

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

IN RE: MOTOR FUEL TEMPERATURE)	
SALES PRACTICES LITIGATION)	
)	
This Document Relates To:)	MDL No. 1840
)	Case No. 07-1840-KHV
)	
<u>Wilson, et al. v. Ampride, Inc., et al.,</u>)	
Case No. 06-2582-KHV,)	
)	
and)	
)	
<u>American Fiber & Cabling, LLC, et al.</u>)	
<u>v. BP Products North America Inc., et al.,</u>)	
Case No. 07-2053-KHV.)	
_____)	

ORDER

On February 1, 2012, the Court certified classes under Rule 23(b)(3) and (c)(4), Fed. R. Civ. P., with respect to the liability and injunctive relief aspects of plaintiffs’ claims in Wilson v. Ampride, Inc., 06-2582-KHV (D. Kan.) and American Fiber & Cabling, LLC v. BP Products North America Inc., 07-2053-KHV (D. Kan.). Memorandum And Order (Doc. #3208) at 34-35. The Court approved the parties’ joint notice plan – which consists of publishing notices in various newspapers and a two-week set of radio notices – and ordered the parties to submit joint proposed notice forms. Id. at 36-39; Joint Submission On Notice Plan For Classes Of Current Kansas Residents (Doc. #3192) filed January 11, 2012.

On January 24, 2012, the parties jointly submitted a proposed short-form notice and a proposed long-form notice. Exhibits 1 and 2 to Joint Submission Of Proposed Class Notice Forms (Doc. #3216). On January 27, the parties jointly submitted a proposed script for radio notice. Joint Submission Of Proposed Script For Radio Notice And Suggested Timeline For Notices (Doc. #3224). All three proposed notices (short-form, long-form and radio script) direct individuals

to a website, www.KansasHotFuelLitigation.com, for more information. See Exhibits 1 and 2 to Doc. #3216 and Exhibit 1 to Doc. #3224. The parties plan to publish the short-form notice in newspapers and the long-form notice on the website. The Court would also publish the long-form notice on its website. See Memorandum And Order (Doc. #3208) at 39.

On February 1, 2012, the Court found that the proposed short-form and long-form notices required modification. See Memorandum And Order (Doc. #3390) at 2-4. On February 3, 2012, the parties submitted revised notices. See Joint Submission In Response To February 1, 2012 Court Order Related To Class Notice (Doc. #3587), Exhibits 1 and 2. After careful review, the Court will approve the revised notices with minor modifications to improve clarity, consistency and accuracy. Final versions of the short-form and long-form notices which the Court approves are attached as Exhibits 1 and 2, respectively.¹

With respect to the website, www.KansasHotFuelLitigation.com, the Court found that the parties should provide detailed information as to what will be displayed on that website and how it will be displayed. See Memorandum And Order (Doc. 3390) at 3. The parties respond that they anticipate that the home page of the website will consist primarily of the content of the long-form class notice prefaced with a paragraph which explains that the website is designed to provide information to members of the certified classes. A panel on the side of the website will contain a series of links where class members can obtain copies of key documents. Based on this representation, the Court approves the parties' use of the website.

With respect to the proposed radio script, the Court found that the radio notice should specify

¹ The Court will email counsel the final versions of the short-form and long-form notices with redline changes that the Court has made.

that it applies to current Kansas residents. See id. at 4. In addition, the Court expressed concern whether the website address will be read correctly. See id. The parties respond that plaintiffs' class notice consultant, Cameron Azari, will oversee a pre-recorded production of the radio notice to eliminate the possibility that the website address will be improperly communicated. Based on this representation, the Court approves the proposed radio notice subject to the requirement that it be modified to specifically refer to current Kansas residents.

Based on the revised notices and submissions, the Court finds that the proposed notice plan, as modified, satisfies the requirements of Rule 23(c)(2)(B).

IT IS THEREFORE ORDERED that the Court hereby approves the proposed notice plan, as modified.

Dated this 13th day of February, 2012 at Kansas City, Kansas.

s/ Kathryn H. Vratil
Kathryn H. Vratil
United States District Judge

LEGAL NOTICE

IF YOU ARE A KANSAS RESIDENT AND YOU PURCHASED GASOLINE OR DIESEL FUEL IN KANSAS ON OR AFTER DECEMBER 31, 2003, THIS CLASS ACTION LAWSUIT MAY AFFECT YOUR RIGHTS.

A federal court has authorized this notice.

This is not a solicitation from a lawyer.

Residents of Kansas have sued **BP PRODUCTS NORTH AMERICA INC., CASEY'S GENERAL STORES, INC., CIRCLE K STORES, INC. CONOCOPHILLIPS COMPANY, KUM & GO, LC, QUIKTRIP CORPORATION, SAM'S WEST, INC., EQUILON ENTERPRISES, LLC dba SHELL OIL PRODUCTS US, VALERO MARKETING AND SUPPLY COMPANY AND 7-ELEVEN, INC. ("Companies")**, arguing that the Companies omitted and misrepresented facts and overcharged consumers when they sold motor fuel for a specified price per gallon without disclosing or adjusting for the expansion and contraction of motor fuel due to temperature. The Court has decided the cases may proceed as a class action for the purpose of deciding whether the Companies are liable on plaintiffs' claims and whether to issue an injunction against the Companies. The Court has not yet decided if the Companies did anything wrong. This notice summarizes your rights and options. More information is in a detailed notice available at www.KansasHotFuelLitigation.com. If you are included in the class, you must decide whether to stay in the class and be bound by the outcome, or ask to be excluded and keep your rights to sue for any claims you might have. **There is no money now and no guarantee that there will be.**

WHAT IS THIS CASE ABOUT?

Plaintiffs allege that because the Companies sell motor fuel to retail consumers for a specified price per gallon without disclosing or adjusting for temperature expansion, they are liable under state law theories, including consumer protection, unjust enrichment and civil conspiracy. The cases are called *Wilson v. Ampride, Inc.*, No. 06-2582, and *American Fiber & Cabling, LLC v. BP Corp.*, No. 07-2053, and are in the United States District Court of Kansas.

For purposes of determining liability and injunctive relief, the Court has allowed the lawsuit to proceed as a class action. In May, 2012, the Court will conduct a trial at which time it will be determined whether the Companies are liable on plaintiffs' claims. If the plaintiffs succeed in proving liability, the Court will then decide whether injunctive and/or declaratory relief is appropriate. Also, if the plaintiffs succeed in proving liability, plaintiffs may ask the Court to allow the lawsuit to proceed as a class action to determine money damages. If the Court declines to certify a class for money damages, class members would need to proceed individually to prove any claims for money damages.

The Companies have denied all allegations. They have filed motions asking the Court to dismiss this case on the merits. If those motions are granted, it may extinguish any claims you have related to this matter. Copies of the motions are available at www.KansasHotFuelLitigation.com. When the Court enters orders ruling on the Companies' motions, copies of the orders will also be available on the website.

ARE YOU AFFECTED

Your rights will be affected if you are a member of the class and you do not opt out of the class. The class includes all current Kansas residents and entities that at any time since December 31, 2003, purchased motor fuel at retail in the state of Kansas, from a gas station owned, operated or controlled by one or more of the Companies, without the temperature of the motor fuel having been disclosed by the Companies. Excluded from the class are federal judges who have presided over the case, persons employed by the Companies, affiliates of the Companies, any juror or alternate assigned to the trial of this case, and individuals and entities who timely and validly request exclusion from the class. If you are not sure whether you

are included in the class, you can get more information, including a detailed notice that has more information at www.KansasHotFuelLitigation.com. More information about this case is also available at the Court's website: <http://www.ksd.uscourts.gov/motor-fuel-temperature-sales-practices-litigation/>.

WHO REPRESENTS YOU?

The Court appointed Robert Horn, Thomas Bender and George Barton to represent you as "Class Counsel." You do not have to pay Class Counsel, or anyone else, to participate. Instead, if they get money or benefits for the class, they may ask the Court to award attorneys' fees and costs, which would be paid by the Companies or out of any money recovered under a settlement, before giving the rest to class members. You may hire your own attorney to appear in Court for you; if you do, you have to pay that lawyer. Zach Wilson, Matthew Cook and Wonderland Miracle Carnival Company are class members, and the Court has appointed them to represent the class.

WHAT ARE YOUR OPTIONS?

If you are a member of the class, you have a choice of whether to stay in the class or not, and **you must decide this now**. You can do nothing and remain in the class, or you can ask to be excluded from the class.

Do Nothing; Stay In This Lawsuit; Await The Outcome; Give Up The Right To Sue For Claims You May Have. If you want to remain a class member, you do not need to do anything at this time. You automatically will be included in the class. If you choose to remain in the certified class, you will be bound by the judgment obtained on the liability and injunctive relief aspects of the claims. If plaintiffs prove that the Companies are liable, you may use that judgment either as a member of the class (if the Court decides to certify a class on money damages) or individually to prove certain elements of a claim for money damages. In addition, if you choose to remain in the certified class, you will be entitled to your share of any benefits awarded to the class through any settlement approved by the Court (net of attorneys' fees and expenses which may be determined by the Court to be payable from any recovery or paid directly by one or more of the

Companies). You will not be personally responsible for attorneys' fees or costs unless you hire your own individual attorney. If you do nothing and the Companies win or settle the lawsuit, you will lose your claims covered by this lawsuit. In short, you give up the right to sue the Companies on your own for the same legal claims in this lawsuit.

Ask To Be Excluded; Get Out Of This Lawsuit; Keep Your Right To Sue For Claims You May Have. If you ask to be excluded and plaintiffs prove that the Companies are liable, you will not be able to use the judgment to obtain money damages through a class action lawsuit or individually. Also, if you ask to be excluded and plaintiffs obtain a favorable settlement which the Court approves, you will not be able to ask for a share of the settlement. Similarly, if you ask to be excluded and the Companies win or settle the lawsuit, your claims will not be lost as a result of this lawsuit and you will not be bound by any judgments or orders of the Court. You will be able to sue the Companies for the same legal claims that are involved in this lawsuit. It is possible that if you ask to be excluded and do not sue the Companies on your own within the required legal time period you will lose your right to bring those claims.

To exclude yourself, you must submit a Request for Exclusion which includes your full name (and business name, if applicable), mailing address, email address, your signature (or an electronic signature consisting of "/s" plus your typed name), and the following statement: "I request that I be excluded from the Kansas Class *In re Motor Fuel Temperature Sales Practices Litigation*, MDL Docket No. 1840." You must email or mail your exclusion request to Class Counsel no later than **April 13, 2012**, at:

Kansas Class Opt Out
c/o Robert A. Horn
2600 Grand, Ste. 1100
Kansas City, Missouri 64108

or: KansasHotFuelLitigation@hab-law.com.

HOW CAN YOU GET MORE INFORMATION?

If you have questions or want a detailed notice or other documents about this lawsuit and your rights, visit www.KansasHotFuelLitigation.com.

LEGAL NOTICE BY ORDER OF THE COURT

IF YOU ARE A CURRENT KANSAS RESIDENT AND YOU PURCHASED GASOLINE OR DIESEL FUEL IN KANSAS ON OR AFTER DECEMBER 31, 2003, THIS CLASS ACTION LAWSUIT MAY AFFECT YOUR RIGHTS.

READ THIS NOTICE CAREFULLY

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

Residents of Kansas have sued **BP PRODUCTS NORTH AMERICA INC., CASEY'S GENERAL STORES, INC., CIRCLE K STORES, INC., CONOCOPHILLIPS COMPANY, KUM & GO, LC, QUIKTRIP CORPORATION, SAM'S WEST, INC., EQUILON ENTERPRISES, LLC dba SHELL OIL PRODUCTS US, VALERO MARKETING AND SUPPLY COMPANY AND 7-ELEVEN, INC.** ("**Companies**"), arguing that the Companies omitted and misrepresented facts and overcharged consumers when they sold motor fuel for a specified price per gallon without disclosing or adjusting for the expansion and contraction of motor fuel due to temperature. The cases are called *Wilson v. Ampride, Inc.*, No. 06-2582 and *American Fiber & Cabling, LLC v. BP Corp.*, No. 07-2053, and are in the United States District Court for the District of Kansas ("Court"). For the purpose of deciding liability and whether to issue an injunction against the Companies, the Court has allowed the lawsuit to proceed as a class action on behalf of all Kansas residents as of (date notice sent) _____, 2012, who bought motor fuel from these Companies at anytime on or after December 31, 2003. At this time, the Court has not allowed the lawsuit to proceed as a class action for the purpose of determining money damages. If plaintiffs succeed in proving that the Companies are liable on the claims, plaintiffs may ask the Court to allow the lawsuit to proceed as a class action to determine money damages. If the Court declines to certify a class for money damages, class members would have to proceed individually to prove any claims for money damages. There is no money available now, and it is uncertain that there will ever be. However, your legal rights will be affected, and you have a choice to make. **Your rights and options — and the deadlines to exercise them — are explained in this notice. Read this notice carefully.**

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT

<p>DO NOTHING</p>	<p>Stay in this lawsuit. Await the outcome. Give up the right to sue the Companies on your own.</p> <p>If you want to remain a class member, you do not need to do anything at this time. You automatically will be included in the class. If you choose to remain in the certified class, you will be bound by the judgment obtained on the liability and injunctive relief aspects of the claims. If plaintiffs prove that the Companies are liable, you may use that judgment either as a member of the class (if the Court decides to certify a class on money damages) or individually to prove certain elements of a claim for money damages. In addition, if you choose to remain in the certified class, you will be entitled to your share of any benefits awarded to the class through any settlement approved by the Court (net of attorneys’ fees and expenses which may be determined by the Court to be payable from any recovery or paid directly by one or more of the Companies). You will not be personally responsible for attorneys’ fees or costs unless you hire your own individual attorney. If you do nothing and the Companies win or settle the lawsuit, you will lose your claims covered by this lawsuit. In short, you give up the right to sue the Companies on your own for the same legal claims in this lawsuit.</p>
<p>EXCLUDE YOURSELF FROM THE CLASS</p>	<p>Get out of this lawsuit. Keep the right to sue the Companies on your own.</p> <p>If you ask to be excluded and plaintiffs prove that the Companies are liable, you will not be able to use the judgment to obtain money damages through a class action lawsuit or individually. Also, if you ask to be excluded and plaintiffs obtain a favorable settlement which the Court approves, you will not be able to ask for a share of the settlement. Similarly, if you ask to be excluded and the Companies win or settle the lawsuit, your claims will not be lost as a result of this lawsuit and you will not be bound by any judgments or orders of the Court. You will be able to sue the Companies for the same legal claims that are involved in this lawsuit. It is possible that if you ask to be excluded and do not sue the Companies on your own within the required legal time period you will lose your right to bring those claims.</p>

1. WHAT IS THIS LAWSUIT ABOUT?

This lawsuit is about whether the Companies misled consumers or were unjustly enriched by failing to disclose the temperature of motor fuel or account for the temperature of the motor fuel when it was sold to consumers. Plaintiffs claim that because the Companies sell motor fuel for a specified price per gallon without disclosing or adjusting for temperature expansion, they are liable under various state law theories, including consumer protection, unjust enrichment and civil conspiracy.

The Court has allowed the case to proceed as a class action with respect to the liability and injunctive relief aspects of plaintiffs' claims. The liability aspect involves determining whether the Companies are legally liable on plaintiffs' claims, except for determining money damages. If plaintiffs prevail on proving liability on any of their claims, the Court will determine whether plaintiffs are entitled to injunctive relief on the claims. Plaintiffs seek injunctive relief which would require the Companies to do one or more of the following: (1) install and maintain automatic temperature compensation ("ATC") motor fuel dispensers at the Companies' retail locations in Kansas; (2) adjust the price or volume of motor fuel to account for temperature expansion; (3) disclose the temperature of motor fuel sold at retail; and (4) disclose the effects of temperature on the energy, quality and value of motor fuel.

The Companies deny all allegations of wrongdoing and contend that they fully complied with the law. They have filed motions for summary judgment that, if granted, will extinguish plaintiffs' claims. Copies of the motions are available at www.KansasHotFuelLitigation.com. When the Court enters orders ruling on the Companies' motions, copies of the orders will also be available on the website.

2. WHAT IS A CLASS ACTION AND WHO IS INVOLVED?

In a class action lawsuit, one or more people called "class representatives" sue on behalf of themselves and other people who have similar claims. Together, they are called a "class" or "class members". The class representatives in this case are Zachary Wilson, Matthew Cook and Wonderland Miracle Carnival Company, Inc. The class representatives and class members are called the Plaintiffs. The Companies they sued are called the Defendants. The judge or jury resolves the claims for everyone in the class - except those who ask to be excluded from the class.

3. WHY IS THIS LAWSUIT A CLASS ACTION?

Rule 23 of the Federal Rules of Civil Procedure governs class actions in federal courts. The Court decided to allow this lawsuit to proceed as a class action for purposes of deciding issues relating to liability and whether to issue an injunction. At this time, the Court has not allowed the lawsuit to proceed as a class action for the purpose of determining money damages.

More information about what the Court has ruled regarding certification can be found in its order, which is available at: www.KansasHotFuelLitigation.com.

4. AM I PART OF THE CLASS?

As to the liability and injunctive relief aspects of plaintiffs' claims for unjust enrichment and civil conspiracy, the Court certified the following class:

All current Kansas residents and entities that at any time since December 31, 2003, purchased motor fuel at retail in the state of Kansas, from a gas station owned, operated or controlled by one or more of the Defendants without the temperature of the motor fuel having been disclosed by the Defendants. Plaintiffs' conspiracy claims are asserted against only some of the defendants. "Current Kansas residents and entities" are those who reside in Kansas on [insert the date that class notice is sent]. Federal judges who have presided over this case, persons employed by defendants, affiliates of defendants, and any juror or alternate assigned to the trial of this case are excluded from the class.

As to the liability and injunctive relief aspects of plaintiffs' claims for violations of the Kansas Consumer Protection Act, the Court certified the following class:

All individuals, sole proprietors and family partnerships that currently reside in Kansas and at any time since December 31, 2003, purchased motor fuel at retail in the state of Kansas, from a gas station owned, operated or controlled by one or more of the Defendants without the temperature of the motor fuel having been disclosed by the Defendants. "All individuals, sole proprietors and family partnerships that currently reside in Kansas" are those who reside in Kansas on [insert the date that class notice is sent]. Federal judges who have presided over this case, persons employed by defendants, affiliates of defendants, and any juror or alternate assigned to the trial of this case are excluded from the class.

If you meet any of the above descriptions you are a class member.

If you are still not sure whether you are a class member, you can write to the lawyers in this case at the addresses listed in question 18.

5. HAS THE COURT DECIDED WHO IS RIGHT?

No. The Court has not yet decided whether the Companies or the plaintiffs are correct. By certifying a class and issuing this notice, the Court does not intend to suggest that the plaintiffs will win or lose this case. The plaintiffs must prove their claims at a trial.

6. WHAT ARE THE PLAINTIFFS ASKING FOR?

If the Companies' motions for summary judgment do not extinguish plaintiffs' claims, beginning on May 7, 2012 the Court intends to conduct a trial on the liability and injunctive relief aspects of plaintiffs' claims for violation of the Kansas Consumer Protection Act, unjust enrichment and civil conspiracy. If the plaintiffs prevail on proving liability on any of their claims, the Court will decide whether injunctive and/or declaratory relief is appropriate. If plaintiffs succeed on proving liability, plaintiffs may ask the Court to allow the lawsuit to proceed as a class action to determine money damages. If the Court does not certify a class for money damages, class members will be on their own to bring individual claims to recover

money damages.

7. WHAT HAPPENS IF I DO NOTHING?

If you do nothing, you will be included in the class. You get to keep the possibility of getting benefits from this lawsuit. If you stay in and the plaintiffs win at trial, you can use the judgment on liability to prove certain elements of a claim for money damages individually or in a class action, if the Court certifies one. If you stay in and plaintiffs obtain a settlement which the Court approves, then you will be entitled to share in the benefits of the settlement. If you stay in and the plaintiffs lose the lawsuit, you will be bound by the judgment and will not be able to sue the Companies on your own for the same legal claims that are involved in this lawsuit.

If you do nothing, you will not be able to sue the Companies on your own for the same legal claims that are involved in this lawsuit. You will be bound by the outcome of the case and by all the orders the Court issues in this case.

8. WHY WOULD I WANT TO BE IN THE CLASS?

If you stay in the class and the plaintiffs win at trial or obtain a settlement, you have a possibility of getting benefits from this lawsuit. If any of the Companies are found liable, you may be able to pursue an individual claim for monetary relief against them without the necessity of proving any element of your individual claim that is resolved in your favor during the May, 2012, trial.

9. WHY WOULD I ASK TO BE EXCLUDED?

You would ask to be excluded if you do not want to sue the Companies regarding the issues involved in this case. Or you would ask to be excluded if you want to pursue your own individual lawsuit against the Companies. If you choose to exclude yourself--sometimes called "opting out," you will be able to sue the Companies on your own and you will not be bound by the Court's orders and judgments in this class action.

10. HOW DO I EXCLUDE MYSELF FROM THE CLASS?

To exclude yourself from the class, you must submit a request to be excluded by first class mail to Kansas Class Opt Out, c/o Robert A. Horn, 2600 Grand, Ste. 1100, Kansas City, Missouri 64108 or by fax 816-421-0899, or by email to KansasHotFuelLitigation@hab-law.com. You can send a letter with your name, address, and signature stating that you wish to be excluded from this action, or you can download an Opt-Out form from the website www.KansasHotFuelLitigation.com and follow the instructions for submitting the form. Your request to opt-out must be received by April 13, 2012.

REQUESTS FOR EXCLUSION THAT ARE NOT POSTMARKED ON OR BEFORE APRIL 13, 2012, OR SUBMITTED ELECTRONICALLY ON OR BEFORE THAT DATE WILL NOT BE HONORED.

11. IF I DON'T EXCLUDE MYSELF, CAN I SUE FOR THE SAME THING LATER?

No, unless you exclude yourself, you give up the right to sue the Companies for relief arising from the claims that this lawsuit is about.

12. DO I HAVE A LAWYER IN THE CASE?

Yes, unless you exclude yourself from the class. The Court decided that Robert Horn, Thomas Bender and George Barton are qualified to represent the class members. Together, the lawyers are called Class Counsel. You will not be charged by these lawyers for their work on the case. If you want to be represented by your own lawyer, you may hire one at your own expense.

13. HOW WILL THE LAWYERS AND CLASS REPRESENTATIVES BE PAID?

If class counsel are able to get benefits for the class, they may ask the Court for fees and expenses. If the Court awards fees and expenses, this money would either be deducted from any settlement funds that the lawyers may recover for the class or it would be paid separately by the Companies. You will not be charged for class counsel's services in any other way.

14. SHOULD I GET MY OWN LAWYER?

If you don't exclude yourself, you do not need to hire your own lawyer because class counsel is working on your behalf. If you want your own lawyer, you will have to pay that lawyer. You can ask that lawyer to appear in Court for you and speak on your behalf instead of class counsel.

15. HOW AND WHEN WILL THE COURT DECIDE WHO IS RIGHT?

If the Companies' motions for summary judgment do not extinguish plaintiffs' claims, the Court intends to hold a Trial beginning at 9:30 a.m. on May 7, 2012, at the United States District Court for the District of Kansas, 500 State Avenue, Kansas City, Kansas 66101. At this trial, a jury and the Court will hear evidence and then decide the liability and injunctive relief aspects of plaintiffs' claims in the lawsuit. There is no guarantee that the plaintiffs will get any benefits for the class.

16. DO I HAVE TO COME TO THE TRIAL?

No. You do not need to attend the trial. Class Counsel will present the case for you and the other class members and the Companies' lawyers will present the Companies' defenses. But you or your lawyer are welcome to come at your own expense.

17. ARE THERE MORE DETAILS ABOUT THIS LAWSUIT?

Information regarding the class action lawsuit is available at the Court's website, <http://www.ksd.uscourts.gov/motor-fuel-temperature-sales-practices-litigation/>.

18. HOW CAN I LEARN MORE?

If you have questions about the case, you can write to Kansas Class Counsel, 2600 Grand, Ste. 1100, Kansas City, Missouri 64108, or by email to KansasHotFuelLitigation@hab-law.com, or go to the website at: www.KansasHotFuelLitigation.com.