

[Products Liability Law Daily Wrap Up, TOP STORY—WEAPONS AND FIREARMS—S.D. Fla.: Preliminary approval granted for enhanced warranty settlement in firearm ‘drop-fire’ class action, \(Mar. 18, 2019\)](#)

Products Liability Law Daily Wrap Up

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By Kathleen Bianco, J.D.

Proposed settlement agreement provides for inspection, repair, or replacement of allegedly defective revolvers and an inconvenience payment for class members who submit firearms for inspection.

A proposed settlement agreement between the owners of a certain class of firearms manufactured between January 1, 2005 and December 31, 2017 and the firearm manufacturer has been granted preliminary approval by a federal district court in Florida. The proposed settlement applies to defined class members, subject to an opt-out provision and outlined exclusions (*Burrow v. Forjas Taurus S.A.*, March 15, 2019, Torres, E.).

Two class action complaints asserting that certain Rossi brand .38 Special and .357 Magnum revolvers manufactured by Forjas Taurus S.A. were defective in that the weapon fired when dropped were filed in federal district courts in Florida and Alaska in 2016. The named gun owners each filed a separate class action suit against Forjas Taurus S.A., the Brazil-based manufacturer of the revolvers at issue, and Braztech International, L.C., the Florida-based distributor and seller of the revolvers, arguing that all of the affected revolvers contained at least one defect in the alignment of the hammer's rebound slide seat and that some of the revolvers contained a second defect, which resulted in the "drop-fire" incidents that the owners alleged. The suits were subsequently consolidated in the action filed in Florida. After extensive discovery and prolonged settlement negotiations, the parties executed a settlement agreement that was submitted to the court for preliminary approval.

The settlement. The tentatively-approved settlement agreement applies to all individuals in the United States, including its territories and possessions, who own one or more of the Class Revolvers as of the date of the preliminary approval of the agreement. The Class Revolvers include all Rossi brand .357 Magnum and .38 Special revolvers of the following models—R35102, R35202, R85104, R97104, R46202, and R46102—manufactured by Forjas Taurus between January 1, 2005 and December 31, 2017, as indicated by the serial number stamped on the frame of the revolver beginning with the letters Y, Z, A, B, C, D, E, F, G, H, I, J, or K.

The settlement agreement includes four major components, including: (1) a safety warning; (2) an enhanced warranty; (3) an enhanced warranty service; and (4) an inconvenience payment. The enhanced warranty and warranty service provisions permit owners of the Class Revolvers to submit their firearms for a one-time warranty service that includes free shipping, inspection, repair and/or replacement, certification, and cleaning. Class members who partake of this enhanced warranty service within one year of the effective date of the settlement will also be eligible for an inconvenience payment of \$50 per class member.

Under the terms of the settlement agreement, Class Counsel has reserved the right to seek a reasonable service award, not to exceed \$7,500.00 for each class representative, and to petition for an award of attorney fees, not to exceed \$5,553,000.00. The proposed agreement also outlines, among other things, the process by which notification will be provided to potential class members, the method by which class members may opt out of the agreement, and the term of the release from liability for the manufacturer.

After reviewing the proposed settlement agreement, which was found to be fair and reasonable, the court issued a preliminary approval and conditionally certified the settlement class; approved the notice plan; set a deadline of July 15, 2019, for class members to opt out or object to the settlement; appointed Notice and Claims administrators; and authorized the defendants to continue the early warning program and to begin providing the enhanced warranty service prior to final approval of the settlement.

The case is No. [16-21606-Civ-TORRES](#).

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Companies: Forjas Taurus, SA; Braztech International, LC

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