costs eligible for reimbursement under this Section include any costs reasonably related to the removal and replacement of an undamaged 4-inch ET Plus and charged by, and paid to, the contractor or entity removing and replacing the 4-inch ET Plus. These costs include, but are not limited to, locating the previously removed 4-inch ET Plus, the replacement end terminal, the removal and disposal of the 4-inch ET Plus, traffic control, as well as guardrail, transition sections, and grading for the replacement guardrail end terminal system and other costs that are reasonably related to the removal and replacement of an undamaged 4-inch ET Plus.

6.7 During the one-year period for Class Members to make claims under this Section, the Settlement Administrator will make an initial determination of whether the claims should be approved or denied within 30 days of the submission of the claim. The Settlement Administrator will inform the Class Member, Class Counsel, and Defendants of its decision to approve or deny the Class Member's claim and will make available to the Class Member, Class Counsel, and Defendants all information submitted by the Class Member in support of the claim within seven days of its decision.

6.8 If the Class Member's claim is denied, the Class Member may petition the Settlement Administrator to review the Class Member's claim within 21 days of the Class Member being informed by the Settlement Administrator that its claim has been denied. The Settlement Administrator will then approve or deny the claim based on the criteria set forth in Section 6. If the Class Member's petition for review is denied, the Class Member may petition the Court for review of the denied claim, and Defendants shall be provided notice and afforded an opportunity to be heard; however, the Court's decision will be final and not subject to appeal. Any appeal to the Court must be done within seven days of the Class Member being informed by the Settlement Administrator that its petition has been denied.

6.9 If the Class Member's claim is granted, the Defendants may petition the Settlement Administrator to review the Class Member's claim within 21 days of the Defendants being informed by the Settlement Administrator that the Class Member's claim has been granted and of receipt of all information submitted by the Class Member in support of the claim. If the approved claim involves a large volume of past replacements and supporting documentation, Defendants may apply to the Settlement Administrator for an extension of time to file a petition, and such requests will be liberally granted. The Settlement Administrator will then approve or deny the claim based on the criteria set forth in this Section 6. If either Defendant's petition for review is denied, the Defendants may petition the Court for review of the Class member's claim at issue, and the Class Member shall be provided notice and afforded an opportunity to be heard; however, the Court's decision will be final and not subject to appeal. Any appeal to the Court must be done within seven days of the Defendants being informed by the Settlement Administrator that the Defendants' petition has been denied.

6.10 Every 90 days from the Effective Date until the \$3,500,000 (USD) fund is exhausted or until the one-year claim period expires, the Settlement Administrator will prepare a report for Class Counsel and Defendants identifying the number of claims, the Class Members that submitted claims, the number of undamaged 4-inch ET Plus devices claimed were previously removed by each Class Member, and the dollar amount sought by each Class Member.

6.11 The Settlement Administrator will issue checks pursuant to this Section to Class Members for approved claims on a quarterly basis following the Effective Date. The Settlement Administrator shall not pay any claim within 30 days of approval or any claim that has been disputed and is pending review by the Settlement Administrator or Court.

6.12 If the aggregate amount of approved claims at any point under this Section is more than \$3,500,000 (USD), the Settlement Administrator will issue checks as follows:

- a. First, any checks already issued during the payment period shall be valid and irrevocable.
- b. Second, each Class Member submitting an approved claim will recover the full costs associated with the Class Member's removal and replacement of up to 25 undamaged 4-inch ET Plus devices from the funds remaining.
- c. Third, any remaining funds will be distributed pro rata to Class Members based on the total value of each Class Member's outstanding, approved claims.

Section 7: Claims Process for the Common Fund for ET Plus Location

7.1 In accordance with Section 4 of this Agreement, Trinity Industries, Inc. will pay \$2,500,000 (USD) into the Qualified Settlement Fund specifically for Class Members to make claims against the Common Fund for ET Plus Location. If the Common Fund for ET Plus Location is not exhausted by Class Member claims or if funds paid under this Section 7 are unused by a Class Member and returned to the Common Fund pursuant to Section 7.5, the remainder of the fund will be used to pay excess claims against the Common Fund for Prior ET Plus Replacement. If the Common Fund for ET Plus Location is not exhausted and the Common Fund for Prior ET Plus Replacement is not exhausted, the fund may be used to fund Defendants' other obligations under this Agreement, but it shall not revert to Defendants.

7.2 For a 90-day period following the Effective Date, Class Members will be eligible to make a claim against the Common Fund for ET Plus Location.

7.3 To make a claim against the Common Fund for ET Plus Location under this Section, Class Members must submit a claim to the Settlement Administrator. Class Members may use the Claim Form or submit a letter that includes the information required in the Claim Form. In addition, Class Members must submit with their Claim Form (or equivalent letter) reasonable documentation supporting the Class Member's claimed cost of locating 4-inch ET Plus devices on roads owned and maintained by the Class Member.

7.4 For purposes of this Section, reasonable supporting documentation includes any documents establishing the projected reasonable cost of locating 4-inch ET Plus devices on roads owned and maintained by the Class Member. These documents include, but are not limited to, contracts for a survey or scan of Class Member roads, bid documents, invoices, payments, change orders, and other project documents. These documents can also be accompanied by an attestation from the Class Member explaining the Class Member's good faith estimate of the cost to locate 4-inch ET Plus devices on roads owned and maintained by the Class Member. The Settlement Administrator will approve any claim from a Class Member under this Section that reasonably establishes the reasonable projected costs of locating 4-inch ET Plus devices on roads owned and maintained by the Class Member, although this does not preclude the Settlement Administrator, subject to Court oversight, from auditing any such request for accuracy and reasonableness.

7.5 Class Members in their Claim Form (or equivalent letter) must attest that the funds approved under this Section 7 of this Agreement will be used for the sole purpose of paying the costs of locating 4-inch ET Plus devices on roads owned and maintained by the Class Member and that the Class Member will return within two years of the Class Member's receipt of funds approved under this Section 7 of this Agreement to the Settlement Administrator for deposit in the Common Fund any funds paid to the Class Member under this Section 7 that have not been used for the purpose of locating 4-inch ET Plus devices. By the end of the two-year period, each Class Member who received funds under this Section 7 must certify in writing to the Settlement Administrator that all funds have been used for the sole purpose of paying the costs of locating 4-inch ET Plus devices on roads owned and maintained by the Class Member or that all unused funds have been returned to the Settlement Administrator for deposit in the Common Fund.

7.6 In evaluating the reasonableness of a claim under this Section 7, the Settlement Administrator will take into consideration the number of road miles owned and maintained by the Class Member. In other words, the more road miles a Class Member owns and maintains, the more expensive it may be to locate 4-inch ET Plus devices.

7.7 During the 90-day period during which Class Members may make claims under this Section, the Settlement Administrator will make an initial determination of whether a claim should be approved or denied within 30 days of the submission of the claim. The Settlement Administrator will inform the Class Member, Class Counsel, and Defendants of its decision to approve or deny the Class Member's claim within seven days of its decision.

7.8 If the Class Member's claim is denied, the Class Member may petition the Settlement Administrator to review the Class Member's claim within 30 days of the denial of its claim. The Settlement Administrator will then approve or deny the claim based on the criteria set forth in this Section. If the Class Member's petition for review is denied, the Class Member may petition the Court for review; however, the Court's decision will be final and not subject to appeal. Any appeal to the Court must be done within seven days of the denial of the petition to the Settlement Administrator.

7.9 Within 14 days following the conclusion of the 90-day period for Class Members to submit claims under this section, the Settlement Administrator will prepare a report for Class Counsel and Defendants identifying the number of claims, the Class Members that submitted

claims, and the dollar amount sought by each Class Member. If the aggregate amount claimed is equal to or less than \$2,500,000, the Settlement Administrator will issue settlement checks to each Class Member in the amount of their approved claim within 30 days of the conclusion of the 90-day period for Class Members to submit claims under this Section.

7.10 If the aggregate amount claimed is more than \$2,500,000, the Settlement Administrator will issue checks as follows:

- a. The Common Fund for ET Plus Location will be distributed pro rata among Class Members submitting claims based on the Class Member's proportional miles of roads owned and maintained by the Class Member relative to the total miles of roads owned and maintained by all Class Members submitting claims under this Section.
- b. The Settlement Administrator will submit its report and proposed allocation under this Paragraph to Class Counsel and Defendants within 14 days of the conclusion of the 90-day period for Class Members to submit claims under this Section.
- c. Settlement checks will be issued to each Class Member for their proportional share of the Common Fund for ET Plus Location within 30 days of the conclusion of the 90-day period for Class Members to submit claims under this Section.

7.11 Notwithstanding the foregoing, if a Class Member uses a third-party contractor to perform the work described in this Section 7, then the Class Member's approved claim will be paid directly to the third-party contractor by the Settlement Administrator as the work is invoiced. If the work performed by the third-party contractor is lower than the estimated cost approved for the Class Member under this Section 7, then only the amount actually invoiced will be paid and the difference will remain in the Qualified Settlement Fund to be used as provided in Section 7.1.

Section 8: Claims Process to Replace ET Plus Devices

8.1 During the Claim Period, Class Members will be able to make a claim for the replacement of any undamaged 4-inch ET Plus existing, on or after February 18, 2022, on the roads owned and maintained by the Class Member. For each eligible 4-inch ET Plus, Trinity Industries, Inc. agrees to provide, or pay for others to provide, one SoftStop end terminal or other MoDOT-approved Type A MASH tangent end terminal (at Trinity Industries Inc.'s option) at no charge to the Class Member. For each approved claim for 4-inch ET Plus replacement under this Section, Trinity Industries Inc. will also pay \$1,700 (USD) per replaced ET Plus into the Qualified Settlement Fund toward the costs associated with removal and replacement, unless not-exhausted funds are available to fund Defendants' obligations, as described in Section 7.1, in which case those not-exhausted funds shall be used instead.

8.2 Class Members may submit as many claims for the replacement of any existing, undamaged 4-inch ET Plus units on roads owned and maintained by a Class Member as necessary during the Claim Period and may do so on a rolling basis during the Claim Period.

8.3 To make a claim under this Section, Class Members must submit a claim to the Settlement Administrator. Class Members shall use the Claim Form, which shall contain the signature of a person authorized to bind the submitting Class Member, certifying the truth of the information contained in the Claim Form and the accompanying documentation. In addition, Class Members must submit with their Claim Form reasonable supporting documentation showing that the Class Member has identified and replaced, or will promptly replace, an undamaged 4-inch ET Plus on roads owned and maintained by the Class Member. With respect to the removed 4-inch ET Plus, the Class Member may either (1) attest that the removed 4-inch ET Plus will not be installed on any roads owned and maintained by the Class Member and that it will not be resold for installation *or* (2) that it will be sold for scrap metal. Alternatively, Defendants, at their option and expense, may arrange for the removed 4-inch ET Plus to be destroyed. However, Defendants must exercise this right within 30 days of the final approval of a Class Member claim and then promptly work with the Class Member to collect the removed 4-inch ET Plus at no cost to the Class Member.

8.4 For purposes of this Section, reasonable supporting documentation must include documents sufficient to show that (a) the Class Member has replaced, or will promptly replace, an undamaged 4-inch ET Plus; (b) the location of the 4-inch ET Plus on roads owned and maintained by the Class Member; (c) the date on which the replacement was made or is reasonably expected to be made; (d) that the 4-inch ET Plus involved in the claim has or had 4-inch wide guide channels; and (e) that the 4-inch ET Plus involved in the claim is undamaged, or if already replaced, was undamaged at the time of replacement. Each submission for each end terminal must include photographs, videos, or lidar scan imaging and data sufficient to identify the end terminal as an undamaged ET Plus with 4-inch guide channels. Additional supporting documents include, but are not limited to, the results of a survey or scan of Class Member roads pursuant to Section 7, contracts for removal of a 4-inch ET Plus, bid documents for the removal of a 4-inch ET Plus, invoices for the removal of a 4-inch ET Plus, payments for the removal of a 4-inch ET Plus, change orders for the removal of a 4-inch ET Plus, other project documents related to the removal of a 4-inch ET Plus, and/or measurements. These documents shall be accompanied by an attestation from the Class Member explaining the Class Member's good faith basis for entitlement to a claim for ET Plus Replacement under this Section. The Settlement Administrator will approve any claim from a Class Member under this Section that reasonably shows that (a) the Class Member has replaced, or will promptly replace, a 4-inch ET Plus; (b) the location of the 4-inch ET Plus on roads owned and maintained by the Class Member; (c) the date on which the replacement was made or is reasonably expected to be made; (d) that the 4-inch ET Plus involved in the claim has or had 4-inch wide guide channels; and (e) that the 4-inch ET Plus involved in the claim is undamaged, or if already replaced, was undamaged at the time of replacement.

8.5 During the Claim Period, the Settlement Administrator will make an initial determination of whether a claim should be approved or denied within 30 days of the submission of the claim. The Settlement Administrator will inform the Class Member, Class Counsel, and Defendants of its decision to approve or deny the Class Member's claim and will make available to the Class Member, Class Counsel, and Defendants all information submitted by the Class Member in support of the claim within seven days of its decision.

8.6 If the Class Member's claim is denied, the Class Member may petition the Settlement Administrator to review the Class Member's claim within 21 days of the Class Member being informed by the Settlement Administrator that its claim has been denied. The Settlement Administrator will then approve or deny the claim based on the criteria set forth in this Section. If the Class Member's petition for review is denied, the Class Member may petition the Court for review, and the Defendants shall be provided notice and afforded an opportunity to be heard; however, the Court's decision will be final and not subject to appeal. Any appeal to the Court must be done within seven days of the Class Member being informed by the Settlement Administrator that its petition has been denied.

8.7 If the Class Member's claim is granted, the Defendants may petition the Settlement Administrator to review the Class Member's claim within 14 days of Defendants being informed by the Settlement Administrator that the Class Member's claim has been granted and of receipt of all information submitted by the Class Member in support of the claim. If the approved claim involves a large volume of replacements and supporting documentation, Defendants may apply to the Settlement Administrator for an extension of time to file a petition, and such requests will be liberally granted. The Settlement Administrator will then approve or deny the claim based on the criteria set forth in Section 6 above. If either Defendant's petition for review is denied, the Defendants may petition the Court for review of the Class member's claim at issue, and the Class Member shall be provided notice and afforded an opportunity to be heard; however, the Court's decision will be final and not subject to appeal. Any appeal to the Court must be done within seven days of the Defendants being informed by the Settlement Administrator that the Defendants' petition has been denied.

8.8 The Settlement Administrator will prepare a report every month for Class Counsel and Defendants identifying, for all approved claims for which the 30 day period to petition has run and for which no petition to the Settlement Administrator or Court is outstanding, the Class Members that submitted a claim, the number of SoftStop devices (or other MoDOT-approved Type A MASH tangent end terminal) approved for each Class Member, the reasonable supporting documentation submitted with the claim, and the number of \$1,700 (USD) payments approved for each Class Member. This report will also contain the shipping address supplied by the Class Member for the replacement Type A MASH tangent end terminal to be shipped to.

8.9 Within 30 days of receipt of the Settlement Administrator's report, Trinity Industries, Inc. will wire the total approved dollar amounts to the Qualified Settlement Fund, unless not-exhausted funds are available to fund Defendants' obligations, as described in Section 7.1, in which case those not-exhausted funds shall be used instead.

8.10 Within 30 days of receipt of the Settlement Administrator's report, Trinity Industries, Inc. will order on the Class Member's behalf and subsequently pay for the approved number of SoftStop devices (or other MoDOT-approved Type A MASH tangent end terminal at Trinity Industries, Inc.'s option) requested by each Class Member to be shipped to the addresses within the State of Missouri provided by the Class Member. These end terminals will be shipped to the addresses at no charge to the Class Member. All Parties acknowledge and agree that factors outside of Defendants control, including supply or shipping constraints, may delay shipment or delivery of these end terminals, and this Agreement only requires that Trinity Industries, Inc. act

in good faith to ensure timely shipment of the SoftStop devices or other MoDOT-approved Type A MASH tangent end terminals.

8.11 Any end terminals, parts, materials, equipment, or components provided to Class Members under this Agreement from suppliers or manufacturers of MoDOT-approved Type A MASH tangent end terminals will be covered under any express or implied warranty provided by the specific supplier, manufacturer, or installer of the MoDOT-approved Type A MASH tangent end terminals. Trinity Industries, Inc. neither makes nor assumes any warranties express or implied regarding the MoDOT-approved Type A MASH tangent end terminals that are subject to this Agreement.

8.12 Within seven days of receipt of settlement funds for approved claims under this Section into the Qualified Settlement Fund, the Settlement Administrator will issue checks to Class Members.

Section 9: Release of Claims

9.1 In exchange for the monetary consideration provided in this Agreement, and for other good and valuable consideration and undertakings set forth in this Agreement, immediately and automatically, upon the Effective Date, all Class Members will have completely and forever discharged and released the Released Claims as against the Released Entities.

9.2 Class Counsel, Plaintiff, and the Class Members acknowledge that they have conducted sufficient independent investigation and discovery to enter into this Agreement, and to release the Released Claims, and, by executing this Agreement, agree that they have not relied upon any statements or representations made by Defendants, or any individual or entity representing Defendants, other than as expressly set forth in this Agreement. Plaintiff and the Class Members expressly waive and assume the risk of any and all Released Claims that the Plaintiff and the Class Members do not know about or suspect to exist, and which, if known, would materially affect Plaintiff's and the Class Members' decision to enter into this Agreement. Plaintiff and the Class Members specifically acknowledge, understand, and agree that they are not relying in any way on any matter or information conveyed or not conveyed by Defendants to them. Plaintiff and the Class Members further agree that they accept the consideration provided in this Agreement as a complete compromise, resolution, and settlement of the Released Claims.

Section 10: Class Counsel's Attorneys' Fees, Costs, and Expenses

10.1 In addition to the funds and in-kind relief made available under this Agreement, Trinity Industries, Inc. agrees to separately pay Class Counsel's reasonable attorneys' fees and litigation expenses of \$11,400,000 (USD). Defendants do not agree to pay more than \$11,400,000 (USD) in combined attorneys' fees and litigation expenses. The payment of Class Counsel's reasonable attorneys' fees and expenses is subject to Court approval. Defendants agree not to object, oppose, or assist in any objection or opposition to Class Counsel's request to the Court for combined attorneys' fees and litigation expenses up to \$11,400,000 (USD). Class Counsel agree they will not seek and will not accept more than \$11,400,000 (USD) in combined attorneys' fees and litigation expenses related to this Litigation.

10.2 Within 14 days of the Effective Date, Trinity Industries Inc. will wire the combined amount of attorneys' fees and expenses awarded by the Court to Class Counsel, in an amount not to exceed \$11,400,000 (USD). Class Counsel will provide Defendants with a completed IRS Form W-9 and wire instructions within one day of the Effective Date.

10.3 Class Counsel in their sole discretion will allocate attorneys' fees and expenses among the counsel performing common benefit work at Class Counsel's direction.

Section 11: Class Representative Service Award

11.1 In addition to the funds and in-kind relief made available under this Agreement, Defendants agree to separately pay, subject to Court approval, a service award in an amount not to exceed \$50,000 (USD) to Class Representative Jackson County, Missouri. Defendants agree not to object, oppose, or assist in any objection or opposition to Class Representative's request for a service award up to \$50,000 (USD).

11.2 Within 14 days of the Effective Date, Trinity Industries, Inc. will issue a check to Class Representative Jackson County, Missouri in the amount of the approved service award in an amount not to exceed \$50,000 (USD). Trinity Industries, Inc. will mail the check to Class Counsel who will then distribute it to the Class Representative.

Section 12: Contingency if the Effective Date Does Not Occur

12.1 In the event the Effective Date does not occur, the parties agree to work together in good faith to modify this Agreement to achieve a settlement that the Court will approve. To the extent the parties encounter difficulties reaching an agreement, the parties agree to reengage The Hon. Charles Atwell (Ret.) to mediate the dispute within 30 days of the failure of the Effective Date to occur.

12.2 In the event the Effective Date does not occur and the parties are unable to resolve their dispute following mediation, this Agreement will be void. The parties will revert to the same position they were in as of February 17, 2022. Defendants agree to offer Brian Smith (in his capacity as fact witness and corporate representative) for a two-day deposition before trial. The parties further agree that, within 90 days of the completion of renewed mediation with judge Atwell, they will seek a new trial date. In the event the Effective Date does not occur, the parties will share the costs of the Settlement Administrator evenly.

Section 13: Miscellaneous Provisions

13.1 Defendants deny all allegations made by Plaintiff and the Class Members in the Lawsuit.

13.2 This Agreement is not, and the terms of this Agreement are not to be construed as, an admission of any liability of any kind whatsoever by Defendants, including but not limited to strict liability, negligence, willful misconduct, noncompliance with a legal obligation, breach of

contract, breach of warranty, liability, intentional misconduct, gross negligence, or fault, misconduct, or wrongdoing of any kind whatsoever by Defendants, but is to be construed strictly as a compromise and settlement for the purpose of avoiding further controversy, litigation, and expense.

13.3 Each Class Member on its own behalf understands and agrees that each Class Member is responsible for any tax consequences to each such Class Member arising from, related to, or any way connected with the relief afforded to each such corresponding Class Member under this Agreement.

13.4 The parties acknowledge that it is their intent to consummate this Agreement, and they agree to cooperate to the extent reasonably necessary to effectuate and implement all terms and conditions of this Agreement and to exercise their best efforts to accomplish the foregoing terms and conditions of this Agreement.

13.5 This Agreement may be amended or modified only by a written instrument signed by or on behalf of all parties or their respective successors-in-interest.

13.6 This Agreement and the Exhibits attached hereto constitute the entire agreement among the parties, and no representations, warranties, or inducements have been made to any party concerning this Agreement or its Exhibits other than the representations, warranties, and covenants covered and memorialized herein. Except as otherwise provided herein, the parties will bear their own respective costs.

13.7 Class Counsel, on behalf of the Class, are expressly authorized by the Class Representative to take all appropriate action required or permitted to be taken by the Class pursuant to this Agreement to effectuate its terms, and are expressly authorized by the Class Representative to enter into any non-material modifications or amendments to this Agreement on behalf of the Class that Class Counsel deem appropriate, subject to agreement by the Defendants and the approval of the Court.

13.8 The persons executing this Agreement on behalf of each party warrants that he or she has the full authority to do so.

13.9 This Agreement may be executed in one or more counterparts. All executed counterparts and each of them will be deemed to be one and the same instrument. A complete set of original counterparts will be filed with the Court.

13.10 This Agreement will be binding upon, and inure to the benefit of, the successors and assigns of the Settling Parties.

13.11 The Court will retain jurisdiction with respect to implementation and enforcement of the terms of this Agreement through the duration of the Claim Period, and all parties hereto, including Class Members, submit to the jurisdiction of the Court for purposes of implementing and enforcing the Agreement.

13.12 This Agreement and the Exhibits hereto will be construed and enforced in accordance with, and governed by, the internal, substantive laws of the State of Missouri without giving effect to that State's choice-of-law principles.

Defendant Trinity Industries, Inc.

Dated: _____

By: _____

Title: _____

Defendant Trinity Highway Products, LLC

Dated: _____

By: _____

Title: _____

Class Representative Jackson County, Mo.

Dated: May 10, 2022

By: Bryan O Covinsky

Title: County Counselor of JACKSON County

13.12 This Agreement and the Exhibits hereto will be construed and enforced in accordance with, and governed by, the internal, substantive laws of the State of Missouri without giving effect to that State's choice-of-law principles.

Defendant Trinity Industries, Inc.

Dated: _____

By: _____

Title: _____

Defendant Trinity Highway Products, LLC

Dated: 5/19/2022

By: 

Title: President

Class Representative Jackson County, Mo.

Dated: _____

By: _____

Title: _____

13.12 This Agreement and the Exhibits hereto will be construed and enforced in accordance with, and governed by, the internal, substantive laws of the State of Missouri without giving effect to that State's choice-of-law principles.

Defendant Trinity Industries, Inc.

Dated: May 19, 2022

By: Sarah Teahart

Title: EVP and Chief Legal Officer

Defendant Trinity Highway Products, LLC

Dated: _____

By: _____

Title: _____

Class Representative Jackson County, Mo.

Dated: _____

By: _____

Title: _____

Exhibit A

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

Jackson County, Missouri v. Trinity Industries, Inc., and Trinity Highway Products, LLC

If you have or had Trinity ET Plus guardrail end terminals with 4-inch wide feeder chutes installed on roadways you own and maintain, you may be included in a proposed class action settlement. Please read this Notice carefully.

TO: <<Class Member Entity>>
<<c/o County Executive, Commissioner, etc.>>
<<Address >>
<<City>><<State>><<Zip>>

Your ID Number is <<ID>>

Dear <<Name>>,

You have been sent this Notice of Proposed Class Action Settlement (the "Notice") because you might be a Class Member in the class action lawsuit captioned *Jackson County, Missouri, et al. v. Trinity Industries, Inc., et al.*, pending in the Circuit Court of Jackson County, Missouri, Case No. 1516-CV23684 ("the Court"). The Court approved this notice.

If you have removed an undamaged ET Plus guardrail end terminal with 4-inch wide feeder chutes from roadways you own and maintain, or you have an undamaged ET Plus guardrail end terminal with 4-inch wide feeder chutes installed on roadways you own and maintain, then you may be entitled to monetary and in-kind benefits afforded under the proposed class action settlement.

The enclosed Notice explains your legal rights.

Please read the Notice carefully as your legal rights may be impacted.

Questions? visit [\[class website\]](#), or call [\[toll free number\]](#), or email [\[insert email\]](#)

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI

**A COURT AUTHORIZED THIS NOTICE.
THIS IS NOT A SOLICITATION FROM A LAWYER.
YOU ARE NOT BEING SUED.
THIS NOTICE AFFECTS YOUR LEGAL RIGHTS.**

A proposed settlement has been reached in this case between Class Representative Jackson County, Missouri and Defendants Trinity Industries, Inc., and Trinity Highway Products, LLC (collectively referred to throughout this Notice as “Trinity”) to resolve a class action alleging that the ET Plus guardrail end terminal with 4-inch wide feeder chutes manufactured and sold by Trinity Highway Products, LLC (referred to throughout this Notice as “4-inch ET Plus”) was defectively designed and unreasonably dangerous. Trinity denies these allegations. The Court has preliminarily approved the settlement and authorized this Notice to Class Members.

The proposed settlement provides for both monetary relief if you previously replaced an undamaged 4-inch ET Plus on roads you own and maintain and materials and money to replace existing, undamaged 4-inch ET Pluses that are on roads you own and maintain, subject to the terms and conditions set forth in the proposed settlement. This Notice explains your rights and options under the Settlement.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT	
SUBMIT A CLAIM FORM AFTER THE SETTLEMENT IS APPROVED	<p>The only way to get payment and in-kind relief.</p> <p>If you are a Class Member and you submit a valid and timely claim form, you may be, subject to the terms and conditions set forth in the proposed settlement, entitled to monetary relief for the removal and replacement of undamaged 4-inch ET Plus devices that you have already removed and replaced, before February 18, 2022, on roads you own and maintain; the cost of locating undamaged 4-inch ET Plus devices on roads you own and maintain; a free MASH Type A tangent End Terminal for each undamaged 4-inch ET Plus existing, on or after February 18, 2022, on roads you own and maintain, and that you elect to replace; and a flat \$1,700 payment for each undamaged 4-inch ET Plus existing, on or after February 18, 2022, on roads you own and maintain, and that you elect to replace during the period set forth by this settlement.</p>
OBJECT	<p>Write to the Court about why you don’t like the settlement.</p> <p>If you file an objection, you may also be heard at the court hearing held to determine the fairness of the settlement.</p>

Questions? visit [\[class website\]](#), or call [\[toll free number\]](#), or email [\[insert email\]](#)

DO NOTHING	<p>Get no payment. Give up rights.</p> <p>By doing nothing, you will not receive any compensation made available through the proposed settlement. You will still give up your right to sue Trinity for claims released under the settlement.</p>
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BASIC INFORMATION

1. Why did I get this Notice?

You are either: a Missouri county with a population of 10,000 or more persons as determined by the Missouri Census Data Center as of July 1, 2014; the independent city, the City of St. Louis; or the State of Missouri's transportation authority. The Court decided to allow a class action lawsuit to proceed against Trinity related to whether the 4-inch ET Plus devices that Trinity Highway Products, LLC manufactured and sold are defective. Trinity denies these allegations. You were previously sent a notice advising you of class certification and your right to exclude yourself from the litigation in or around June and July of 2019.

Class Representative Jackson County (on behalf of itself and the certified class) has reached a settlement with Defendants. The details of the proposed settlement—including how you can obtain monetary and in-kind relief—are described in this Notice.

2. What is this lawsuit about?

This lawsuit is about whether the 4-inch ET Plus was defective and unreasonably dangerous. Plaintiff sought the cost of removing and replacing these devices from all roads owned and maintained by Class Members. Trinity denies these allegations. You can read Plaintiff's Class Action Complaint at [\[class website\]](#).

THE SETTLEMENT BENEFITS

3. What benefits are available to Class Members under the settlement?

There are three types of relief available under the proposed settlement, all of which are subject to the terms and conditions of the proposed settlement.

Included with this Notice is a copy of the Settlement Agreement. You can read more about the specific types of relief available and how to claim them in the Agreement.

Reimbursement for Prior ET Plus Replacement: Trinity Industries, Inc. will pay \$3,500,000 to reimburse Class Members for the costs incurred removing and replacing, before February 18, 2022, undamaged 4-inch ET Plus devices from roads owned and maintained by the respective Class Members. Class Members may submit a claim and, if

Questions? visit [\[class website\]](#), or call [\[toll free number\]](#), or email [\[insert email\]](#)

approved, recover monetary relief based on the cost of undamaged 4-inch ET Plus devices the Class Member previously removed and replaced.

Reimbursement for Cost of Locating ET Plus Devices: Trinity Industries, Inc. will pay \$2,500,000 to reimburse Class Members for the cost of locating and identifying undamaged 4-inch ET Plus devices on roads owned and maintained by the respective Class Members. Class Members may submit a claim and, if approved, receive monetary relief based on the cost of locating undamaged 4-inch ET Plus devices on roads owned and maintained by the Class Member.

Replace ET Plus Devices. During the six-year period following the date of the Final Judgment, Class Members will be able to make a claim for the replacement of any undamaged 4-inch ET Plus existing on roads, on or after February 18, 2022, owned and maintained by the Class Members. For each eligible, undamaged 4-inch ET Plus a Class Member identifies and obtains approval for, Trinity Industries, Inc. will provide, or pay for others to provide, one SoftStop end terminal or other Missouri Department of Transportation-approved Type A MASH tangent end terminal (at Trinity Industries, Inc.'s option) at no charge to the Class Member. For each eligible undamaged 4-inch ET Plus a Class Member identifies and obtains approval for, the Class Member will be entitled to \$1,700 from the Qualified Settlement Fund toward the costs associated with removal and replacement of the 4-inch ET Plus. Class Members may submit as many claims as necessary during the six year period.

OBTAINING SETTLEMENT BENEFITS

4. Do I have to do anything right now to obtain settlement benefits?

No. You do not have to do anything right now to collect your Settlement benefits. If the Court approves the settlement, you will receive a Claim Notice and Claim Form in the mail that you can submit to obtain your settlement benefits.

5. After the Settlement is approved, how do I obtain settlement benefits?

Once the Court approves the settlement, you will receive a Claim Notice and Claim Form in the mail. After you receive the Claim Notice, you will be able to submit the Claim Form by mail or electronically to recover the different types of benefits available under the Settlement.

6. How do I submit a claim for reimbursement of ET Pluses already replaced?

Once the Court approves the settlement, you will receive a Claim Notice and Claim Form in the mail. After you receive the Claim Notice, you will be able to submit the Claim Form by mail or electronically. If your claim is approved, you will, subject to the terms and conditions of the proposed settlement, recover amounts you previously spent to remove and replace undamaged 4-inch ET Plus devices from roads you owned and maintained.

\$3,500,000 has been allocated to reimburse Class Members for costs they have incurred to previously remove and replace undamaged 4-inch ET Plus devices. Class Members will be able to submit claims for a one-year period following the Final Judgment. Claims will

Questions? visit [\[class website\]](#), or call [\[toll free number\]](#), or email [\[insert email\]](#)

be paid on a quarterly basis until the expiration of the one-year period or until the funds are exhausted, whichever is earlier.

The process for submitting a claim will be explained in the Claim Notice and Claim Form. But generally speaking, Class Members will be able to submit a Claim Form or letter describing the number of undamaged 4-inch ET Plus devices the Class Member replaced, when, where, and the cost to do so. Valid claims must be supported by reasonable supporting documentation showing the number of undamaged 4-inch ET Plus devices replaced, when they were replaced, where they were replaced, and the costs of removal and replacement.

Reasonable supporting documents include any documents sufficient to show the removal and replacement of an undamaged 4-inch ET Plus device, and the date, location, and cost of removal and replacement. These documents include, but are not limited to, contracts, bid documents, invoices, payments, change orders, and other project documents. These documents can also be accompanied by an attestation from the Class Member explaining the documentation submitted with the Claim Form and the basis for the claim. Subject to the terms and conditions of the proposed settlement, the Settlement Administrator will approve any claim from a Class Member for the cost of removal and replacement that reasonably establishes that one or more undamaged 4-inch ET Plus devices were removed and replaced, on or before February 18, 2022, from roads owned and maintained by a Class Member and the location, date, and cost of each such removal and replacement. The costs eligible for reimbursement include costs reasonably related to the removal and replacement of an undamaged 4-inch ET Plus and charged by, and paid to, the contractor or entity removing and replacing the 4-inch ET Plus. These costs include, but are not limited to, locating the previously removed 4-inch ET Plus, the replacement end terminal, the removal and disposal of the 4-inch ET Plus, traffic control, as well as guardrail, transition sections, and grading for the replacement guardrail end terminal system and other costs that are reasonably related to the removal and replacement of an undamaged 4-inch ET Plus. The full claims process is explained in the Settlement Agreement, which is included in this Notice. In the event claims are submitted in excess of the \$3,500,000, the Settlement Agreement explains how claims will be prioritized and treated.

7. How do I submit a claim for the cost of locating 4-inch ET Plus devices on my roads?

Once the Court approves the settlement, you will receive a Claim Notice and Claim Form in the mail. After you receive the Claim Notice, you will be able to submit the Claim Form by mail or electronically for reimbursement of the cost of locating undamaged 4-inch ET Plus devices on your roads.

\$2,500,000 has been allocated to reimburse Class Members for the cost of locating undamaged 4-inch ET Plus devices on roads owned and maintained by Class Members. Class Members will be able to submit claims for a 90-day period following the Final Judgment. Claims will be paid following the 90-day claim period.

The process for submitting a claim will be explained in the Claim Notice and Claim Form. But generally speaking, Class Members will be able to submit a Claim Form or letter explaining the claimed cost of locating undamaged 4-inch ET Plus devices on roads owned and maintained by the Class Member. Class Members must submit with their Claim Form (or equivalent letter) reasonable documentation supporting the Class Member's claimed

Questions? visit [\[class website\]](#), or call [\[toll free number\]](#), or email [\[insert email\]](#)

cost of locating undamaged 4-inch ET Plus devices on roads owned and maintained by the Class Member.

Reasonable supporting documentation includes any documents establishing the projected reasonable cost of locating 4-inch ET Plus devices on roads owned and maintained by the Class Member. These documents include, but are not limited to, contracts for a survey or scan of Class Member roads, bid documents, invoices, payments, change orders, and other project documents. These documents can also be accompanied by an attestation from the Class Member explaining the Class Member's good faith estimate of the cost to locate 4-inch ET Plus devices on roads owned and maintained by the Class Member. Subject to the terms and conditions of the proposed settlement, the Settlement Administrator will approve any claim from a Class Member under this Section that reasonably establishes the reasonable projected costs of locating 4-inch ET Plus devices on roads owned and maintained by the Class Member, although this does not preclude the Settlement Administrator, subject to Court oversight, from auditing any such request for accuracy and reasonableness.

The full claims process is explained in the Settlement Agreement, which is included with this Notice. In the event claims are submitted in excess of the \$2,500,000, the Settlement Agreement explains how claims will be prioritized and treated.

8. How do I submit a claim for replacing 4-inch ET Plus devices on my roads?

Once the Court approves the settlement, you will receive a Claim Notice and Claim Form in the mail. After you receive the Claim Notice, you will be able to submit the Claim Form by mail or electronically. Subject to the terms and conditions of the proposed settlement, approved claims will receive a free SoftStop end terminal or other MoDOT-approved Type A MASH tangent end terminal (at Trinity Industries, Inc.'s option) plus a flat payment of \$1,700 toward the cost associated with removal and replacement of each undamaged 4-inch ET Plus on your roads as of February 18, 2022 that you replace.

As many claims as necessary may be submitted throughout a six-year period following the date of the Final Judgment. Class Members must use the Claim Form, which shall contain the signature of a person authorized to bind the submitting Class Member, certifying the truth of the information contained in the Claim Form and the accompanying documentation. In addition, Class Members must submit with their Claim Form reasonable supporting documentation showing that the Class Member has identified and replaced, or will promptly replace, an undamaged 4-inch ET Plus on roads owned and maintained by the Class Member. With respect to the removed 4-inch ET Plus, the Class Member may either (1) attest that the removed 4-inch ET Plus will not be installed on any roads owned and maintained by the Class Member and that it will not be resold for installation or (2) that it will be sold for scrap metal. Alternatively, Trinity, at its option and expense, may arrange for the removed 4-inch ET Plus to be destroyed. However, Trinity must exercise this right within 30 days of the final approval of a Class Member claim and then promptly work with the Class Member to collect the removed 4-inch ET Plus at no cost to the Class Member.

Claims will be paid and the new end terminal will be ordered within 30 days of receipt of each report from the Settlement Administrator, identifying approved claims as described

Questions? visit [\[class website\]](#), or call [\[toll free number\]](#), or email [\[insert email\]](#)

in the settlement agreement. Factors outside of Trinity's control, including supply or shipping constraints, may delay shipment or delivery of the new end terminal.

The full claims process is explained in the Settlement Agreement, which is included with this Notice.

9. What happens if I do not submit a claim?

If any Class Member does not submit a claim as described in the Settlement Agreement, the Class Member will not recover anything from this settlement. But the Class Member will still be bound by the settlement.

10. What am I giving up to get a payment?

Nothing. Because this Court previously certified this case as a class action and granted an opportunity to exclude yourself, all Class Members are part of the settlement. If you are a Class Member, you should submit a claim and obtain the benefits to which you are entitled. If you don't, you will still release your claims but will not receive any of the benefits.

11. What claims are being released by the settlement?

1.1 As part of the Settlement, Class Members are completely and forever discharging and releasing any and all claims that were or could have been asserted against the Released Entities based on the facts alleged in the Plaintiff's Class Action Petition, which you can review on the settlement website at [\[link\]](#). This includes claims against Trinity for the cost of removing and replacing 4-inch ET Plus devices. However, the release does **not** include any claims arising out of personal injury or wrongful death claims or lawsuits against any Class Member. "Released Entities" means Defendants Trinity Industries, Inc. and Trinity Highway Products, LLC, including their past, present and future direct or indirect parent companies, affiliate companies, subsidiary companies, assigns, and successor entities and each of their affiliates, and the past, present and future direct or indirect officers, directors, shareholders, employees, predecessors, parents, subsidiaries, insurers, agents, attorneys, assigns, affiliates, stockholders, owners, controlling persons, members, managers, contractors, licensors, licensees, dealers, patent holders, manufacturers, servants, successors, trustees, representatives, heirs, executors, and assigns of all of the foregoing people and entities.

THE CLASS DEFINITION

12. How do I know if I am a Class Member?

The Class includes: All Missouri counties with populations of 10,000 or more persons as determined by the Missouri Census Data Center as of July 1, 2014, including the independent city, the City of St. Louis, and the State of Missouri's transportation authority, that have or had ET-Plus guardrail end terminal systems with 4-inch wide feeder chutes installed on roadways they own and maintain. You are receiving this notice because you have been identified as either: a Missouri county with a population of 10,000 or more persons as determined by the Missouri Census Data Center as of July 1, 2014; the independent city, the City of St. Louis; or the State of Missouri's transportation authority. You are part of this Class if you are among those specified groups and have or had ET-Plus

Questions? visit [\[class website\]](#), or call [\[toll free number\]](#), or email [\[insert email\]](#)

guardrail end terminals with 4-inch wide feeder chutes installed on roadways you own and maintain.

THE LAWYERS REPRESENTING YOU

13. Do I have a lawyer in this case?

Yes. The Court appointed the following lawyers as “Class Counsel” to represent all the members of the Class:

Patrick J. Stueve
Bradley T. Wilders
Alexander T. Ricke
Stueve Siegel Hanson LLP
460 Nichols Road, Suite 200
Kansas City, MO 64113

14. Should I get my own lawyer?

You do not need to hire your own lawyer because Class Counsel is working on your behalf. But, if you want your own lawyer, you may be represented by your own lawyer. For example, you can ask your own lawyer to appear on your behalf in Court if you want someone other than Class Counsel to speak for you. However, you will be responsible for any fees which that lawyer may charge for representing you.

15. How will the lawyers be paid?

This case has been pending since 2015 and the lawyers representing the Plaintiff and the Class have not been paid anything for their time. Nor have they been reimbursed for the expenses advanced on behalf of Class Members. After Class Counsel negotiated this settlement on behalf of the Class, Class Counsel and Trinity separately negotiated a reasonable attorneys’ fee and reimbursement of advanced expenses. Trinity has agreed to pay Class Counsel’s attorneys’ fees and expenses in the aggregate amount of \$11,400,000. This amount must be approved by the Court. Importantly, the amounts paid to Class Counsel are separate from and in addition to the amounts going to Class Members. Any amount awarded will *not* reduce the benefits available to the Class described above.

OBJECTING TO THE SETTLEMENT

16. How do I tell the Court I do not like the Settlement?

If you are a Class Member, you can object to the settlement if you do not like any part of it. You can give reasons why you think the Court should not approve it. The Court will consider your views. To object, you must send a letter saying that you object to:

Questions? visit [\[class website\]](#), or call [\[toll free number\]](#), or email [\[insert email\]](#)

[Analytics Consulting LLC]
[Trinity ET Plus Settlement PO Box]
[Address]
[City, State, Zip]

Your objection must provide the following information: (1) identification of the Class Member and reasonable supporting documentation evidencing the objector's right to act on behalf of the Class Member, including proof that objector is a Class Member; (2) identification of any counsel representing the objecting Class Member; (3) the factual and legal basis for the objection; and (4) a statement of whether the Class Member plans to appear in person at the final fairness hearing.

Any objections must be postmarked or received by the Settlement Administrator no later than [45 days from mailing of the Notice]. Any objection that is not postmarked on or before [date] or does not comply with the requirements above will be considered untimely and invalid and will not be considered by the Court.

THE FINAL FAIRNESS HEARING

17. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Fairness Hearing at [time] a.m. on [date], in the Circuit Court of Jackson County, Missouri at Independence, 308 West Kansas, Independence, MO 64050 in Division 2. At this hearing the Court will consider whether the settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. Judge Garrett will listen to people who have asked to speak at the hearing. The Court may also decide how much to pay Class Counsel. The Court may also decide how much to pay the Class Representative as a service award for prosecuting this case on behalf of the Class. Jackson County, as the Class Representative, may seek a \$50,000 or less service award based on its role in bringing this result about for the Class. Defendants have agreed not to object to the Class Representative's request for a service award up to \$50,000. After the hearing, the Court will decide whether to approve the settlement. We do not know how long these decisions will take.

18. Do I have to come to the Final Fairness Hearing?

No. Class Counsel will answer any questions Judge Garrett may have. But, you are welcome to come at your own expense. If you send an objection, you do not have to come to Court to talk about it. As long as you mailed your valid, written objection on time, the Court will consider it. You may also pay your own lawyer to attend if you wish.

Questions? visit [\[class website\]](#), or call [toll free number], or email [insert email]

19. May I speak at the Final Fairness Hearing?

You may ask the Court for permission to speak at the Final Fairness Hearing. To do so, you must send a letter saying that it is your “Notice of Intention to Appear” in *Jackson County, Missouri et al. v. Trinity Industries, Inc., et al.*, Case No. 1516-CV23684. Be sure to include your name and address, and your signature. Your Notice of Intention to Appear must be postmarked no later than [45 days from the mailing of the Notice], and be sent to the Settlement Administrator at the following address:

[Analytics Consulting LLC]
 [Trinity ET Plus Settlement PO Box]
 [Address]
 [City, State, Zip]

DOING NOTHING

20. What happens if I do nothing at all?

You do not have to do anything in response to this Notice right now. However, to obtain the settlement benefits described above, you must submit a claim in response to the Claim Notice after the settlement is granted final approval. You will receive a Claim Notice and Claim Form in the mail after the settlement is granted final approval. If you do nothing in response to the Claim Notice and Claim Form, you will receive nothing from this Settlement. However, you will remain bound by the terms of the Settlement.

GETTING MORE INFORMATION

21. Are there more details available?

Visit the website, [website], where you will find other documents relevant to the Settlement. Updates regarding the case will also be available on the settlement website.

You may also contact the Settlement Administrator at:

[Analytics Consulting LLC]
 [Trinity ET Plus Settlement PO Box]
 [Address]
 [City, State, Zip]
 [phone]
 [email]

You may also contact Class Counsel:

Patrick J. Stueve
 Bradley T. Wilders
 Alexander T. Ricke
Stueve Siegel Hanson LLP

Questions? visit [class website], or call [toll free number], or email [insert email]

460 Nichols Road, Suite 200
Kansas City, MO 64113
[generic ssh email]
[generic ssh VM box]

PLEASE DO NOT CONTACT THE COURT

Questions? visit [\[class website\]](#), or call [toll free number], or email [insert email]

Exhibit B

NOTICE OF CLASS ACTION SETTLEMENT

SUBMIT YOUR CLAIM FOR MONETARY AND IN-KIND BENEFITS

Jackson County, Missouri v. Trinity Industries, Inc., and Trinity Highway Products, LLC

If you have or had Trinity ET Plus guardrail end terminals with 4-inch wide feeder chutes installed on roadways you own and maintain, you may be able to submit a claim for monetary and in-kind benefits. You must submit a claim to recover.

TO: <<Class Member Entity>>
<<c/o County Executive, Commissioner, etc.>>
<<Address >>
<<City>><<State>><<Zip>>

Your ID Number is <<ID>>

Dear <<Name>>,

You have been sent this Notice of Class Action Settlement (the “Notice”) because you might be a Class Member and entitled to relief from the class action settlement reached in *Jackson County, Missouri, et al. v. Trinity Industries, Inc., et al.*, pending in the Circuit Court of Jackson County, Missouri, Case No. 1516-CV23684 (“the Court”).

This Notice explains how you submit a claim to recover the monetary and in-kind relief available. The Settlement provides money for Class Members who previously removed and replaced undamaged 4-inch ET Plus devices, money for the cost of locating undamaged 4-inch ET Plus devices on roads owned and maintained by Class Members, and a new MASH Type A tangent end terminal plus a flat payment of \$1,700 for each undamaged, 4-inch ET Plus currently on roads owned and maintained by Class Members and that Class Members elect to replace, all subject to the terms and conditions set forth in the Settlement. The Settlement provides meaningful value to Class Members, but it is only available if you submit a claim in response to this Notice.

Please read the Notice carefully as your legal rights may be impacted.

Questions? visit [\[class website\]](#), or call [\[toll free number\]](#), or email [\[insert email\]](#)

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI

**A COURT AUTHORIZED THIS NOTICE.
THIS IS NOT A SOLICITATION FROM A LAWYER.
YOU ARE NOT BEING SUED.
THIS NOTICE AFFECTS YOUR LEGAL RIGHTS.**

The Court has approved a class action settlement in this case between Class Representative Jackson County, Missouri and Defendants Trinity Industries, Inc. and Trinity Highway Products, LLC (collectively referred to throughout this Notice as “Trinity”) to resolve a class action alleging that Trinity’s ET Plus guardrail with 4-inch wide feeder chutes (referred to throughout this Notice as “4-inch ET Plus”) was defectively designed and unreasonably dangerous. Trinity denies these allegations.

If you want to receive a payment from this settlement, *you must act now*. There are three different types of monetary and in-kind relief available under this settlement with different claim periods. Read this Notice carefully to understand your options.

To submit a claim, follow the instructions on the enclosed Claim Form.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT	
SUBMIT A CLAIM	<p>The only way to get payment and in-kind relief.</p> <p>If you are a Class Member and you submit a valid and timely claim form, you may be, subject to the terms and conditions set forth in the Settlement, entitled to monetary relief for the removal and replacement of undamaged 4-inch ET Plus devices that you have already removed and replaced, before February 18, 2022, on roads you own and maintain; the cost of locating undamaged 4-inch ET Plus devices on roads you own and maintain; a free MASH Type A tangent End Terminal for each undamaged 4-inch ET Plus existing, on or after February 18, 2022, on roads you own and maintain, and that you elect to replace; and a flat \$1,700 payment for each undamaged 4-inch ET Plus existing, on or after February 18, 2022, on roads you own and maintain, and that you elect to replace during the period set forth by this settlement.</p>
DO NOTHING	<p>Get no payment. Give up rights.</p> <p>By doing nothing, you will not receive any compensation made available through the proposed settlement. You will still give up your right to sue Trinity for claims released under the settlement.</p>

Questions? visit [\[class website\]](#), or call [\[toll free number\]](#), or email [\[insert email\]](#)

BASIC INFORMATION

1. Why did I get this Notice?

You previously received a Notice of Proposed Class Action Settlement that informed you of the terms of this Settlement. The Court has now considered and approved the class action settlement in this case, and you may be a Class Member.

You are either: a Missouri county with a population of 10,000 or more persons as determined by the Missouri Census Data Center as of July 1, 2014; the independent city, the City of St. Louis; or the State of Missouri's transportation authority. The only other requirement to be a Class Member is that you have or had an ET Plus guardrail end terminal with 4-inch wide feeder chutes installed on roads you own and maintain.

If you did have a 4-inch ET Plus installed on roads you owned and maintained, this Notice explains how you can obtain monetary and other in-kind relief from the settlement.

2. What is this lawsuit about?

This lawsuit is about whether the 4-inch ET Plus was defective and unreasonably dangerous. Plaintiff sought the cost of removing and replacing these devices from all roadways owned and maintained by Class Members. You can read Plaintiff's Class Action Complaint at [\[class website\]](#). Trinity denies these allegations. The Court has now approved a class action settlement resolving the case.

THE SETTLEMENT BENEFITS

3. What benefits are available to Class Members under the settlement?

There are three types of relief available under the settlement, all of which are subject to the terms and conditions of the settlement.

You can read more about the specific types of relief available and how to claim them in the Settlement Agreement, which you have received.

Reimbursement for Prior ET Plus Replacement: Trinity Industries, Inc. will pay \$3,500,000 to reimburse Class Members for the costs incurred removing and replacing, before February 18, 2022, undamaged 4-inch ET Plus devices from roads owned and maintained by the respective Class Members. Class Members may submit a claim and, if approved, recover monetary relief based on the cost of undamaged 4-inch ET Plus devices the Class Member previously removed and replaced.

Reimbursement for Cost of Locating ET Plus Devices: Trinity Industries, Inc. will pay \$2,500,000 to reimburse Class Members for the cost of locating and identifying undamaged 4-inch ET Plus devices on roads owned and maintained by the respective Class Members. Class Members may submit a claim and, if approved, receive monetary relief based on the

Questions? visit [\[class website\]](#), or call [\[toll free number\]](#), or email [\[insert email\]](#)

cost of locating undamaged 4-inch ET Plus devices on roads owned and maintained by the Class Member.

Replace ET Plus Devices. During the six-year period following the date of the Final Judgment, Class Members will be able to make a claim for the replacement of any undamaged 4-inch ET Plus existing on roads, on or after February 18, 2022, owned and maintained by the Class Members. For each eligible, undamaged 4-inch ET Plus a Class Member identifies and obtains approval for, Trinity Industries, Inc. will provide, or pay for others to provide, one SoftStop end terminal or other Missouri Department of Transportation-approved Type A MASH tangent end terminal (at Trinity Industries, Inc.'s option) at no charge to the Class Member. For each eligible undamaged 4-inch ET Plus a Class Member identifies and obtains approval for, the Class Member will be entitled to \$1,700 from the Qualified Settlement Fund toward the costs associated with removal and replacement of the 4-inch ET Plus. Class Members may submit as many claims as necessary during the six-year period.

OBTAINING SETTLEMENT BENEFITS

4. Do I have to do anything right now to obtain settlement benefits?

Yes. If you want to obtain benefits from the settlement, you need to submit a claim.

5. How do I submit a claim for reimbursement of prior 4-inch ET Pluses already replaced?

To submit a claim for reimbursement of prior ET Plus replacements, you must submit your claim on or before [date one year from Effective Date]. But these claims are paid on a rolling basis until the fund is exhausted, so submit your claims as soon as possible.

There is \$3,500,000 allocated to reimburse Class Members for the costs they have incurred to previously remove and replace undamaged 4-inch ET Plus devices prior to February 18, 2022 from roads the Class Members own and maintain. Class Members will be able to submit claims for a one-year period following the Final Judgment. Claims will be paid, if approved and subject to the terms and conditions of the proposed settlement, on a quarterly basis until the expiration of the one-year period or until the funds are exhausted, whichever is earlier.

Follow the instructions on the Claim Form to submit a claim. On the Claim Form, you will provide the number of undamaged 4-inch ET Plus devices that you have replaced on roads you own and maintain, when, where, and the cost to do so. Valid claims must be supported by reasonable supporting documentation showing the number of undamaged 4-inch ET Plus devices replaced, when they were replaced, where they were replaced, and the costs of removal and replacement.

Reasonable supporting documents include any documents sufficient to show the removal and replacement of an undamaged 4-inch ET Plus device, and the date, location, and cost of removal and replacement. These documents include, but are not limited to, contracts, bid documents, invoices, payments, change orders, and other project documents. These documents can also be accompanied by an attestation from the Class Member explaining the documentation submitted with the Claim Form and the basis for the claim. Subject to

Questions? visit [class website], or call [toll free number], or email [insert email]

the terms and conditions of the proposed settlement, the Settlement Administrator will approve any claim from a Class Member for the cost of removal and replacement that reasonably establishes that one or more undamaged 4-inch ET Plus devices were removed and replaced, on or before February 18, 2022, from roads owned and maintained by a Class Member and the location, date, and cost of each such removal and replacement. The costs eligible for reimbursement include costs reasonably related to the removal and replacement of an undamaged 4-inch ET Plus and charged by, and paid to, the contractor or entity removing and replacing the 4-inch ET Plus. These costs include, but are not limited to, locating the previously removed undamaged 4-inch ET Plus, the replacement end terminal, the removal and disposal of the 4-inch ET Plus, traffic control, as well as guardrail, transition sections, and grading for the replacement guardrail end terminal system and other costs that are reasonably related to the removal and replacement of an undamaged 4-inch ET Plus. The enclosed Claim Form explains what information must be provided with the Claim Form, what documents must be attached to the Claim Form, when the Claim Form must be submitted, and how you can submit the Claim Form.

In the event claims are submitted in excess of the \$3,500,000 fund, the Settlement Agreement explains how claims will be prioritized and treated. You have been provided the Settlement Agreement.

6. How do I submit a claim for the cost of locating 4-inch ET Plus devices on my roads?

To submit a claim for the cost of locating undamaged 4-inch ET Plus devices on your roads, you must submit your claim on or before [90 days from Effective Date].

\$2,500,000 has been allocated to reimburse Class Members for the cost of locating undamaged 4-inch ET Plus devices on roads owned and maintained by Class Members. Class Members will be able to submit claims for a 90-day period following the Final Judgment. Claims will be paid following the 90-day claim period.

Follow the instructions on the Claim Form to submit a claim. On the Claim Form, you will provide the amount you are requesting to determine if there are any undamaged 4-inch ET Plus devices on roads you own and maintain. Valid claims must be supported by reasonable supporting documentation showing the claimed cost of locating undamaged 4-inch ET Plus devices on roads you own and maintain.

Reasonable supporting documentation includes any documents establishing the projected reasonable cost of locating 4-inch ET Plus devices on roads owned and maintained by the Class Member. These documents include, but are not limited to, contracts for a survey or scan of Class Member roads, bid documents, invoices, payments, change orders, and other project documents. These documents can also be accompanied by an attestation from the Class Member explaining the Class Member's good faith estimate of the cost to locate 4-inch ET Plus devices on roads owned and maintained by the Class Member. Subject to the terms and conditions of the proposed settlement, the Settlement Administrator will approve any claim from a Class Member under this Section that reasonably establishes the reasonable projected costs of locating 4-inch ET Plus devices on roads owned and maintained by the Class Member, although this does not preclude the Settlement Administrator, subject to Court oversight, from auditing any such request for accuracy and reasonableness.

Questions? visit [class website], or call [toll free number], or email [insert email]

The enclosed Claim Form explains what information must be provided with the Claim Form, what documents must be attached to the Claim Form, when the Claim Form must be submitted, and how you can submit the Claim Form.

In the event claims are submitted in excess of the \$2,500,000 fund, the Settlement Agreement explains how claims will be prioritized and treated.

7. How do I submit a claim for removing and replacing 4-inch ET Plus devices on my roads?

To submit a claim for removing and replacing undamaged 4-inch ET Plus devices that are currently on your roads, you may submit as many Claim Forms as necessary for a six-year period until [six years from Effective Date].

Follow the instructions on the Claim Form to submit a claim. On the Claim Form, you will provide the number of undamaged 4-inch ET Plus devices you have replaced or will promptly replace on roads you own and maintain.

Class Members must use the Claim Form, which shall contain the signature of a person authorized to bind the submitting Class Member, certifying the truth of the information contained in the Claim Form and the accompanying documentation. In addition, Class Members must submit with their Claim Form reasonable supporting documentation showing that the Class Member has identified and replaced, or will promptly replace, an undamaged 4-inch ET Plus on roads owned and maintained by the Class Member. With respect to the removed 4-inch ET Plus, the Class Member may either (1) attest that the removed 4-inch ET Plus will not be installed on any roads owned and maintained by the Class Member and that it will not be resold for installation or (2) that it will be sold for scrap metal. Alternatively, Trinity, at its option and expense, may arrange for the removed 4-inch ET Plus to be destroyed. However, Trinity must exercise this right within 30 days of the final approval of a Class Member claim and then promptly work with the Class Member to collect the removed 4-inch ET Plus at no cost to the Class Member.

Claims will be paid and the new end terminal will be ordered within 30 days of receipt of each report from the Settlement Administrator, identifying approved claims as described in the settlement agreement. Factors outside of Trinity's control, including supply or shipping constraints, may delay shipment or delivery of the new end terminal.

The enclosed Claim Form explains what information must be provided with the Claim Form, what documents must be attached to the Claim Form, when the Claim Form must be submitted, and how you can submit the Claim Form.

8. What happens if I do not submit a claim?

If any Class Member does not submit a claim, the Class Member will not recover anything under this settlement. But the Class Member will still be bound by the settlement.

9. Is there a downside to submitting a claim?

No. Because this Court previously certified this case as a class action and granted an opportunity to exclude yourself, all Class Members are part of the settlement. If you are a Class Member, you should submit a claim and obtain the benefits to which you are entitled. If you do not submit a claim, you will still release your claims but will not receive any of the benefits.

Questions? visit [\[class website\]](#), or call [\[toll free number\]](#), or email [\[insert email\]](#)

10. What claims are being released by the Settlement?

As part of the settlement, Class Members are completely and forever discharging and releasing any and all claims that were or could have been asserted against the Released Entities based on the facts alleged in the Plaintiff's Class Action Petition, which you can review on the settlement website at [\[link\]](#). This includes claims against Trinity for the cost of removing and replacing 4-inch ET Plus devices. However, the release does **not** include any claims arising out of personal injury or wrongful death claims or lawsuits against any Class Member. "Released Entities" means Defendants Trinity Industries, Inc. and Trinity Highway Products, LLC, including their past, present and future direct or indirect parent companies, affiliate companies, subsidiary companies, assigns, and successor entities and each of their affiliates, and the past, present and future direct or indirect officers, directors, shareholders, employees, predecessors, parents, subsidiaries, insurers, agents, attorneys, assigns, affiliates, stockholders, owners, controlling persons, members, managers, contractors, licensors, licensees, dealers, patent holders, manufacturers, servants, successors, trustees, representatives, heirs, executors, and assigns of all of the foregoing people and entities.

THE CLASS DEFINITION**11. How do I know if I am a Class Member?**

The Class includes: All Missouri counties with populations of 10,000 or more persons as determined by the Missouri Census Data Center as of July 1, 2014, including the independent city, the City of St. Louis, and the State of Missouri's transportation authority, that have or had ET-Plus guardrail end terminal systems with 4-inch wide feeder chutes installed on roadways they own and maintain. You are receiving this notice because you have been identified as either: a Missouri county with a population of 10,000 or more persons as determined by the Missouri Census Data Center as of July 1, 2014; the independent city, the City of St. Louis; or the State of Missouri's transportation authority. You are part of this Class if you are among those specified groups and have or had ET-Plus guardrail end terminals with 4-inch wide feeder chutes installed on roadways you own and maintain.

THE LAWYERS REPRESENTING YOU**12. Do I have a lawyer in this case?**

Yes. The Court appointed the following lawyers as "Class Counsel" to represent all the members of the Class:

Patrick J. Stueve
Bradley T. Wilders
Alexander T. Ricke
Stueve Siegel Hanson LLP
460 Nichols Road, Suite 200
Kansas City, MO 64113

Questions? visit [\[class website\]](#), or call [\[toll free number\]](#), or email [\[insert email\]](#)

13. How will the lawyers be paid?

This case has been pending since 2015 and the lawyers representing the Plaintiff and the Class have not been paid anything for their time. Nor have they been reimbursed for the expenses advanced on behalf of Class Members. After Class Counsel negotiated this settlement on behalf of the Class, Class Counsel and Trinity separately negotiated a reasonable attorneys' fee and reimbursement of advanced expenses. Trinity agreed to pay Class Counsel's attorneys' fees and expenses in the aggregate amount of \$11,400,000. The Court has awarded Class Counsel the requested fee and expense reimbursement. This amount does not reduce the benefits available to the Class described above.

DOING NOTHING**14. What happens if I do nothing at all?**

If you do nothing in response to this Notice and do not submit a claim, you will receive nothing from this settlement. However, you will remain bound by the terms of the settlement.

GETTING MORE INFORMATION**15. What if I have questions about how to submit a claim?**

Visit the website, [\[website\]](#), where you will find other documents relevant to the settlement. But if you have more questions about how to submit a claim, then you can also contact the Settlement Administrator and/or Class Counsel.

You may contact the Settlement Administrator at:

[Analytics Consulting LLC]
[Trinity ET Plus Settlement PO Box]
[Address]
[City, State, Zip]
[phone]
[email]

You may also contact Class Counsel:

Patrick J. Stueve
Bradley T. Wilders
Alexander T. Ricke
Stueve Siegel Hanson LLP
460 Nichols Road, Suite 200
Kansas City, MO 64113
[generic ssh email]
[generic ssh VM box]

Questions? visit [\[class website\]](#), or call [\[toll free number\]](#), or email [\[insert email\]](#)

PLEASE DO NOT CONTACT THE COURT

Questions? visit [\[class website\]](#), or call **[toll free number]**, or email **[insert email]**

Exhibit C

CLAIM FORM

Jackson County, Missouri v. Trinity Industries, Inc., and Trinity Highway Products, LLC

Class Member ID Number: <Pre-Filled by Analytics>

Class Member Name: <Pre-Filled by Analytics>

Address: _____

City: _____

State: _____ Zip Code: _____

Class Member's Representative: _____

Title: _____

Contact Phone Number: _____

Contact Email Address: _____

Dear <<Class Member Pre-Filled by Analytics>>,

You have been sent this Claim Form along with the Notice of Class Action Settlement (the "Notice") because you might be a Class Member and entitled to relief from the class action settlement reached in *Jackson County, Missouri, et al. v. Trinity Industries, Inc., et al.*, in the Circuit Court of Jackson County, Missouri, Case No. 1516-CV23684 ("the Court").

If you are a Class Member and you submit a valid Claim Form, you are, subject to the terms and conditions set forth in the Settlement, entitled to monetary relief for the removal and replacement of undamaged 4-inch ET Plus devices that you previously removed and replaced, prior to February 18, 2022, on roads you own and maintain; the cost of locating undamaged 4-inch ET Plus devices on your roadways as of February 18, 2022; a free MASH Type A tangent End Terminal for each undamaged 4-inch ET Plus existing, on or after February 18, 2022, on roads you own and maintain, and that you elect to replace during the period set forth by this settlement; and a flat \$1,700 payment for each undamaged 4-inch ET Plus existing, on or after February 18, 2022, on roads you own and maintain, and that you elect to replace during the period set forth by this settlement.

The only way you can recover money or in-kind benefits from this settlement is to submit a claim. Different types of benefits under the settlement have different requirements (explained in the Notice) and deadlines to submit a Claim Form.

Please review the Notice before completing the Claim Form.

Questions? visit [\[class website\]](#), or call [\[toll free number\]](#), or email [\[insert email\]](#)

INSTRUCTIONS

Please read the entire Notice. Once you have read the Notice, you should begin to complete the Claim Form for each of the types of relief for which you are eligible. You do not have to pick between the three types of relief. You can submit a Claim Form for each type of relief for which you are eligible as explained in the Notice.

Deadlines to Submit: Each of the three types of relief has a different deadline to submit a Claim Form. The deadline to submit a Claim Form for each type of relief is addressed in the section of the Claim Form about each type of relief.

Supporting Documents: Each of the three types of relief must be supported by different types of documents and materials that must be submitted with this Claim Form. These documents and materials are explained in the Notice you received with this Claim Form.

Signing the Claim Form: Once you have completed a section of the Claim Form, the Class Member's authorized representative needs to sign on behalf of the Class Member attesting that it is true and correct to the best of the Class Member's knowledge.

Submitting the Claim Form: Once you have completed the Claim Form and compiled your supporting documents and materials you can submit them in one of three ways:

Email: You can email your completed Claim Form and supporting materials/documents to the Settlement Administrator at [email].

Upload: You can upload your completed Claim Form and supporting materials/documents to the Settlement Administrator at this link available on the Settlement website: [link].

U.S. Mail/Ship – This Is Not Preferred: You can mail or ship your completed Claim Form and supporting materials/documents to the Settlement Administrator at the address below. However, given that the Claim Forms are time sensitive, you should submit them electronically by email or uploading them through the Settlement website if possible. If you do choose the mail/ship option, your claim must be postmarked by the deadlines identified below.

[Analytics Consulting LLC]
[Trinity ET Plus Settlement PO Box]
[Address]
[City, State, Zip]

Questions? visit [class website], or call [toll free number], or email [insert email]

QUESTIONS

If you have questions about how to fill out this Claim Form, visit the website, [\[website\]](#), where you will find other documents relevant to the settlement. But if you have more questions about how to submit a claim after reviewing the settlement website, then you can also contact the Settlement Administrator and/or Class Counsel.

You may contact the Settlement Administrator at:

[Analytics Consulting LLC]
[Trinity ET Plus Settlement PO Box]
[Address]
[City, State, Zip]
[phone]
[email]

You may also contact Class Counsel:

Patrick J. Stueve
Bradley T. Wilders
Alexander T. Ricke
Stueve Siegel Hanson LLP
460 Nichols Road, Suite 200
Kansas City, MO 64113
[generic ssh email]
[generic ssh VM box]

PROCESSING CLAIMS

Please refer to the Settlement Agreement you received with the original Notice for an explanation of when Class Members can expect to receive payment or other relief for the three types of claims available through the settlement.

If your claim is denied or not adequately supported, the Settlement Administrator will contact you within 30 days to advise you of the basis for denial, how to cure the deficiency, and if necessary, how to challenge the Settlement Administrator's decision.

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SUBMIT A CLAIM FOR REIMBURSEMENT OF PREVIOUSLY REPLACED

Questions? visit [\[class website\]](#), or call [\[toll free number\]](#), or email [\[insert email\]](#)

UNDAMAGED 4-INCH ET PLUS DEVICES

The deadline to submit a claim for reimbursement of previously replaced undamaged 4-inch ET Plus devices from the \$3,500,000 fund is [date one year from Effective Date]. These claims are paid on a rolling basis until the fund is exhausted, so submit your Claim Form as soon as possible.

Every field must be completed.

Identify the number of undamaged 4-inch ET Plus devices the Class Member removed and replaced, on roads owned and maintained by the Class Member, prior to February 18, 2022, including location, date, and cost. These are the undamaged 4-inch ET Plus devices a Class Member previously removed and replaced from roadways it owns and maintains:

Number of removed and replaced **undamaged** 4-inch ET Plus devices: _____

Location of replaced devices on roads the Class Member owns and maintains (specify for each device): _____

Date devices were replaced (specify for each device): _____

Cost of removal and replacement of each undamaged 4-inch ET Plus device (specify for each device): _____

Identify the entity that removed and replaced the undamaged 4-inch ET Plus devices: _____

Identify each of the supporting documents you are submitting with your Claim Form. These are the supporting documents and materials discussed in the Notice you received with this Claim Form. You must provide supporting documents showing the number of undamaged 4-inch ET Plus devices you removed and replaced, where they were located, when they were removed and replaced, that they were undamaged devices, and the cost of removal and replacement of each undamaged 4-inch ET Plus device on roads the Class Member owns and maintains.

Supporting documents: _____

Questions? visit [class website], or call [toll free number], or email [insert email]

The Class Member may also accompany this documentation with an attestation from the Class Member describing the documentation submitted with the Claim Form and the basis for the claim.

If Class Members have voluminous submissions, they can use additional pages.

In lieu of submitting this Claim Form, the Class Member can submit a signed letter containing the same information required by this Claim Form. The Class Member must still submit supporting documents and materials discussed in the Notice that support the Class Member's claimed cost for the removal and replacement of undamaged 4-inch ET Plus devices on roads the Class Member owned and maintained prior to February 18, 2022.

I certify that this information and the attached documents and materials are true and correct and that I am authorized to bind the submitting Class Member.

Class Member: _____

Signature: _____

Title: _____

Date: _____

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Questions? visit [\[class website\]](#), or call **[toll free number]**, or email **[insert email]**

**SUBMIT A CLAIM FOR
THE COST OF LOCATING 4-INCH ET PLUS DEVICES ON MY ROADS**

The deadline to submit a claim for the cost of locating undamaged 4-inch ET Plus devices currently on roads owned and maintained by a Class Member from the \$2,500,000 fund is [90 days from Effective Date].

Every field must be completed.

For locating 4-inch ET Plus devices currently on roads the Class Member owns and maintains, state the Class Member’s claimed cost of locating, the actions taken to locate, the entity that performed these actions, when these actions were performed, and the location of the undamaged 4-inch ET Plus devices located:

Identify each of the supporting documents you are submitting with your Claim Form. These are the supporting documents and materials discussed in the Notice you received with this Claim Form and that support your claimed cost of locating 4-inch ET Plus devices on roads owned and maintained by you. These documents include any documents establishing the projected reasonable cost of locating 4-inch ET Plus devices on roads owned and maintained by the Class Member.

Supporting documents:

Your supporting documents can also be accompanied by an attestation from the Class Member explaining the Class Member’s good faith estimate of the cost to locate 4-inch ET Plus devices on roads owned and maintained by the Class Member.

If Class Members have voluminous submissions, they can use additional pages.

In lieu of submitting this Claim Form, the Class Member can submit a signed letter containing the same information required in this Claim Form, including the certification in the following paragraph, as explained in further detail in the Notice. The Class Member must still submit supporting documents and materials discussed in the Notice that support your claimed cost of locating 4-inch ET Plus devices on roads owned and maintained by the Class Member.

I certify that this information and the attached documents and materials are true and correct, that I am authorized to bind the submitting Class Member, and that the funds I request will be used for the sole purpose of paying the costs of locating 4-inch ET Plus devices on roads owned and maintained by the Class Member and that the Class Member will return, within two years of the Class Member’s receipt of any funds for locating 4-

Questions? visit [class website], or call [toll free number], or email [insert email]

inch ET Plus devices, to the Settlement Administrator for deposit in the Common Fund any funds paid to the Class Member for locating 4-inch ET Plus devices that have not been used for the purpose of locating 4-inch ET Plus devices.

Class Member: _____

Signature: _____

Title: _____

Date: _____

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SUBMIT A CLAIM FOR

Questions? visit [\[class website\]](#), or call [\[toll free number\]](#), or email [\[insert email\]](#)

**REMOVING AND REPLACING
UNDAMAGED 4-INCH ET PLUS DEVICES ON MY ROADS**

To submit a claim for removing and replacing undamaged 4-inch ET Plus devices that are currently on your roads, you may submit as many Claim Forms as necessary for a six-year period until **[six years from Effective Date]**. For each undamaged 4-inch ET Plus on roads you own and maintain for which you submit a valid Claim Form that is approved by the Settlement Administrator, you are entitled to a new MoDOT-approved Type A MASH tangent end terminal plus a flat payment of \$1,700, subject to all of the terms and conditions set forth in the settlement agreement.

Every field must be completed.

Identify the undamaged 4-inch ET Plus devices existing, on or after February 18, 2022, on roads you own and maintain, that you already have removed and replaced, or will promptly replace.

Number of undamaged 4-inch ET Plus devices: _____

Specific location of each device: _____

Have each of the devices already been replaced (Yes or No): _____

If yes, state the date of each replacement and what entity performed each replacement: _____

If no, state the anticipated replacement date and what entity is scheduled to perform each replacement: _____

Identify each of the supporting documents you are submitting with your Claim Form. These are the supporting documents and materials discussed in the Notice you received with this Claim Form. Specifically, the documents you submit must include documents sufficient to show that (a) the Class Member has replaced, or will promptly replace, an undamaged 4-inch ET Plus; (b) the location of the 4-inch ET Plus on roads owned and maintained by the Class Member; (c) the date on which the replacement was made or is reasonably expected to be made; (d) that the 4-inch ET Plus involved in the claim has or had 4-inch wide guide channels; and (e) that the 4-inch ET Plus involved in the claim is undamaged, or if already replaced, was undamaged at the time of replacement. **Each submission for each end terminal must include photographs, videos, or lidar scan**

Questions? visit [\[class website\]](#), or call **[toll free number]**, or email **[insert email]**

imaging and data sufficient to identify the end terminal as an undamaged ET Plus with 4-inch guide channels.

Your supporting documents must be accompanied by an attestation from the Class Member explaining the Class Member's good faith basis for entitlement to a claim for ET Plus Replacement.

Your supporting documents must also be accompanied by an attestation stating, for each removed 4-inch ET Plus, that (1) the removed 4-inch ET Plus will not be installed on any roads owned and maintained by the Class Member and that it will not be resold for installation or (2) the removed 4-inch ET Plus will be sold for scrap metal.

Supporting documents: _____

State where your replacement Mo-DOT approved Type A MASH tangent end terminal should be shipped. If your replacement devices should be shipped to multiple locations, please attach a list of how many devices should be shipped to which locations:

Shipping address within the State of Missouri: _____

The Class Member may submit a signed letter providing any further information relevant to the Class Member's claim.

I certify that this information and the attached documents and materials are true and correct and that I am authorized to bind the submitting Class Member.

Class Member: _____

Signature: _____

Title: _____

Date: _____

[Remainder of Page Intentionally Left Blank]

Questions? visit [\[class website\]](#), or call [\[toll free number\]](#), or email [\[insert email\]](#)

EXHIBIT 2



STUEVE SIEGEL HANSON

AWARDS AND RECOGNITION

We are proud to have been recognized by local, regional and national publications for our work and results.

Among our recent accolades:

Representative Firmwide Rankings

- *The National Law Journal*: Elite Trial Lawyers: Finalist for business torts, employment rights, financial products and privacy/data breach
- *The National Law Journal*: 2017 Top 100 Verdicts: Ranked No. 10 for the \$217.7 million federal jury verdict on behalf of a class of Kansas corn farmers against Syngenta
- *Law360*: Practice Group of the Year, Food & Beverage
- *Law360*: Practice Group of the Year, Cybersecurity & Privacy
- *U.S. News & World Report*/Best Lawyers in America: "Best Law Firms," nationally ranked for mass tort and class action litigation; ranked Tier 1 for appellate, commercial litigation, and mass tort and class action for the Kansas City region
- *Chambers USA*: Band 1, Missouri, Litigation: Mainly Plaintiffs
- *Chambers USA*: Band 2, Missouri, Labor & Employment: Mainly Plaintiffs
- *Benchmark Litigation*: Missouri, "Recommended" for employment litigation

Representative Individual Honors

- *Law360*: Titans of the Plaintiffs Bar, Norman Siegel
- *Law360*: Cybersecurity & Privacy MVP of the Year, Norman Siegel
- *Law360*: Food & Beverage MVP of the Year, Patrick Stueve
- *The National Law Journal*: Plaintiffs' Lawyers Trailblazers, George Hanson
- *The National Law Journal*: Elite Boutique Trailblazer, Patrick Stueve
- *Best Lawyers in America*: Litigation - Antitrust Lawyer of the Year, Patrick Stueve
- *Best Lawyers in America*: Appellate Practice Lawyer of the Year, Steve Six
- *Best Lawyers in America*: Employment Law - Individuals Lawyer of the Year, George Hanson
- *Best Lawyers in America*: Mass Tort Litigation/Class Actions - Plaintiffs Lawyer of the Year, Norman Siegel
- International Academy of Trial Lawyers Association, Patrick Stueve
- *Missouri Lawyers Weekly*: Missouri Lawyers Awards - Influential Lawyer, Norman Siegel
- *Missouri Lawyers Weekly*: POWER30 - Commercial and Consumer Litigation, Norman Siegel and Patrick Stueve
- *Missouri Lawyers Weekly*: POWER30 - Employment Law, George Hanson

CLASS AND COLLECTIVE ACTIONS

Since opening its doors in 2001, Stueve Siegel Hanson has obtained substantial results in a wide range of complex commercial, class, and collective actions while serving as lead or co-lead counsel.

Over the past decade, verdicts and settlements include:

Antitrust

- Obtaining \$53 million in settlements between a class of direct purchasers of automotive lighting products and several manufacturers accused of participating in a wide-ranging price fixing scheme.
- Obtaining a \$25 million settlement in a nationwide antitrust class action regarding price fixing of aftermarket automotive sheet metal parts.
- Obtaining a \$7.25 billion settlement in a massive price-fixing case brought by a class of U.S. merchants against Visa, Mastercard and their member banks.
- Obtaining \$33 million in nationwide class action alleging price fixing for certain polyurethanes in Urethanes antitrust case.
- Obtaining a \$25 million settlement in a class action lawsuit that alleged Blue Rhino and certain competitors conspired to reduce the amount of propane gas in cylinders sold to customers. The firm obtained a \$10 million settlement in a related suit against AmeriGas.

Catastrophic Injury

- Obtaining \$39.5 million in settlements from three refiners on behalf of adjacent homeowners who were living above a large plume of gasoline leaked from the refineries and connecting pipelines.

Commercial Litigation

- Obtaining a \$1.51 billion settlement – the largest agribusiness settlement in U.S. history – for U.S. corn growers, grain handling facilities and ethanol production plants that purchased corn seeds prematurely sold by Syngenta.
- Obtaining a \$218 million jury verdict for a class of Kansas corn producers who purchased corn seeds prematurely sold by Syngenta.
- Obtaining preliminary approval of a \$55 million settlement for U.S. dairy farmers who purchased the Classic model of the voluntary milking system (VMS) manufactured and sold by DeLaval Inc.
- Obtaining preliminary approval of a \$56 million settlement on behalf of a class of government entities against Trinity Industries and its manufacturing arm, Trinity Highway Products, to remove and replace the companies' 4-inch ET Plus guardrail end terminals on Missouri roads.
- Obtaining more than \$44 million in restitution and \$7.9 million in cash for dentists against Align Technology, Inc. in a nationwide deceptive trade practices case.
- Obtaining a \$24 million settlement resolving consumer class action claims against Experian, a major credit reporting agency, over alleged violations of the Fair Credit Reporting Act.

Consumer Class Action

- Obtaining two settlements totaling \$29 million to resolve consumer class action claims against Experian, one of the "big three" credit reporting agencies, arising out of the company's reporting of delinquent loan accounts.
- Obtaining up to \$220 million in damages for all Missouri residents who purchased the prescription pain reliever Vioxx before it was removed from the market.
- Obtaining more than \$75 million in relief for purchasers of Hyundai vehicles for Hyundai's overstatement of horsepower in vehicles.
- Obtaining \$29.5 million in settlements for overdraft fees charged to customers from UMB Bank, Bank of Oklahoma and Intrust Bank.
- Obtaining \$19.4 million for purchasers of H&R Block's Express IRA product related to allegedly false representations made during the sales presentation.

Cost of Insurance

- Obtaining a \$2.25 billion settlement in a class action lawsuit against The Lincoln National Life Insurance Company over alleged life insurance policy overcharges.
- Obtaining a \$90 million settlement in a class action against USAA Life Insurance Company over alleged life insurance policy overcharges.
- Obtaining a \$59.75 million settlement in a nationwide class action lawsuit against John Hancock Life Insurance Company (U.S.A.) over alleged life insurance policy overcharges.
- Obtaining a \$34 million jury verdict in a class action trial against State Farm Insurance regarding alleged life insurance policy overcharges.

Data Privacy

- Obtaining a historic \$1.5 billion settlement in a nationwide class action stemming from credit reporting firm Equifax's massive 2017 data breach.
- Obtaining a \$115 million settlement (at the time, the largest data breach settlement in U.S. history) resulting from a 2015 data breach affecting Anthem, Inc., one of the nation's largest for-profit managed health care companies.
- Obtaining a \$10 million settlement in a class action resulting from a data breach at Target Corp.
- Obtaining a \$3.25 million settlement in a class action stemming from a data breach at the National Board of Examiners in Optometry.
- Obtaining a \$2.3 million settlement in a class action stemming from a data breach at global technology company Citrix's internal network.
- Obtaining a \$3.25 million settlement in data privacy litigation on behalf of more than 61,000 optometrists whose personal information was compromised by the national optometry board.

Fair Labor Standards Act

- Obtaining a \$73 million settlement on behalf of current and former Bank of America retail banking and call center employees who alleged violations of the Fair Labor Standards Act.
- Obtaining a \$27.5 million settlement for a class of loan originators who were misclassified as exempt and denied overtime.
- Obtaining a \$25 million settlement for a class of mortgage consultants for unpaid overtime as lead counsel in multidistrict litigation.
- Obtaining a \$24 million settlement to resolve a collective arbitration and more than 50 federal mass actions involving misclassified satellite technicians denied overtime and minimum wages.
- Obtaining a \$14.5 million settlement for a class of inventory associates for unpaid overtime.
- Obtaining a \$12.5 million settlement for multiple classes and collective of pizza delivery drivers alleging vehicle expenses reduced their wages below the minimum wage.
- Obtaining a \$10.5 million settlement for a class of bank employees for misclassification as being exempt from overtime.
- Obtaining a \$8.5 million settlement for a collective of employees in the hospitality industry for unpaid minimum wages.
- Obtaining a \$7.7 million settlement for a class of loan account servicers misclassified as exempt and denied overtime.
- Obtaining a \$7.5 million settlement for class of loan processors in multidistrict litigation.
- Obtaining numerous settlements for \$5 million or less for classes and collective seeking unpaid overtime and minimum wages.

JUDICIAL PRAISE

"I've always been impressed with the professionalism and the quality of work that has been done in this case by both the plaintiffs and the defendants. On more than one occasion, it has made it difficult for the Court because the work has been so good."

Hon. Nanette Laughrey

U.S. District Court for the Western District of Missouri

Nobles, et al., v. State Farm Mutual Automobile Insurance Co.

"The complex and difficult nature of this litigation, which spanned across multiple jurisdictions and which involved multiple types of plaintiffs and claims, required a great deal of skill from plaintiffs' counsel, including because they were opposed by excellent attorneys retained by Syngenta. That high standard was met in this case, as the Court finds that the most prominent and productive plaintiffs' counsel in this litigation were very experienced had very good reputations, were excellent attorneys, and performed excellent work. In appointing lead counsel, the various courts made sure that plaintiffs would have the very best representation..."

In this Court's view, the work performed by plaintiffs' counsel was consistently excellent, as evidenced at least in part by plaintiffs' significant victories with respect to dispositive motion practice, class certification, and trial."

Hon. John Lungstrum

U.S. District Court for the District of Kansas

In Re: Syngenta AG MIR 162 Corn Litigation

"The most compelling evidence of the qualifications and dedication of proposed class counsel is their work in this case. Considering how far this action has come despite a grant of summary judgment in Defendant's favor and a reversal on appeal, proposed class counsel have made a strong showing of their commitment to helping the class vigorously prosecute this case."

Hon. Andrew J. Guilford

U.S. District Court for the Central District of California

Reyes v. Experian

"I believe this was an extremely difficult case. I also believe that it was an extremely hard fought case, but I don't mean hard fought in any negative sense. I think that counsel for both sides of the case did an excellent job..."

I congratulate the plaintiffs and I also congratulate the defense lawyers on the very, very fine job that both sides did in a case that did indeed pose novel and difficult issues."

Hon. Audrey G. Fleissig

U.S. District Court for the Eastern District of Missouri

William Perrin, et al., v. Papa John's International, Inc.

"The experience, reputation and ability of class counsel is outstanding."

Hon. Michael Manners

Circuit Court of Jackson County, Missouri

Berry v. Volkswagen Grp. of Am., Inc.

MDL EXPERIENCE

This list includes both active and resolved matters; the most recent are listed first.

ACTIVE

In Re: T-Mobile Customer Data Security Breach Litigation (2021 to present)

- **Case No. and Court:** MDL No. 3019, Western District of Missouri
- **Judge:** Brian Wimes
- **Subject Matter and Status:** Consumer class action stemming from a data breach suffered by T-Mobile that compromised personal identifying information of millions of current, former and prospective customers. Individuals are currently being vetted to serve as class action representatives on behalf of other affected consumers.
- **Role: Co-lead Counsel:** Norman Siegel

In Re: 3M Combat Arms Earplug Products Liability Litigation (2019 to present)

- **Case No. and Court:** 3:19-md-02885-MCR-GRJ, Northern District of Florida
- **Judge:** M. Casey Rodgers
- **Subject Matter and Status:** Product liability class action alleging certain 3M earplugs caused military service members and veterans to suffer hearing loss, tinnitus and other health issues. The first bellwether trial is scheduled for Spring 2021.
- **Role:** Early Vetting Leadership Committee: Abby McClellan

In Re: American Medical Collection Agency, Inc., Customer Data Security Breach Litigation (2019 to present)

- **Case No. and Court:** 2:19-md-02904-MCA-MAH, District of New Jersey
- **Judge:** Madeline Cox Arleo
- **Subject Matter and Status:** Consumer class action stemming from a data breach suffered by the American Medical Collection Agency (AMCA) that exposed millions of Quest patients' personal data. The matter is in discovery.
- **Role:** Co-Lead Counsel, Quest Track: Norman Siegel

In Re: Capital One Consumer Data Security Breach Litigation (2019 to present)

- **Case No. and Court:** 1:19-md-02915, Eastern District of Virginia
- **Judge:** Anthony J. Trenga
- **Subject Matter and Status:** Consumer class action stemming from a data breach that affected the personal information of approximately 100 million people in the U.S. and 6 million in Canada. The case is pending.
- **Role:** Co-lead Counsel: Norman Siegel

In Re: Intuit Free File Litigation (2019 to present)

- **Case No. and Court:** 5:19-cv-02546, Northern District of California
- **Judge:** Charles R. Breyer
- **Subject Matter and Status:** Pending consumer class action alleging that Intuit, the maker of TurboTax, deliberately impeded access to a free online tax-filing program required by the IRS.
- **Role:** Co-lead Counsel: Norman Siegel

In Re: Dominion Dental Services USA, Inc. Data Breach Litigation (2019 to present)

- **Case No. and Court:** 1:19-cv-01050, Eastern District of Virginia
- **Judge:** Leonie M. Brinkema
- **Subject Matter and Status:** Consumer class action stemming from a major data breach at Dominion National Insurance Company. The case is pending.
- **Role:** Co-lead and Interim Class Counsel: Barrett Vahle

In Re: Marriott International, Inc., Customer Data Security Breach Litigation (2019 to present)

- **Case No. and Court:** 8:19-md-02879, District of Maryland
- **Judge:** Paul W. Grimm
- **Subject Matter and Status:** Consumer class action involving a data breach affecting more than 380 million people. The MDL Court appointed Lead Counsel, Liaison Counsel and Plaintiff Steering Committee on April 29, 2019.
- **Role:** Plaintiff Steering Committee: Norman Siegel

In Re: Packaged Seafood Product Litigation (2015 to present)

- **Case No. and Court:** 3:15-md-02670-JLS-MDD, Southern District of California
- **Judge:** Janis L. Sammartino
- **Subject Matter and Status:** The case alleges an antitrust price-fixing conspiracy among the country's largest packaged seafood and canned tuna producers, including Starkist, Chicken of the Sea and Bumble Bee. Stueve Siegel Hanson successfully resolved its claims against one of the major companies and continues to pursue claims against the others.
- **Role:** Stueve Siegel Hanson represents the country's largest cooperative food wholesaler to independently owned supermarkets and grocery stores.

In Re: Proton-Pump Inhibitor Products Liability Litigation (No. II) (2017 to present)

- **Case No. and Court:** 2:17-md-2789, District of New Jersey
- **Judge:** Clair C. Cecchi
- **Subject Matter and Status:** Product liability action involving individuals who took Proton-Pump Inhibitors and suffered kidney injuries. This MDL is currently in the discovery phase.
- **Role:** Plaintiff Steering Committee: Norman Siegel

In Re: Taxotere (Docetaxel) Products Liability Litigation (2016 to present)

- **Case No. and Court:** 2:16-md-02470, Eastern District of Louisiana
- **Judge:** Jane Triche Milazzo; previously Hon. Kurt D. Engelhardt
- **Subject Matter and Status:** Product liability action involving women that were treated with the breast cancer drug Taxotere (Docetaxel) and experienced permanent hair loss. The first bellwether trial in September 2018 was a defense win. Several more bellwether trials are scheduled.
- **Role:** Plaintiff Steering Committee: Abby McClellan; Common Benefit Subcommittee: Todd Hilton; ESI Subcommittee: Stephanie Walters

In Re: U.S. Office of Personnel Management Data Security Breach Litigation (2015 to present)

- **Case No. and Court:** 1:15-mc-01394, District of Columbia
- **Judge:** Amy Berman Jackson
- **Subject Matter and Status:** Consumer class action involving a data breach. After the district court initially dismissed the lawsuit on Article III standing grounds, Norman Siegel served on the appellate team that won a full reversal before the D.C. Circuit in June 2019. The cases have been remanded for further proceedings in the district court.
- **Role:** Stueve Siegel Hanson performed significant legal briefing and managed class representatives at the direction of lead counsel.

In Re: Cook Medical, Inc., IVC Filters Marketing, Sales Practices and Products Liability Litigation (2014 to present)

- **Case No. and Court:** 1:14-mi-02570, Southern District of Indiana
- **Judge:** Richard L. Young
- **Subject Matter and Status:** Product liability action involving inferior vena cava filters and injuries experienced as a result of implantation. This MDL is currently in the bellwether trial stage.
- **Role:** Stueve Siegel Hanson represents multiple clients in this MDL and is actively participating in discovery.

In Re: Testosterone Replacement Therapy Products Liability Litigation (2014 to present)

- **Case No. and Court:** 1:14-cv-01748, Northern District of Illinois
- **Judge:** Matthew F. Kennelly
- **Subject Matter and Status:** Product liability action involving men who used testosterone replacement therapy (TRT) and suffered cardiovascular injuries. All defendants have entered into global settlement agreements.
- **Role:** Stueve Siegel Hanson participated in third-party discovery and prepared a bellwether plaintiff for trial prior to a global settlement.

RESOLVED

In Re: Equifax, Inc., Customer Data Security Breach Litigation (2017 to 2020)

- **Case No. and Court:** 1:17-md-02800, Northern District of Georgia
- **Judge:** Thomas W. Thrash
- **Subject Matter and Status:** Consumer class action involving a data breach affecting more than 148 million Americans. This MDL was resolved with a \$1.5 billion settlement in January 2020.
- **Role:** Co-lead Counsel and Chair of Settlement Committee: Norman Siegel

In Re: Anthem, Inc. Data Breach Litigation (2015 to 2018)

- **Case No. and Court:** 5:15-md-02617, Northern District of California
- **Judge:** Lucy H. Koh
- **Subject Matter and Status:** Consumer class action involving a data breach that settled in 2018.
- **Role:** Stueve Siegel Hanson represented the most named plaintiffs. Norman Siegel worked with lead counsel to secure a \$115 million settlement.

In Re: Bard IVC Filters Products Liability Litigation (2015 to present)

- **Case No. and Court:** 2:15-md-02641, District of Arizona
- **Judge:** David G. Campbell
- **Subject Matter and Status:** Product liability action involving inferior vena cava filters and injuries experienced as a result of implantation. This MDL is in the process of closing, and cases that are not resolved are being remanded or transferred. The action has resolved for firm cases.
- **Role:** The firm represented multiple clients in this MDL and is actively participating in discovery.

In Re: Volkswagen 'Clean Diesel' Marketing, Sales Practices & Products Liability Litigation (2015 to 2016)

- **Case No. and Court:** 3:15-md-02672, Northern District of California
- **Judge:** Charles R. Breyer
- **Subject Matter and Status:** Product liability litigation concerning Volkswagen "clean diesel" vehicles that did not meet emissions standards. A settlement agreement was reached in 2016.
- **Role:** Stueve Siegel Hanson represented Missouri class representatives in the nationwide settlement and participated in discovery.

In Re: The Home Depot, Inc., Customer Data Security Breach Litigation (2014 to 2017)

- **Case No. and Court:** 1:14-md-02583, Northern District of Georgia
- **Judge:** Thomas W. Thrash, Jr.
- **Subject Matter and Status:** Consumer class action involving a data breach. This MDL resolved with a \$29 million class settlement in 2017.
- **Role:** Lead Counsel: Norman Siegel and Barrett Vahle

In Re: Pre-Filled Propane Tank Antitrust Litigation (2014 to 2020)

- **Case No. and Court:** 4:14-md-02567, Western District of Missouri
- **Judge:** Gary A. Fenner
- **Subject Matter and Status:** Antitrust litigation alleging that AmeriGas and Ferrellgas conspired to reduce the propane sold in replacement cylinders. This MDL was resolved with a settlement with AmeriGas for \$10 million and Ferrellgas for \$25 million.
- **Role:** Co-lead and Liaison Counsel: Norman Siegel

In Re: Syngenta AG MIR162 Corn Litigation (2014 to 2020)

- **Case No. and Court:** 2:14-md-02591, District of Kansas
- **Judge:** John W. Lungstrum
- **Subject Matter and Status:** Class action on behalf of corn farmers against biotech giant Syngenta related to the sale of genetically modified corn seed. Stueve Siegel Hanson served as lead trial counsel securing a \$217.7 million jury verdict in the first bellwether trial. The Court approved a nationwide settlement of \$1.51 billion in 2018.
- **Role:** Co-lead Counsel, Liaison Counsel and Trial Counsel: Patrick Stueve

In Re: Target Corporation Customer Data Security Breach Litigation (2014 to 2018)

- **Case No. and Court:** 0:14-md-02522, District of Minnesota
- **Judge:** Paul A. Magnuson
- **Subject Matter and Status:** Consumer class action involving a data breach. The Eighth Circuit in 2018 affirmed the class settlement valued at \$23.2 million.
- **Role:** Plaintiff Executive Committee: Norman Siegel
Stueve Siegel Hanson represented plaintiffs and drafted large portions of the brief that resulted in the denial of Target's motion to dismiss and negotiated settlement.

In Re: General Motors LLC Ignition Switch Litigation (2014 to 2020)

- **Case No. and Court:** 1:14-md-02543, Southern District of New York
- **Judge:** Jesse M. Furman
- **Subject Matter and Status:** Product liability action involving defective ignition switches on GM vehicles. A \$120 million settlement was reached in March 2020.
- **Role:** The firm represented a Missouri class representative and participated in discovery.

In Re: Simply Orange Juice Marketing and Sales Practices Litigation (2012 to 2018)

- **Case No. and Court:** 4:12-md-02361, Western District of Missouri
- **Judge:** Fernando J. Gaitan, Jr.
- **Subject Matter and Status:** Consumer case involving a false advertisement claim related to the labeling of Simply Orange Juice.
- **Role:** Liaison Counsel: Norman Siegel
Stueve Siegel Hanson worked with Lead Counsel on all substantive aspects of the case and negotiated settlement.

In Re: American Medical Systems, Inc., Pelvic Repair System Products (2012 to present)

- **Case No. and Court:** 2:12-md-2325, Southern District of West Virginia
- **Judge:** Joseph R. Goodwin
- **Subject Matter and Status:** Product liability action involving women that had vaginal mesh implanted and experienced side effects.
- **Role:** Stueve Siegel Hanson represented a plaintiff in this MDL, participated in discovery, and negotiated a favorable settlement on the client's behalf in 2017.

In Re: Actos (pioglitazone) Products Liability Litigation (2011 to 2018)

- **Case No. and Court:** 6:11-md-02299, Western District of Louisiana
- **Judge:** Rebecca F. Doherty
- **Subject Matter and Status:** Product liability action involving individuals who were prescribed Actos and diagnosed with bladder cancer. The MDL resolved with a \$2.5 billion settlement.
- **Role:** Stueve Siegel Hanson represented a plaintiff in this MDL, participated in discovery, and facilitated a favorable settlement on the client's behalf in 2015.

In Re: Bank of America Wage and Hour Employment Practices Litigation (2010 to 2014)

- **Case No. and Court:** 2:10-md-02138, District of Kansas
- **Judge:** John W. Lungstrum
- **Subject Matter and Status:** Nationwide FLSA collective action on behalf of Bank of America tellers and personal bankers. This MDL resolved with a \$73 million settlement.
- **Role:** Co-lead and Liaison Counsel: George Hanson

In Re: Wells Fargo Home Loan Processor Overtime Pay Litigation (2007 to 2011)

- **Case No. and Court:** 3:07-md01841, Northern District of California
- **Judge:** Edward M. Chen
- **Subject Matter and Status:** Nationwide FLSA collective action on behalf of home mortgage loan processors. This MDL resolved with a \$7.2 million settlement.
- **Role:** Co-lead Counsel: George Hanson

In Re: Zimmer Durom Hip Cup Personal Injury Litigation (2009 to 2016)

- **Case No. and Court:** 2:09-cv-04414, District of New Jersey
- **Judge:** Susan D. Wigenton
- **Subject Matter and Status:** Product liability action involving defective Zimmer Durom Hip Cups. A settlement was reached in this MDL in 2016.
- **Role:** Stueve Siegel Hanson represented a plaintiff in this MDL, participated in discovery, and facilitated a favorable settlement on the client's behalf in 2016.

In Re: Wells Fargo Home Mortgage Overtime Pay Litigation (2006 to 2010)

- **Case No. and Court:** C:06-cv-01770, Northern District of California
- **Judge:** Edward M. Chen
- **Subject Matter and Status:** Nationwide FLSA collective action on behalf of home mortgage loan officers. This MDL resolved with a \$25 million settlement.
- **Role:** Co-lead Counsel: George Hanson

RECENT RECOVERIES AS LEAD COUNSEL IN COMPLEX AND CONSUMER LITIGATION

- \$2.25 billion in death benefits settlement, with a market value of approximately \$171.8 million, on behalf of 77,000 policyholders against Lincoln National Life Insurance Company.
- \$1.51 billion settlement on behalf of a nationwide class of corn growers, grain-handling facilities and ethanol plants against biotech giant Syngenta related to its marketing and launch of genetically modified corn seed.
- \$1.5 billion settlement in a nationwide class action stemming from credit reporting firm Equifax's massive 2017 data breach.
- \$220 million settlement for all Missouri residents who purchased the prescription pain reliever Vioxx before it was removed from the market.
- \$218 million jury trial verdict as lead trial counsel on behalf of class of Kansas farmers against Syngenta related to the sale of genetically modified corn seed.
- \$90 million settlement on behalf of life insurance policyholders against USAA Life Insurance Company for policy overcharges.
- \$75 million settlement in relief for purchasers of Hyundai vehicles for Hyundai's overstatement of horsepower in vehicles.
- \$73 million settlement on behalf of a class of bank employees improperly classified under the Fair Labor Standards Act.
- \$59.75 million settlement on behalf of life insurance policyholders against John Hancock Life Insurance Company (U.S.A.).
- \$53.5 million in settlements between a class of direct purchasers of automotive lighting products and several manufacturers accused of participating in a price fixing scheme.
- \$44.5 million settlement to resolve a class action accusing U.S. Bank of facilitating the theft of customer funds at now-bankrupt futures merchant Peregrine Financial Group Inc.
- \$44 million in restitution and \$7.9 million in cash settlement for dentists against Align Technology, Inc. in a nationwide deceptive trade practices case.
- \$39.5 million in settlements from three refiners on behalf of adjacent homeowners who were living above a large plume of gasoline leaked from the refineries and connecting pipelines.
- \$35 million settlement for consumer fraud and antitrust claims brought on behalf of retail customers of pre-filled propane tanks.
- \$34.3 million jury verdict on behalf of 24,000 State Farm Life Insurance Co. policyholders who were overcharged for life insurance policies.
- \$33 million settlement for Mitsubishi and Chrysler owners related to defective wheel rims.
- \$33 million settlement in nationwide class action alleging price fixing for certain polyurethanes in Urethanes antitrust case.
- \$29 million in settlements against Experian, one of the "big three" credit reporting agencies, arising out of Experian's reporting of delinquent loan accounts.

- \$29.5 million in settlements for overdraft fees charged to customers from UMB Bank, Bank of Oklahoma and Intrust Bank.
- \$25.4 million settlement for purchasers of H&R Block's Express IRA product related to allegedly false representations made during the sales presentation.

PATRICK J. STUEVE

PARTNER



Patrick Stueve has prosecuted claims in federal and state courts nationwide against some of the largest companies in the world, including Merck, Formula 1 Racing, ITW, Citigroup, UnitedHealthcare and AIG. He has secured more than \$2 billion in jury verdicts, arbitration awards and settlements – often in high-stakes cases. He focuses his practice on:

“Bet-the-Company” Commercial Litigation. Patrick represents entrepreneurs, privately held companies and publicly traded Fortune 500 corporations. He successfully represented a group of Seaboard Corp. entities against Grindrod Limited, the largest logistics and shipping company in South Africa. Seaboard sought more than \$100 million in actual and punitive damages. Six weeks before trial, Grindrod settled with Seaboard.

In a series of trademark and licensing cases, he secured more than \$9 million in recovery for a small software company after its programs were installed on networks and made available to thousands without permission or payment.

Antitrust. Patrick works for companies subjected to unfair or illegal business tactics. In one representative case he settled a landmark Sherman Act I antitrust lawsuit brought against the largest managed care organizations and hospital systems in Kansas City.

Food and Agriculture. Patrick served as co-lead and class counsel for a landmark case against Syngenta on behalf of corn growers, grain-handling facilities and ethanol plants nationwide. The resulting \$1.51 billion settlement – the largest agricultural settlement in U.S. history – resolved thousands of cases nationwide against Syngenta related to its marketing and launch of genetically modified corn seed.

Patrick began his legal career as a federal district court clerk then joined the trial department of the former Stinson, Mag & Fizzell, where he became an equity partner four years later. He left to start Berkowitz, Feldmiller, Stanton, Brandt, Williams & Stueve, a firm he helped to grow to more than 30 lawyers before he departed to launch Stueve Siegel Hanson in 2001

BRADLEY T. WILDERS

PARTNER



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Bradley Wilders represents small businesses, large companies and individuals in complex commercial litigation, including patent, copyright, antitrust and fraud cases.

Brad is not afraid to take a case to trial if that is what it takes to secure a fair resolution for his clients. In one recent engagement, Brad was a critical part of the team that achieved a \$217.7 million judgment on behalf of Kansas farmers against an international corn seed manufacturer. After the trial, the case settled for all U.S. farmers for \$1.51 billion, which is the largest agricultural settlement in U.S. history. The litigation stemmed from allegations that the seed manufacturer introduced genetically modified corn seed into the U.S. corn supply before it was approved for import into China; as a result, China stopped buying corn from U.S. farmers, causing lower corn prices and other economic losses. In approving the settlement, the federal district judge described the work undertaken by Brad and other lawyers on the team as "complex and difficult" and that the work they performed was "consistently excellent, as evidenced at least in part by plaintiffs' significant victories with respect to dispositive motion practice, class certification, and trial." Brad a significant role on all three of these issues. His arguments raised critical issues about the biotech industry and its duty to act reasonably when launching new products, resulting in favorable orders that will protect U.S. farmers in the future.

Prior to joining Stueve Siegel Hanson, Brad clerked for Judge John R. Gibson of the U.S. Court of Appeals for the Eighth Circuit, where he was given the rare opportunity to work on cases in five of the 11 federal appellate courts. He draws upon this experience in his current practice, where he has handled multiple successful appellate cases.

Brad then served as an associate at an Am Law 100 international firm in Chicago, where he defended one of the world's largest computer companies against multiple accusations of patent infringement.

Brad has served as a special master in federal litigation, overseeing discovery disputes and settlement matters in a complex class-action case. He is also active in the local bar. He was elected Treasurer/Secretary of the Federal Practice Committee of the Kansas City Metropolitan Bar Association, and he was appointed by the court to the District of Kansas' Bench-Bar Committee for a three-year term beginning in 2020.

ALEXANDER T. RICKE

ATTORNEY



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Named one of Law360's 2022 "Rising Stars" for Employment, Alex has a track record of success representing workers, consumers, small businesses, and individuals against some of the largest companies in the country. Alex focuses his practice on three primary areas:

Wage and Hour and Employment. Alex has been co-lead counsel and played a meaningful role in scores of wage and hour cases that have recovered many tens of millions of dollars in unpaid overtime, unpaid minimum wages, and discriminatory pay practices.

Alex has built a reputation for his work enforcing federal and state laws regarding tipped workers and has prosecuted approximately 20 such cases against casino operators around the country. Since 2018, he has recovered more than \$45 million in unpaid wages for tipped and minimum wage workers at casinos.

His recent success serving as co-lead counsel include securing \$12.5 million settlement at two MGM casinos (final approval hearing, July 2022); a \$9.8 million settlement for minimum wage workers at three Rush Street Gaming casinos; a \$6 million settlement for minimum wage workers at Wind Creek casino; and a \$3.05 million settlement for minimum wage workers at Live! Casino.

Class Actions. Alex has prosecuted class actions for victims of data breaches, anticompetitive practices, and dangerous and defective products. Most recently, Alex worked as the lead associate representing Jackson County, Missouri and a certified class of Missouri counties, the City of St. Louis, and the Missouri Department of Transportation seeking the cost of removing and replacing Trinity Industries' 4-inch ET Plus guardrail end terminal from Missouri roads. These devices had been removed from MoDOT's approved product list and linked to serious injuries and death at the time Jackson County filed its lawsuit in 2015. A class action settlement was reached on the verge of trial in 2022.

Commercial Litigation. Alex represents plaintiffs all kinds of commercial disputes. He recently represented an executive at a startup for unpaid sales commissions for ongoing business in connection with his departure from the company and severance. He successfully settled the case and preserved the client's shares of the company, which were worth several hundred thousand dollars when the company was acquired several months later.



STUEVE SIEGEL HANSON

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**IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
AT INDEPENDENCE**

JACKSON COUNTY, MISSOURI,)	
individually and on behalf of a class of)	
others similarly situated,)	
)	
Plaintiff,)	Case No. 1516-CV23684
)	Division 2
v.)	
)	
TRINITY INDUSTRIES, INC., et al.)	
)	
Defendants.)	

**AFFIDAVIT OF BRADLEY T. WILDERS
IN SUPPORT OF PLAINTIFF’S MOTION FOR
ATTORNEYS’ FEES, COSTS, AND SERVICE AWARDS**

I, Bradley T. Wilders, attest as follows:

1. I respectfully submit this Affidavit in Support of Plaintiff’s Motion for Attorneys’ Fees, Costs, and Service Awards.

2. I am over the age of 18, of sound mind, and have personal knowledge of the facts stated herein and would competently testify to them if called to do so. I am a partner at the law firm Stueve Siegel Hanson LLP and was appointed Class Counsel (along with my colleagues Patrick J. Stueve and Alexander T. Ricke) by this Court on June 11, 2019.

3. My firm handles large-scale and high-stakes litigation (like this case), usually on a fully contingent basis. It has approximately 26 attorneys who work from our Kansas City, Missouri offices, and we practice almost exclusively in complex litigation in state and federal courts across the country.

4. I have extensive experience as a complex commercial litigator and trial attorney. I have extensive experience litigating and resolving class actions. In addition to trial work, I have

an active appellate practice and have successfully argued cases before federal and state appellate courts across the country. My experience, honors, and awards are further detailed on our firm website, at <https://www.stuevesiegel.com/attorneys-Wilders>. The three main lawyers representing the class, Mr. Stueve, Mr. Ricke, and myself, have combined experience of approximately 50 years in class actions and other complex litigation. *See* Ex. 2 (Firm Resume).

5. I and my firm coordinated with two other Kansas City law firms in prosecuting this case. We worked most closely with John Schirger and Matt Lytle at Miller Schirger LLC—the firm previously serving as class counsel and currently serving as Jackson County’s individual counsel—in prosecution of this case. Likewise, the firm also coordinated with and requested assistance from Theresa Otto and Patrick Hunt of Baty Otto Coronado Scheer P.C. who are outside counsel for class member the Missouri Department of Transportation (“MoDOT”).¹

6. For nearly seven years, Class Counsel has vigorously and intensively prosecuted the claims of Plaintiff Jackson County and the similarly situated class members. After these years of highly-contested litigation, Class Counsel has achieved an extraordinary result. Per the Settlement Agreement, Trinity commits to providing class members with both the cash and products necessary to replace its allegedly dangerous products on Missouri’s highways. This is an excellent, make-whole result for class members, with benefits that extend to the general public in the form of increased highway safety.

7. To date, and to my knowledge, Class Counsel represent the only Plaintiffs in the country to have favorably resolved claims on behalf of state or local governments against Trinity arising out of their use of the ET plus guardrail end terminals, despite the fact that those products are on highways around the nation. Indeed, numerous other states and government entities had

¹ For purposes of this affidavit, “Class Counsel” refers to all of these lawyers.

raised these claims, only to have their claims dismissed by courts. Class Counsel's remarkable success in this action speaks to the unique skill and commitment that they brought to this case.

The Nature of the Claims

8. Class Counsel filed a Class Action Petition on behalf of Jackson County and others similarly situated on November 5, 2015, seeking the cost of removing and replacing thousands of Trinity 4-inch ET Plus guardrail end terminals from class member roads. In the Petition, Counsel asserted negligence, strict liability, negligent supplying of a dangerous instrumentality, and declaratory judgment claims against both Trinity Industries, Inc. and Trinity Highway Products, LLC (collectively referred to throughout as "Trinity"). Central to each claim was the allegation that Trinity had altered the design of its ET Plus by shortening the feeder chutes (also known as guide channels) from 5 inches to 4 inches, that the design modification was done in secret and concealed from federal and state regulators, and that the design modification rendered the ET Plus defective and unreasonably dangerous.

9. The scope of this case was significant. Plaintiff Jackson County sought to represent itself and a class of similarly situated counties, the City of St. Louis, and MoDOT to remove many thousands of 4-inch ET Plus devices from thousands of roadway miles. Trinity's sales records showed that it had sold more than 15,000 4-inch ET Plus devices for installation on class member roads. The vigorous and contested nature of the litigation that would follow reflected the significant stakes of the case.

The Procedural History of the Litigation

10. Over the course of the litigation, Trinity attempted to move or have the case dismissed multiple times. The first such attempt occurred in January 2016 when Trinity removed the litigation to the U.S. District Court for the Western District of Missouri arguing that traditional

diversity jurisdiction was satisfied under 28 U.S.C. 1332(a). However, Class Counsel filed a motion to remand the litigation back to the Circuit Court of Jackson County, asserting that the federal district court did not possess subject matter jurisdiction over the case, which the Hon. Fernando Gaitan granted after briefing. *Jackson Cnty., Mo. v. Trinity Indus., Inc.*, No. 16-cv-0004, 2016 WL 10650701 (W.D. Mo. Feb. 29, 2016).

11. However, while the case was pending in federal court, Trinity filed a motion to dismiss for failure to state a claim and lack of standing due to (purportedly) no injury in fact. *See Jackson Cty., Mo. v. Trinity Indus., Inc.*, No. 16-cv-0004 (W.D. Mo.), Doc. 15. This was the first time—but far from the last—that Trinity raised the specter of the economic loss doctrine as an alleged complete bar to Plaintiff’s tort claims for the cost of removing and replacing the 4-inch ET Plus. The federal court granted Plaintiff’s motion to remand to the Circuit Court of Jackson County while the motion to dismiss was pending, and the parties filed supplemental briefs before this Court. This Court denied Trinity’s motion to dismiss on April 24, 2017.

12. In January 2017, Class Counsel moved to certify the following class pursuant to Rule 52.08(a) and (b)(3):

All Missouri counties with populations of 10,000 or more persons as determined by the Missouri Census Data Center as of July 1, 2014, including the independent city, the City of St. Louis; and the State of Missouri’s transportation authority, that have or had ET-Plus guardrail end terminals with 4-inch wide feeder chutes installed on roadways they own and maintain.

The parties briefed class certification between January and May 2017, including supplemental briefing from Trinity. The Court conducted a class certification hearing on May 24, 2017 and solicited proposed findings of fact and conclusions of law from the parties. In December 2017, the Court certified the proposed class. The case was then stayed to allow Trinity to petition the appellate courts to review this Court’s class certification order.

13. As expected, Trinity petitioned the Missouri Court of Appeals pursuant to Rule 52.08(f) to review the Court's class certification order. Class Counsel opposed the petition, and it was denied. Trinity then filed a petition for a writ of prohibition in the Missouri Supreme Court. Class Counsel once again opposed the petition, and it, too, was denied. The Court then approved the notice plan that Class Counsel had proposed, whereby each potential class member would receive a paper copy of the notice (including a link to the litigation website and Class Counsel's contact information) by U.S. Mail. As of today, no class member has objected to or opted out of the settlement. Class Counsel will supplement the record in this case if an objection is submitted.

14. With the litigation proceeding as a class action, the discovery was significant, contentious, and extensive. With respect to document discovery, Plaintiff Jackson County produced over 14,000 documents. Trinity produced over 476,000 documents. The Missouri Department of Transportation, a class member, produced over 12,000 documents. And Class Counsel, on behalf of Plaintiff Jackson County, subpoenaed documents from five Missouri-based contractors who installed the 4-inch ET Plus, resulting in a production of nearly 3,000 documents. These hundreds of thousands of documents span millions of pages.

15. The parties likewise served multiple rounds of interrogatories and requests for admissions. And there were over 20 depositions conducted across the country during the litigation—from Portland, Maine to Phoenix, Arizona and many places in between. Class Counsel produced and defended several expert witnesses on behalf of Plaintiff: Dr. Marthinus C. van Schoor (liability), Mr. Eric C. Frye (damages), Mr. Thomas E. Green (crash reconstruction and other similar incidents), and Dr. Brian Coon (liability) who was withdrawn. Counsel also deposed Trinity's expert witnesses: Donald F. Tandy, Jr. (crash reconstruction and other similar incidents), Dr. Malcolm H. Ray (liability), and Dr. Mark A. Israel (damages). In addition, Class Counsel

defended Plaintiff's rebuttal expert witnesses at depositions, including Mr. Kevin Schrum (rebuttal to Dr. Ray and Mr. Tandy), Mr. Eric C. Frye (rebuttal to Dr. Israel) and Dr. Norma F. Hubele (statistical analysis of ET Plus crash data).

16. The parties also had a number of discovery disputes that required resolution by either the Court or Special Master Charlie J. Harris, Jr. For example, Trinity issued a subpoena to MoDOT seeking discovery regarding the ET Plus. Class Counsel moved for a protective order to quash the subpoena in March 2019, and while Trinity opposed the motion, the Court ultimately granted it. But the dispute was not yet resolved: Trinity then appealed this Court's decision by moving for a writ of prohibition before the Missouri Court of Appeals for the Western District. Class Counsel successfully defended this Court's decision on this discovery issue before the appellate court, which refused to disturb this Court's ruling.

17. Notably, this lengthy litigation process arose from just one of the parties' discovery disputes; there were several others. For example, before Special Master Harris in January 2020, Class Counsel was obliged to move to compel discovery responses from Trinity, while Trinity moved for a protective order limiting deposition topics. These time-consuming discovery disputes were routine throughout the litigation.

18. Throughout the case, Trinity asserted that Plaintiff Jackson County's claims and those of class members were barred by the economic loss doctrine. In January 2020, Trinity filed a motion for summary judgment entirely focused on the economic loss doctrine. Class counsel opposed the motion, arguing principally that Missouri's economic loss doctrine did not apply because Trinity had breached a duty in tort by designing and selling a product that put people at risk of harm and damaged other property because the product was unreasonably dangerous. Plaintiff relied on, among other cases, *Sch. Dist. of City of Indep., Mo., No. 30 v. U.S. Gypsum Co.*,

750 S.W.2d 442 (Mo. App. W.D. 1988) and *Kansas City v. Keene Corp.*, 855 S.W.2d 360 (Mo. banc 1993), which both found that strict liability claims were actionable to recover the cost of removing and replacing asbestos from government buildings.

19. Trinity's motion for summary judgment also gave rise to collateral issues that required full briefing from the Parties. For example, Plaintiffs had submitted the affidavits of expert witnesses in connection with their opposition to Trinity's motion for summary judgment. Trinity moved to strike these affidavits, and Class Counsel responded to defend their use. And Class Counsel and Trinity engaged in briefing on yet another issue: whether oral argument on Trinity's motion for summary judgment was necessary. Ultimately, the Court denied Trinity's motion for summary judgment in July 2020. Though Plaintiff prevailed on this issue, there is no doubt Trinity would have pursued its economic loss doctrine arguments on appeal had it lost at trial.

20. With its motion for summary judgment denied, Trinity had one last arrow in its quiver to potentially avoid a class action trial: a motion to decertify the class. In December 2020, Trinity moved for decertification of the class, arguing principally that it did not satisfy numerosity due to the alleged number of class members, and that typicality and predominance were not satisfied based on the economic loss doctrine. In response, Class Counsel demonstrated that the class was sufficiently numerous based on Trinity's own sales records, and once again rebutted Trinity's economic loss doctrine arguments. After this significant and contested briefing, the Court denied the motion to decertify the class.

21. However, Trinity was not done. Trinity filed a petition under Rule 52.08(f) with the Missouri Court of Appeals for the Western District arguing that the Court abused its discretion

in refusing to decertify the class. Class Counsel once again opposed Trinity's request for interlocutory appeal, which was denied in December 2021.

22. As I explain further below, in line with the contentious and complex nature of this case, Class Counsel has collectively expended close to 15,000 hours on prosecuting this case to date, for a total lodestar exceeding \$9,500,000. In addition, Class Counsel advanced significant litigation expenses of approximately \$950,000. Although Class Counsel will continue to expend time and money on behalf of the class through the approval and claims process, Class Counsel's aggregate fee and expense recovery is set by agreement and will not increase.

Judge Atwell (Ret.) Oversaw the Parties' Arm's-Length Settlement Negotiations

23. In January of 2021, the Court set a firm trial date of April 4, 2022. The trial had been continued several times due to COVID-19, but Class Counsel was confident that the April 4, 2022 special trial setting would occur. The trial date spurred settlement discussions.

24. The parties first mediated on February 26, 2020 with Judge Atwell. However, the Court had not yet ruled on Trinity's motion for summary judgment, nor had Trinity filed its motion to decertify the class. Though the parties made little progress and did not resolve the case, the parties did, for the first time, discuss a settlement that included both cash and products to enable class members to remove and replace 4-inch ET Plus devices on their roads.

25. In April 2021, Trinity reached out to Class Counsel once again regarding a possible settlement structure that included products and cash to enable class members to remove and replace 4-inch ET Plus devices. Between April and December 2021, the parties exchanged drafts of a term sheet outlining a potential settlement structure. Once the parties had agreed to a potential structure, they remained at an impasse on dollar amounts and other material settlement terms. As a result, the parties re-engaged Judge Atwell to mediate the case once again. On January 11, 2022, the

parties conducted a full-day mediation with Judge Atwell. Although significant process was made, the parties did not reach a settlement.

26. Over the next five weeks, Judge Atwell continued to work the phones on a near-daily basis with Class Counsel and Trinity's counsel until, on February 18, 2022, the parties executed a binding term sheet containing the material terms of the settlement now before the Court. At the time the case settled, Class Counsel was preparing the case for the April 4, 2022 trial date, including preparing deposition designations, motions in limine, and other trial preparations.

27. The Settlement represents an excellent result for the class. Indeed, I refer to this settlement as making class members "whole" because this lawsuit sought the cost of removing and replacing 4-inch ET Plus devices from Missouri roads. Via the funds it creates, this settlement provides class members with the cash and products necessary to do that at no cost to class members.

28. First, the settlement creates a non-reversionary \$3,500,000 common fund to compensate class members for costs they previously incurred to remove and replace undamaged 4-inch ET Plus devices. This fund will be available for a one-year period following the Effective Date and will pay approved claims on a rolling basis. *See* Ex. 1 (Settlement Agreement) at § 6.

29. Second, the settlement creates a non-reversionary \$2,500,000 common fund to compensate class members for the costs of locating 4-inch ET Plus devices on their roads. This fund will be available for a 90-day period following the Effective Date and will pay approved claims shortly thereafter to enable class members to locate these devices for removal. *Id.* at § 7.

30. Third, the settlement provides class members with the means to remove and replace each undamaged 4-inch ET Plus on their roads at no cost to the class member. For a six-year period following the Effective Date, class members may submit as many claims as necessary to

remove and replace these devices. *Id.* at § 8. For each undamaged 4-inch ET Plus identified, claimed, and approved, the class member will receive one MoDOT-approved Type A MASH tangent end terminal plus a flat payment of \$1,700 to cover the costs of removal and replacement. *Id.*

31. Each Type A MASH tangent end terminal has a retail value of approximately \$2,000, meaning that each class member will receive approximately \$3,700 in cash and products for each replaced 4-inch ET Plus. Given that Plaintiff's damages expert calculated that there are approximately 10,500 4-inch ET Plus devices on class member roads as of February 2022, this component of the settlement confers an approximately \$38,000,000 benefit on class members. The replacement of Trinity's dangerous products with safer end terminals will help prevent death and serious injury to drivers on Missouri's highways. When these three types of settlement relief are combined with the attorneys' fees and expenses, the cost of settlement administration, and the service award, the settlement provides a value of over \$56,000,000.

32. This extraordinary result for the class is the product of Class Counsel's significant investment, of both time and money, in class members' claims. Over the seven-year span of this litigation, Class Counsel has expended 14,688.6 hours of time, which ultimately resulted in a make-whole settlement for class members. Given the fact that this complex and technical case was litigated up to the point of trial, and that it was highly contested at each stage from discovery to class certification (including with four attempted interim appeals), this expenditure of hours is eminently reasonable.

33. Class Counsel's work on this case, however, is not yet done, and will not be done for several years. This is because we have yet to move for final approval of the settlement, and after that, the Claims Administration process will be open for up to six years. As a result, the time

expenditure we used for our lodestar analysis likely undercounts the time that Class Counsel will ultimately expend on this case by at least several hundred hours.

34. Unsurprisingly, the significant time and resources that Class Counsel committed to this case over the course of seven years precluded us from taking and working on other cases.

35. Next, multiplying the total reasonable hours spent by Class Counsel working on this case by each firm member's current hourly rates results in a total lodestar fee of \$9,726,814.50. The hourly rates of Class Counsel utilized in this calculation are reasonable and have been repeatedly affirmed by state and federal courts in the Kansas City area and around the country. For example, my firm's hourly rates have been approved for the purpose of fee calculations in the following actions:

- *In re Equifax Inc. Customer Data Security Breach Litig.*, 2020 WL 256132, at *39 (N.D. Ga. March 17, 2020) (where a Stueve Siegel Hanson lawyer served as co-lead counsel, approving as reasonable the firm's 2019 rates up to \$935 and co-counsel's rates up to \$1,050), *aff'd in relevant part*, 999 F.3d 1247 (11th Cir. 2021).
- *Yellowdog Partners, LP v. CURO Group Holdings Corp.*, No. 18-cv-2662-JWL-KGG, ECF Doc. 99-14 at 2 (D. Kan. Nov. 13, 2020) (setting forth Stueve Siegel Hanson's 2020 rates, including \$845 for a Stueve Siegel Hanson partner) *id.*, ECF Doc. 107, at 1-3 (D. Kan. Dec. 18, 2020) (approving the motion for attorneys' fees).
- *In re Syngenta AG MIR162 Corn Litig.*, No. 14-md-2591-JWL-JPO, ECF Docs. 3587-5, 3849 at 33-34 (D. Kan. July 10, 2018) (expert analyzing counsel's submitted rates in the MDL, including rates from Stueve Siegel Hanson, and finding that 2017 hourly rates ranging up to \$985 per hour for a partner were reasonable and commensurate with market rates in Kansas City for complex litigation); *id.* at ECF Doc. No. 3849, at 33-34 (approving motion for attorneys' fees).
- *Larson v. John Hancock Life Ins. Co. (U.S.A.)*, No. RG16813803 (Cal. Sup. Ct. Alameda Cnty. May 8, 2018) (approving Stueve Siegel Hanson rates of up to \$895 for partners and \$550 for associates).
- *Spangler v. Nat'l Coll. of Tech. Instruction*, No. 14-cv-3005-DMS (RBB), 2018 WL 846930, at *2 (S.D. Cal. Jan. 5, 2018) (approving Stueve Siegel Hanson's 2016 rates of \$795 to \$825 per hour for partners and up to \$525 per hour for associates in contested lodestar fee application).

36. Further, several judges in state and federal court have previously recognized the skill and professionalism of the attorneys at Stueve Siegel Hanson:

- In *Nobles v. State Farm Mutual Automobile Insurance Co.*, the Honorable Nanette Laughrey stated the following with respect to Stueve Siegel Hanson’s work: “I’ve always been impressed with the professionalism and the quality of work that has been done in this case by both the plaintiffs and the defendants. On more than one occasion, it has made it difficult for the Court because the work has been so good.”
- Recently, in certifying a contested class action in *Reyes v. Experian* in the Central District of California, the Honorable Andrew Guilford remarked: “The most compelling evidence of the qualifications and dedication of proposed class counsel is their work in this case. Considering how far this action has come despite a grant of summary judgment in Defendant’s favor and a reversal on appeal, proposed class counsel have made a strong showing of their commitment to helping the class vigorously prosecute this case.”
- The Honorable John W. Lungstrum of the United States District Court for the District of Kansas stated the following about Stueve Siegel Hanson attorneys in the *In Re: Syngenta AG MIR 162 Corn Litigation*: “The complex and difficult nature of this litigation, which spanned across multiple jurisdictions and which involved multiple types of plaintiffs and claims, required a great deal of skill from plaintiffs’ counsel, including because they were opposed by excellent attorneys retained by Syngenta. That high standard was met in this case, as the Court finds that the most prominent and productive plaintiffs’ counsel in this litigation were very experienced[,] had very good reputations, were excellent attorneys, and performed excellent work. In appointing lead counsel, the various courts made sure that plaintiffs would have the very best representation. . . . In this Court’s view, the work performed by plaintiffs’ counsel was consistently excellent, as evidenced at least in part by plaintiffs’ significant victories with respect to dispositive motion practice, class certification, and trial.”
- The Honorable Audrey G. Fleissig on the United States District Court for the Eastern District of Missouri, in *Perrin v. Papa John’s International, Inc.*, which Stueve Siegel Hanson prosecuted, stated: “I believe this was an extremely difficult case. I also believe that it was an extremely hard fought case, but I don’t mean hard fought in any negative sense. I think that counsel for both sides of the case did an excellent job ... I congratulate the plaintiffs and I also congratulate the defense lawyers on the very, very fine job that both sides did in a case that did indeed pose novel and difficult issues.”
- The Honorable Michael Manners on the Jackson County, Missouri Circuit Court, who presided over the case *Berry v. Volkswagen Group of America, Inc.*,

which Stueve Siegel Hanson prosecuted, stated: “The experience, reputation and ability of class counsel is outstanding.”

37. Dividing the lodestar fee by the total number of hours expended by Class Counsel in this case results in a blended hourly rate of \$662.20. As the hours expended by Class Counsel and their current hourly rates are reasonable, so too is the blended rate. In fact, the United States District Court for the District of Kansas approved a blended rate of \$590.91 for work completed by plaintiffs’ counsel, including a Stueve Siegel Hanson lawyer, on a lodestar fee application nearly 13 years ago. *See Bruner v. Sprint/United Mgmt. Co.*, 2009 WL 2058762, at *10 (D. Kan. July 14, 2009).

38. As to expenses, in litigating this action, Class Counsel advanced the total amount of \$951,964.78. This number includes the significant fees for the retention, preparation, and depositions of expert witnesses, online legal research, and the expenses associated with the 20 depositions that took place in locations across the country, including for travel, meals, lodging, and transcripts. It also includes incidental costs such as duplicating, postage, and delivery fees. These expenses—which were all necessary and reasonably expended in connection with Class Counsel’s vigorous prosecution of this case—are the type that hourly fee-paying clients routinely cover.

39. This time and money was advanced by Class Counsel on a fully contingent basis, with no guarantee that Plaintiff would recover the resources that they committed to this case. Indeed, as I noted above, during the course of this litigation, multiple other cases bringing similar claims against Trinity have been dismissed by the Courts. In other words, Class Counsel took on substantial risk in advancing their time and these fees over the seven-year course of this litigation.

40. As part of their Settlement Agreement, Trinity has agreed to a separate and additional payment of \$11,400,000 for Class Counsel’s attorneys’ fees and expenses, subject to

the Court's approval. Given that the agreed aggregate award of \$11,400,000 includes Class Counsel's advanced expenses of \$951,964.78, the portion of the agreed-upon award attributable to attorneys' fee comes out to \$10,448,035. This amount was not negotiated or agreed-upon until the parties had negotiated and agreed-upon the relief to be made available to the class members. Therefore, this agreed-upon fee represents (at most) a modest 1.07 multiplier over Class Counsel's lodestar of \$9,726,814.50.

41. But as noted above, Class Counsel's work on this case is not yet complete, as our next step will be to move for final settlement approval, and then, if the court grants approval, the six-year claims administration process will follow. As a result of our continued expenditure of hours, we expect that the agreed upon attorneys' fees will ultimately represent a slightly negative multiplier on our time. Still, Counsel accepted a smaller-than-reasonable fee in order to secure the full benefits for the class.

42. The agreed-upon fee for attorneys' time is \$10,448,035—representing the \$11,400,000 aggregate award of attorneys' fees and expenses, less \$951,964.78 in expenses. As a result, viewed as a percentage of the benefit, the fee award represents approximately 18.5% of the value created by the settlement, which is well below typical contingency fees.

Service Award

43. This Court should also approve Plaintiff Jackson County's request for a \$50,000 service award. Subject to court approval, Trinity has agreed to pay this award, separate from and in addition to the relief to class members. *See* Ex. 1, at § 11.

44. Jackson County committed significant time and resources to prosecuting this action on behalf of the class. The Plaintiff initiated this litigation in consultation with counsel and continued to be actively involved throughout.

45. For example, during the discovery phase, Jackson County produced six of its employees and representatives for depositions, including Glenn Dvorak (public works project manager), James Evans (public works road and bridge administrator), Brian Gaddie (public works director), Gregory Grounds (Jackson County legislator), Christopher Jenkins (public works engineer), and Earl Newill (public works deputy director). In addition, Jackson County conducted a comprehensive search and review of ESI in this lawsuit ultimately producing more than 14,000 documents.


46. Ultimately, Jackson County was prepared to try this case on behalf of the class. This was a significant expenditure of time and money by Plaintiff Jackson County.

47. Jackson County's commitment to this case has achieved a result that provides material and significant benefits for both class members and the general public by providing a path for removal and replacement of the subject guardrail ends at no cost to the taxpayer or class members.

48. In my experience in class action litigations, Jackson County's time, resources, and efforts in prosecuting this action on behalf of the class were unusually significant and warrant the \$50,000 service award that Trinity has committed to pay, subject to approval by this Court.

STATE OF MISSOURI)
) ss.:
COUNTY OF JACKSON)

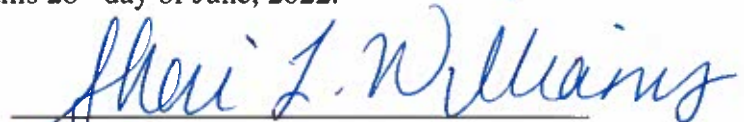
IN WITNESS WHEREOF, the undersigned has executed this Affidavit on this 28th day of June, 2022.



Bradley T. Wilders

Subscribed and sworn to before me this 28th day of June, 2022.

My Commission Expires: 5/22/23



Notary Public

