

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

LOUISE LIVINGSTON,
MELISSA RAINEY, DAVID
SMITH, RAYMOND
SABBATINE, PETER GOLDIS,
and BILL COLBERT, on behalf of
themselves and all others similarly
situated,

Plaintiffs,

v.

TRANE U.S. INC.,

Defendant.

Civ. A. No. 2:17-cv-06480-ES-MAH

The Honorable Esther Salas, U.S.D.J.

The Honorable Michael A. Hammer,
U.S.M.J.

Return Date: August 12, 2020
(pursuant to Order, Dkt. No. 104)

CLASS ACTION

**SUPPLEMENTAL DECLARATION OF DAVID KAUFMAN
IN SUPPORT OF JOINT MOTION FOR FINAL APPROVAL OF
SETTLEMENT AND ENTRY OF FINAL ORDER AND JUDGMENT**

I, David Kaufman, declare as follows:

1. I am a Senior Director for Heffler Claims Group (“Heffler”). Our business address is 1515 Market Street, Suite 1700, Philadelphia, PA 19102. Our main telephone number is (215) 665-8870. I am over twenty-one years of age and am authorized to make this Supplemental Declaration on behalf of Heffler and

myself. This Supplemental Declaration is based upon my personal knowledge as well as information provided to me by my associates and staff.

2. Attached as Exhibit A hereto is the list of timely exclusions received as of the opt-out date, which was July 13, 2020. Heffler has not received any further requests for exclusion after July 13, 2020.

3. On June 4, 2020, the following documents relating to Final Approval and Plaintiffs' Motion for Award of Attorneys' Fees and Expenses and Plaintiffs' Incentives were posted on the Settlement Website:

- a. Joint Motion for Final Approval of Settlement and Entry of Final Order and Judgment;
- b. Proposed Final Order and Judgment;
- c. Plaintiffs' Memorandum of Law in Support of Joint Motion for Final Approval of Settlement and Entry of Final Order and Judgment;
- d. Declaration of David Kaufman in Support of Joint Motion;
- e. Plaintiffs' Motion for Award of Attorneys' Fees and Expenses and Plaintiffs' Incentive Awards;
- f. Proposed Order Granting Plaintiffs' Motion for Award of Attorneys' Fees and Expenses and Plaintiffs' Incentive Awards;

- g. Plaintiffs' Memorandum of Law in Support of Motion for Attorneys' Fees and Expenses and Plaintiffs' Incentive Awards;
- h. Declaration of Timothy N. Mathews in Support of Motion for Attorneys' Fees and Expenses and Plaintiffs' Incentive Awards;
- i. Mathews Decl. Exhibit A – CSK&D Lodestar Summary Chart;
- j. Mathews Decl. Exhibit B – TXV General Time Lodestar Summary Chart;
- k. Mathews Decl. Exhibit C – CSK&D Expense Summary Chart;
- l. Declaration of James C. Shah in Support of Motion for Attorneys' Fees and Expenses and Plaintiffs' Incentive Awards;
- m. Shah Decl. Exhibit A – SFM&S Lodestar Summary Chart; and
- n. Shah Decl. Exhibit B – SFM&S Expense Summary Chart.

4. As stated in my June 4, 2020 declaration, on May 28, 2020, Heffler mailed 245,717 Mailed Notices and Claim Forms via first class mail to the addressee or “current resident” for the addresses reflected in Trane’s warranty records. Although they were also addressed to the “current resident,” 19,050 Mailed Notices and Claim Forms were returned as undeliverable by the United States Postal Service. Despite our discussions with the USPS, we were unsuccessful in discerning the cause for the undelivered mail with the USPS. In order to further bolster the notice program, however, on June 23, 2020, the Parties authorized Heffler to increase the

digital media notice campaign by about 18%, creating an additional 12,720,000 impressions for a total of 83,230,000 impressions.

5. On July 6, 2020, the digital media notice campaign concluded.

6. As of July 20, 2020, the Settlement Website received 49,999 total visits, and 42,103 of those were unique visits.

7. As of July 20, 2020, the Settlement's toll-free number had received 3,104 calls. Of those, 1,446 callers dialed through the inter-active voice recording system to the live operator.

8. While the deadline for submission of claims has not yet occurred, as of July 20, 2020, Heffler has received a total of 2,113 claims for reimbursement of out of pocket expense and/or to qualify for the Enhanced Compressor Warranty Coverage under the Settlement. This includes 1,227 Claim Forms received by mail and 886 Claim Forms submitted online. September 25, 2020 is the deadline to file a claim for: (1) the reimbursement component of the Settlement, and/or (2) if Trane's records did not indicate that the Class member already received an Additive injection, the Enhanced Compressor Warranty Coverage component of the Settlement. (*See* Preliminary Approval Order, ECF No. 104, at 6.) No claim is required for the Preventative Injection Program, which will begin on the Effective Date and continue for one year thereafter.

9. Objectors Mr. Lange and Ms. McNary, at 7948 West 115th Place, Overland Park, KS 66210, were sent a Mailed Notice stating that: “Trane’s records indicate that your air conditioner/heat pump was injected with an Additive on or before September 30, 2018. If you are the original owner or a valid transferee of the Warranty, you do not need to do anything to qualify for the enhanced compressor warranty coverage.” (*See also* June 4, 2020 Kaufman Decl., ¶¶ 6-7.)

10. On July 8, 2020, at the request of Plaintiffs’ counsel, Heffler updated the FAQs on the Settlement Website to state: “In order to receive an injection under this program, contact any local Trane/American Standard service provider or dealer and reference bulletin number **UN-SVB020H-EN.**” Settlement Website, FAQ No. 6.B., <http://www.airconditionersettlement.com/home/faqs/#q6> (italic is the updated, added language).

I declare pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

Dated: July 24, 2020

s/ David Kaufman
David Kaufman

EXHIBIT A

Livingston v. Trane U.S. Inc.
No. 2:17-cv-06480-ES-MAH
United States District Court for the District of New Jersey

EXCLUSIONS TO SETTLEMENT

NAME	CITY, STATE	CLASS AIR CONDITIONER OR HEAT PUMP SERIAL NO.
Steven David	Decatur, Texas	14273U8HBF
Bob Schell	Phoenix, Arizona	14164SKY9H
Lois Spiter	Highland, Michigan	1413413E3F
Edith A. Vogt	Elk Grove, California	14195241AF