

**If you purchased a “Tire Protection Package”, “Service Central Road Hazard”, “King Royal Tire Service” or other vehicle service contract providing for road hazard protection from Big O Tires, LLC on or after January 2, 2009, you could be part of a class action settlement.**

*This Notice and its contents have been approved by the Superior Court of California for the County of San Diego. This is not a solicitation from a lawyer.*

The purpose of this Notice is to inform you of your rights under the settlement, as well as your rights to opt out of the settlement, or to object to the settlement.

- The contents of this Notice are for California customers of Big O Tires, LLC, a Nevada corporation, who purchased a “Tire Protection Package”, “Service Central Road Hazard”, “King Royal Tire Service” or equivalent vehicle service contracts providing for road hazard protection (the “TPP”) from Big O on or after January 2, 2009 (the “Plaintiff Class”). This Notice does not apply to purchasers of the TPP or similar vehicle service contracts from persons or entities other than Big O Tires, LLC (Big O Tires LLC is hereinafter referred to as “Big O”).
- The Plaintiff Class includes two Subclasses. **Subclass A** includes all citizens of California who, at any time after January 2, 2009, purchased a TPP from Big O and, during the same transaction, also purchased a tire installation package from Big O that included lifetime balancing. **Subclass B** includes all citizens of California who, at any time after January 2, 2009, purchased a TPP from Big O and, during the same transaction, did not also purchase a tire installation package from Big O that included lifetime balancing.
- The terms of the settlement are described below, including the monetary and non-monetary consideration to be provided to members of the Plaintiff Class, what you must do to obtain benefits, the compensation of the Class Representatives and Class Counsel, and the right of members of the Plaintiff Class to exclude themselves from the settlement.
- **Your legal rights are impacted whether or not you act. Read this notice carefully.** If you believe that you are or may be a member of the Plaintiff Class, your options are:

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</b>	
<b>Submit a Claim</b>	The only way to get payment and elect between a check or coupon.
<b>Exclude Yourself</b>	Get no payment. This is the only option that allows you to ever be a part of any other lawsuit against Big O about the legal claims in this case.
<b>Object</b>	Write to the Court about why you don’t like the settlement.
<b>Go to a Hearing</b>	Ask to speak in Court about the fairness of the settlement.
<b>Do Nothing</b>	Get no payment, but be entitled to other benefits of the settlement. Give up any right you may have to sue Big O about the claims in this case.

- Your rights and options—**and the deadlines to exercise them**—are explained below.
- The Court must decide whether to approve the settlement. You will be entitled to the benefits of the settlement if it gets approved. Please be patient.

**AM I A MEMBER OF THE PLAINTIFF CLASS?**

You are a member of the Plaintiff Class if you are within the following description: **“All persons who are citizens of the State of California and who at any time after January 2, 2009, purchased a TPP from Big O Tires, LLC.”** As used herein and in the settlement, the “TPP” is defined as the “Tire Protection Package”, “Service Central Road Hazard”, “King Royal Tire Service” or equivalent vehicle service contracts providing for road hazard protection from Big O Tires, LLC. You are not a member of the Plaintiff Class if you only purchased the TPP or a similar product from persons or entities other than Big O Tires, LLC (you are not a

member of the Plaintiff Class if you only purchased a TPP or similar vehicle service contract from one of Big O's franchisees). If you are uncertain regarding whether you are a member of the Plaintiff Class, please contact Class Counsel for verification in sufficient time to exercise your rights under the settlement and this Notice.

### **WHAT IS A CLASS ACTION?**

In a class action, one or more people called Class Representatives (in this case Brian Jeffrey Fratilla and Bob Franchino) sue on behalf of people who have similar claims. All these people are a Class or Class Members. One court resolves the issues for all Class Members, except for those who exclude themselves from the Class. Judge Kevin A. Enright of the California Superior Court in San Diego is in charge of this lawsuit. The lawsuit is captioned *Brian Jeffery Fratilla a/k/a Jeff Fratilla and Bob Franchino, individually and on behalf of all others similarly situated, v. Big O Tires, LLC*, Case Number 37-2013-00028542-CU-BT-CTL (the "Lawsuit").

### **WHAT IS THE LAWSUIT ABOUT?**

In the Lawsuit, the Class Representatives allege that Big O has violated the law in connection with its sale of the TPP. Regarding Big O's allegedly unlawful sale of the TPP, the specific violations alleged by Class Representatives include:

- The Class Representatives allege that Big O was legally required to meet net worth or insurance requirements in order to sell the TPP, but failed to do so;
- The Class Representatives allege that Big O has failed to make a disclosure which the Class Representatives allege Big O was required to make in regard to the alleged insurance-or-net-worth requirement;
- The Class Representatives allege that the text of the TPP is legally required to conspicuously print in bold type no smaller than the surrounding type the language in the TPP that excludes coverage, and that Big O has allegedly failed to comply with this alleged legal requirement;
- The Class Representatives allege that the text of the TPP is legally required to state the obligor's full corporate name (or a fictitious name approved by the Insurance Commissioner), telephone number, and vehicle service contract provider license number, and that Big O has allegedly failed to comply with this alleged legal requirement;
- The Class Representatives allege that the TPP is legally required to state the name of the purchaser and the name of the seller, and that Big O has allegedly failed to comply with this alleged legal requirement;
- The Class Representatives allege that the TPP is legally required to conspicuously state the TPP's purchase price, and that Big O has allegedly failed to comply with this alleged legal requirement;
- The Class Representatives allege that the TPP is legally required to contain a clear description of the covered product, and that Big O has allegedly failed to comply with this alleged legal requirement;
- The Class Representatives allege that the TPP is legally required to contain a step-by-step explanation of the procedure that the customer should follow in order to obtain performance of any obligation under the TPP including, but not limited to, the full legal and business name of the service contractor, the mailing address of the service contractor, the person or class of persons authorized to perform service, the method of giving notice to the service contractor of the need for service, whether the cost of transporting the product for service or repairs will be paid by the service contractor, the place where the product may be delivered for service or repairs or a toll-free telephone number the buyer may call to obtain that information, and all fees, charges and other costs that the buyer must pay to obtain service, and that Big O has allegedly failed to comply with this alleged legal requirement;
- The Class Representatives allege that the TPP is legally required to provide that it is cancelable by the purchaser within the first 60 days after receipt of the contract, and that it is legally required to disclose in a specified manner the customer's cancellation and refund rights, and that Big O has allegedly failed to comply with these alleged legal requirements;

- The Class Representatives allege that Big O misrepresents that the TPP provides consumers with free tire rotations, when, in actuality, all of Big O's new tire customers are already entitled to free tire rotations regardless of their purchase of the TPP, or fails to adequately disclose this fact;
- The Class Representatives allege that Big O misrepresents that the TPP provides consumers with free flat repair, when, in actuality, all of Big O's new tire customers are already entitled to free flat repair regardless of their purchase of the TPP, or fails to adequately disclose this fact;
- The Class Representatives allege that Big O misrepresents that the TPP provides consumers with free tire rebalancing, when, in actuality, all members of Subclass A are already entitled to free tire rebalancing regardless of their purchase of the TPP, or fails to adequately disclose this fact;
- The Class Representatives allege that Big O misrepresents that the TPP provides consumers with a warranty against defects in workmanship and materials, when, in actuality, all of Big O's new tire customers are already entitled to a warranty against defects in workmanship or materials regardless of their purchase of the TPP, or fails to adequately disclose this fact; and
- The Class Representatives allege that Big O fails to provide the terms and numerous limitations of its "Roadside Assistance Service" along with the TPP itself, which "Roadside Assistance Service" has little, if any, value to the consumer.

The Class Representatives allege that Big O's above-described practices connected to the sale of its TPP constitute unfair competition, for purposes of California's Unfair Competition Law (the "UCL"), because such business practices are allegedly likely to deceive the public, are allegedly unlawful and are allegedly unfair. The Class Representatives seek recovery of the monies which Big O obtained through sale of the TPP through alleged unfair competition, as well as an injunction (i.e., a court order) requiring Big O to cease and desist from the alleged unfair competition.

The Class Representatives also seek recovery under the Consumer Legal Remedies Act (hereinafter the "CLRA") of the monies which Big O obtained through sale of the TPP through alleged unfair competition, actual and exemplary damages which the Class Representatives contend Big O's customers have suffered as a result of the practices described above, which Plaintiff contends violate the CLRA, as well as an injunction (i.e., a court order) requiring Big O to cease and desist from the practices described above, which the Class Representatives contend violate the CLRA.

Big O denied, and continues to deny, that it has engaged in any improper conduct, or that it has any liability to anyone in relation to the allegations of the Lawsuit. Big O denies the Plaintiffs' allegations and contends that it has provided its customers with the TPP warranty coverage they intended to purchase. Big O asserts that it is covered by the distributor's exemption, which Big O's believes exempts it from the alleged violations of law asserted by the Class Representatives. Big O asserts that it was not obligated to provide any cancellation rights to its customers and that it has complied or substantially complied with all relevant statutory obligations. Big O denies that it has misled anyone.

The Court previously determined that the Lawsuit should proceed as a class action. In permitting the Lawsuit to proceed as a class action, the Court made no determination of the merits of the action (that is to say, the Court has not, as yet, made any determination whether the Plaintiff Class have any valid claim against Big O).

### **WHY IS THERE A SETTLEMENT?**

The Court did not decide in favor of the Plaintiff Class or Big O. The Plaintiff Class thinks that it could have won approximately \$28.74 per TPP sold to members of Subclass A and approximately \$17.18 per TPP sold to members of Subclass B if it had won. It is estimated that, exclusive of any punitive damages, the maximum recovery at trial for the Plaintiff Class would be approximately \$1,471,794.00. Big O thinks that the Plaintiff Class would not have won anything from a trial and that the Plaintiff Class should be decertified. But there was no trial. Instead, both sides agreed to a settlement. That way, they avoid the cost of a trial, the uncertainty of the outcome of a trial, and the likelihood of an appeal. Also, the people affected will get

compensation. The Class Representative and the attorneys for the Plaintiff Class think the settlement is best for all members of the Plaintiff Class.

## **THE SETTLEMENT BENEFITS—WHAT YOU GET AND MUST DO**

### **Monetary Consideration – Cash / Coupon Election**

The Settlement provides all members of **Subclass A** with the choice between either: (a) a cash payment in the amount of **\$20.54**, or (b) a coupon for **\$25.51** towards the purchase of goods or services at any location of Big O or Big O's franchisees. The Subclass A coupon shall be redeemable for one year after mailing, subject to a minimum purchase not to exceed \$50.00, and can be combined with any and all other offers.

The Settlement provides all members of **Subclass B** with the choice between either: (a) a cash payment in the amount of **\$12.46** or a coupon for **\$15.47** towards the purchase of goods or services at any location of Big O or Big O's franchisees. The Subclass B coupon shall be redeemable for one year after mailing, subject to a minimum purchase not to exceed \$30.00, and can be combined with any and all other offers. The per capita monetary recovery under the Settlement for Subclass A is greater than Subclass B because the Class Representatives allege that Big O "double charged" the members of Subclass A, but not Subclass B, for lifetime rebalancing services.

In order to receive a cash or coupon payment, as set forth above, you must complete an Election Form and indicate whether you would prefer a cash or coupon payment. **The Election Form may be completed online at [www.tireprotectionclassaction.com](http://www.tireprotectionclassaction.com).** You may also request an Election Form from the Settlement Administrator, at the following address, and return your completed election form via mail:

*Fratilla v. Big O Tires*  
Settlement Administrator  
PO Box 404041  
Louisville, KY 40233-4041

A notice of the availability of the Election Form is being sent to members of the Plaintiff Class at their mail and email addresses contained in Big O's records, and will also be published on Big O's website ([www.bigotires.com](http://www.bigotires.com)), and the applicable link shall state: "Information for customers who purchased a TPP from 2009-2017 at California corporate stores".

**You have until July 19, 2018 to complete your Election Form online or mail your completed Election Forms to the Settlement Administrator at the above address. If you do not timely submit an Election Form, you will not receive either a cash or coupon payment under the Settlement.** Make sure to fill out the form completely.

The maximum amount Big O would be required to pay in cash payments to the Plaintiff Class would be one million dollars (\$1,000,000.00, the "Maximum Amount"), including \$20,000.00 in service payments to the Class Representatives (*See "CLASS COUNSEL AND CLASS REPRESENTATIVES"*, below), but excluding any coupons provided and payment of Class Counsel's attorney fees and costs. There is no limit to the number of coupons Big O could be required to issue to members of the Plaintiff Class who elect to receive a coupon in lieu of cash. **If class members elect to receive cash payments in an amount that exceeds the Maximum Amount, the amount paid to each member shall be reduced by an equal percentage to set the total paid amount at the Maximum Amount. If all class members respond and request cash payment, there would be no more than a 7.6% reduction in the amount of each cash payment (meaning each class member who elected a cash payment would still receive 92.4% of the above cash payment amounts).**

The minimum amount Big O would be required to pay under the Settlement would be one-hundred thousand dollars (\$100,000.00, the "Minimum Amount"), including the service payments and a credit for thirty-three percent (33%) of any coupons provided, but excluding payment of Class Counsel's attorney fees and costs.

## **Non-Monetary Benefits**

The settlement requires Big O to implement a revised TPP invoice backer at its California locations, in a manner that the Plaintiffs and the Court agree conforms with California law.

In addition, the settlement also entitles members of the Plaintiff Class who did not cancel or obtain refunds for their TPPs with: (a) an extension of all benefits of the TPP by one (1) year for each member of the Plaintiff Class who purchased a TPP on or after January 1, 2014; and (b) a free vehicle inspection, which shall include, at a minimum, tires, breaks, shocks, struts and oil. Members of the Plaintiff Class are not required to do anything to obtain these benefits. The notice of availability of the Election Form sent by the Settlement Administrator via email and regular mail shall serve as the document you need to bring to obtain the free vehicle inspection.

## **THE RELEASE OF YOUR CLAIMS AGAINST BIG O TIRES, LLC**

The Settlement includes a release of all of your known or unknown claims against Big O Tires, LLC and its employees, officers, directors, managers, parents and subsidiaries, and any other persons or entities that could have been liable for Big O's conduct (the "Released Parties"), but **only** those that arise from or are related to the offer or sale of the TPP by Big O and at Big O company-owned locations, including:

- The alleged failure of the TPP sold by Big O to the Plaintiff Class at Big O company-owned locations to comply with the California Insurance Code or the Song-Beverly Consumer Warranty Act;
- Big O's alleged ineligibility to sell the TPP under the California Insurance Code or the Song-Beverly Consumer Warranty Act;
- Big O's alleged misrepresentations and failures to disclose the benefits of the TPP sold by Big O to the Plaintiff Class at Big O company-owned locations; and
- any other claims that were, or that could have been, alleged in any of the complaints filed in the Lawsuit arising out of the offer or sale of the TPP at Big O company-owned locations to the Plaintiff Class, from January 2, 2009 to the date the Settlement is approved (*See* "WHAT IS THE LAWSUIT ABOUT", above).

The release is further limited to not release any obligation Big O has, or may have, under any TPP previously sold, or under any warranty which may have previously been made. The release makes clear that it does not apply to any claims for bodily injury or property damage arising from the sale of any tires by Big O. This release also does not apply to actions to enforce the Settlement.

## **EXCLUDING YOURSELF FROM THE SETTLEMENT**

The Election Form (*See* "Monetary Consideration – Cash / Coupon Election", above) contains an option for you to "opt-out" of the Settlement. If, after reading this Notice, you wish to opt-out of (not be included in) the Settlement, you must complete your "Election Form" and indicate that you request to be excluded. **The Election Form may be completed online at [www.tireprotectionclassaction.com](http://www.tireprotectionclassaction.com).** You may also request an Election Form from the Settlement Administrator, at the following address, and return your completed election form via mail:

*Fratilla v. Big O Tires*  
Settlement Administrator  
PO Box 404041  
Louisville, KY 40233-4041

**You have until July 19, 2018 to complete your Election Form online or mail your completed Election Forms to the Settlement Administrator at the above address. If you do not timely submit an Election Form excluding yourself from the Settlement, you will be bound by the terms of the Settlement. Make sure to fill out the form completely.**

If you opt-out, you will not receive any benefits under the Settlement and cannot object to the Settlement. However, if you opt-out, you will not be legally bound by anything that happened in the Lawsuit and any claims you may have against Big O relating to the issues in the Lawsuit will not be affected by the release (*See* “THE RELEASE OF YOUR CLAIMS AGAINST BIG O TIRES LLC”, above). If you do not opt-out, you will be included in the Plaintiff Class, will be eligible to receive the above-described benefits, and will not be able to sue Big O relating to the issues in the Lawsuit.

**CLASS REPRESENTATIVES**

The Court has approved Brian Jeffrey Fratilla and Bob Franchino to act as the representatives of the Plaintiff Class or “Class Representatives”. Under the terms of the Settlement, the Class Representatives will apply to the Court for payment of up to \$12,500 to Brian Jeffrey Fratilla and \$7,500 to Bob Franchino for their services as Class Representatives. The fees to the Class Representatives would compensate them for bringing the claims, participating in the Lawsuit, and assuming risks on behalf of the Plaintiff Class. The Court may award less than these amounts, if it determines either request to be excessive or unreasonable.

**CLASS COUNSEL**

The Court has approved the following attorneys to represent all members of the Plaintiff Class as a group: (1) Edward D. Chapin, Esq. of the law firm SANFORD HEISLER SHARP, LLP; (2) Grant G. Teeple and Gregory M. Garrison, Esq. of TEEPLE HALL, LLP; (3) Alexander E. Papaefthimiou of PAPAETHIMIOU APC; and (4) Megan A. Richmond of MEGAN A. RICHMOND, APC. These lawyers are called “Class Counsel”. You will not be charged for these lawyers. **If you want to be represented by your own lawyer in or related to the Litigation, you may hire one at your own expense.**

Class Counsel will ask the Court to approve payment of up to \$1,850,000 to them for attorneys’ fees and expenses and the below allocation of attorneys’ fees and expenses. The fees to Class Counsel would pay them for investigating the facts, litigating the case, and negotiating the Settlement. The following allocation is related to each counsel’s actual efforts to benefit the class, including their work done and contributions to the case:

<b>Fees and Costs Allocation</b>	
Gross Fees and Costs Settlement:	\$ 1,850,000.00
Costs Reimbursement:	(\$ 107,965.13)
Net Fee for Allocation (see below):	\$ 1,742,034.87
<b>Counsel</b>	<b>Fee</b>
Teeple Hall LLP	\$ 594,029.99
Papaefthimiou APC	\$ 475,223.99
Megan A. Richmond APC	\$ 415,820.99
Sanford Heisler Sharp LLP	\$ 256,959.90

The Lawsuit was filed on January 2, 2013, and the Parties engaged in extensive motion practice, including, but not limited to, two motions for class certification filed by Plaintiffs, two motions for leave to amend filed by Plaintiffs, a motion for summary judgment filed by Plaintiffs, a motion to strike filed by Plaintiffs, a motion for punitive damages discovery filed by Plaintiffs, a motion to allow class notice filed by Plaintiffs, two demurrers filed by Big O, a motion for summary judgment filed by Big O, a motion for judgment on the pleadings filed by Big O, a motion to bifurcate filed by Big O, and a motion to decertify filed by Big O. Class Counsel also took or defended twenty (20) depositions and reviewed over 88,000 pages of documents produced by Big O.

The Court will be required to approve the amount of the attorney fees and expenses awarded to Class Counsel, and will have the authority to reduce the amount if it determines the amount requested to be excessive unreasonable.

Under the Settlement, Big O will separately pay Class Counsel’s fees and expenses that the Court awards. These amounts will not reduce the recovery available to you or the other members of the Plaintiff Class.

## **COSTS OF SETTLEMENT ADMINISTRATION**

Under the Settlement, Big O will pay all costs of settlement administration, including, but not limited to, the cost of the Settlement Administrator, all mailings, and all publication. The costs of settlement administration are anticipated to be approximately \$100,000.00.

## **OBJECTING TO THE SETTLEMENT**

If you are a class member, you can object to the Settlement if you don't like any part of it. You can give reasons why you think the Court should not approve it. The Court will consider your views (*See* "THE COURT'S FINAL APPROVAL / FAIRNESS HEARING" below). There is a difference between objecting to the Settlement and opting-out. Objecting is simply telling the Court that you don't like something about the Settlement. Excluding yourself is telling the Court that you don't want to be part of the Settlement.

To object, you must send a letter saying that you object to the proposed class action settlement in *Brian Jeffery Fratilla a/k/a Jeff Fratilla and Bob Franchino, individually and on behalf of all others similarly situated, v. Big O Tires, LLC*, pending in the Superior Court of the State of California, County of San Diego, Case No. 37-2013-00028542-CU-BT-CTL.

All objections must be set forth in writing and mailed or hand-delivered to Class Counsel on or before **June 19, 2018**. Objections must be addressed as follows and sent to:

Gregory M. Garrison  
TEEPLE HALL, LLP  
9255 Towne Centre Dr., Ste. 500  
San Diego, CA 92121

Objections may be served by counsel for a Class Member or by a Class Member *pro se*. In order to be valid, objections must (a) set forth the Class Member's full name, current address, and telephone number; (b) contain the Class Member's original signature (conformed, reproduced, facsimile, or other non-original signatures will not be valid); (c) state that the Class Member objects to the Settlement, in whole or in part; (d) set forth a statement of the legal and factual basis for the objection; (e) provide copies of any documents that the Class Member wishes to submit in support of his/her position; and (f) identify by name and address any attorney that represents the Class Member with respect to the objection or assisted or advised the Class Member in any way with respect to the objection.

Any Class Member who does not submit a timely objection in complete accordance with this Notice shall not be treated as having filed a valid objection to the Settlement.

## **THE COURT'S FINAL APPROVAL / FAIRNESS HEARING**

The Court has scheduled a final approval and fairness hearing regarding the Settlement, which will occur on **August 24, 2018** in Department 904 of the Superior Court, at 1100 Union Street, San Diego, California 92101 at 10:30 a.m. (the "Settlement Hearing"). At the Settlement Hearing, the Court will decide whether or not to finally approve the Settlement. At the same time and place, the Court will also consider Class Counsels' request for attorney fees and costs, and the request for the Class Representatives' service payment.

Any Class Member has the right to appear at the Settlement Hearing, although no Class Member is required to do so. No Class Member shall be permitted to raise matters at the Settlement Hearing that the Class Member could have raised in an objection, but failed to do so. Any Class Member who wishes to appear at the Settlement Hearing, whether *pro se* or through counsel, must, no later than **August 17, 2018**, file with the San Diego Superior Court, a notice of appearance in the Lawsuit and mail the notice and any other pleadings to Class Counsel and Defendant's Counsel at the following addresses:

**Class Counsel**

Gregory M. Garrison  
TEEPLE HALL, LLP  
9255 Towne Centre Dr., Ste. 500  
San Diego, CA 92121

**Counsel for Big O Tires, LLC**

Glenn Plattner  
BRYAN CAVE, LLP  
120 Broadway, Ste. 300  
Santa Monica, CA 90401-2386

**IF YOU DO NOTHING**

**If you do nothing, you will be bound by the outcome of the Litigation and Settlement, be prohibited from suing Big O on claims related to the Lawsuit (See “THE RELEASE OF YOUR CLAIMS AGAINST BIG O TIRES, LLC”, above), and not be entitled to monetary compensation.**

**GETTING MORE INFORMATION**

This Notice summarizes the proposed Settlement. For more information, you may: (1) Write to Class Counsel, Gregory M. Garrison, TEEPLE HALL LLP, 9255 Towne Centre Drive, Suite 500, San Diego, California 92121; or (2) Visit the website at [www.tireprotectionclassaction.com](http://www.tireprotectionclassaction.com). A copy of the Settlement Agreement is available for download on [www.tireprotectionclassaction.com](http://www.tireprotectionclassaction.com). The pleadings and all other records in the Lawsuit may be examined and copied at any time during regular business hours at the office of the Clerk of the Superior Court, Civil Filing / Records (2<sup>nd</sup> Floor), 330 West Broadway, San Diego, California 92101.

**Do not call or write to the Court or the Clerk of the Court. All inquiries should be in writing and should be directed to the Class Counsel identified above.**

**PARA UNA NOTIFICACION EN ESPANOL, VISITAR NUESTRO WEBSITE  
WWW.TIREPROTECTIONCLASSACTION.COM.**