

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

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

STIPULATION OF SETTLEMENT

Pursuant to Rule 23 of the Federal Rules of Civil Procedure and subject to and conditioned upon approval by the Court of the terms and conditions contained herein, this Stipulation of Settlement (“Agreement” or “Settlement Agreement”) is made and entered into by and among Stephen Bittner (the “Class Representative” or “Plaintiffs”), both individually and on behalf of the Settlement Class (as defined below), and (b) Defendant Browning Arms Company (“Defendant” or “Browning”), by and through their respective duly authorized counsel.

1. RECITALS

A. WHEREAS, Browning has manufactured a variety of firearms since 2002 containing a Dura-Touch Coating, and the Dura-Touch Coating was designed to create a tactile grip to Browning’s firearms.

B. WHEREAS, a small percentage of the firearms containing a Dura-Touch Coating have demonstrated signs of deterioration of said 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.

C. WHEREAS, Browning is committed to providing timely service, repair, or replacement of any and all Browning firearms containing Dura-Touch coatings that show signs of deterioration.

D. WHEREAS, Class Counsel represent that they have conducted a thorough examination and investigation of the facts and law relating to the matters in this Action, including, but not limited to, engaging in discovery, review and analysis of Browning’s documents. Class Counsel also represents that it evaluated the merits of the Parties’ contentions and evaluated this Settlement Agreement, as it affects all parties, including

Settlement Class Members. Class Counsel further recognize and acknowledge the expense, uncertain outcome, and risk of any litigation, as well as the difficulties and delays inherent in such litigation, and the inherent problems of proof and possible defenses to the claims alleged in the Action. Taking into account the foregoing, Class Counsel believe that the settlement set forth in this Settlement Agreement confers benefits upon the Settlement Class, and Class Counsel are satisfied that the terms and conditions of this Settlement Agreement are fair, reasonable, and adequate, and that this Settlement Agreement is in the best interest of the Settlement Class Members.

E. WHEREAS, Defendant denies any wrongdoing or that it committed any act or omission giving rise to any liability or violation of the law. Defendant denies the material allegations of the Complaint, including all claims asserted therein, and Defendant further denies that any of the Settlement Class Members are entitled to any monetary or other relief whatsoever in connection with the Action.

F. WHEREAS, Defendant, while disclaiming all liability with respect to all claims, considers it desirable to resolve the Action on the terms stated herein in order to service its customers and ensure they have a positive experience with Browning firearms, and it further wishes to avoid additional expense, inconvenience and burden and, therefore, have determined that this settlement on the terms set forth herein is in its respective best interests. This Settlement Agreement shall in no event be construed as, or deemed to be evidence of, an admission or concession on the part of the Defendant with respect to any fact or matter alleged in the Action, or any claim of fault or liability or wrongdoing or damage whatsoever.

G. WHEREAS, significant arm's-length settlement negotiations have taken place between and among the Parties. As a result of these extensive negotiations, this Settlement Agreement has been reached, subject to the Court approval process set forth herein.

H. NOW THEREFORE, in consideration of the covenants and agreements set forth herein, and of the releases and dismissals of claims as described below, and other good and valuable consideration, the receipt and sufficiency of which hereby is acknowledged by the Parties, the Class Representative, on behalf of himself and the Settlement Class Members, and Defendant agree to the Settlement Agreement described herein, subject to Court approval, under the following terms and conditions.

2. DEFINITIONS

2.1 In addition to the terms defined at various points within this Agreement, the following terms shall have the meaning set forth below:

2.2 "Action" or "Litigation" means the case *Bittner v. Browning Arms Company*, 3:17-cv-143-MPM-JMV, pending in the Northern District of Mississippi.

2.3 "Claim" or "Claim Form" means the form substantially similar to the attached Exhibit A, which Settlement Class Members must complete on the Settlement Website (or have completed by a representative reached by calling a toll-free number to

be published via the Class Notice) to be eligible for relief under the terms of the Settlement Agreement.

2.4 “Class Counsel” means W. Lewis Garrison and James F. McDonough, III of Heninger Garrison Davis, LLC.

2.5 “Class Notice” means the notices of proposed class action settlement that the Parties will ask the Court to approve in connection with the motion for preliminary approval of the Settlement Agreement, which include the Long Form Notice and the Summary Publication Notice.

2.6 “Class Notice Date” means the date upon which Class Notice is initially sent, which shall be no later than fifteen (15) days after the Preliminary Approval Date.

2.7 “Claim Period” shall mean the indefinite period of time starting from the date the Final Approval Order is issued.

2.8 “Class Representative” means the named plaintiff in this Action: Stephen Bittner.

2.9 “Court” means the United States District Court for the Northern District of Mississippi, which is presiding over the Action.

2.10 “Defendant’s Counsel” means the law firms of Friday Eldredge & Clark LLP and Butler Snow LLP (together, “Browning’s Counsel”).

2.11 “Effective Date” means the first business day after which all of the following events and conditions have occurred: (a) Class Counsel and Defendant’s Counsel have executed this Settlement Agreement; (b) the Court has entered the Final Approval Order; and (c) the Final Approval Order has become a final, non-appealable judgment approving the Settlement Agreement in all material respects and is no longer subject to review, rehearing, appeal, petition for allowance of appeal, petition for certiorari, or other review of any kind. The Effective Date shall not be altered in the event the Court declines to approve, in whole or in part, the payment of attorneys’ fees, costs, and expenses in the amounts that Class Counsel requests. Further, the Effective Date shall not be altered in the event that an appeal is filed with the sole issue on appeal being the Fee and Expense Award awarded to Class Counsel.

2.12 “Fee and Expense Award” means the amount awarded to Class Counsel by the Court for attorneys’ fees, costs, and expenses.

2.13 “Final Approval Order” means an order and judgment issued and entered by the Court, approving this Settlement Agreement as binding upon the Parties and the Settlement Class Members and dismissing the claims against Defendant with prejudice, and setting the amount for an award of fees, costs, and expenses to Class Counsel. The Final Approval Order shall constitute a judgment within the meaning and for purposes of Rule 54 of the Federal Rules of Civil Procedure. The Parties jointly shall request the Court to enter the proposed Final Approval Order. In the event that the Court issues

separate orders addressing the foregoing matters, then Final Approval Order means the date of the last of such orders.

2.14 “Long Form Notice” means the proposed long form notice, substantially in the form as that attached hereto and made a part hereof as Exhibit B, to be approved by the Court.

2.15 “Neutral” shall mean Midwest Gun Works, located at Mason Circle Drive, Pevely, Missouri 63070. Class Counsel and Browning may, by agreement, substitute a different Neutral, subject to approval by the Court. In the absence of agreement, either Class Counsel or Browning may move the Court to substitute a different Neutral, upon a showing that the responsibilities of the Neutral have not been adequately executed by the incumbent.

2.16 “Objection Deadline” means forty-five (45) days after the Class Notice Date.

2.17 “Opt-Out Deadline” means forty-five (45) days after the Class Notice Date.

2.18 “Parties” means the Class Representative and Browning.

2.19 “Preliminary Approval” means that the Court has entered an order preliminarily approving the terms and conditions of this Settlement Agreement, including the manner of providing and content of notice to Settlement Class Members.

2.20 “Preliminary Approval Date” means the date on which the Court enters an Order granting Preliminary Approval.

2.21 “Released Party” 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; and Winchester Repeating Arms, a Utah d/b/a; as well as their respective directors, officers, employees, and agents.

2.22 “Releasing Parties” means the Class Representative and all Settlement Class Members who do not timely and properly exclude themselves from the Settlement Class, and each of their respective heirs, assigns, beneficiaries, and successors.

2.23 “Settlement Class” and “Settlement Class Members” means: All United States persons who have purchased any Browning or Winchester Repeating Arms branded firearm containing the Dura-Touch coating. Settlement Class Members who exclude themselves from the Settlement Class, pursuant to the procedures set forth in Sections 5.4 and 5.6 of the Settlement Agreement, shall no longer thereafter be Settlement Class Members and shall not be bound by this Settlement Agreement, and

shall not be eligible to make a Claim for any benefit under the terms of this Settlement Agreement or object thereto. Also excluded from the 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, and (c) the attorneys of record in this case.

2.24 “Settlement Website” means the website that Browning will establish as soon as practicable, but no later than fifteen (15) days following Preliminary Approval as a means for Settlement Class Members to obtain notice of and information about the Settlement Agreement, through and including hyperlinked access to this Agreement, the Class Notice, the order preliminarily approving this Settlement Agreement, the Complaint and such other documents as Class Counsel and Browning agree to post or that the Court orders posted on the website, and the Claim Form. These documents shall remain on the Settlement Website for a period of ten (10) years from the date of the Final Approval Order. The URL of the Settlement Website shall be agreed upon by Class Counsel and Browning. The Settlement Website shall not include any advertising.

2.25 “Summary Publication Notice” means the proposed short form notice, substantially in the form as that attached hereto and made a part hereof as Exhibit C, to be approved by the Court.

3. SETTLEMENT CONSIDERATION

3.1 In consideration for the releases contained in Section 10 of this Agreement, and without admitting liability for any of the alleged acts or omissions alleged in the Complaint, Browning will fund and administer for the duration of the Claim Period the Dura-Touch Claim Resolution Process, as set forth in Section 7.

4. PRELIMINARY APPROVAL

4.1 Upon execution of this Agreement by the Parties, Class Counsel shall promptly move the Court for an order granting preliminary approval of this Settlement Agreement (“Preliminary Approval Order”), substantially in the form of Exhibit D. The motion for preliminary approval shall request that the Court: (a) preliminarily approve the terms of the Settlement Agreement as within the range of fair, adequate, and reasonable; (b) provisionally certify the Settlement Class pursuant to Federal Rule of Civil Procedure 23(b)(3) for settlement purposes only; (c) approve the methods of class notification set forth in Section 5; (d) approve the procedures set forth in Section 5 for Settlement Class Members to exclude themselves from the Settlement Class or to object to the Settlement Agreement; (e) stay all proceedings in this Action unrelated to the Settlement Agreement pending final approval of the Settlement Agreement; (f) stay and/or enjoin, pending final approval of the Settlement Agreement, any actions brought by Settlement Class Members concerning a Released Claim; and (g) schedule a final approval hearing for a time and date convenient for the Court, at which the Court will conduct an inquiry into the fairness of the Settlement Agreement, determine whether it was made in good faith and should be finally approved, and determine whether to approve Class Counsel’s application for attorneys’ fees, costs, and expenses (“Final Approval Hearing”).

5. CLASS NOTICE

5.1 Notice Program. The Notice Program shall include:

5.1.1 Settlement Website. No later than the first date that any form of Class Notice is provided, but no later than fifteen (15) days after the Preliminary Approval Date, Browning will develop, host, administer, publish, and maintain the Settlement Website for a period of at least ten (10) years from the date of the Final Approval Order. The Settlement Website shall be prominently linked to the websites www.browning.com and www.winchesterguns.com, in substantially the form as included at Exhibits E and F, and provide information on the settlement as set forth in Section 5.2, and shall include the Long Form Notice and other information identified in Section 2.24.

5.1.2 Settlement Website Notice. As soon as practical after the Preliminary Approval Date, but no later than fifteen (15) days thereafter, Browning will provide notice via website links on the homepages of its websites www.browning.com and www.winchesterguns.com, which will be substantially similar to the mock up contained in Exhibit E, and will link directly to the Settlement Websites. The website links will run on the homepages of the above-referenced websites for at least three (3) years from the date of the Final Approval Order. Thereafter, for a period of at least seven (7) additional years, Browning will provide access to the Settlement Websites through drop-down links under the “Support” drop down menus located on the homepages of its websites www.browning.com and www.winchesterguns.com.

5.1.3 Class Counsel’s Websites. As soon as practical after the Preliminary Approval Date, but no later than fifteen (15) days thereafter, the Long Form Notice will be posted in a prominent location on Class Counsel’s website. The Parties shall also work cooperatively so that all other pertinent information to submit a Claim, request exclusion from the Settlement, object to the Settlement Agreement or provide notice of an intention to appear in Court, is provided to all Class Members on Class Counsel’s website. Defendant will have the right to review and approve, acting reasonably, publications on Class Counsel’s website concerning this matter.

5.1.4 Dealer Notice. As soon as practical after the Preliminary Approval Date, but no later than fifteen (15) days thereafter, Browning will provide written notice of the Action and settlement benefits to its authorized dealers and resellers (“Dealer Notice”) in substantially the form of Exhibit B, in order to assist such dealers in properly directing inquiring Settlement Class Members to the Long Form Notice provided on the Settlement Website. Browning will request that its dealers circulate the Dealer Notice to all employees of such dealer who may have direct interaction with potential Settlement Class Members. Browning will also request that any resellers circulate the Dealer Notice to all of their authorized dealers and request that its resellers circulate the Dealer Notice to all employees of such reseller who may have direct interaction with potential Settlement Class Members.

5.1.5 Published Notice. No later than fifteen (15) days after the Preliminary Approval Date, Browning will order advertising space causing to publish

notice of the Action and settlement benefits with ads in the three most widely circulated periodicals targeted towards hunters and firearms enthusiasts for one publication cycle starting with the next available publication cycle. These ads shall be substantially similar to the example contained in Exhibit C. These magazines are: *American Rifleman*, *Field and Stream*, and *American Hunter*, which have a combined circulation of approximately 3.8 million subscribers

5.2 The Class Notice shall:

5.2.1 Inform Settlement Class Members that, if they do not exclude themselves from the Settlement Class, they may be eligible to receive relief under the proposed settlement;

5.2.2 Contain a short, plain statement of the background of the Action, the class certification, and the proposed settlement;

5.2.3 Describe the proposed settlement relief outlined in this Settlement Agreement; and

5.2.4 State that any relief to Settlement Class Members is contingent upon the Court's final approval of the proposed Settlement Agreement.

5.3 Notice of Opt-Out and Objection Rights. The Class Notice shall inform Settlement Class Members of their rights to exclude themselves from the Settlement Class or object to the proposed Settlement Agreement.

5.4 Requests for Exclusion. If any Settlement Class Member wishes to be excluded from the Settlement Class, he or she must do so by timely mailing within forty-five (45) days after the Class Notice Date, a valid opt-out notice, stating their intention to opt out of the settlement and providing their full legal name and address. Any Settlement Class Member who timely elects to opt out of the Settlement Class shall not be permitted to object to the Settlement Agreement. Persons falling within the definition of the Settlement Class who validly and timely request exclusion from the Settlement Class effected by this Settlement Agreement, pursuant to the procedures set forth in this paragraph, shall not be Settlement Class Members, shall not be bound by this Settlement Agreement and shall not be eligible to participate in the Dura-Touch Claim Resolution Process.

5.5 No later than fifty-two (52) days after the Class Notice Date,, Class Counsel shall prepare a list of the persons who have excluded themselves in a valid and timely manner from the Settlement Class (the "Opt-Outs"), and Class Counsel shall file that list with the Court.

5.6 Objections. Any Settlement Class Member who intends to object to the Settlement Agreement must do so no later than forty-five (45) calendar days after the Class Notice Date (the "Objection Deadline"). 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:

5.6.1 The name of the objecting Settlement Class Member, as well as his or her address, telephone number, their email address, and if represented by counsel, of his/her counsel;

5.6.2 Specifically, and in writing, each objection and the grounds for each objection, accompanied by any legal support for the objection;

5.6.3 Whether he/she intends to appear at the Final Approval Hearing, either with or without counsel;

5.6.4 A statement sufficient to establish his/her membership in the Settlement Class, including proof of purchase of a Browning or Winchester Repeating Arms firearm containing the Dura-Touch coating;

5.6.5 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;

5.6.6 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

5.6.7 The objector's signature on the written objection (an attorney's signature is not sufficient).

5.7 The proposed order granting Preliminary Approval will provide that any Settlement Class Member wishing to object and/or appear who fails to follow the procedures set forth above may, in the discretion of the Court, be precluded from doing so.

6. SETTLEMENT ADMINISTRATION

6.1 Browning shall fund and administer the settlement, in conjunction with Class Counsel, during the Claim Period through the implementation of the Dura-Touch Claim Resolution Process, as described in Section 7.

6.2 As part of its obligations, Browning shall provide Class Counsel with annual updates summarizing the number of claims made, the number of repairs approved, the number of repairs conducted, the average length it took to complete all such repairs, and the number of repair requests rejected by Browning.

6.3 Notice to Attorneys General. Browning shall provide notice of this proposed Settlement Agreement to the appropriate state and federal officials as required by 28 U.S.C. § 1715.

7. DURA-TOUCH CLAIM RESOLUTION PROCESS

7.1 Browning represents that through the period described in 5.12 above, it will maintain a page on its website with contact information, including a toll-free phone number, by which Class Members may get their Dura-Touch coated firearm serviced from Browning. .

7.2 Once a Class Member notifies Browning, either by e-mail or telephone, 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.

7.3 Once the packaged firearm arrives at Browning's Service Center, a service technician will inspect the firearm to confirm that the Dura-Touch shows signs of deterioration and that the firearm qualifies for a repair under the Dura-Touch Claim Resolution Process.

7.4 Qualified Repairs. 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. The three service methods will be as follows:

7.4.1 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 will be the preferred service method.

7.4.2 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 internal inspection of the firearm, Browning will send the firearm 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.

7.4.3 Firearm Replacement. In the event the firearm parts are not able to be replaced or repaired in a reasonable and financially sound manner, in Browning's sole and absolute discretion, Browning will provide the consumer with a new Browning firearm of equal or greater value.

7.5 Following the service of a firearm, Browning's service department will carry out a function test. The function test includes a visual inspection of the firearm, a verification that the trigger-pull and other firearm mechanics are within specification, and lastly a test fire with live ammunition.

7.6 Following a successful function test, the firearm will be packaged by Browning and returned to the Class Member at no cost.

7.7 Browning will commit to a turnaround time (from receipt of the firearm to return of the firearm) of six (6) months for those firearms that take advantage of the Dura-Touch Service Plan.

8. NEUTRAL REVIEW OF REJECTED REPAIRS

8.1 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. Additionally, Browning will notify both the Settlement Class Member and Class Counsel of said rejection. This notice will include the name and address of the Class Member, the reason why the firearm was rejected for repair, and the date it was sent to the Neutral for review.

8.2 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.

8.3 The Neutral's Decision is Final.

8.3.1 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 as set forth in Section 7.2. Browning will have no right to appeal the Neutral's decision.

8.3.2 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.

8.4 All shipping costs to and from the Neutral, as well as any fees charged by the Neutral, shall be paid by Browning, except as provided above in 8.3.2.

9. FINAL APPROVAL ORDER AND JUDGMENT

9.1 The Class Representative' motion for preliminary approval of the Settlement Agreement will include a request to the Court for a scheduled date on which the Final Approval Hearing will occur. The Final Approval Hearing shall be scheduled no earlier than sixty (60) days after notices of this proposed Settlement Agreement are served on the appropriate state and federal officials as required by 28 U.S.C § 1715. No less than fifty-two days after the Class Notice Date, the Class Representative shall move for entry of a Final Approval Order and Judgment consistent with the terms of this Agreement and the Preliminary Approval Order, granting final approval of this Settlement Agreement and, among other things, (a) determining that the Settlement Agreement is fair, adequate, and reasonable; (b) finally certifying the Settlement Class for settlement purposes only; (c) determining that the Class Notice provided satisfied Due Process requirements; (d) dismissing the action with prejudice; (e) barring and enjoining the Releasing Parties from asserting any of the Released Claims, as set forth in Section 10, including during the pendency of any appeal from the Final Approval Order; (f) releasing the Released Party from the Released Claims, as set forth in Section 10; (g) and reserving the Court's continuing and exclusive jurisdiction over Browning and all Settlement Class Members (including all objectors) to administer, supervise, construe, and enforce this Agreement in accordance with its terms.

9.2 Upon issuance of the Final Approval Order: (i) the Settlement Agreement shall be the exclusive remedy for any and all Settlement Class Members; (ii) Defendant shall not be subject to liability or expense of any kind to any Settlement Class Member except as set forth herein; and (iii) Settlement Class Members that have not timely opted out of the Settlement Agreement shall be permanently barred from initiating, asserting, or prosecuting any and all Released Claims against Defendant in any federal or state court in the United States or any other tribunal.

9.3 Settlement Announcement and Communication. Plaintiff, Defendant, and their respective counsel shall make no public statements outside of the court proceedings in this matter concerning this settlement except as provided in this Paragraph 9.3 or as otherwise required by the Settlement Agreement. Class Counsel and Defendant shall agree on the language that Plaintiff and Plaintiff's representatives, including Class Counsel, may use in responding to any inquiries from the press or third parties. Nothing in this paragraph shall be deemed to prevent Class Counsel from communicating with Plaintiff and Settlement Class Members and discussing the nature, benefits, and reasons for this Settlement Agreement with them.

10. RELEASE

10.1 Release by Settlement Class Members. As of the Effective Date, the Releasing Parties, 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 the Released Party 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 under the Browning or Winchester Repeating Arms brands (the "Released Claims").

10.2 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 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.

10.3 For the avoidance of doubt, the Released Claims include any claims that a Releasing Party 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.

10.4 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 Party or based on any actions taken by any of the Released Party 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.

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

11. ATTORNEYS' FEES AND SERVICE AWARDS

11.1 Attorneys' Fees, Costs and Expenses. The parties understand that Class Counsel will petition the Court for an award of attorneys' fees in an amount not to exceed \$450,000.00, inclusive of interest accumulated and Class Counsel's costs and expenses, along with Class Counsel's reasonable costs and expenses not to exceed \$10,000. Such fees, costs and expenses, if approved by the Court, shall be payable within fifteen (15) days of the entry of the Final Approval Order, subject to Class Counsel providing all payment routing information and the tax I.D. numbers for Class Counsel. In the event the Final Approval Order is reversed or vacated by the U.S. Court of Appeals for the Fifth Circuit or the U.S. Supreme Court, Class Counsel shall refund all fees, costs, and expenses paid by Browning to Browning within 30 days of the order vacating or reversing the Final Approval Order that is not subject to further appeal. Defendant agrees that the attorney fee award is a matter to be determined by the Court and Defendant will take no position regarding the attorney fee award.

11.2 Service Award. Class Counsel will petition the Court for approval of, and Defendant will not oppose, service awards not to exceed \$5,000 for the Class Representative, which is intended to compensate him for his efforts in the litigation and commitment on behalf of the Settlement Class ("Service Awards"). The Service Award will be in addition to any claim which the Class Representative may be entitled to under the Dura-Touch Claim Resolution Process set forth in Section 7 of this agreement. Any Service Awards approved will be paid separately by Browning. Neither Class Counsel's application for, nor any individual's entitlement to, a Service Award shall be conditioned in any way upon such individual's support for this Agreement.

11.3 Except as otherwise provided in this Settlement Agreement, each party to this Settlement Agreement shall bear his, her or its own costs of the Litigation.

12. TERMINATION

12.1 Effect If Settlement Not Approved. This Settlement Agreement was entered into only for purposes of settlement, subject to and without waiver of the Parties' respective rights. If the Court does not enter the order granting Preliminary Approval or the Final Approval Order, or if the Effective Date does not occur, Class Counsel and Defendant's Counsel shall endeavor, consistent with the Settlement Agreement, to cure any defect identified by the Court; provided, however, that Browning shall not be obligated to accept such cure if it increases the cost or burden of the Settlement

Agreement to Browning or reduces or otherwise affects the scope of the releases provided by this Settlement Agreement.

12.2 This Settlement Agreement may be terminated by either the Class Representative or Browning by serving on counsel for the opposing Party and filing with the Court a written notice of termination within fourteen (14) days (or such longer time as may be agreed between Class Counsel and Browning) after any of the following occurrences: (a) Class Counsel and Browning jointly agree to termination before the Effective Date; (b) the Court rejects, materially modifies, materially amends or changes, or declines to preliminarily or finally approve the Settlement Agreement; (c) an appellate court reverses the Final Approval Order and the order is not subject to further appeal, and the Settlement Agreement is not reinstated and finally approved without material change by the Court on remand; (d) the Court or any reviewing appellate court incorporates material terms or provisions into, or deletes or strikes material terms or provisions from, or materially modifies, amends, or changes, the Preliminary Approval Order, the proposed Final Approval Order, or the Settlement Agreement; or (e) the Effective Date does not occur.

12.3 If the Settlement Agreement is terminated for any reason, the Final Approval Order is not entered for any reason, or the Effective Date does not occur, then no term or condition of the Settlement Agreement, or any draft thereof, or any discussion, negotiation, documentation, or other part or aspect of the Parties' settlement discussions shall have any effect, nor shall any such matter be admissible in evidence for any purpose in the Action, or in any other proceeding, the Parties shall be restored to their respective positions immediately preceding execution of this Settlement Agreement.

12.4 If the Final Approval Order or any part of it is vacated, overturned, reversed, or rendered void as a result of an appeal, or the Settlement Agreement is voided, rescinded, or otherwise terminated for any other reason, then within thirty (30) days, Class Counsel shall return to Browning all attorneys' fees, costs, and other payments received by Class Counsel under the Settlement Agreement except for fees incurred for notice and for reasonable administration expenses, as set forth in paragraph 3.1 above.

13. NO ADMISSION OF LIABILITY

13.1 This Settlement Agreement reflects, among other things, the compromise and settlement of disputed claims among the parties, and neither this Settlement Agreement nor the releases given herein, nor any consideration therefor, nor any actions taken to carry out this Settlement Agreement, are intended to be, nor may they be deemed or construed to be, an admission or concession of liability, or the validity of any claim, defense, or of any point of fact or law on the part of any party. Defendant denies the material allegations of the complaint filed in this Action. Neither this Settlement Agreement, nor the fact of settlement, nor the settlement proceedings, nor the settlement negotiations, nor any related document, shall be used as an admission of any fault or omission by the Released Party, or be offered or received in evidence as an admission, concession, presumption or inference of any wrongdoing or liability by any or all of the

Released Party in any proceeding, other than such proceedings as may be necessary to consummate, interpret or enforce this Settlement Agreement.

14. EFFECT OF CLASS CERTIFICATION

14.1 The Parties agree, for settlement purposes only, that this Action shall be certified and proceed as a class action under Federal Rule of Civil Procedure 23(b)(3), with a class consisting of all Settlement Class Members, and with Stephen Bittner, as Class Representative, and with Class Counsel as counsel for the Settlement Class Members.

14.2 Any certification of a conditional, preliminary or final settlement class pursuant to the terms of this Settlement Agreement shall not constitute, and shall not be construed as, an admission on the part of Browning that this Action, or any other proposed or certified class action, is appropriate for trial class treatment pursuant to Federal Rule of Civil Procedure or any similar state or federal class action statute or rule. This Settlement Agreement shall be without prejudice to the rights of Browning to: (a) move to dismiss or stay this Action on any applicable basis; (b) oppose certification in this Action should this Settlement Agreement not be approved or implemented for any reason; or (c) oppose certification in any other proposed or certified class action. Neither the fact of this settlement nor this Settlement Agreement shall be used in connection with efforts in any proceeding to seek certification of any claims asserted against Browning.

15. MISCELLANEOUS PROVISIONS

15.1 Change of Time Periods. The time periods and/or dates described in this Settlement Agreement with respect to the giving of notices and hearings are subject to approval and change by the Court or by the written agreement of Class Counsel and Defendant's Counsel, without notice to Settlement Class Members. The Parties reserve the right, by agreement and subject to the Court's approval, to grant any reasonable extension of time that might be needed to carry out any of the provisions of this Settlement Agreement, as well as to correct any inadvertent, non-substantive mistakes or typographical errors contained in the Settlement Agreement.

15.2 Binding Agreement. This Settlement Agreement shall be binding upon and inure to the benefit of the respective heirs, successors, and assigns of the Parties, the Settlement Class Members and the other Released Party.

15.3 Confidentiality. The Parties agree that all drafts, discussions, negotiations, documentation, or other information prepared in relation to the Settlement Agreement and the Parties' settlement discussions shall be treated as strictly confidential and may not be disclosed to any person other than the Parties' counsel, insurers, accountants, auditors, and other related parties required to have notice of this Settlement Agreement pursuant to applicable state and federal law.

15.4 Cooperation of Parties. The Parties agree to cooperate in good faith to prepare and execute all documents, to seek Court approval, defend Court approval, and to

do all things reasonably necessary to complete and effectuate the settlement described in this Agreement.

15.5 **Obligation To Meet And Confer.** Before filing any motion in the Court raising a dispute arising out of or related to this Agreement, the Parties shall consult with each other and certify to the Court that they have consulted in good faith.

15.6 **No Waiver.** The waiver by any party of any provision or breach of this Settlement Agreement shall not be deemed a waiver of any other provision or breach of this Settlement Agreement.

15.7 **Integration.** All of the exhibits of this Settlement Agreement are material and integral parts hereof, and are fully incorporated herein by reference. This Settlement Agreement and the exhibits hereto constitute the entire, fully integrated agreement among the Parties and cancel and supersede all prior written and unwritten agreements, negotiations and understandings pertaining to the Settlement Agreement and the Litigation, and may not be contradicted by evidence of any prior or contemporaneous agreement. The Parties further intend that this Settlement Agreement constitutes the complete and exclusive statement of its terms as between the Parties, and that no extrinsic evidence whatsoever may be introduced in any agency or judicial proceeding, if any, involving this Settlement Agreement.

15.8 **No Conflict Intended.** Any inconsistency between the headings used in this Agreement and the text of the paragraphs of this Agreement shall be resolved in favor of the text.

15.9 **Singular and Plurals.** As used in this Agreement, all references to the plural shall also mean the singular and to the singular shall also mean the plural whenever the context so indicates.

15.10 **Execution in Counterparts.** This Settlement Agreement shall become effective upon its execution by all of the undersigned. The parties may execute this Settlement Agreement in counterparts, and execution of counterparts shall have the same force and effect as if all parties had signed the same instrument. The parties further agree that signatures provided by portable document format (PDF) or other electronic transmission shall have the same force and effect as original signatures.

15.11 **Authority.** Class Counsel, who are signatories hereof, represent and warrant that they have the authority, on behalf of Plaintiff and Class Counsel, and to execute, deliver, and perform this Settlement Agreement and to consummate all of the transactions contemplated hereby. This Settlement Agreement has been duly and validly executed and delivered by Class Counsel and Plaintiffs and constitutes their legal, valid and binding obligation.

15.11.1 Defendant, through its undersigned attorneys, represents and warrants that it has the authority, on behalf of their respective clients, to execute, deliver, and perform this Settlement Agreement and to consummate the transactions contemplated hereby. The execution, delivery and performance by Defendant of this

Settlement Agreement and the consummation by it of the actions contemplated hereby have been duly authorized by all necessary corporate action on the part of Defendant. This Settlement Agreement has been duly and validly executed and delivered by Defendant and constitutes its legal, valid, and binding obligation.

15.12 No Construction Against Drafter. The determination of the terms of, and the drafting of, this Settlement Agreement, including its exhibits, has been by mutual agreement after negotiation, with consideration by and participation of all Parties and their counsel. Since this Settlement Agreement was drafted with the participation of all Parties and their counsel, the presumption that ambiguities shall be construed against the drafter does not apply. Each of the Parties was represented by competent and effective counsel throughout the course of settlement negotiations and in the drafting and execution of this Settlement Agreement, and there was no disparity in bargaining power among the Parties to this Settlement Agreement.

15.13 Enforcement of this Settlement Agreement. The Court shall retain jurisdiction, and shall have exclusive jurisdiction, to enforce, interpret, and implement this Settlement Agreement, including any alleged violation, and the terms of any order entered pursuant to this Settlement Agreement. However, any dispute or disagreement between the Parties regarding this Agreement and its implementation for purposes of submission to the Court for Preliminary Approval, shall be mediated by the Hon. Michael P. Mills.

15.14 Governing Law. This Settlement Agreement is intended to and shall be governed by the laws of the State of Mississippi without giving effect to principles of conflicts of laws.

15.15 Notices. All notices to the Parties or Class Counsel provided for herein, shall be made in writing and communicated sent by electronic and regular mail to the following addresses (unless one of the Parties subsequently designates one or more other designees):

If to Class Counsel:

W. Lewis Garrison, Jr.
James F. McDonough, III
HENINGER GARRISON DAVIS LLC
2224 1st Avenue North
Birmingham, Alabama 35203
Tel.: (205) 326-3336
Fax: (205) 326-3332
wlgarrison@hgdllawfirm.com
jmcDonough@hgdllawfirm.com

If to Browning or its counsel:

Kevin A. Crass
Friday Eldredge & Clark LLP
400 West Capitol Avenue, Suite 2000
Little Rock Arkansas 72201
Tel.: 501-370-1592
crass@fridayfirm.com

Robert A. Miller
Jonathan H. Still
Butler Snow LLP
Renaissance at Colony Park
1020 Highland Colony Parkway, Suite 1400
Ridgeland, MS 39157
Tel.: 601-948-5711
Bobby.miller@butlersnow.com
John.still@butlersnow.com

Dated: November 12, 2018

HENINGER GARRISON DAVIS LLC

By: /s/W. Lewis Garrison, Jr.
W. Lewis Garrison, Jr.
James F. McDonough, III
Mark R. Ekonen
Travis Lynch

W. Lewis Garrison, Jr.
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jmcdonough@hgdllawfirm.com
tlynch@hgdllawfirm.com

Class Counsel and Counsel for Stephen Bittner

FRIDAY ELDREDGE & CLARK LLP

By: /s/Kevin A. Crass
Kevin A. Crass

Kevin A. Crass
400 West Capitol Avenue, Suite 2000
Little Rock Arkansas 72201
Tel.: 501-370-1592
Fax: 501-244-5370
crass@fridayfirm.com

Attorney for Browning Arms Company

BUTLER SNOW LLP

Robert A. Miller
Jonathan H. Still
Renaissance at Colony Park
1020 Highland Colony Parkway, Suite 1400
Ridgeland, MS 39157
Tel.: 601-948-5711
Fax: 601-985-4500
Bobby.miller@butlersnow.com
John.still@butlersnow.com

Attorneys for Browning Arms Company

EXHIBIT A

BITTNER v. BROWNING ARMS COMPANY
Case No. 3:17-cv-143-MPM (N.D. Miss.)

CLAIM FORM

Important: We will only use the information that you provide below to communicate with you about your claim, which we will do primarily by email if you provide an email address. The information you provide will not be used for other purposes, including but not limited to marketing purposes. The information you provide will not be sold, nor will it be provided to others, except insofar as is necessary to effectuate the terms of the Settlement, or as required by applicable state or federal law.

Instructions: Please provide the requested information below. Please identify all Browning firearms owned by you that are currently experiencing deterioration of the Dura-Touch Coating. Signs of this deterioration may include: a tacky, viscous, or sticky feel when gripping the components of a firearm coated with Dura-Touch; peeling of the Dura-Touch Coating; or 'bubbling' of the Dura-Touch Coating. **Please submit a separate Claim Form for each affected firearm.**

Once Browning has received this Claim Form, it will contact you via your email address (if provided) with instructions as to how to send your firearms in for evaluation. If you are unable to submit this Claim Form online, please call (800) 322-4626, and a Dura-Touch service representative will assist you with the submission of a Claim Form.

Firearm Serial #:

First Name:

Last Name:

Address:

City:

State/Prov:

Zip/Postal Code:

Country:

Phone:

Email:

Description:

Please describe the issue you are experiencing with your firearm's DuraTouch coating (2000 chars max)

Please email me a prepaid shipping label: Yes
 No (If No, please print form and include with firearm packaging)

ATTESTATION and ACKNOWLEDGEMENT

I certify and declare under penalty of perjury that the information I am providing in this claim form is true and correct. I have read the [Long Form Notice](#) and [Approved Settlement Agreement](#), and agree to the terms contained in them. I understand that failure to provide the necessary information requested above, or requested by the Settlement Administrator, may result in my claim being denied.

Check this box to agree with and acknowledge the terms herein.

EXHIBIT B

**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 [date].

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

QUESTIONS? CALL [PHONE NUMBER] TOLL-FREE,
VISIT www._____.com or email jmcdonough@hgdlawfirm.com

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 [phone number], visit the Settlement Website: www._____ .com, or send an email to jmcdonough@hgdllawfirm.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 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.

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._____.com/_____ or by calling toll-free [phone number], 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 the Browning Arms 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 in his or her favor at the time of executing the release, which if known by him or her must have

QUESTIONS? CALL [PHONE NUMBER] TOLL-FREE,
VISIT www._____.com or email jmcdonough@hgdlawfirm.com

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._____.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 forty-five (45) calendar days after the Notice Date (the "Exclusion Deadline"). Requests for Exclusion must be mailed to:

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

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

QUESTIONS? CALL [PHONE NUMBER] TOLL-FREE,
VISIT www._____.com or email jmcdonough@hgdlawfirm.com

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 forty-five (45) calendar days after the Notice Date (the “Objection Deadline”). 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 from Heninger Garrison Davis, LLC to represent you and the other Settlement Class Members:

W. Lewis Garrison, Jr.

James F. McDonough, III

QUESTIONS? CALL [PHONE NUMBER] TOLL-FREE,
VISIT www.hgdllawfirm.com or email jmcdonough@hgdlawfirm.com

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

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.

This 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 **10:00 a.m. on Thursday, March 21, 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._____com. You may also call toll-free [phone number] for more information or email jmcdonough@hgdllawfirm.com.

EXHIBIT C

LEGAL NOTICE

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

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 proposed Settlement has been reached in a class action lawsuit involving Browning Arms Company (“Browning” or the “Defendant”). The Settlement resolves litigation concerning the potential deterioration of the Dura-Touch coating applied to certain models of Browning and Winchester Repeating Arms branded firearms. You may be entitled to a repair or replacement of your Dura-Touch coated firearm at no cost to yourself. The Parties have agreed to settle the Action in its entirety, without any admission of liability by Defendants. The case is known as *Bittner v. Browning Arms Company*, Case No. 3:17-cv-143-MPM filed in the District Court for the Northern District of Mississippi.

Who is included in the Settlement Class? The proposed Settlement Class includes all United States residents who have purchased any Browning or Winchester Repeating Arms firearm containing the Dura-Touch coating.

What benefits does the Settlement provide? The Settlement establishes a process by which a Settlement Class Member may send their Dura-Touch coated firearm to Browning for evaluation, and, if necessary, repair or replacement. Based on the firearm model, a Browning service technician will determine whether the firearm qualifies for either of three service methods that will be carried out on the affected firearm. The three service methods that may be performed on a firearm are: parts replacement, parts repair or firearm replacement. Browning will cover all costs of shipping the firearm under these circumstances.

For those firearms that Browning deems to not qualify for a repair under the Dura-Touch Claim Resolution Process, the firearm will be shipped to a “Neutral.” The Neutral is an independent third-party who will review Browning’s determination that the firearm does not qualify to participate in the Dura-Touch Claim Resolution Process. Upon receiving the firearm, the Neutral will inspect the firearm to determine whether the firearm qualifies for a repair. If the Neutral determines that the firearm shows signs of deterioration, the process above will be followed and all costs will be paid by Browning. In the event the neutral determines that the firearm does not qualify for a repair, 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.

How do I receive Settlement benefits? In order to receive the benefits under this Settlement, Settlement Class Members must complete and submit a Claim Form to Browning. There is no deadline for submitting a Claim Form. Settlement Class Members may submit a claim form at, [www._____.com/___], by calling toll-free [NUMBER], where a representative will collect the information needed and submit the claim for you.

Who represents me? The Court appointed W. Lewis Garrison, Jr. and James F. McDonough, III, of Heninger Garrison Davis, LLC as Class Counsel to represent the Settlement Class. 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.

Your options. If you are included in the Settlement Class and do not submit a Claim Form, your rights will be affected and you will not receive any benefits from this Settlement. If you do not want to be legally bound by the Settlement, you must exclude yourself from the Settlement by [date for opting out] or you won’t be able to sue, or continue to sue, Defendants about the legal claims in this case. If you do not exclude yourself, you may object to the Settlement by submitting a written objection by [date for objections]. Instructions on how to exclude yourself or object to the settlement are in the Long Form Notice available at [www._____.com]. There is no deadline for filing a Claim Form.

The Settlement Agreement, Long Form Notice, and other documents relevant to this case are available at the settlement website, [www._____.com].

The Final Approval Hearing. The Court will hold a hearing at **10:00 a.m. on Thursday, March 21, 2019**, to consider whether to approve the Settlement, award Class Counsel Attorneys’ Fees and Expenses, and award the Class Representative up to \$5,000 each for his service. If approved, these amounts will not affect or reduce the benefits available to the Settlement Class Members in any way. Please check www._____.com for updates as the Court may continue the date of the hearing.

Want More Information? Call toll-free [phone number], visit [www._____.com] or email jmcdonough@hgdllawfirm.com. PLEASE DO NOT CONTACT THE COURT.

**Call Toll-Free [phone number]
[www._____.com]**

EXHIBIT D

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

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

**[PROPOSED] ORDER GRANTING PRELIMINARY APPROVAL OF SETTLEMENT,
DIRECTING NOTICE TO THE CLASS, SCHEDULING A FINAL APPROVAL
HEARING, AND CERTIFYING A SETTLEMENT CLASS**

I. INTRODUCTION

Plaintiff Stephen Bittner, individually and on behalf of the Settlement Class (the “Class Representative” or “Plaintiff”), and Defendant Browning Arms Company (“Browning” or “Defendant”) have reached a proposed settlement in the above-captioned litigation (the “Action”), as set forth in the parties’ Stipulation of Settlement (the “Stipulation” or the “Settlement”). Plaintiff, on behalf of himself and the Settlement Class (as hereinafter defined), have applied to the Court pursuant to Rule 23(e) of the Federal Rules of Civil Procedure for an order: (1) granting preliminary approval of the Settlement in the Action in accordance with the Stipulation; (2) dismissing the Action with prejudice as against all of the Released Parties (as defined in the Stipulation), upon the terms and conditions set forth in the Stipulation; (3) certifying the Action as a class action for settlement purposes only; (4) appointing the Representative Plaintiff as Class Plaintiff and the law firm of Heninger Garrison Davis, LLC, 2224 1st Avenue North, Birmingham, Alabama 35203 as Class Settlement Counsel; (5) scheduling a Final Approval hearing and establishing all related deadlines; (6) directing that notice be provided to the Class in accordance

with the Notice Program; and (7) preliminarily enjoining all Class Members who have not opted out from pursuing, as class members, actions based on or relating to the claims to be released by the Class Agreement; and further enjoining all persons from pursuing a lawsuit in any jurisdiction involving Class Members who have not timely excluded themselves that is based on or relating to the claims to be released by the Class Agreement.

Defendant Browning is a preeminent manufacturer and distributor of firearms in the United States. Defendant's current catalog lists over 25 firearms which come coated with Dura-Touch, including shotguns in its Maxus, A5, Silver, BPS, Gold lines as well as Rifles in its X-Bolt line. Defendant has sold firearms coated with Dura-Touch for at least 10 years. Plaintiff contends that, after a short time in use, the Dura-Touch coating on the stock of the guns sold with it becomes extremely sticky such that it interferes with the use of the firearm for its intended purpose, and Plaintiff further contends that, despite Browning's knowledge of this issue, it continues to manufacture, sell and distribute firearms coated with Dura-Touch without informing its purchasers that the Dura-Touch Coating will degrade after a short time in use.

According to Defendant, its Dura-Touch Coating is "a unique stock treatment specifically designed to improve the grip and overall feel of a rifle or shotgun while protecting the stock with an armor-like finish." Defendant knows that many purchasers of its firearms, including purchasers of its firearms containing the Dura-Touch Coating, are hunters who will be using its firearms in the outdoors. As such, Defendant touts its Dura-Touch Coating as creating a "very tactile" grip for its firearms, and that it is suitable for use "in all weather conditions and temperature ranges, in addition to being extremely durable."

Defendant asserts that its Dura-Touch Coating is "extremely durable" and suitable for use in "all weather conditions and temperature ranges," but Plaintiff contends that the Dura-Touch

Coating degrades after a short time of use. Specifically, Plaintiff contends that the Dura-Touch Coating degrades to the point where it becomes extremely sticky to the touch, impacting the firearm's grip and affecting the ability of Plaintiff and other Class members to use the firearm for its intended purpose. In order to remove the Dura-Touch Coating, Plaintiff and other members of the Class contend they will have to either pay another company to strip the Dura-Touch Coating from the firearm and "re-dip" those parts in another coating or purchase replacement parts for their Browning Shotguns at significant cost to Plaintiff and Class members.

Plaintiff contends that the cost for each Class Member to repair the firearm can range from \$400-\$500, which would include engaging a company to strip the Dura-Touch coating and "re-dip" the firearms and shipping the firearm back and forth. In certain cases where the firearms cannot be repaired, and depending on the cost of replacement of the firearm, the cost can be over \$1,000 per class member to remedy the damage caused by the Dura-Touch coating.

Plaintiff filed a class action against Browning and brought claims of negligence/wantonness; breach of implied warranties; fraudulent misrepresentation; negligent misrepresentation; fraudulent omission/concealment; unjust enrichment; and declaratory judgment. The Parties have been engaged in class certification related discovery leading up to Plaintiff's forthcoming motion to certify a class. They have also been engaged in settlement discussions for approximately eight months and have notified the Court that a settlement has been reached between the Parties.

This matter has now come before the Court pursuant to Plaintiff's Motion for Preliminary Approval of Class Action Settlement and for Certification of a Settlement Class (the "Motion").

The Court finds that it has jurisdiction over the Action, the Parties, and all Settlement Class Members for purposes of settlement under 28 U.S.C. § 1331 and 28 U.S.C. § 1332(d).

The Court held a Preliminary Approval Hearing on _____, 2018, and has considered all of the presentations and submissions related to the Motion and is otherwise fully advised of all relevant facts in connection therewith, and has found good cause for entry of the following Order.

IT IS HEREBY ORDERED AS FOLLOWS:

(1) This Order (the “Preliminary Approval Order”) hereby incorporates by reference the definitions in the Stipulation, and all terms used herein shall have the same meanings as set forth in the Stipulation;

(2) The Court, having fully reviewed Plaintiff’s unopposed Motion, the supporting Memorandum and Declarations filed in support thereof, determines that the Settlement appears to be the product of thorough, serious, informed, and non-collusive negotiations between experienced attorneys familiar with the legal and factual issues of this case; has no obvious deficiencies; does not improperly grant preferential treatment to the Settlement Class Representative or segments of the Class; and appears to be fair, reasonable, and adequate within the meaning of Rule 23 of the Federal Rules of Civil Procedure, such that preliminary approval of the Settlement should be granted, notice of the Settlement should be directed to the Settlement Class Members, and a Final Approval Hearing should be set; and

(3) The Court enjoins all members of the Settlement Class from filing, commencing, prosecuting, continuing to prosecute, supporting, intervening in, or participating as a plaintiff, a claimant, or a class member in the Related Actions or in any other lawsuit, or other proceeding in any jurisdiction based on, relating to, or arising out of the claims, or the facts and circumstances at issue, in this Action, the Related Actions, and/or the Released Claims unless and until (i) they

have been excluded from the Settlement by action of the Court, (ii) termination of this Settlement, or (iii) the Judgment or Final Judgment becomes Final, whichever occurs earliest..

Accordingly, the Motion is GRANTED.

II. THE SETTLEMENT CLASS

The Court hereby certifies, for settlement purposes only pursuant to Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure, a Settlement Class defined as follows:

All United States persons who have purchased any Browning or Winchester Repeating Arms branded firearm containing the Dura-Touch coating (as defined in paragraph 2.32 of the Stipulation).

The following entities and individuals are excluded from the Class:

- A. Defendant's officers, directors and employees;
- B. Judicial officers and their immediate family members and associated court staff assigned to this case; and
- C. All those otherwise in the Class who or which timely and properly exclude themselves from the Class as provided in the Agreement.

III. THE DURA-TOUCH CLAIM RESOLUTION PROCESS

The Settlement establishes a Dura-Touch Claim Resolution Process, subject to the Court entering a Final Approval Order. To summarize that process, Browning represents that through the duration of the Claim Period, which is unlimited, it will maintain a page on its website with contact information, including a toll-free phone number, by which Class Members may get their Dura-Touch coated firearm serviced by Browning.

Once a Class Member notifies Browning, either through the website or telephone, of a potential deterioration issue, Browning will promptly send the customer a pre-paid shipping label.

The Class Member will promptly ship the firearm, and once the packaged firearm arrives at Browning's Service Center, a service technician will inspect the firearm to confirm that 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. The three service methods will be as follows:

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 will 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 internal inspection of the firearm, Browning will send the firearm 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. In the event the firearm parts are not able to be replaced or repaired in a reasonable and financially sound manner, in Browning's sole and absolute discretion, Browning will provide the consumer with a new Browning firearm of equal or greater value.

Following the service of a firearm in one of the three methods described above, Browning's service department will carry out a function test. The function test includes a visual inspection of the firearm, a verification that the trigger pull and other firearm mechanics are within specification, and lastly a test fire with live ammunition. Following a successful function test, the firearm will be packaged by Browning and returned to the Class Member at no cost. The total turnaround time (from receipt of the firearm to return of the firearm) will be six (6) months or less for those firearms that take advantage of the Dura-Touch Claim Resolution Process.

For those firearms which Browning deems do not qualify for a repair under the Dura-Touch Claim Resolution Process, the firearm will be packaged by Browning and shipped to a neutral party with expertise to evaluate the firearm (the "Neutral"), and Browning will notify both the Settlement Class Member and Class Counsel of said rejection. This notice will include the name and address of the Class Member, the reason why the firearm was rejected for repair, and the date it was sent to the Neutral for review.

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. The Neutral's decision is final. If the Neutral decides that the 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 as set forth in Section 7.2 of the Stipulation. Browning will have no right to appeal the Neutral's decision. All shipping costs to and from the Neutral, as well as any fees charged by the Neutral, shall be paid by Browning.

If the Neutral decides that the firearm does not show signs of deterioration of its Dura-Touch Coating and does not qualify 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 Class Member will have no right to appeal the Neutral's decision. In this case, 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.

Defendant does not admit wrongdoing in the Settlement and denies the material allegations and claims asserted in the Amended Class Action Complaint. In exchange for the benefits conferred on Settlement Class Members by the Settlement, Settlement Class Members who do not opt out agree to release all claims that could have been asserted, or that arise out of the same transactions or occurrences as the claims against Defendant that were or could have been asserted in this Action, commensurate with the *res judicata* effect at the conclusion of the litigation, as described in the Settlement.

IV. PRELIMINARY FINDINGS

The Court preliminarily finds that this Settlement complies with this Court's standard for preliminary approval of class action settlements. See *Cotton v. Hinton*, 559 F.2d 1326 (5th Cir. 1977). Furthermore, the Court finds, on a preliminary basis, that the Settlement appears to be within the range of reasonableness of a settlement which could ultimately be given final approval

by this Court, and that the Settlement is fair and reasonable to Settlement Class Members when balanced against the probable outcome of further litigation, liability and damages issues, and potential appeals of rulings.

The Court preliminarily finds, for purposes of settlement only, that the proposed Settlement Class as defined above meets the numerosity requirement of Rule 23(a)(1) such that joinder would be impractical; that there are questions of law and fact common to the Settlement Class as required by Rule 23(a)(2); that these common questions predominate over individual questions as required by Rule 23(b)(3); that the claims of the proposed Settlement Class Representatives are typical of the claims of the Class under Rule 23(a)(3).

In addition, the Court preliminarily finds that the Class Counsel and Plaintiff will fairly and adequately represent the interests of the Class under Rule 23(a)(4), have done so, and are adequate under Rule 23(g)(1) and (4), and, therefore, hereby appoints W. Lewis Garrison and James F. McDonough of Heninger Garrison Davis, LLC as Class Counsel and Plaintiff as class representative, under Rules 23(c)(1)(B) and 23(g) to implement and complete the Settlement Approval Process.

V. NOTICE TO CLASS MEMBERS

Under Rule 23(c)(2), the Court approves, as to content and format, the Long Form Notice (Ex. B) and the Summary Publication Notice (Ex. C) (collectively, “Notice”). The Court further finds that the method of disseminating Notice, as set forth in the Motion and the Parties’ Stipulation—including (1) an extensive publication campaign composed of consumer magazine publications in *American Rifleman*, *Field and Stream*, and *American Hunter* using the Summary Publication Notice, (2) providing Dealer Notice by the means outlined in Section 5.1.4 of the Stipulation and providing the Long Form Notice, (3) displaying digital notice on each of

Browning's websites (www.browning.com and www.winchesterguns.com) in the form of Exhibit E and the electronic claim form in the form of Exhibit E to reach the prospective Class members, (4) publishing the Long Form Notice on the Settlement on Class Counsel's website, and (5) issuing a press release in the form of Exhibit G is the best method of notice practicable under the circumstances and satisfies all requirements provided in Rule 23(c)(2)(B) and all Constitutional requirements including those of due process.

The Court further finds that the Notice fully satisfies Rule 23 of the Federal Rules of Civil Procedure and the requirements of due process; provided, that the Parties, by agreement, may revise the Notice, the Claim Form, and other exhibits to the Stipulation, in ways that are not material or ways that are appropriate to update those documents for purposes of accuracy.

Specifically, the Court further finds that the Notice adequately advises the Settlement Class about:

- A. The class action;
- B. The terms of the proposed Settlement, the benefits available to each Settlement Class Member, and proposed fees and costs to Class Counsel;
- C. Each Settlement Class Member's right to object or opt out of the settlement, and the timing and procedures for doing so;
- D. Preliminary court approval of the proposed Settlement; and
- E. The date of the Final Approval Hearing as well as the rights of Settlement Class Members to file documentation in support of or in opposition to and appear in connection with said hearing.

Browning and Class Counsel shall publish the Full Publication Notice and the Summary Publication Notice in substantially the form attached to the Stipulation as Exhibits B and C by the

means described above and in the Stipulation, and Class Counsel shall issue the press release in substantially the form attached as Exhibit G to the Stipulation by no later than 15 days after the date of this Order. The Court otherwise hereby directs that such notice be disseminated in the manner set forth in the Settlement to Settlement Class Members under Rule 23(e)(1).

VII. SCHEDULE AND PROCEDURES

The Court orders the following schedule and procedures for disseminating Notice, filing claims, requesting exclusion from the class, filing objections to the Settlement, and filing the motion for final approval:

DATE	EVENT
2:00 p.m. on Thursday, December 20, 2018	Preliminary Approval Hearing
15 Days After Preliminary Approval Order	Class Notice Date
45 Days After Class Notice Date	Objection Deadline and Opt-out Deadline
52 Days After Class Notice Date	Class Representatives to File Motion for Final Approval and/or Attorneys' Fees
52 Days After Class Notice Date	Class Counsel will prepare and file a list of Opt-Outs with the Court
52 Days After Class Notice Date	Class Representative and/or Defendant to file response to any written Objection
10:00 a.m. on Thursday, March 21, 2019	Final Approval Hearing
15 Days After Final Approval Order	Defendant deposit any attorney fees approved by the Court into Class Counsel account
Any time after Final Approval Order	Deadline to Submit Claim Form

VIII. FINAL APPROVAL HEARING

The Final Approval Hearing shall take place on **10:00 a.m. on Thursday, March 21, 2019**, at the United States District Court for the Northern District of Mississippi, Federal Building Room 369, 911 Jackson Avenue East, Oxford, MS 38655, before the Honorable Michael P. Mills, to

determine whether the proposed Settlement is fair, reasonable, and adequate and should receive the Court's final approval.

A. Objections by Settlement Class Members (who do not timely elect to exclude themselves from the Class) to the proposed Settlement will be considered if filed in writing with the clerk within 45 days of the Class Notice Date.

B. At the Final Approval Hearing, Settlement Class Members (who do not timely elect to exclude themselves from the Class) may be heard orally in support of or in opposition to the Settlement, provided each such person filed with the clerk not later than 45 days after the Class Notice Date a written notification of his or her desire to appear personally, indicating (if in opposition to the Settlement) briefly the nature of the objection. Failure to comply with the notification requirement may be excused upon a showing of good cause.

C. Settlement Class Counsel and counsel for Defendant should be prepared at the hearing to respond to objections filed by Settlement Class Members and to provide other information, as appropriate, bearing on whether or not the Settlement should be approved.

IX. OTHER PROVISIONS

Settlement Class Counsel and Defendant are authorized to take, without further Court approval, all necessary and appropriate steps to implement the Settlement including the approved Notice Program.

The deadlines set forth in this Preliminary Approval Order, including, but not limited to, adjourning the Final Approval Hearing, may be extended by Order of the Court, for good cause shown, without further notice to the Settlement Class Members, except that notice of any such

extensions shall be included on the Settlement Website. Settlement Class Members should check the Settlement Website regularly for updates and further details regarding extensions of these deadlines. Exclusions and Objections must meet the deadlines and follow the requirements set forth in the approved Class Notice in order to be valid.

If, for any reason, the Court does not execute and file an Order of Final Approval, or if the Effective Date does not occur for any reason whatsoever, the proposed Settlement and the proposed Settlement subject of this Order and all evidence and proceedings had in connection therewith, shall be without prejudice to the status *quo ante* rights of the parties to the litigation as more specifically set forth in the Settlement.

Class Counsel and Defendant's Counsel are hereby authorized to use all reasonable procedures in connection with approval and administration of the Settlement that are not materially inconsistent with the Preliminary Approval Order or the Settlement, including making, without further approval of the Court, minor changes to the Settlement, to the form or content of the Notice, or to any other exhibits that the Parties jointly agree are reasonable or necessary.

To "secure the just, speedy, and inexpensive determination" of this and related actions, FRCP 1, the Court also hereby stays further proceedings in related actions pending (i) Judgment, or (ii) termination of this Settlement, whichever occurs earlier.

X. SUMMARY

In summary, the Court:

- A. preliminarily approves the Settlement as being a fair, reasonable, and adequate settlement as to Settlement Class Members within the meaning of Rule 23 of the Federal Rules of Civil Procedure;

B. certifies, for settlement purposes only, the Settlement Class pursuant to Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure;

C. appoints Plaintiff Bittner as Class Plaintiff, appoints their counsel as Class Counsel to execute this Settlement on behalf of Representative Plaintiff and the Settlement Class, and authorizes Class Counsel to take approved steps to proceed with this Settlement on behalf of the Settlement Class;

D. schedules a Final Approval hearing and establishing all related deadlines;

E. directs notice to be disseminated as set forth in the Settlement, and finds that the Notice Program and materials satisfy Rule 23 and due process;

F. conditionally and temporarily stays related cases;

G. preliminarily enjoins all Class Members who have not opted out from pursuing, as class members, actions based on or relating to the claims to be released by the Class Agreement; and further enjoins all persons from pursuing a lawsuit in any jurisdiction involving Class Members who have not timely excluded themselves that is based on or relating to the claims to be released by the Class Agreement; and

The Court shall maintain continuing jurisdiction over these proceedings for the benefit of the Class as defined in this Order.

IT IS SO ORDERED.

Dated: _____

Hon. Michael P. Mills
United States District Court Judge

EXHIBIT E



Dura-Touch® Coating - Service Process

If you have purchased a Browning firearm containing the Dura-Touch® coating, you may be eligible to receive benefits from a class action settlement (the “Settlement”). The Settlement resolves litigation concerning the potential deterioration of the Dura-Touch® coating applied to certain models of Browning firearms. The Settlement establishes a Dura-Touch® Claim Resolution Process, whereby a customer may send their Dura-Touch® coated firearm to Browning for evaluation, and, if necessary, repair or replacement, provided that the Dura-Touch® coating shows signs of deterioration. For more information regarding the Settlement, please review the following documents:

[Approved Settlement Agreement](#)

[Long Form Notice](#)

[Summary Publication Notice](#)

[Dealer Notice](#)

[Claim Form \(printable version\)](#)

If you would like to speak with a dedicated Dura-Touch service representative, please call (800) 322-4626, or send an email to dtservice@browning.com.

To begin the Dura-Touch Claim Resolution Process, please complete and submit the following Claim Form:

BITTNER v. BROWNING ARMS COMPANY
Case No. 3:17-cv-143-MPM (N.D. Miss.)

CLAIM FORM

Important: We will only use the information that you provide below to communicate with you about your claim, which we will do primarily by email if you provide an email address. The information you provide will not be used for other purposes, including but not limited to marketing purposes. The information you provide will not be sold, nor will it be provided to others, except insofar as is necessary to effectuate the terms of the Settlement, or as required by applicable state or federal law.

Instructions: Please provide the requested information below. Please identify all Browning firearms owned by you that are currently experiencing deterioration of the Dura-Touch Coating. Signs of this deterioration may include: a tacky, viscous, or sticky feel when gripping the components of a firearm coated with Dura-Touch; peeling of the Dura-Touch Coating; or 'bubbling' of the Dura-Touch Coating. **Please submit a separate Claim Form for each affected firearm.**

Once Browning has received this Claim Form, it will contact you via your email address (if provided) with instructions as to how to send your firearms in for evaluation. If you are unable to submit this Claim Form online, please call (800) 322-4626, and a Dura-Touch service representative will assist you with the submission of a Claim Form.

Firearm Serial #:

First Name:

Last Name:

Address:

City:

State/Prov:

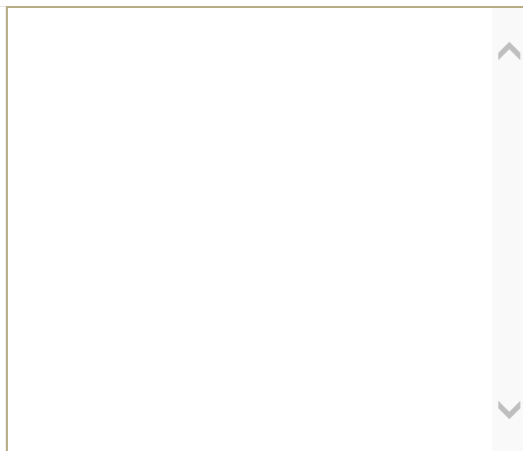
Zip/Postal Code:

Country:

Phone:

Email:

Description:



Please describe the issue you are experiencing with your firearm's DuraTouch coating (2000 chars max)

Please email me a prepaid shipping label: Yes
 No (If No, please print form and include with firearm packaging)

ATTESTATION and ACKNOWLEDGEMENT

I certify and declare under penalty of perjury that the information I am providing in this claim form is true and correct. I have read the [Long Form Notice](#) and [Approved Settlement Agreement](#), and agree to the terms contained in them. I understand that failure to provide the necessary information requested above, or requested by the Settlement Administrator, may result in my claim being denied.

Check this box to agree with and acknowledge the terms herein.

Submit

Print Form

EXHIBIT F



[CLICK HERE FOR INFORMATION ABOUT A PROPOSED SETTLEMENT CONCERNING YOUR BROWNING FIREARM WITH DURATOUCH COATING.](#)



NATIONAL SHOOTING SPORTS MONTH. GO HERE TO LEARN HOW YOU CAN PARTICIPATE.

EXHIBIT G

PRESS RELEASE

For Immediate Release

Contact: Tzena Gauldin 205-913-5534

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

Bittner v. Browning Arms Company, Case No. 3:17-cv-143-MPM (N.D. Miss.)

BIRMINGHAM, AL: (November __, 2018) – Heninger Garrison Davis law firm has reached a proposed Settlement in a class action lawsuit involving Browning Arms in the case known as *Bittner v. Browning Arms Company, Case No. 3:17-cv-143-MPM* filed in the District Court for the Northern District of Mississippi. The Settlement resolves litigation concerning the potential deterioration of the Dura-Touch coating applied to certain models of Browning or Winchester Repeating Arms firearms. The Parties have agreed to settle the Action in its entirety, without any admission of liability by Defendants.

The proposed “Settlement Class” includes all United States residents who have purchased any Browning or Winchester Repeating Arms firearm containing the Dura-Touch coating (the “Settlement Class Members”). The Settlement also establishes the “Dura-Touch Claims Resolution Process,” by which a Settlement Class Member may send their Dura-Touch coated firearm to Browning , if the Dura-Touch coating shows signs of deterioration, for evaluation, and, if necessary, repair or replacement. Based on the firearm model, a Browning service technician will determine whether the firearm

qualifies for either of three service methods that will be carried out on the affected firearm (a “Qualified Repair”). The three service methods that may be performed on a firearm are: parts replacement, parts repair or firearm replacement. Browning will cover all costs of shipping the firearm.

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 an independent third-party (a “neutral”) 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.

In order to receive the benefits under this Settlement, Settlement Class Members must complete and submit a Claim Form to Browning. There is no deadline for submitting a Claim Form. Settlement Class Members may submit a claim at www._____.com/_____ or by calling toll-free [NUMBER].

The Court appointed W. Lewis Garrison, Jr. and James F. McDonough, III of the law firm of Heninger Garrison Davis, LLC as Class Counsel to represent the Settlement Class. You will not be charged any out-of-pocket fees for the services of these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

If you are included in the Settlement Class and do not submit a Claim Form, your rights will be affected, and you will not receive any benefits from this Settlement. If you do not want to be legally bound by the Settlement, you must exclude yourself from the Settlement by [date for opting out] or you won't be able to sue, or continue to sue, Defendants about the legal claims in this case. If you do not exclude yourself, you may object to the Settlement by submitting a written objection by [date for objections]. Instructions on how to exclude yourself or object to the settlement are in the Long Form Notice available at [WEBSITE].

The Final Approval Hearing. The Court will hold a hearing on **10:00 a.m. on Thursday, March 21, 2019**, to consider whether to approve the Settlement, award Class Counsel attorneys' fees and expenses, and award the Class Representative up to \$5,000 for his service. If approved, these amounts will not affect or reduce the benefits available to the Settlement Class Members in any way. Please check [www._____.com] for updates as the Court may continue the date of the hearing.

Want More Information? Call toll-free [phone number], visit [www._____.com] or email to jmcdonough@hgdlawfirm.com.