

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

FILED
2008 SEP 10 AM 8:35
CATHY A. HUNTER, CLERK
KANAWHA CO. CIRCUIT COURT

**MARIETTA ANGEL,
on behalf of herself and a class of
others similarly situated;**

Plaintiffs,

v.

**Civil Action No. 06-C-855
Judge Zakaib**

**U.S. TIRE RECOVERY, LLC; a
South Carolina LLC; THE
PARTNERSHIP DBA U.S. TIRE,
an unregistered West Virginia
partnership; BRIAN HOLDREN;
RICKY HANDLEY; DENNIS
HENDERSON; CHEMVALLEY
PROPERTIES, INC., a West
Virginia corporation; ANGUS M.
PEYTON; and LISA PEYTON
MORIN;**

Defendants.

**ORDER GRANTING PRELIMINARY APPROVAL OF SETTLEMENT
AGREEMENT AND PUBLISHING OF FINAL FAIRNESS HEARING**

This day came before the Court the Plaintiff, Marietta Angel, and the Class members, by and through their counsel, Alex McLaughlin and The Calwell Practice, PLLC, and the Defendants, ChemValley Properties, Inc. and Angus M. Peyton, by and through their counsel, William R. Slicer and Defendants, U.S. Tire Recovery, LLC, The Partnership d/b/a U.S. Tire, and Brian Holdren, by and through their counsel, S. Benjamin Bryant for a hearing on the Plaintiff's previously filed Motion for Preliminary Approval of Settlement Agreement and Publishing of Final Fairness Hearing.

It appears to the Court that the Defendants consent to the relief requested in the Plaintiff's Motion. After careful review of the pleadings and hearing argument of

counsel, the Plaintiff's Motion for Preliminary Approval of Settlement Agreement and Publishing of Final Fairness Hearing is GRANTED.

Upon the Motion, the Court hereby GRANTS preliminary approval of the Notice Plan and Notices as set forth and described in Exhibit A to the previously filed Settlement Agreement, *Affidavit of Shannon R. Wheatman, Ph.D., of Hilsoft Notifications on Settlement Notice Plan and Notices*, including approval of the customary form of summary notice (the "Summary Notice") in the form identified in and attached to Exhibit A of the Settlement Agreement, and a customary long form notice ("Detailed Notice") in the form identified in and attached to Exhibit A to the Settlement Agreement. The Court also GRANTS Plaintiff's request for approval of the Claim Form and Pre-populated Claim Form as identified in the Motion for Preliminary Approval of Settlement Agreement and Publishing of Final Fairness Hearing.

The Court hereby ORDERS that Engineering Perfection, PLLC is hereby appointed as Engineering and Geographic Informations Systems Specialist; Hilsoft Notifications is hereby appointed as Notice Specialist; and Epiq Systems Class Action and Claims Solutions is hereby appointed as Claims Administrator.

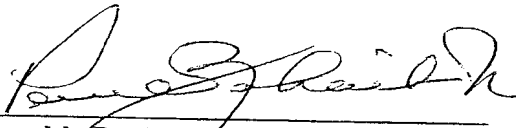
The Court further ORDERS that Class Counsel shall assume the administrative responsibility of overseeing and coordinating the implementation of the Settlement Notice Plan as described in said motion with the costs of implementing the notice plan and providing the notice, together with the costs of Claims Administration, shall be paid out of the Costs, Expenses, and Fees Trust.

The Court further ORDERS that all discovery and pretrial proceedings in the litigation, other than confirmatory discovery provided for in the Settlement Agreement, are stayed and suspended until further order of this Court.

The Court further ORDERS that no Class Member, either directly, representatively, or in any other capacity, shall institute, commence, or prosecute against the Defendants any claims for property damages, nuisance, annoyance, inconvenience, or emotional distress arising out of or relating to the allegations in the Second Amended Complaint in any action or proceeding in any court or tribunal pending the final determination of the fairness, reasonableness, and adequacy of the settlement set forth in the Settlement Agreement.

The Court further ORDERS that a Final Fairness Hearing is hereby scheduled for December 15, 2008 at 9:00 am.

ENTERED: Sept 9, 2008.



Honorable Paul Zakaib, Jr., Judge

Presented by: Alex McLaughlin
Alex McLaughlin
Counsel for Marietta Angel
and Class Counsel

COUNTY OF KANAWHA, SS
CATHY S. GATSON, CLERK OF CIRCUIT COURT OF SAID COUNTY
IN SAID STATE, DO HEREBY CERTIFY THAT THE FOREGOING
IS A TRUE COPY FROM THE RECORDS OF SAID COURT
UNDER MY HAND AND SEAL OF SAID COURT THIS 10th
Day of September 2008
Cathy S. Gatson, CLERK
COUNTY OF KANAWHA, WEST VIRGINIA