

STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

DONNA MALONE, TORRI HARRIS,  
LACHESA WILLIAMS and  
ANNA GILBERT, Co-Class Representatives  
of all those similarly situated,  
Plaintiffs,

Case No. 09-021295-NI

-vs-

HON. GERSHWIN A. DRAIN

STERLING OIL & CHEMICAL CO., INC.,  
a Michigan corporation, and  
STERLING SERVICES, LTD., a Michigan  
corporation,  
Defendants.

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**NOTICE TO CLASS MEMBERS OF PENDENCY OF CLASS ACTION AND SETTLEMENT**

TO: Those persons or entities who owned property in or resided in the Class Boundary on August 27, 2009. The "Class Boundary" means the geographic area surrounding 1530 Commor St., within the City of Hamtramck, County of Wayne, State of Michigan, that is bounded on the West by the railroad right-of-way, to the North by Carpenter Street, to the East by Dequindre Street (including residences on Dequindre Street), to the South by Woodland Street (limited to the residences on the North side of Woodland Street).

**PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY. YOUR RIGHTS WILL BE AFFECTED BY LEGAL PROCEEDINGS IN THIS LAWSUIT. IF YOU ARE A MEMBER OF THE PLAINTIFF CLASS AND YOU DO NOT REQUEST TO BE EXCLUDED FROM THE PLAINTIFF CLASS, YOU MAY BE ENTITLED TO RECEIVE BENEFITS PURSUANT TO THE PROPOSED SETTLEMENT DESCRIBED HEREIN. THE FOLLOWING INFORMATION SUMMARIZES SOME OF YOUR RIGHTS.**

**THIS NOTICE WAS AUTHORIZED BY THE WAYNE COUNTY CIRCUIT COURT FOR THE STATE OF MICHIGAN. THIS IS NOT A SOLICITATION FROM A LAWYER.**

**I. The Purpose of this Notice**

1.1 The purpose of this Notice is to inform you of the terms of a proposed settlement agreement (the "Settlement Agreement") of the above-entitled litigation (the "Lawsuit"). The Settlement Agreement has been filed with the Wayne County Circuit Court (the "Court"). The name of the Plaintiff representative parties are Donna Malone and Torri Harris (the "Plaintiffs") and the Lawsuit asserts claims against Sterling Oil & Chemical Co., Inc. and Sterling Services, Ltd. (the "Defendants").

1.2 This Notice is given by Order of the Honorable Gershwin Drain, Wayne County Circuit Court Judge.

1.3 This Notice only summarizes essential terms of the proposed settlement which are fully detailed in a Settlement Agreement which is on file at the office of the Clerk of the Court, Circuit Court for Wayne County, Michigan, Two Woodward Avenue, Coleman A. Young Municipal Center, Detroit, Michigan, 48226.

1.4 You received this Notice because U.S. Postal Service records show that you may be a resident or property owner who may be entitled to be a member of a proposed class of residents that would be affected by a proposed settlement of a class action lawsuit. The Court has given its preliminary approval to the settlement and preliminarily certified a Class for settlement purposes only, as described below, and has ordered that this Notice be sent to you and all other potential Class Members so that you may consider your options.

1.5 This Notice is not an expression of opinion by the Court about the merits of the Plaintiffs' claims or the defenses asserted by Defendants or the fairness or adequacy of the proposed settlement.

1.6 This Notice describes the lawsuit and the settlement and advises of the date, time, and place of a hearing in which the Court will decide whether to give final approval to the settlement.

1.7 Your Options:

- a. You may remove yourself from the Class by "opting out" in the manner described in Section IV of this notice. Your "opt out" notice must be received **on or before November 26, 2010**.
- b. If you do nothing at this time you will be in the Class. If the Court gives its final approval to the settlement, and you are a Class Member, you may be entitled to receive the settlement benefit offered as compensation to the Class. **You will only receive settlement benefits if you submit the enclosed Claim Form, and all required supporting documentation, in the manner described in Section III of this notice, and there has been a determination by the claims administrator and defense counsel that you are entitled to benefits under the settlement plan. To be eligible to receive settlement benefits, your Claim Form must be received on or before November 26, 2010.**
- c. You may stay in the Class, but file an objection to the proposed settlement in the manner described in Section V of this notice. Your objection shall not be considered, unless your objection is received **on or before November 26, 2010**.

## **II. Description of the Lawsuit**

2.1 The named Plaintiffs instituted the Lawsuit individually and on behalf of all persons or entities that owned property in or resided in the Class Boundary on August 27, 2009, who claimed they suffered any damage to property, real or personal, including claims based on the loss of use and enjoyment of real or personal property, as a result of a fire on that date, which occurred at property owned and/or operated by Defendants located at 1530 Commor St., Hamtramck, Michigan. In particular, the Lawsuit alleges damages regarding loss of use and enjoyment of their property, real property damage, and personal property damage only.

2.2 Defendants have denied any and all wrongdoing or liability to the named Plaintiffs or to the Plaintiff Class.

2.3 Defendants agree to the certification of the case as a class action solely for settlement purposes and that the named Plaintiffs are proper representatives of the Plaintiff Class for settlement purposes only.

### **III. Summary of the Proposed Settlement**

3.1 The Plaintiffs and Defendants have agreed to settle the Lawsuit and the Court has provided preliminary approval of the Settlement Agreement, pending the Settlement Hearing as described in Section V of this Notice. A copy of the Settlement Agreement is on file with the Court located at 2 Woodward Ave., CAYMC, Detroit, Michigan and is also posted at [www.hertzschram.com](http://www.hertzschram.com).

3.2 If the Settlement Agreement is approved by the Court at or after the Settlement Hearing described in Section V of this Notice, Defendants shall contribute \$60,000.00 to the initial creation of a settlement fund and make non-periodic payments to the fund up to \$160,000.00 for distribution as set forth in the Settlement Agreement.

3.3 To participate in the distribution of the Settlement proceeds, a class member must submit a completed Claim Form and all required supporting documentation to Class Counsel by **November 26, 2010**. After the amount of all approved claims has been established, Class Counsel shall pay all such claims based upon a pro-rata distribution.

3.4 Class Counsel's attorney fees and actual costs, including but not limited to their 50% share of the all costs of notice, are to be paid by the Plaintiff Class from the Settlement Fund.

### **IV. How to Request Exclusion from the Class or Intervention in the Lawsuit**

4.1 If you are a member of the Plaintiff Class, and if the Settlement Agreement is approved by the Court, you will be bound by the terms of the Final Judgment and Order of Dismissal to be filed with the Court, unless you file a request to be excluded from the Plaintiff Class. Each such request must be in writing and signed by the Class Member; must contain the caption "*Harris and Malone, et al v. Sterling Oil & Chemical Company, Case No. 09-021295-NI*;" must contain the Class Member's full name, address and telephone number, and must specifically request exclusion from the Settlement Class. Requests to be excluded from the Plaintiff Class must be personally served or postmarked on or before **November 26, 2010** and must be sent to:

#### **PLAINTIFFS' CLASS COUNSEL**

Elizabeth Thomson, Esq.  
Hertz Schram PC  
1760 S. Telegraph, Ste. 300  
Bloomfield Hills, MI 48302

#### **DEFENDANTS' COUNSEL**

Bruce A. Truex, Esq.  
Secret Wardle  
30903 Northwestern Hwy.  
Farmington Hills, MI 48333

4.2 If you timely file a request for exclusion, you will **NOT** share in any settlement benefits and you will be bound by the terms of the settlement governing opt-outs.

### **V. The Settlement Hearing**

5.1 NOTICE IS HEREBY GIVEN, pursuant to MCR 3.501, that a hearing will be held before the Honorable Gershwin Drain, Third Circuit Court, 2 Woodward Ave., CAYMC, Detroit, Michigan on December 16, 2010 at 8:30 am (the "Settlement Hearing"), for the purpose of determining whether the Settlement Agreement

was entered in good faith and is fair, reasonable and adequate and should be approved by the Court; and for purpose of considering the application of Class Counsel for an award of attorneys fees and reimbursement of expenses.

5.2 At the Settlement Hearing, any Plaintiff Class member who has not filed a request for exclusion, as described above, may appear in person or by duly authorized counsel and be heard in support of, or in opposition to, the good faith, fairness, reasonableness and adequacy of the proposed settlement and/or any requested allowance of Class Counsel attorneys fees and reimbursement of expenses. However, no Plaintiff Class member or counsel shall be heard at the Settlement Hearing, and no pleading or evidence submitted by any such person shall be received or considered by the Court, unless such person or counsel, on or before **November 26, 2010**, files a Notice of Objection with the Court at the address above and serve a copy on Plaintiffs' Class Counsel (Elizabeth C. Thomson, Hertz Schram PC, 1760 S. Telegraph Rd., Ste. 300, Bloomfield Hills, MI 48302 and Defendant's counsel (Bruce A. Truex, Secrest Wardle, 30903 Northwestern Hwy., P.O. Box 3040, Farmington Hills, MI 48333). Objections must be in writing and signed by the Class Member; must contain the caption; must contain the Class Member's full name, address, and telephone number and must identify with reasonable particularity the basis for the objection and attach all documentation he or she intends to present to the Court in support of his or her position. The Objection must be in the form of a declaration or be in the form of an affidavit duly signed under penalty of perjury before a notary public. If an Objection is submitted by someone purporting to represent a class member, the objection must have attached sufficient documentation to support the person's legal authority to represent the Class Member or the objection is invalid. Objections that do not meet the requirements are ineffective. Class Counsel reserves the right to challenge the validity of any Objection.

## **VI. Release**

6.1 If the Settlement is approved by the Court by the entry of a Final Judgment and Order of Dismissal, the named Plaintiffs, and each and every Plaintiff Class member who has not filed a timely request to be excluded from the Plaintiff Class, shall be deemed to have released and forever discharged Defendants from any and Claims, as defined in the Settlement Agreement.

6.2 Under the Settlement Agreement, Plaintiff Class are releasing any and all claims (as the term is defined under the Settlement Agreement) whether known or unknown, asserted or not asserted, existing now or that may exist in the future which are based on the allegations in the lawsuit that as a result of the fire at property owned and/or operated by Defendants, on August 27, 2009, Plaintiffs experienced an interference with the use and enjoyment of property rights, and/or sustained personal property damage and/or sustained real property damage only. Such claims being released are all claims, as the term is defined in the Settlement Agreement, regarding personal and real property damage, restitution, injunctive relief and remedies of whatever kind or character, known or unknown, that are recognized by statute, regulation, judicial decision, or in any other manner or that may be created or recognized in the future by law related to any claim regarding real or personal property damage and loss of use of real and personal property only. I understand and agree that I am releasing all of claims (as the term is defined in the Settlement Agreement) against STERLING OIL & CHEMICAL CO., INC., STERLING SERVICES, LTD., its subsidiaries, officers, directors, employees, agents, predecessors, successors affiliates, properties, assigns, representatives, employees, attorneys and insurers.

6.3 This Notice is a summary only and it is not all inclusive. The Settlement Agreement and Lawsuit are on file at the office of the Clerk of the Court, Circuit Court for Wayne County, Michigan, Two Woodward

Avenue, Coleman A. Young Municipal Center, Detroit, Michigan 48226 or may be viewed at Plaintiff Class Counsel's website at [www.hertzschram.com](http://www.hertzschram.com).

**VII. WHO WILL BE A CLASS MEMBER AND RECEIVE BENEFITS FROM THE SETTLEMENT?**

7.1 For purposes of the proposed settlement, you are a Plaintiff Class Member and may be entitled to the benefits of the proposed Settlement if, on or August 27, 2009,: (1) you resided or owned property within the Class Boundary as defined in Section 2.1 of this Notice **and** (2) you evacuated your property on August 27, 2009 as a result of a fire on Defendants' property on August 27, 2009 ; and/or (3) you suffered damage to real property as a result of a fire on Defendants' property on August 27, 2009; and/or (4) you suffered damage to personal property as a result of a fire on Defendants' property on August 27, 2009.

7.2 If you meet the criteria listed above, and do not exclude yourself from this proposed settlement, and you return the Claim Form as set forth in Section VIII below, you are a Plaintiff Class Member entitled to benefits under the Settlement.

**VIII. WHAT SETTLEMENT BENEFITS ARE AVAILABLE?**

8.1 The case has been resolved for monetary and non-monetary compensation. Relief has been obtained for area residents who will receive important information in writing from Defendants regarding procedures utilized by the Sterling facility, in the event of an evacuation of the facility, along with any evacuation recommendations made by the local fire department, if any such recommendations exist. Monetary benefits are also provided under the Settlement.

**8.2 To obtain monetary benefits you must complete the attached Claim Form, produce all required documentation and return it to:**

**Sterling Oil Claims Administrator  
c/o Hertz Schram PC  
1760 S. Telegraph - Ste. 300  
Bloomfield Hills, MI 48302-0183**

**8.3 Your Claim Form must be received at the address above on or before November 26, 2010 or you will be forever barred from making a claim for settlement benefits.**

8.4 **If your Claim Form is received timely**, and your Claim Form (including all required documentation) meets the requirements for monetary compensation under the Settlement Agreement, then **you will receive a settlement benefit payment within a reasonable time after-final approval** of this Settlement by the Court.

8.5 The amount of each individual award will depend on the type of claim verification submitted by you (as described in the enclosed Claim Form), the number of people who choose to participate in the settlement, and whether there are objections to the proposed distribution.

8.6 You are responsible for consulting with your tax advisor regarding all tax consequences of this settlement.

**IX. FAIRNESS HEARING, PAYMENT TO REPRESENTATIVE PLAINTIFF, AND ATTORNEYS' FEES AND COSTS**

9.1 The Court will hold a Fairness Hearing on December 16, 2010 beginning at 8:30 am in the Circuit Court for Wayne County, Michigan, located at Two Woodward Avenue, Room 1519, Coleman A. Young Municipal Center, Detroit, Michigan 48226, before the Honorable Gershwin A. Drain, at which time the Court will make a final decision whether to approve the Settlement. The hearing may be postponed to a later date without further notice.

9.2 Counsel for Plaintiffs, Torri Harris and Donna Malone, and the Class, have been paid for their work on the Lawsuit. Class Counsel's reasonable fees and reasonable litigation costs and expenses will be evaluated and awarded by the Court at the Fairness Hearing. Class Counsel intends to apply to the Court for an award of attorneys fees, costs and expenses to be payable from the settlement funds. The Court has not yet made a final determination as to what attorneys' fees and reimbursement of costs and expenses is appropriate. Defendants have agreed not to oppose Plaintiffs' and Class Counsel's request for attorneys' fees, costs and expenses.

9.3 Plaintiffs, Torri Harris and Donna Malone will also apply to the Court for a reasonable payment as compensation for their time, effort and risk assumed by them in bringing this Lawsuit.

**X. CLASS COUNSEL**

Plaintiffs and the Class are represented by:

Elizabeth C. Thomson, Esq.  
Hertz Schram PC  
1760 S. Telegraph, Ste. 300  
Bloomfield Hills, MI 48302  
Lthomson@hertzschram.com

**XI. ADDITIONAL INFORMATION**

11.1 This Notice is not intended as a complete statement of the proposed settlement or the litigation. This Notice is not an expression of the Court as to the merits of any of the claims or defenses asserted by the parties. **For additional information, write or email to Plaintiffs' Class Counsel at the address listed above.**

11.2 **PLEASE DO NOT CALL THE CLERK OF THE CIRCUIT COURT FOR WAYNE COUNTY, MICHIGAN FOR INFORMATION.** In addition, you should **NOT** call Defendants' counsel for further information.