

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA—MIAMI DIVISION

KIRK DAVID, on behalf of himself
and others similarly situated,

Plaintiff,

v.

AMERICAN SUZUKI MOTOR CORPORATION and
SUZUKI MOTOR CORPORATION,

Defendants.

CASE NO. 1:08-CV-22278-GOLD/McALILEY

**NOTICE OF PENDENCY OF CLASS ACTION,
PROPOSED SETTLEMENT AND HEARING**

**IF YOU WERE THE OWNER OR LESSEE OF A 2005 OR 2006 SUZUKI GSX-R1000 DURING THE PERIOD
AUGUST 13, 2008 THROUGH FEBRUARY 5, 2010 IN THE UNITED STATES OR ITS TERRITORIES, A PROPOSED
CLASS ACTION SETTLEMENT MAY AFFECT YOUR RIGHTS**

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

- Kirk David (“David”) has sued American Suzuki Motor Corporation and Suzuki Motor Corporation (collectively “Suzuki”) in the U.S. District Court for the Southern District of Florida (“the Court”) on behalf of all persons in the United States or its territories who owned or leased a 2005 or 2006 model year Suzuki GSX-R1000 motorcycle.
- The Court has preliminarily approved a proposed class settlement, and has authorized the issuance of this notice to persons who owned or leased a 2005 or 2006 Suzuki GSX-R1000 during the period August 13, 2008 through February 5, 2010 in the United States and its territories (the “Class”).
- David alleges that the 2005 and 2006 model year Suzuki GSX-R1000s suffer from a design defect. David alleges that a threaded screw hole drilled in a non-weld location in the frame of the 2005 and 2006 model year Suzuki GSX-R1000 creates a weakness in the frame.
- On January 21, 2009 Suzuki voluntarily initiated a Safety Recall Campaign for the 2005 and 2006 model year Suzuki GSX-R1000.
- Without any admission of wrongdoing, however, and to avoid further expense, uncertainty, inconvenience, and interference with its ongoing business operations, Suzuki has agreed to settle this class claim on the terms provided in the Stipulation of Settlement (the “Proposed Settlement”).
- Counsel for David and the Class (“Class Counsel”) have investigated the facts, have analyzed the applicable law, and have considered such other sources of information as they deemed necessary to evaluate the fairness of the Proposed Settlement. Based on Class Counsel’s review of the facts and law and their evaluation of the substantial and immediate benefits which the Proposed Settlement may confer upon the Class, Class Counsel have determined that the Proposed Settlement is fair, reasonable, and adequate, and in the best interests of the Class.
- The Proposed Settlement was reached as a result of extensive, arm’s length negotiations between Class Counsel and Suzuki’s counsel.
- The terms of the Proposed Settlement are summarized below and have been preliminarily approved by the Court. If the Proposed Settlement is finally approved, it will affect your legal rights described below.
- NO ONE WILL RECEIVE ANY BENEFITS DESCRIBED IN THIS NOTICE UNLESS THE PROPOSED SETTLEMENT IS APPROVED BY THE COURT.

I. WHO IS AFFECTED BY THE PROPOSED SETTLEMENT

The Court has preliminarily approved the Proposed Settlement on behalf of a "Settlement Class" that includes:

All persons and entities within the United States and its territories who owned or leased a 2005 or 2006 model year Suzuki GSX-R1000 motorcycle during the period August 13, 2008 through February 5, 2010. If ownership was transferred during the Class Period, any right to benefits under this Settlement shall inure solely to the benefit of the current registered owner as of February 5, 2010. Excluded from the Class are Suzuki employees and those persons who have executed releases releasing Suzuki from liability concerning or encompassing any or all claims that are the subject of the Action. Also excluded are any Class Members who have pending litigation against Suzuki encompassing any or all claims that are the subject of this lawsuit as of February 5, 2010.

II. THE BENEFITS UNDER THE PROPOSED SETTLEMENT

If the Proposed Settlement is approved, Suzuki will extend the frame warranty to 10 years from the date the frame was repaired or replaced under the Safety Recall Campaign for 2005 or 2006 model year Suzuki GSX-R1000s that have been subject to the Safety Recall Campaign at an authorized Suzuki dealer.

If the Proposed Settlement is approved, Suzuki will provide Settlement Class members who submit a valid Proof of Claim to the Settlement Administrator a Suzuki Purchase Credit redeemable at an authorized Suzuki motorcycle dealer for either a \$500 credit towards the purchase of a new Suzuki motorcycle listed for over \$8,000 (MSRP), or, in the alternative, a \$40 credit towards either service on a Suzuki motorcycle or the purchase of genuine Suzuki parts or accessories. The Proof of Claim form is attached to this notice and may also be obtained from www.suz.hrsclaims.com. **To receive the Suzuki Purchase Credit a Class Member must complete the Proof of Claim form in entirety, sign the form under penalty of perjury and the form must be postmarked by June 26, 2010.**

The Settlement Administrator will review each Proof of Claim to determine if it satisfies the terms and conditions of the Proposed Settlement. The Settlement Administrator will notify any Settlement Class member whose Proof of Claim is rejected. A Settlement Class member whose proof of claim is rejected may contest the rejection. To contest a rejection within 30 days of the notice from the Settlement Administrator, the Settlement Class member must serve notice and a statement of reasons contesting the rejection and requesting a review of the rejection by the Court. Suzuki may challenge a Proof of Claim allowed by the Settlement Administrator if Suzuki has a good faith basis to believe that the claim is invalid. The Settlement Administrator will send a Suzuki Purchase Credit to the Settlement Class members who submitted a valid Proof of Claim after the Court's approval of the Proposed Settlement becomes final.

If the Proposed Settlement is approved any Settlement Class members who submitted a claim to Suzuki for destruction of the frame of his or her 2005 or 2006 model year Suzuki GSX-R1000 on or before November 11, 2009, and who has not previously been provided with a replacement frame may seek to arbitrate that claim under the procedure provided in the Proposed Settlement. If the Proposed Settlement is approved, Suzuki will pay any arbitration awards made to Settlement Class members who receive an arbitration award under the arbitration process in the Proposed Settlement. The scope of any Arbitration Claims shall be limited to whether any damage to the Arbitration Claimant's Qualifying GSX-R1000 was the result of frame failure or a collision. If the Arbitrator finds there was no collision, an award shall be entered for the Arbitration Claimant. The Request for Arbitration form is attached to this notice and may also be obtained from the Settlement Administrator or www.suz.hrsclaims.com. A Settlement Class member who submits a Proof of Claim cannot also submit a Request for Arbitration. A Request for Arbitration form must be completed in entirety, signed under penalty of perjury and the form must be postmarked by June 26, 2010. The claim for frame destruction of Settlement Class Members who submit a Request for Arbitration will be subject to a one-day final and non-appealable arbitration. The one-day binding arbitration for each Settlement Class member who elects to arbitrate will take place in the Settlement Class member's home state.

Suzuki and any Settlement Class members who elect to arbitrate will be responsible for their own costs and attorney's fees incurred for the arbitration. Suzuki and any Settlement Class members who elect to arbitrate will be responsible for splitting the arbitrator's fees and administrative fees; however, Suzuki will pay any travel expenses incurred by the arbitrator. The Settlement Administrator will send a Settlement Class member who elects to arbitrate a copy of the Arbitration Procedures within 10 business days of the earlier of receipt of a Request for Arbitration or the date the Court grants final approval to the Proposed Settlement. A Settlement Class member who elects to arbitrate will be responsible for instituting arbitration proceedings as explained in the Arbitration Procedures within 120 days of the date the Court grants final approval to the Proposed Settlement. If a Settlement Class member who submits a Request for Arbitration does not institute arbitration proceedings as explained in the Arbitration Procedures within 120 days of the date the Court grants final approval to the Proposed Settlement, he or she will not be able to arbitrate under the Proposed Settlement or to receive a Suzuki Purchase Credit, but he or she will be bound by the Proposed Settlement.

III. RELEASES

If the Proposed Settlement is approved and you do not exclude yourself from the Settlement Class (under the procedure described in Section V below), you will give up and release all known or unknown claims that you may have related to assertions that the 2005 or 2006 model year Suzuki GSX-R1000 has a weakness in the frame that you could have asserted against American Suzuki Motor Corporation, Suzuki Motor Corporation, all of its past and present officers, directors, agents, servants, sureties, attorneys, employees, parents, associates, shareholders, subsidiaries, distributors, retail dealers, divisions, affiliates, insurers, and all predecessors and successors, assigns, or legal representatives, including without limitation any persons and entities which have advertised, sold, tested or marketed at any level of distribution any 2005 or 2006 model year Suzuki GSX-R1000, together with all past or present officers, directors and affiliates of each of the foregoing.

Under the Proposed Settlement you will not be releasing your right to assert (a) any claim to enforce the Proposed Settlement Agreement; (b) any claim related to any Suzuki product other than the 2005 or 2006 model year Suzuki GSX-R1000; and (c) any claim for personal injury against Suzuki or the released parties.

The claims that you may or may not bring if the Proposed Settlement is approved are described in more detail in the Stipulation of Settlement. You may obtain a free copy by contacting Class Counsel or Counsel for Suzuki using the contact information provided below.

IV. ATTORNEY'S FEES AND EXPENSES AND THE REPRESENTATIVE PLAINTIFF

The Court has certified the following attorneys as Class Counsel:

Ruben Honik, Esq.
rhonik@golombhonik.com
Stephan Matanovic, Esq.
smatanovic@golombhonik.com
Golomb & Honik, P.C.
1515 Market Street, Suite 1100
Philadelphia, Pennsylvania 19102
Telephone: (215) 985-9177
Facsimile: (215) 985-4169

Alexander Clark, Esq.
aclark@winstonlaw.com
Winston & Clark, P.A.
8211 West Broward Boulevard
Suite 420
Plantation, Florida 33324
Telephone: (954) 475-9666
Facsimile: (954) 475-2279

Kimberly L. Boldt, Esq.
kimberly@abbrclaw.com
Alters, Boldt, Brown, Rash & Culmo, P.A.
21 Southeast Fifth Street, Suite 200
Boca Raton, Florida 33432
Telephone: (561) 955-0045
Facsimile: (561) 955-1978

Class Counsel will ask the Court to approve a payment by Suzuki to David of \$5,000 and a replacement motorcycle equivalent to his 2006 model year Suzuki GSX-R1000 or the cash equivalent in recognition of his efforts in bringing this action and for obtaining the benefits for the Settlement Class. The benefits provided to the Settlement Class described above will not be reduced by the award to David.

Class Counsel will also ask the Court for an award of attorney's fees of not more than \$1,000,000 and expenses of no more than \$100,000. These fees and expenses will be paid by Suzuki, pursuant to the terms of the Stipulation of Settlement. The benefits provided to the Settlement Class described above will not be reduced by the award of attorney's fees or expenses.

V. YOUR RIGHT TO BE EXCLUDED

If you do not wish to receive the benefits under the Proposed Settlement, you may exclude yourself from the Settlement Class by mailing a written request for exclusion to the Settlement Administrator at the following address:

Kirk David v. American Suzuki Motor Corp. Litigation
Claims Administrator
c/o Heffler, Radetich & Saitta LLP
P.O. Box 300
Philadelphia, PA 19105-0300

If you want to be excluded from the Proposed Settlement, **your request for exclusion must be received by the Settlement Administrator no later than March 12, 2010.** Your request for exclusion must contain a statement requesting exclusion from the settlement and the name of this court case and case number (*Kirk David v. American Suzuki Motor Corporation, et al.*, Case No. 1:08-CV-22278). It also must include (a) your name, address, telephone number, (b) model year and Vehicle Identification Number of your GSX-R1000, and (c) statement of intent to exclude yourself from the class settlement. Your request for exclusion must be personally signed by you. No Settlement Class member, or any person acting on behalf of or in concert or participation with that Settlement Class member, may exclude any other Settlement Class member from the Settlement Class.

If you choose to exclude yourself from the Settlement Class, any claims that you might have against Suzuki will not be affected by this lawsuit or Proposed Settlement, although any such claims may be subject to applicable statute of limitations. **IF YOU EXCLUDE YOURSELF, THE FRAME WARRANTY ON YOUR GSX-R1000 WILL NOT BE EXTENDED BY THE PROPOSED SETTLEMENT, YOU WILL NOT RECEIVE A SUZUKI PURCHASE CREDIT, AND YOU WILL NOT BE ABLE TO ARBITRATE UNDER THE PROCEDURE PROVIDED IN THE PROPOSED SETTLEMENT.**

VI. YOUR RIGHT TO OBJECT

If you do not ask to be excluded from the Proposed Settlement as described in Section V above, you may object to the fairness, adequacy, or reasonableness of any portion of the Proposed Settlement or the Order and Final Judgment to be entered approving the Proposed Settlement.

Any objections must be in writing and must be filed with the Clerk of the Court by March 12, 2010 at the following address:

United States District Court Clerk's Office
United States District Court for the Southern District of Florida
Wilkie D. Ferguson, Jr. United States Courthouse
400 North Miami Avenue, 8th floor
Miami, Florida 33128

In addition, your objection must be served on both sets of counsel listed below by March 12, 2010:

Class Counsel

Ruben Honik, Esq.
Golomb & Honik, P.C.
1515 Market Street, Suite 1100
Philadelphia, Pennsylvania 19102
Facsimile: (215) 985-4169

Counsel for Suzuki

Shon Morgan, Esq.
Quinn Emanuel Urquhart
Oliver & Hedges, LLP
865 South Figueroa Street, 10th Floor
Los Angeles, California 90017
Facsimile: (213) 443-3100

Any objections must state the name and case number of this litigation (*Kirk David v. American Suzuki Motor Corporation, et al.*, Case No. 1:08-CV-22278). Any objection also must include (a) your name, address, telephone number, signature (b) model year and Vehicle Identification Number of your GSX-R1000, (c) a statement of when you purchased your GSX-R1000, and (d) each specific reason for any objections, and any legal authority for such objections. Your failure to file and deliver timely written objections will preclude you from objecting at the final approval hearing.

VII. HEARING ON THE SETTLEMENT

The Court will hold a final fairness hearing on April 2, 2010 at 2 p.m. in Courtroom 11-1 of the United States District Court for the Southern District of Florida located at Wilkie D. Ferguson, Jr. United States Courthouse, 400 North Miami Avenue, 11th floor, Miami, Florida 33128 to determine whether the Proposed Settlement should be approved as fair, adequate and reasonable. The hearing may be continued without further notice. If you have not asked to be excluded from the Settlement Class, you may appear at the hearing, individually or through your own counsel, but only if you have submitted a proper objection under the procedure described in Section VI above. IT IS NOT NECESSARY FOR YOU TO APPEAR AT THE HEARING.

VIII. ADDITIONAL INFORMATION

The pleadings and other records in this litigation, including copies of the Settlement Agreement, may be examined at any time during regular office hours at the United States District Court Clerk's Office. Additional information, as well as documents pertaining to the lawsuit and Proposed Settlement, may be obtained by contacting Class Counsel at their respective addresses provided above.

The terms of the Proposed Settlement will not become effective unless and until the Proposed Settlement receives final approval from the Court and any appeals have been concluded. If the Proposed Settlement is not approved, you will not receive the benefits described in this Notice, and the litigation will continue.

PLEASE DO NOT CALL THE COURT OR THE CLERK REGARDING THE SETTLEMENT.

REQUEST FOR ARBITRATION

UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION—CASE NO. 1:08-CV-22278-GOLD/McALILEY

KIRK DAVID, on behalf of himself and others similarly situated, *Plaintiff*,

v.

AMERICAN SUZUKI MOTOR CORPORATION and SUZUKI MOTOR CORPORATION, *Defendants*.

Deadline for Request for Arbitration is June 26, 2010. If you file a Request for Arbitration, you cannot file a Proof of Claim.

Please print clearly in black ink only. Do not use labels.

Last Name:

First Name:

M.I.

Address:

City:

State:

Zip Code:

Area Code

Telephone Number (Work)

Area Code

Telephone Number (Home)

Area Code

Fax Number

Model Year of
your GSX-R1000

Vehicle Identification
Number (VIN)
of your GSX-R1000

If you cannot provide the VIN you must attach documentation establishing that you owned or leased a 2005 or 2006 model year GSX-R1000 during the period August 13, 2008 through February 5, 2010.

Date you purchased or
leased your GSX-R1000:

Do you still own or lease your GSX-R1000?

 Yes No

If no, when did
you sell/transfer
your GSX-R1000:

Who did you
sell/transfer your
GSX-R1000 to:

Date you submitted your frame damage claim to Suzuki:

Please identify who you contacted to submit your frame damage claim to Suzuki:

I, _____ declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on _____

(date)

at _____

(city)

, _____ (state)

(signature)

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Kirk David v. American Suzuki Motor Corp. Litigation
Claims Administrator
c/o Heffler, Radetich & Saitta LLP
P.O. Box 300
Philadelphia, PA 19105-0300

FIRST CLASS MAIL

PLEASE FORWARD—IMPORTANT LEGAL NOTICE