

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION (DAYTON)**

ART SHY, et al.

Plaintiffs,

vs.

NAVISTAR INTERNATIONAL  
CORPORATION, et al.

Defendants.

Case No. 3:92-CV-00333

District Judge Walter H. Rice

**DECLARATION OF BRIAN R. DELPHEY**

I, BRIAN R. DELPHEY, subject to the penalty of perjury, declare as follows:

1. The statements in this declaration are based on my personal knowledge and experience.

2. I am a benefits director at Navistar, Inc., and have worked there since July 2000. I have been involved in implementing the Notice Plan set forth in the Agreement and approved by the Court on January 10, 2022 (Doc. 602, "Order"), and have worked with Class Counsel to implement that plan.

**DIRECT MAIL NOTICE**

3. Because Class Members are generally either current beneficiary Class Members or future beneficiary Class Members who are currently employed by Navistar, Navistar had direct contact information for the vast majority.

4. On January 27, 2022, pursuant to the Agreement and Order, Navistar mailed copies of the Long Form Notice attached as Exhibit G to the Agreement by USPS First Class Mail, postage pre-paid, to Class Members with identifiable mailing addresses. Before doing so, we ran all addresses

through the USPS National Change of Address database. We ended up with mailing addresses for 23,005 Class Members, which was the same as our estimated number of Class Members.

5. Long Form Notices were mailed in envelopes intended to call attention to the important material enclosed therein. *See* attached Exhibit A. Each Class Member at a given address was sent a separate Long Form Notice.

6. As of March 20, 2022, 187 Long Form Notices were returned as undeliverable. We took the following measures to attempt to find addresses for returned notices: 1) researched our Peoplesoft HRIS system for any recent address changes or deaths; 2) researched our HRHD call center tracking system for a recent call that would potentially indicate a more recent address or a death that did not make it to our HRIS system prior to the initial mailing; 3) performed a Google search to attempt to find clues on a current address and/or death status (online obituaries); 4) did a second run of the addresses through the USPS National Change of Address database in an attempt to find a change of address that occurred after the initial mailing .

7. As a result of our efforts, we were able to find and deliver 30 of the previously returned notices. In addition, we have four letters mailed to members at addresses that may or may not be legitimate asking them to contact Navistar to confirm that they reside at this location. Finally, one of the returned letters is for the ex-spouse of a Shy class member. The divorce (effective September 24, 2021) was not processed in our HRIS system prior to the initial mailing. The returned letter was not forwarded to the ex-spouse because she is no longer a Class Member due to the divorce.

8. Based on our efforts, it appears that the inability to obtain confirmed mailing addresses for all Class Members was either: 1) the Class Member was deceased; or 2) the Class Member's pension benefits were direct deposited to a bank account, and there is no current address available.

9. As of March 20, 2022, a total of 22,848 direct mail notices were deemed delivered, or approximately 99.3% of the estimated Class Members.

#### **EMAIL NOTICE**

10. On March 9, 2022 (active employees) and March 11, 2022 (retirees), pursuant to the Agreement and Order, Navistar provided notice to Class Members with readily identifiable email addresses via email, substantially in the form of the Email Notice attached as Exhibit H to the Agreement.

11. As of March 20, 2022, of the 779 Class Members sent Email Notice, 769 or 98.7% were deemed delivered and 10 or 1.3% were deemed undeliverable.

#### **PUBLICATION NOTICE**

12. On January 28, 2022, pursuant to the Agreement and Order, Navistar caused the Publication Notice, substantially in the form attached as Exhibit I to the Agreement, to be published via PRNewswire.

#### **SETTLEMENT WEBSITE**

13. On January 28, 2022, pursuant to the Agreement and Order, Navistar established a Settlement website, [www.navistar.com/shysettlement](http://www.navistar.com/shysettlement), that allows Class Members to learn more about the case and the proposed Settlement. The “Home” page provides a summary of the proposed Settlement. An “Important Dates” section provides the key dates in the timeline of finalizing the Settlement. A “Frequently Asked Questions” page provides answers to anticipated questions. A “Court Documents” page provides downloadable PDF copies of important Court documents including the various notices. The website provides email and telephone contact information for use by Class Members with additional questions.

### **TOLL-FREE LINE**

14. On January 28, 2022, pursuant to the Agreement and Order, Navistar began using a toll-free number to answer questions raised by Class Members. Navistar phone staff were trained prior to notice being sent to Class Members in order to ensure knowledgeable responses. A procedure was put in place to escalate inquiries that could not be initially answered by personnel receiving a call.

### **CLASS MEMBER RESPONSE**

15. Class Member response has been positive. As of March 20, 2022: 1) 10 Class Members contacted Navistar via email with questions; and 2) 40 Class Members used Navistar's toll-free line to ask questions. The most frequent question was whether the Settlement would negatively affect the Class Member's benefits. Once assured there was no negative effect on benefits, the Class Members were supportive of the Settlement.

16. As of March 20, 2022, the Settlement Website was accessed a total of 1,281 times. Most of these (844) were direct website access. The remainder involved access to the Settlement Website through links on PRNewswire, Facebook, Google, Bing, Yahoo, and similar sites.

17. As of the date of this declaration, no Class Member has filed an objection to the Settlement.

### **BENEFIT DISTRIBUTION**

18. The relief afforded to the Class will be distributed to Class Members in the same manner as the benefits currently received.

**RICHARD ZOUNES**

19. Recently, I heard that Mr. Zounes suffered a serious medical setback in February and is in a facility currently recovering, which is presumably why Class Counsel were unable to contact him.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 28th day of March, 2022 in Sandwich, Illinois.

/s/ Brian R. Delphey  
Brian R. Delphey

# **EXHIBIT**

**A**



Navistar Inc.  
P.O. Box 4080  
Lisle, IL 60532

PRESORTED  
First Class Mail  
U.S. Postage  
**PAID**  
Experian

Notice of Class Action Settlement Affecting Your Navistar Benefits