

UNITED STATES DISTRICT COURT MIDDLE DISTRICT OF
PENNSYLVANIA

NOTICE OF PROPOSED CLASS SETTLEMENT

If you (1) purchased, (2) received as a gift, or (3) acquired possession through other lawful means a Shop-Vac brand wet/dry vacuum between January 1, 2006 and May 26, 2016 in the United States, other than for resale or distribution, then you could be entitled to benefits under a class action settlement.

A federal court authorized this notice. This is not a solicitation from a lawyer.

- The Settlement resolves lawsuits over advertising and marketing claims about the horsepower ratings of Shop-Vac Vacuums.¹
- The Settlement would extend the manufacturer's warranty on the motors of the Vacuums for the longer of: (a) 24 months from the date a Vacuum's current manufacturer's warranty would expire by its own terms, or (b) for those Settlement Class Members whose current manufacturer's warranty has expired by its own terms prior to the Effective Date, 24 months after the Effective Date. The proposed Settlement further provides for changes to Peak Horsepower designations in the marketing of the Vacuums and to the tank size legend of the Vacuums.
- Your legal rights are affected whether you act or do not act. Read this notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
EXCLUDE YOURSELF BY AUGUST 15, 2016	Receive no warranty extension. You will not be bound by the terms of the Settlement. This is the only option that allows you to ever be part of any other lawsuit against Defendants and the other Releasees about the Released Claims.
OBJECT BY AUGUST 15, 2016	Write to the Court about why you do not like the Settlement. You must remain a member of the Settlement Class (i.e., you cannot ask to be excluded) in order to object to the Settlement.
GO TO A HEARING ON SEPTEMBER 15, 2016	Ask to speak in Court about the Settlement.
DO NOTHING	Receive a warranty extension and be bound by the terms of the Settlement. Give up your rights to sue.

¹ Capitalized terms used herein have the same meaning ascribed to them in the Class Action Settlement Agreement, which can be viewed on the Settlement Website, www.ShopVacPHPSettlement.com.

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- These rights and options—**and the deadlines to exercise them**—are explained in this notice.
- The Court in charge of this case has preliminarily approved the Settlement but still must decide whether to give final approval. The relief to be provided to Settlement Class Members will only be provided if the Court gives final approval to the Settlement and after any appeals are resolved. *Please be patient.*

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BACKGROUND INFORMATION

1. Why did I get this notice?

If you (1) purchased, (2) received as a gift, or (3) acquired possession through other lawful means a Vacuum in the United States or its territories between January 1, 2006 and May 26, 2016, other than for resale or distribution, then you could be entitled to benefits under the proposed settlement that has been reached in the class action lawsuits.

The Court directed that this notice be posted because Settlement Class Members have a right to know about the proposed Settlement, and about all of their options, before the Court decides whether to approve the Settlement. If the Court approves the Settlement, and after objections and appeals are resolved, Defendants will provide the benefits to the Settlement Class that the Settlement provides.

This notice explains the nature of the Lawsuits, the general terms of the proposed Settlement, what benefits are available, who is eligible for them, and how to get them.

The Court in charge of the case is the United States District Court for the Middle District of Pennsylvania, and the case is known as *In re: Shop-Vac Marketing and Sales Practices Litigation*, MDL No. 2380, Civil Action No. 4:12-md-02380 (the “MDL”).

The Settlement would also release claims in a parallel action in the Superior Court of New Jersey, Law Division, Bergen County, captioned *Palomino, et al. v. Shop-Vac Corporation*, Docket No. BER-L-1399-12 (the “New Jersey Action” and, together with the MDL, the “Lawsuits”). That case was brought on behalf of New Jersey purchasers of Vacuums against Shop-Vac only, and its allegations parallel those of the MDL. David Palomino and Scott Giannetti are the named Plaintiffs in the New Jersey Action. The Court in the New Jersey Action will be asked to enter an order of dismissal with prejudice and without costs (other than as stated in the Settlement Agreement).

The people who sued, Andrew Harbut, Alan McMichael, and Kris Reid in the MDL and David Palomino and Scott Giannetti in the New Jersey Action, are called “Plaintiffs,” and the companies they sued, Shop-Vac Corporation (“Shop-Vac”) in both the MDL and the New Jersey Action and Lowe’s Home Centers, LLC in the MDL, are called “Defendants.”

2. What are the Lawsuits about?

The Lawsuits claimed, among other things, that Shop-Vac misrepresents the operational horsepower of its Vacuums. Defendants deny any wrongdoing and any liability whatsoever, and no court or other entity has made any judgment or other determination of any liability.

The above description of the Lawsuits is general and does not cover all of the issues and proceedings that have occurred. In order to see the complete file for the MDL, you should visit the website of the Administrative Office of the U.S. Courts, PACER Service Center, located at <http://www.pacer.gov>. The files for the New Jersey Action are available at the Civil Law

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Records Office, 10 Main Street, Room 110, Hackensack, NJ 07601. You can also review a number of documents pertinent to this case, including the Class Action Settlement Agreement dated April 1, 2016 (the “Settlement Agreement”), at www.ShopVacPHPSettlement.com.

3. What is a class action and who is involved?

In a class action, one or more individuals, called “class representatives” (in this case, Andrew Harbut, Alan McMichael, Kris Reid, David Palomino, and Scott Giannetti), sue on behalf of people who have similar claims. All these people are a class or class members and are represented by attorneys referred to as “Class Counsel.” One court resolves the issues for all class members, except those who exclude themselves from the class. U.S. District Court Judge Yvette Kane is presiding over this class action.

4. Why is there a settlement?

The Court has not decided in favor of Plaintiffs or Defendants. Instead, both sides, with the assistance of former Chief Magistrate Judge of the U.S. District Court, Northern District of California, Edward A. Infante acting as a mediator, agreed to a settlement. That way, they avoid the cost of a trial, and the Settlement Class Members receive relief after the Settlement is approved by the Court rather than years from now, if at all. The Plaintiffs and Class Counsel believe the Settlement is in the best interest of the Settlement Class.

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

The Court directed, for the purposes of the proposed Settlement, that everyone who fits this description is a Settlement Class Member:

Each person in the United States and its territories who, from January 1, 2006 to May 26, 2016, either (1) purchased a Vacuum, (2) received a Vacuum as a gift, or (3) acquired possession of a Vacuum through other lawful means. Excluded from the Settlement Class is any person or entity who purchased or acquired a Vacuum for resale, all judges who have had any role in the Lawsuits, and the officers, directors, and counsel of record of Defendants, and all employees of Defendants.

6. What if I am still not sure if I am included?

If you are still not sure whether you are included, you can ask for free help. You can write to the Settlement Administrator at *Shop-Vac Wet/Dry Vacuum Class Settlement*, Settlement Administrator, P.O. Box 4129, Portland, OR 97208-4129; call 1-844-807-7711; or visit www.ShopVacPHPSettlement.com for more information. You may also contact Class Counsel at the address listed in response to Question 15 below.

THE SETTLEMENT BENEFITS—WHAT YOU GET

7. What does the Settlement provide?

In accordance with the terms of this Settlement Agreement and its exhibits, Defendants will provide benefits as follows:

1. Upon the Effective Date, Shop-Vac will extend the manufacturer's warranty on the motors of the Vacuums for the longer of: (a) 24 months from the date a Vacuum's current manufacturer's warranty would expire by its own terms, or (b) for those Settlement Class Members whose current manufacturer's warranty has expired by its own terms prior to the Effective Date, 24 months after the Effective Date;
2. No later than thirty (30) calendar days after the Effective Date, Shop-Vac will provide on its website, product boxes, and any other marketing materials that refer to Peak Horsepower of the Vacuums or their motors information that is materially consistent with the following statement:

“Peak Horsepower” (PHP) is a term used in the wet-dry vacuum industry for consumer comparison purposes. It does not denote the operational horsepower of a wet-dry vacuum but rather the horsepower output of a motor, including the motor's inertial contribution, achieved in laboratory testing. In actual use, Shop-Vac motors do not operate at the Peak Horsepower shown.
3. No later than thirty (30) calendar days after the Effective Date, Shop-Vac will alter the tank capacity legend of the Vacuums to “Tank capacity refers to actual tank volume and does not reflect capacity available during operation”; and
4. For the duration of the warranty extension period, Shop-Vac will maintain an informational webpage and dedicated toll-free number for Settlement Class Members to seek a warranty remedy under the Settlement. All inquiries concerning the extended warranty will be administered by Shop-Vac's warranty/customer service department, knowledgeable to answer such inquiries related to the warranty extension.

You do not need to do anything in order to qualify for the benefits described above. The manufacturer's warranty extension will automatically apply, and the changes to the Peak Horsepower ratings and tank capacity description will be made.

8. When will I receive this benefit?

The Court will hold a hearing on **September 15, 2016** to decide whether to approve the Settlement. If Judge Kane approves the Settlement after that hearing, there may be appeals. It is

always uncertain whether these appeals can be resolved, and resolving them can take time, perhaps more than a year. Please be patient.

DISMISSAL OF ACTION AND RELEASE OF ALL CLAIMS

9. What am I giving up to receive these benefits or stay in the Settlement Class?

Unless you exclude yourself, you are staying in the Settlement Class, and that means that all of the Court's orders will apply to you and legally bind you. Upon the "Effective Date," you will release all "Released Claims" (as defined below) against the "Releasees" (as defined below).

"Released Claims" means any and all claims, actions, causes of action, administrative claims, demands, debts, liens, offsets or liabilities, damages, costs, attorneys' fees, obligations, judgments, expenses, or liabilities, in law or in equity, whether now known or unknown, contingent or absolute, other than claims for personal injury, that Plaintiffs or any member of the Settlement Class now have or, absent the Settlement Agreement, may in the future have, against Releasees, or any of them, by reason of any act, omission, harm, matter, cause, or event whatsoever that has occurred at any time up to and including the entry of the Preliminary Approval Order, that (a) has been alleged in the Lawsuits or (b) could have been alleged in the Lawsuits or in another court action and relates (i) to any of the alleged inadequacies, misstatements, or issues of or associated with the Vacuums alleged in the Lawsuits or (ii) to any act, omission, damage, matter, cause, or event whatsoever arising out of or related to the initiation, defense, or settlement of the Lawsuits or the claims or defenses asserted or that could have been asserted in the Lawsuits.

"Releasees" means (a) Defendants, together with their respective predecessors and successors in interest, parents, subsidiaries, affiliates, and assigns; (b) each of their respective past, present, and future owners, shareholders, officers, directors, agents, representatives, employees, attorneys, and insurers; and (c) all suppliers, distributors, dealers, retailers, trade partners, licensors, licensees, franchisees, public relations firms, advertising and production agencies, and other entities, whether foreign or domestic, who were or are in the chain of, or played any role in, the design, testing, manufacture, assembly, distribution, marketing, sale, lease, installation, or servicing of the Vacuums or their component parts.

The "Effective Date" will occur when an order entered by the Court approving the Settlement becomes final and not subject to appeal.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you do not want benefits from this Settlement, but you want to keep any right you may have to sue or continue to sue the Defendants and the other Releasees, on your own, about the Released Claims, then you must take steps to get out. This is called excluding yourself—or is sometimes referred to as "opting out" of the Settlement Class.

10. How do I get out of the Settlement?

To exclude yourself from the Settlement Class, you must send a signed letter (“Exclusion Request”) by mail stating that you “want to be excluded from the Settlement Class, do not wish to be a Settlement Class Member, and want to be excluded from any judgment entered pursuant to the Settlement in *In re: Shop-Vac Marketing and Sales Practices Litigation*, MDL No. 2380, Civil Action No. 4:12-md-02380.” Your letter must provide your name, address, telephone number, and your signature. You must mail your exclusion request postmarked no later than **August 15, 2016** to the Settlement Administrator at:

Shop-Vac Wet/Dry Vacuum Class Settlement
EXCLUSIONS
Settlement Administrator
P.O. Box 4129
Portland, OR 97208-4129

You cannot exclude yourself on the phone or by email. If you submit a valid Exclusion Request, you will not get any settlement benefits, and you cannot object to the Settlement. However, you will not be legally bound by anything that happens in this lawsuit.

11. If I do not exclude myself, can I sue the Defendants and the other Releasees for the same thing later?

No. Unless you submit a valid Exclusion Request, you give up the right to sue Defendants and other Releasees for the claims that the Settlement resolves. If you have a pending lawsuit, speak to your lawyer in that pending lawsuit immediately. You must exclude yourself from *this* Settlement Class to continue your own lawsuit. Remember, the exclusion deadline is **August 15, 2016**.

12. If I exclude myself, can I still receive settlement benefits?

No. If you submit a valid Exclusion Request, you are no longer a Settlement Class Member and will not receive the warranty extension. But, you may exercise any right you may have to sue, continue to sue, or be part of a different lawsuit against the Defendant and the other Releasees about the Released Claims.

THE LAWYERS REPRESENTING THE CLASS

13. Do I have a lawyer in this case?

The law firms of Faruqi & Faruqi, LLP in New York, NY; Lax LLP in New York, NY; Lite DePalma Greenberg, LLC in Newark, NJ; and Milberg LLP in New York, NY moved to represent the Settlement Class. Though the Court has not yet made its decision on this motion, for purposes of this notice, these lawyers are called Class Counsel. If you want to be represented by your own lawyer, you may hire one at your own expense.

14. How will the lawyers be paid?

Class Counsel will ask the Court for an award of attorneys' fees and expenses of up to \$4,250,000. The fees and expenses would pay for investigating the facts, litigating the case, and negotiating the Settlement and will be the only payment to Plaintiffs' Counsel for their efforts in achieving this Settlement and for their risk in undertaking this representation on a wholly contingent basis. The attorneys' fees and expenses will be paid by Defendants.

Class Counsel will ask for awards of up to \$5,000 each to Plaintiffs Andrew Harbut, Alan McMichael, Kris Reid, David Palomino, and Scott Giannetti for acting on behalf of the entire Settlement Class as class representatives. The plaintiff awards will be paid from the award of attorneys' fees.

Defendants have agreed to pay (or cause to be paid) up to \$4,250,000 to Class Counsel, on behalf of Plaintiffs' Counsel, for attorneys' fees and expenses. This amount was agreed to after extensive negotiation and with the assistance of Judge Infante (Ret.) as mediator and after agreement on all other substantive terms of the Settlement.

The Court must approve any attorneys' fees and expenses or awards to the Plaintiffs. The Court may award less than these amounts.

Defendants are also paying the costs to notify the Settlement Class and to administer the Settlement. These attorneys' fees and expenses, awards to Plaintiffs, and notice and administration costs will not reduce the benefits available to the Settlement Class.

Class Counsel will file their papers in support of final approval of the Settlement and their application for attorneys' fees and expenses, and for plaintiff awards to the class representatives by no later than July 25, 2016. Copies of these papers will be available on the Settlement Website, www.ShopVacPHPSettlement.com.

OBJECTING TO THE SETTLEMENT

You can tell the Court that you do not agree with the Settlement or some part of it.

15. How do I tell the Court that I do not like the Settlement?

If you are a Settlement Class Member (that is, if you do not exclude yourself, or opt out, from the Settlement), you can object to the Settlement if you do not like any part of it. You can give reasons why you think the Court should not approve it. The Court will consider your views.

To object, you must send a signed letter stating that you object to the proposed Settlement in *In re: Shop-Vac Marketing and Sales Practices Litigation*, MDL No. 2380, Civil Action No. 4:12-md-02380. Your written objection must include:

(i) your name, address, and telephone number;

(ii) the full case name and number (*In re: Shop-Vac Marketing and Sales Practices Litigation*, MDL No. 2380, Civil Action No. 4:12-md-02380);

(iii) a statement that you are a Settlement Class Member;

(iv) a statement of each objection asserted;

(v) a detailed description of the facts underlying each objection;

(vi) a detailed description of the legal authorities supporting each objection;

(vii) a statement of whether you intend to appear and speak at the Fairness Hearing and, if so, how much time the you anticipate needing to present the objection;

(viii) a list of the exhibits that you may offer during the Fairness Hearing, along with copies of such exhibits; and

(ix) your signature.

You do not need to hire legal counsel to comment on or object to the Settlement. But, if you are represented by legal counsel, you must also file your comment or objection to the Settlement electronically with the Court.

In addition, if applicable, please include: (i) the identity of all counsel who represent you, including any former or current counsel who may be entitled to compensation for any reason related to your objection; (ii) the number of times in which you, your counsel (if any), or your counsel's law firm (if any) has objected to a class action settlement within the five years preceding the date that the objector files the objection and the caption of each case in which such objection was made; and (iii) a statement disclosing any consideration that you, your counsel (if any), or your counsel's law firm (if any) has received in connection with the resolution or dismissal of an objection to a class action settlement within the five years preceding the date that the objector files the objection. If the Objector or his or 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 or she must affirmatively state as much in their submission to the Court.

The filing of an objection allows Class Counsel or Defendants' Counsel to take the Objector's deposition consistent with the Federal Rules of Civil Procedure at an agreed-upon location and to seek any documentary evidence or other tangible things that are relevant to the objection. Failure by an Objector to make himself or herself available for a deposition or otherwise comply with expedited discovery requests may result in the Court striking the Objector's objection and otherwise denying the Objector the opportunity to make an objection or be further heard. The Court may tax the costs of any such discovery to the Objector or the Objector's counsel should the Court determine that the objection is frivolous or is made for an improper purpose.

The deadline to file your objection is **August 15, 2016**. The objection must be **filed** with the Court by that date. The address to file your written objection with the United States District Court is:

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Clerk of the Court
U.S. District Court for the Middle District of Pennsylvania
Ronald Reagan Federal Bldg. & U.S. Courthouse
228 Walnut Street
P.O. Box 983
Harrisburg, PA 17101

You must also send a copy of your written objection to counsel for both Parties at the addresses below:

FOR DEFENDANTS	FOR THE SETTLEMENT CLASS
Michael B. Shortnacy SIDLEY AUSTIN LLP 555 West Fifth Street, Suite 4000 Los Angeles, CA 90013	Elizabeth Goldstein DILWORTH PAXSON LLP Penn National Insurance Plaza 2 North 2 nd Street, Suite 1101 Harrisburg, PA 17101

If you do not timely make your objection, you will be deemed to have waived all objections and will not be entitled to speak at the Fairness Hearing.

16. What is the difference between objecting and excluding?

Objecting is simply telling the Court that you do not like something about the Settlement. You can object only if you remain a Settlement Class Member. Excluding yourself is telling the Court that you do not want to be a part of the Settlement Class and wish to forgo the relief provided by the Settlement. If you exclude yourself, you have no basis to object because the case no longer affects you.

THE COURT'S FAIRNESS HEARING

The Court has preliminarily approved the Settlement Agreement and will hold a hearing on **September 15, 2016** to decide whether to give final approval to the proposed Settlement. You may attend and you may ask to speak, but you do not have to.

17. When and where will the Court decide whether to approve the proposed Settlement?

The Court will hold the Fairness Hearing at 9:30 a.m. on **September 15, 2016** at the Ronald Reagan Federal Bldg. & U.S. Courthouse, 228 Walnut Street, Harrisburg, PA 17101. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate.

If there are objections, the Court will consider them. Judge Kane will listen to people who have asked to speak at the hearing. *See* Question 19 for more information about speaking at the hearing. After the Fairness Hearing, the Court will decide whether to approve the Settlement and whether to award any attorneys' fees and expenses and awards to Plaintiffs Andrew Harbut, Alan

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McMichael, Kris Reid, David Palomino, and Scott Giannetti. We do not know how long these decisions will take.

18. Do I have to come to the hearing?

No. Class Counsel will answer questions Judge Kane may have. But, you are welcome to come at your own expense. If you send an objection, you do not have to come to the Court to talk about it. As long as you filed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it is not necessary. Settlement Class Members do not need to appear at the hearing or take any other action to indicate their approval.

19. May I speak at the hearing?

You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must send a letter saying that it is your “Notice of Intention to Appear in *In re: Shop-Vac Marketing and Sales Practices Litigation*, MDL No. 2380, Civil Action No. 4:12-md-02380.” Be sure to include your name, address, telephone number, and your signature. Your Notice of Intention to Appear must be postmarked no later than **August 15, 2016**, and be sent to the Clerk of the Court, Defense Counsel, and the representative for the Settlement Class at the three addresses in Question 15. The letter must state the position you intend to present at the hearing, state the identities of all attorneys, if any, who will represent you, and must include your full name, current address, telephone number, and your signature. Unless otherwise ordered by the Court, you cannot speak at the Fairness Hearing if you excluded yourself from the Settlement Class or if you have not provided written notice of your intention to speak at the Fairness Hearing by the deadline identified and in accordance with the procedures described in this section and Question 15 above.

IF YOU DO NOTHING

20. What happens if I do nothing at all?

If you do nothing, and if you don’t opt out by the deadline in response to Question 10, you will receive the warranty extension described in response to Question 7. If you do not exclude yourself from the Settlement Class, you will be legally bound by the Settlement and release, and you cannot sue Defendants and the other Releasees about the Released Claims.

GETTING MORE INFORMATION

21. Are there more details about the Settlement?

This notice summarizes the proposed Settlement. More detailed terms are in the signed Settlement Agreement. You can get a copy of the Settlement Agreement by writing to Class Counsel at the address above or by visiting **www.ShopVacPHPSettlement.com**, where you will also find Class Counsel’s papers in support of the Settlement and their applications for attorneys’ fees, expenses, and plaintiff awards (after they are filed), as well as other documents. All other

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papers that have been filed in the MDL may be inspected at the Office of the Clerk of the Court of the United States District Court for the Middle District of Pennsylvania, Ronald Reagan Federal Bldg. & U.S. Courthouse, 228 Walnut Street, Harrisburg, PA 17101, and all other papers that have been filed in the New Jersey Action may be inspected at the Civil Law Records Office, 10 Main Street, Room 110, Hackensack, NJ 07601, during regular business hours.

PLEASE DO NOT CALL THE COURT OR THE CLERK OF COURT FOR ADDITIONAL INFORMATION ABOUT THE SETTLEMENT.