

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI**

STEPHEN BITTNER, et al.,	}	
	}	
Plaintiffs,	}	
	}	Civil Action No.:
vs.	}	3:17-cv-143-MPM-JMV
	}	
BROWNING ARMS COMPANY,	}	
	}	
Defendant.	}	

NOTICE OF CLASS ACTION SETTLEMENT

If you have purchased a Browning or Winchester Repeating Arms firearm containing the Dura-Touch Coating, you may be eligible to receive benefits from a class action settlement.

A federal court authorized this Notice. It is not a solicitation from a lawyer.

- A proposed Settlement has been reached in a class action lawsuit involving Browning Arms Company (“Browning” or the “Defendant”). The Settlement resolves litigation concerning the deterioration of the Dura-Touch Coating applied to certain models of Browning and Winchester Repeating Arms branded firearms.
- The Parties have agreed to settle the Action in its entirety, without any admission of liability by Defendant.
- The Settlement Class includes all residents of the United States of America who have purchased any Browning firearm containing the Dura-Touch coating.
- **Your rights are affected whether you act or do not act. Read this Notice carefully.**

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
SUBMIT A CLAIM FORM	If you submit a Claim Form, you will give up the right to sue Defendant in a separate lawsuit about the claims this Settlement resolves. There is no deadline to submit a Claim Form.
ASK TO BE EXCLUDED (OPT-OUT)	If you decide to exclude yourself, you will keep the right to sue Defendant in your own separate lawsuit about the claims this Settlement resolves, but you give up the right to receive the benefits this Settlement provides. The deadline to request exclusion from the Settlement is May 1, 2019.

QUESTIONS?

VISIT: www.duratouchsupport.browning.com or www.duratouchsupport.winchesterguns.com

EMAIL: duratouchsupport@browning.com or duratouchsupport@winchesterguns.com

CALL TOLL-FREE: (800) 811-5029

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:

OBJECT TO THE SETTLEMENT	If you do not exclude yourself from the Settlement, you may object to it by following the procedures below and submitting your specific objection in writing. The deadline to object to the Settlement is May 1, 2019.
DO NOTHING	If you do nothing, you will not receive the benefits that this Settlement provides and you will give up the right to sue Defendants in a separate lawsuit about the claims this Settlement resolves. You can always, however, file a Claim Form because there is no deadline for filing a claim.

1. Why is there a Notice?

A Federal Court authorized this Notice because you have a right to know about the proposed Settlement of this class action lawsuit and about all of your options before the Court decides whether to grant final approval of the Settlement. This Notice explains the lawsuit, the Settlement, your legal rights, what benefits are available, and who is eligible to receive them.

Judge Michael P. Mills of the United States District Court for the Northern District of Mississippi is overseeing this class action. The case is known as *Bittner v. Browning Arms Company*, Case No. 3:17-cv-143-MPM.

2. What is this lawsuit about?

Since 2002, Browning has manufactured a variety of firearms containing a Dura-Touch Coating, including certain models of Browning and Winchester Repeating Arms branded firearms. This coating was designed to create a tactile grip to Browning’s firearms and was advertised as being suitable for use “in all weather conditions and temperature ranges, in addition to being extremely durable.”

However, a small percentage of the firearms containing a Dura-Touch Coating have demonstrated signs of deterioration of this coating. Signs of this deterioration may include a tacky, viscous, or sticky feel when gripping the components of a firearm coated with Dura-Touch, instead of the light tactile grip and soft feel intended by the manufacturer. In some cases, peeling or bubbling of the Dura-Touch coating has also been reported, which may also be a sign of deterioration.

In the Action, Plaintiff Stephen Bittner alleged Browning was negligent or wanton in its manufacturing, distribution, marketing and/or selling of its firearms coated with Dura-Touch, and that Browning negligently or wantonly concealed the defective nature of the Dura-Touch Coating. Additionally, Plaintiffs raised claims of breach of implied warranty, fraudulent misrepresentation and negligent misrepresentation.

The Parties now agree to settle the Action in its entirety, without any admission of liability by Defendants. The Parties intend this Agreement to bind the Settlement Class Representative, Defendant, and all

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Settlement Class Members who do not timely and properly exclude themselves from the Settlement.

3. What is a class action?

In a class action, one or more people called Plaintiffs or Class Representatives (in this case, Stephen Bittner) sue on behalf of other people who have similar claims. The people included in the class action are called a Settlement Class or Settlement Class Members. One court resolves the issues for all Class Members, except for those who timely exclude themselves from the Class.

4. Why is there a Settlement?

The Court did not decide in favor of Plaintiff or Defendant. Instead, both sides agreed to this Settlement, in order to avoid the cost and burden of further litigation and so the Class Members can receive benefits as soon as possible. The Class Representative and his attorneys believe the Settlement is a fair and reasonable resolution of the claims asserted in this lawsuit.

5. How do I know whether I am part of the Settlement?

You are part of the Settlement Class if you are a United States resident who has purchased any Browning or Winchester Repeating Arms firearm containing the Dura-Touch coating.

Excluded from the Settlement Class are (a) any Judge or Magistrate presiding over this action and members of their families; (b) Browning Arms Company, its affiliates, employees, officers and directors, (c) the attorneys of record in this case, and (d) persons who timely and validly request exclusion from the Settlement Class.

6. What if I am still not sure whether I am part of the Settlement?

If you are not sure whether you are included in the Settlement Class, you can call toll-free (800) 811-5029, visit the Settlement Websites: www.duratouchsupport.browning.com or www.duratouchsupport.winchesterguns.com, or send an email to duratouchsupport@browning.com or duratouchsupport@winchesterguns.com.

7. What are the Settlement benefits?

The Settlement establishes the DURA-TOUCH CLAIMS RESOLUTION PROCESS, by which a Class Member may send their Dura-Touch coated firearm to Browning for servicing. Once a Class Member submits a claim form notifying Browning of a potential deterioration issue, Browning will promptly send the customer a pre-paid shipping label. The customer will then package the affected firearm and send it to Browning's Service Center in Arnold, Missouri using the shipping label provided by Browning.

Once the packaged firearm arrives at Browning's Service Center, a service technician will inspect the firearm to determine if the Dura-Touch shows signs of deterioration and that the firearm qualifies for a repair under the Dura-Touch Claim Resolution Process. Based on the firearm model, the service technician will then determine whether the firearm qualifies for either of three service methods that will be carried out on the affected firearm. The service method carried out on the qualified firearm will be chosen by Browning in its sole and absolute discretion, subject to Neutral Review (described below). The

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three service methods that may be performed on a firearm are: parts replacement, parts repair or firearm replacement.

- **Parts Replacement.** Browning has worked with its manufacturers to produce non-Dura-Touch replacement parts (*i.e.*, stocks and forearms) for most potentially affected firearms. The replacement parts will be of equal quality, but will use a clear-coat protectant rather than the Dura-Touch coating. When Browning's replacement part inventory allows, Browning's service technicians will remove and discard the deteriorating parts and install the replacement stocks and forearms. Due to the short turnaround time of a replacement service, as compared to the lengthier turnaround time of an actual repair of the affected parts (as described directly below), an outright replacement of the affected parts may be the preferred service method.
- **Parts Repair.** In the event that replacement parts are not in Browning's service inventory, or are otherwise not available for a particular firearm model, Browning will repair the deteriorating parts. Browning has engaged the services of at least four third-party service vendors that have the capability, know-how, and necessary equipment to properly repair a deteriorating firearm. Following an inspection of the firearm, Browning will send a firearm selected for repair to one of its third-party service vendors. The service vendor will strip the Dura-Touch coating from the affected parts, carry out a sophisticated water transfer printing process to apply a particular camouflage pattern to the parts (*i.e.*, hydro-dipping), and then finish the repair through the application of a clear-coat protectant.
- **Firearm Replacement.** If, in Browning's sole and absolute discretion, the firearm parts are not able to be replaced or repaired in a reasonable and financially sound manner, then Browning will provide the consumer with a new Browning firearm of equal or greater value.

Additionally, Browning will cover all costs of shipping the firearms for servicing.

8. What happens if Browning denies my claim?

For those firearms which Browning deems to not qualify for a repair under the Dura-Touch Claim Resolution Process, the firearm will be packaged by Browning and shipped to the Neutral. The Neutral is an independent third-party who will review Browning's determination that the affected firearm does not qualify to participate in the Dura-Touch Claims Resolution Process. Upon receiving the firearm, the Neutral will inspect the firearm to determine whether the Dura-Touch shows signs of deterioration and whether the firearm qualifies for a repair under the Dura-Touch Claim Resolution Process.

If the Neutral decides that firearm shows deterioration of its Dura-Touch coating and qualifies for a repair under the Dura-Touch Claim Resolution Process, then the Neutral will notify Browning, the Class Member and Class Counsel of his or her decision. The Neutral will also ship the firearm back to Browning where it will be treated as a qualified repair.

In the event the Neutral determines that the firearm does not qualify for a repair under the Dura-Touch Claim Resolution Process, the Neutral shall return the firearm to Browning. Browning will ship the firearm to the class member for delivery via cash on delivery that will charge the class member the costs of the shipping and the costs of the Neutral's review of the firearm.

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Neither Browning nor the Class Member shall have any right to appeal the Neutral's decision.

9. How do I get benefits and what is the Claim Period?

In order to receive benefits under this Settlement, Eligible Claimants should submit a Claim Form. **This settlement has an indefinite Claim Period and there is no deadline to submit a Claim.**

Claim Forms may be accessed, completed, and submitted at www.duratouchsupport.browning.com or www.duratouchsupport.winchesterguns.com, or by calling toll-free (800) 811-5029, where a representative will collect the information necessary to file a claim and submit the claim.

10. What rights am I giving up to receive benefits and stay in the Settlement Class?

Unless you timely exclude yourself, you will remain in the Settlement Class. If the Settlement is approved and becomes final, you will not be able to sue Defendants regarding the legal claims that were litigated in this case, but you will be able to submit a Claim Form to receive benefits from this Settlement. The specific rights you are giving up are called Released Claims, and apply to the Released Party or Released Parties, which means Browning Arms Company, a Utah corporation, as well as its affiliates, meaning any entity that directly, or indirectly, controls, is controlled by, or is in common control with, Browning Arms Company, which includes, but is not limited to, Browning, a Utah corporation; BWA, Inc., a Delaware corporation; Browning S.A., a Belgian corporation; Herstal, S.A., a Belgian corporation; Browning Canada Sports, a Canadian corporation; Browning International, a Belgian corporation; BACO, Inc., a Utah d/b/a for Browning Arms Company; and Winchester Repeating Arms, a Utah d/b/a for Browning; as well as their respective directors, officers, employees, and agents.

11. What are the Released Claims?

As of the Effective Date, the Settlement Class Members, each on behalf of himself or herself and on behalf of his or her respective heirs, assigns, beneficiaries, and successors, shall automatically be deemed to have fully and irrevocably released and forever discharged Browning and its affiliates of and from any and all liabilities, rights, claims, actions, causes of action, demands, lawsuits, arbitrations, damages, penalties, costs, attorneys' fees, losses, and remedies, whether known or unknown, existing or potential, suspected or unsuspected, liquidated or unliquidated, legal, statutory, or equitable, that result from, arise out of, are based upon, or relate to in any way any of the allegations, acts, transactions, facts, events, matters, occurrences, representations or omissions involved, set forth, alleged or referred to in this Action, or which could have been alleged in this Action, including, without limitation, all liabilities, rights, claims, actions, causes of action, demands, lawsuits, arbitrations, damages, penalties, costs, attorneys' fees, losses, and remedies, or remedies relating to, based upon, resulting from, or arising out of: the deterioration of the Dura-Touch Coating upon firearms manufactured by Browning (the "Released Claims").

With respect to the Released Claims, each Settlement Class Member shall be deemed to have waived and relinquished, to the fullest extent permitted by law, the provisions, rights and benefits of California Civil Code section 1542 (and equivalent, comparable, or analogous provisions of the laws of the United States of America or any state or territory thereof, or of the common law or civil law). Section 1542 provides that:

A general release does not extend to claims which the creditor does not know or suspect to exist

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in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

For the avoidance of doubt, the Released Claims include any claims that a Settlement Class Member may have under the law of any jurisdiction, including, without limitation, those arising under state or federal law of the United States, including, but not limited to, the Racketeer Influenced and Corrupt Organizations Act, the Federal Stored Communications Act, state consumer fraud and protection statutes, state data breach notice statutes, and the California Customer Records Act; claims under the common or civil laws of any state or other jurisdiction in the United States, including, but not limited to, negligence, negligence per se, breach of contract, breach of implied contract, breach of implied warranty, unjust enrichment, misrepresentation (whether fraudulent, negligent, or innocent), bailment, conversion, breach of fiduciary duty, breach of implied covenant of good faith and fair dealing, fraudulent concealment or nondisclosure, invasion of privacy, public disclosure of private facts, and misappropriation of likeness and identity; any causes of action based on privacy rights provided for under the constitutions of the United States or of any states or jurisdictions in the United States; and also including, but not limited to, any and all claims in any state or federal court of the United States, for damages, injunctive relief, restitution, disgorgement, declaratory relief, equitable relief, attorneys' fees and expenses, pre-judgment interest, credit or financial account monitoring services, identity theft insurance, the creation of a fund for future damages, statutory penalties, restitution, the appointment of a receiver, and any other form of relief.

Upon entry of the Final Approval Order, the Settlement Class Members shall be enjoined from prosecuting any claim they have released in the preceding paragraphs in any proceeding against any of the Released Parties or based on any actions taken by any of the Released Parties that are authorized or required by this Agreement or by the Final Approval Order. It is further agreed that the Settlement Agreement may be pleaded as a complete defense to any proceeding subject to this section.

None of the above releases include releases of claims or otherwise affect the Parties' rights to enforce the terms of the Settlement Agreement.

The Settlement Agreement, available at www.duratouchsupport.browning.com or www.duratouchsupport.winchesterguns.com contains additional information about Released Claims.

12. How do I exclude myself from the Settlement?

Settlement Class Members have the right to request exclusion from (*i.e.*, opt out of) the Settlement Class by sending a written request for exclusion to the Settlement Administrator postmarked by May 1, 2019. Requests for Exclusion must be mailed to:

Dura-Touch Litigation
Attn: Exclusions
P.O. Box 11310
Birmingham, AL 35202

Requests for exclusion must: (a) Include the individual's name and address; (b) Contain a statement that he/she wants to be excluded from this Action; and (c) Must be signed personally by the Settlement Class Member who is requesting exclusion.

No request for exclusion will be valid unless it complies with these requirements. Persons falling within

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the definition of the Settlement Class who validly and timely request exclusion from the Settlement Class shall not be Settlement Class Members, shall not be bound by the Settlement, and shall not be eligible to make a Claim for any benefit under the terms of the Settlement.

13. How do I object to the Settlement?

Settlement Class Members have the right to object to the Settlement and/or to Class Counsel’s application for Attorneys’ Fees, Costs and Expenses.

Any Settlement Class Member who intends to object to the Settlement Agreement must do so no later than May 1, 2019. In order to object, the Settlement Class Member must file a notice of appearance with the Court (if represented by counsel), and file with the Court and provide a copy to Class Counsel and Defendant’s Counsel, a hand signed document that includes:

- (a) The name, address, telephone number, and, if available, the email address of the person objecting, and if represented by counsel, of his/her counsel;
- (b) A statement sufficient to establish his/her membership in the Settlement Class, including all information required by the Claim Form;
- (c) Specifically and in writing, each objection and the grounds for each objection, accompanied by any legal support for the objection;
- (d) Whether he/she intends to appear at the Final Approval Hearing, either with or without counsel;
- (e) A detailed list of any other objections submitted by the Settlement Class Member, and/or his/her counsel, to any class actions submitted in any court, whether state or federal, in the United States in the previous five (5) years. If the Settlement Class Member or his/her counsel has not objected to any other class action settlement in any court in the United States in the previous five (5) years, he/she shall affirmatively state so in the written materials provided in connection with the Objection to this Settlement Agreement;
- (f) Any and all agreements that relate to the objection or the process of objecting, whether written or verbal, between objector or objector’s counsel and any other person or entity; and
- (g) The objector’s signature on the written objection (an attorney’s signature is not sufficient).

COURT	CLASS COUNSEL	BROWNING’S COUNSEL
Clerk's Office United States District Court Northern District of Mississippi Federal Building 911 Jackson Avenue East Oxford, MS 38655	W. Lewis Garrison, Jr. James F. McDonough, III Heninger Garrison Davis, LLC 2224 1st Avenue North Birmingham, Alabama 35203	Kevin A. Crass Friday Eldredge & Clark LLP 400 West Capitol Avenue, Suite 2000 Little Rock, Arkansas 72201

14. Who are the attorneys appointed to represent the Settlement Class?

The Court has appointed the following lawyers to represent you and the other Settlement Class Members:

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W. Lewis Garrison, Jr.
lewis@hgdllawfirm.com
HENINGER GARRISON DAVIS, LLC
2224 1st Avenue North
Birmingham, Alabama 35203

James F. McDonough, III
jmcdonough@hgdllawfirm.com
HENINGER GARRISON DAVIS, LLC
3621 Vinings Slope, Suite 4320
Atlanta, Georgia 30339

You will not be charged for the services of these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

15. How will the lawyers be paid?

Class Counsel (set forth in the preceding section) will petition the Court for an award of attorneys' fees in an amount not to exceed \$450,000.00, along with Class Counsel's reasonable costs and expenses not to exceed \$10,000.

Class Counsel will petition the Court for approval of Service Awards not to exceed \$5,000 for the Class Representative, which is intended to compensate such individual for his efforts in the litigation and commitment on behalf of the Settlement Class.

These amounts will not have any effect upon the benefits provided to the Class Members through this settlement agreement.

16. When will the Court decide final approval of the Settlement?

The Court will hold a hearing at **1:00 p.m. on Thursday June 13, 2019**, at the United States District Court for the Northern District of Mississippi at the Federal Building, 911 Jackson Avenue East, Oxford, MS 38655 to decide whether to grant final approval of the Settlement. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate, and will also consider Class Counsel's application for an award of attorneys' fees and expenses, and the proposed service award. Settlement Class Members are welcome to attend the Final Approval Hearing but it is not necessary for them to attend to receive their benefits under the Settlement. The Settlement will not become final until the Court grants final approval of the Settlement and any appeals have been resolved.

17. How do I get more information?

This Notice summarizes the proposed Settlement. Complete details are provided in the Settlement Agreement, which is available at www.duratouchsupport.browning.com or www.duratouchsupport.winchesterguns.com. You may also call toll-free (800) 811-5029 or email jmcdonough@hgdllawfirm.com for more information.

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