

DECEMBER 13, 2007MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION****07 C 7014****NORFOLK COUNTY RETIREMENT
SYSTEM and BROCKTON
CONTRIBUTORY RETIREMENT SYSTEM,
individually and on behalf of all others
similarly situated,****Plaintiffs,****v.****DANIEL C. USTIAN, ROBERT C.
LANNERT, MARK T. SCHWETSCHENAU,
NAVISTAR INTERNATIONAL
CORPORATION, and DELOITTE &
TOUCHE LLP****Defendants.****Case No.****CLASS ACTION COMPLAINT
FOR VIOLATIONS OF THE
SECURITIES EXCHANGE ACT
OF 1934****JUDGE GETTLEMAN
MAGISTRATE JUDGE NOLAN****JURY TRIAL DEMANDED**

Plaintiffs, individually and on behalf of all others similarly situated, by their attorneys, allege the following based upon the investigation of its counsel, except as to allegations specifically pertaining to plaintiffs and its counsel, which are based on personal knowledge. The investigation of counsel is predicated upon, among other things, a review of public filings by Navistar International Corporation (“Navistar” or the “Company”) with the United States Securities and Exchange Commission (“SEC”), press releases, and news articles.

SUMMARY OF ACTION

1. This is a securities class action on behalf of investors who purchased publicly traded securities of Navistar on the open market during the period from February 14, 2003, through July 17, 2006, inclusive (the “Class Period”).

2. During the Class Period, Navistar issued quarterly earnings releases which indicated that the Company was either meeting or beating analyst expectations and/or Navistar's own previous guidance for each quarter. Each earnings release touted Navistar as becoming a more profitable company.

3. Despite Navistar's sunny reports, the Company's internal controls over financial reporting had material weaknesses which caused misapplications of generally accepted accounting principles ("GAAP"). Further, the material weaknesses within the internal controls allowed for intentional misconduct resulting in material misstatements.

4. On December 14, 2005, Navistar reported that it would be postponing its shareholder and analyst meeting scheduled for that day because the external audit for fiscal year 2005 had not been completed. With this announcement, Navistar's shares fell \$2.11 to \$28.17 per share on volume of approximately 3.1 million shares. A month later, on January 17, 2006, Navistar disclosed that it would miss its 2005 Form 10-K filing deadline, blaming the delay on "an unexpected, extended medical leave" taken by "a key member of" the team from its external auditors, Deloitte & Touche LLP ("Deloitte"). On April 7, 2006, Navistar admitted that it would be restating its financial results for the fiscal years 2002 through 2004 and the first three quarters of fiscal year 2005. On July 17, 2006, Moody's Investors Service issued a press release notifying investors that it was withdrawing its ratings of Navistar "due to its belief that it lacks adequate financial information to maintain a rating." By July 17, 2006, shares of Navistar common stock had fallen an additional \$7.22 to \$20.95 per share since the Company had first disclosed that it was postponing the shareholder and analyst meeting scheduled for December 14, 2005.

5. More than a year and a half later, on October 25, 2007, Navistar finally released preliminary results of total pretax restated adjustments of negative \$1,120,000,000 (\$1.12 billion) from its previously reported financial results for the fiscal years 2002 through 2004 and the first three quarters of fiscal 2005. The Company also admitted that it had identified material weaknesses in its internal controls over financial reporting and that an independent law firm had found “instances of intentional misconduct” resulting in material restatement adjustments.

JURISDICTION AND VENUE

6. This Court has jurisdiction over this action pursuant to Section 27 of the Securities Exchange Act of 1934 (the “Exchange Act”), 28 U.S.C. §§ 1331 and 1337. The claims asserted herein arise under Sections 10(b) and 20(a) of the Exchange Act, 15 U.S.C. §§ 78j(b), 78t(a) and Rule 10b-5, 17 C.F.R. § 240.10b-5, promulgated thereunder by the SEC.

7. Venue is proper in this District pursuant to Section 27 of the 1934 Act, 15 U.S.C. § 78aa, and 28 U.S.C. § 1391(b), in that Navistar’s principal place of business is located in this district.

8. In connection with the wrongs alleged herein, Defendant used the instrumentalities of interstate commerce, including the United States mails, interstate wire and telephone facilities, and the facilities of the national securities markets.

THE PARTIES

9. Plaintiff Norfolk County Retirement System purchased shares of Navistar common stock during the Class Period and was damaged thereby, as set forth in its Certification attached hereto as Exhibit A.

10. Plaintiff Brockton Contributory Retirement System purchased shares of Navistar common stock during the Class Period and was damaged thereby, as set forth in its Certification attached hereto as Exhibit B.

11. Defendant Navistar is a Delaware corporation with its principal place of business in Warrenville, Illinois. The Company, through its subsidiary, International Truck and Engine Corporation, produces commercial truck, school bus, and mid-range diesel engines. It operates in three segments: Truck, Engine, and Financial Services. The Truck segment manufactures and distributes a line of diesel-powered class 6, 7, and 8 trucks, and school buses in the common carrier, private carrier, government/service, leasing, construction, energy/petroleum, and student transportation markets in the United States, Canada, Mexico, and other countries. The Engine segment designs and manufactures medium range diesel engines for sale to original equipment manufacturers in the United States and Brazil, sells engines for industrial and agricultural applications, and provides customers with proprietary products needed to support the International engine lines, as well as other standard engine and aftermarket parts. The Financial services segment provides retail, wholesale, and lease finance for products sold by the truck segment and its dealers within the United States and Mexico, as well as finances the company's wholesale accounts and selected retail accounts receivable. Navistar was listed on the New York Stock Exchange ("NYSE") during the Class Period but was delisted and began trading on the over-the-counter market on February 14, 2007. As of February 17, 2005, there were 69,963,758 shares of Navistar common stock outstanding.

12. Defendant Daniel Ustian is and was, during the Class Period, Chairman and Chief Executive Officer ("CEO") of Navistar.

13. Defendant Robert Lannert was, during the Class Period, Chief Financial Officer (“CFO”) of Navistar.

14. Defendant Mark T. Schwetschenau was, during the Class Period, Senior Vice President and Controller of Navistar.

15. Defendants Ustian, Lannert and Schwetschenau may be referred to herein as the “Individual Defendants.”

16. By virtue of their positions as officers of the Company, the Individual Defendants had the authority and ability to and, in fact, controlled the contents of the Company’s annual and quarterly reports filed with the SEC, its proxy statements and press releases disseminated by Navistar. Further, the actions of the Individual Defendants during the Class Period caused the material misstatement of the Company’s financial condition as alleged herein. The Individual Defendants were aware of the contents of the Company’s publicly disseminated reports and press releases alleged herein to be misleading prior to their issuance and had the ability and opportunity to prevent their issuance, but failed to do so.

17. Defendant Deloitte & Touche LLP (“Deloitte”) is a firm of certified public accountants with offices located nationwide, including Chicago, Illinois. Deloitte audited Navistar’s materially false and misleading financial statements for the fiscal years ended October 31, 2003 and 2004, and issued a materially false and misleading opinion on these financial statements. Additionally, Deloitte consented to the use of its unqualified opinion on Navistar’s 2003 and 2004 financial statements in reports filed with the SEC and otherwise disseminated to the investing public during the Class Period. Deloitte thus participated in the scheme, plan, and common course of conduct as described herein.

18. Throughout the Class Period, while providing Navistar with “independent” accounting and auditing services, Deloitte personnel were present at the Company’s offices and had access to and knowledge of Deloitte’s confidential corporate, financial, and business information. As a result of its relationship with Navistar, the magnitude of the preliminary restatement adjustments, and the nature of the improper accounting, including improper income tax accounting, under reserving for warranty expenses, and improper accounting treatment of employee benefit arrangements, leases, revenue recognition and Navistar Financial Corporation securitizations, Deloitte knew or recklessly disregarded the true facts as alleged herein concerning the actual financial condition and results of operations of Navistar that were concealed from the investing public.

19. Each of the defendants is liable as a participant in a fraudulent scheme and course of business that operated as a fraud or deceit upon purchasers of Navistar securities, by disseminating materially false and misleading statements and/or concealing material adverse facts. The scheme deceived the investing public regarding Navistar’s business, present and future prospects, growth, operations and the intrinsic value of the Company’s securities and induced members of the Class to purchase Navistar common stock at artificially-inflated prices.

CLASS ACTION ALLEGATIONS

20. Plaintiffs bring this action as a class action pursuant to Rule 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure on behalf of a class (the “Class”) of all persons and entities who purchased publicly traded securities of Navistar on the open market during the Class Period, February 14, 2003 through July 17, 2006, to recover damages caused to the Class by defendants’ violations of the federal securities laws. Excluded from the Class are defendants herein,

members of defendants' immediate families, any entity in which any of the defendants has a controlling interest, any person or entity affiliated with any of the defendants, and the legal representatives, heirs, successors or assigns of any of the defendants.

21. This action is properly maintainable as a class action for the following reasons:

(a) The Class is so numerous that joinder of all members is impracticable.

Navistar common stock was actively traded on the NYSE during the Class Period. While the exact number of Class members is unknown to plaintiffs at this time, and can only be ascertained through appropriate discovery, plaintiffs believe that there are thousands of Class members located throughout the United States.

(b) Common questions of law and fact exist as to all Class members and predominate over any questions affecting only individual members of the Class. Among the common questions of law and fact are:

(i) Whether the federal securities laws were violated by defendants' acts as alleged herein;

(ii) Whether defendants acted with scienter in making materially false and misleading statements concerning Navistar;

(iii) Whether defendants participated in the course of conduct complained of herein; and

(iv) Whether plaintiffs and the other members of the Class sustained damages because of defendants' conduct, and the appropriate measure of damages.

(c) Plaintiffs' claims are typical of the claims of the other members of the Class. Plaintiffs and the other Class members have sustained damages that arise from and were

caused by defendants' unlawful activities alleged herein. Plaintiffs do not have interests antagonistic to, or in conflict with, the other members of the Class.

(d) Plaintiffs will fairly and adequately protect the interests of the other members of the Class and has retained competent counsel experienced in class and securities litigation to prosecute this action vigorously.

(e) A class action is superior to other available methods for the fair and efficient adjudication of this controversy. Plaintiffs know of no difficulty to be encountered in the management of this action that would preclude its maintenance as a class action. Furthermore, since the damages suffered by individual members of the Class may be relatively small, the expense and burden of individual litigation make it impracticable for the members of the Class to seek redress individually for the wrongs they have suffered.

FRAUD-ON-THE-MARKET PRESUMPTION

22. At all relevant times, the market for Navistar common stock was an efficient market for the following reasons, among others:

(a) Navistar common stock met the requirements for listing, and was listed and actively traded, on the NYSE;

(b) As a regulated issuer, Navistar filed periodic public reports with the SEC and the NYSE;

(c) The common stock of Navistar was followed by analysts, who wrote research reports that were distributed to the sales force and customers of investment firms. Each of these reports was publicly available and entered the public marketplace; and

(d) Plaintiffs and the other members of the Class purchased Navistar common stock from the time of defendants' false and misleading statements or omissions until the time the truth was revealed without knowledge of the falsity.

23. As a result, the market for Navistar common stock promptly digested current information with respect to Navistar common stock from all publicly-available sources and all such information was reflected in market prices of Navistar common stock. Under these circumstances, all those who purchased Navistar common stock during the Class Period suffered similar injury through their acquisition of such securities at artificially inflated prices and a presumption of reliance applies.

SUBSTANTIVE ALLEGATIONS

False Statements During the Class Period

A. Fiscal 2003

24. For each quarter of fiscal year ended 2003, Navistar reported earnings that were either on par with or above analyst estimates and the Company's own guidance. In each of the earnings releases Defendant Ustian reported that the Company would become profitable in fiscal 2003.

25. Before the market opened on February 14, 2003, Navistar issued its fiscal first quarter results for the quarter ended January 31, 2003. This was the first of many false and misleading quarterly results that Navistar issued during the Class Period, including these earnings releases during Fiscal Year End 2003:

Date of the Press Release	Quarter	Results Reported	Previous Guidance and Analyst Estimates
February 14, 2003	Fiscal First Quarter 2003	Loss from continuing operations = \$98 million, or \$1.47 per diluted common share	“The consensus estimate of security analysts was for a first quarter loss of \$1.49 per share.” (February 14, 2003 press release)
May 15, 2003	Fiscal Second Quarter 2003	Loss from continuing operations = \$12 million, or \$0.18 per diluted common share	“The consensus estimate of securities analysts was for a (\$0.29) per share loss.” (May 15, 2003 press release)
August 15, 2003	Fiscal Third Quarter 2003	Net income from continuing operations = \$19 million, or \$0.26 per diluted common share	“The consensus estimate of analysts was a profit of \$0.25 cents per share.” (August 15, 2003 press release)
December 2, 2003	Fiscal Fourth Quarter 2003	Net income from continuing operations = \$77 million, or \$1.00 per diluted common share	The Company had previously given guidance of earnings of \$0.65 to \$0.75 per share. (August 15, 2003 press release)

26. Navistar also filed Form 10-Qs with the SEC for each quarter of fiscal 2003. Those Form 10-Qs were dated March 14, 2003, June 13, 2003, and September 12, 2003, were signed by defendants Ustian, Lannert and Schwetschenau, and represented that the financial statements contained therein were prepared in material conformity with generally accepted accounting principles.

27. Despite reporting losses for the first two quarters of fiscal 2003, Navistar in its February 14, 2003 press release “reiterated [that] it still expects to be marginally profitable for the full year.” In the May 15, 2003 press release, Defendant Ustian noted that “[t]he economic

environment during the first half of the company's fiscal year was difficult and uncertain, but we continue to expect an improved market in the second half of the year."

28. As reflected by Navistar's reported results, its reported operating performance did improve each quarter during 2003.

29. On December 19, 2003, Navistar issued its Form 10-K for the fiscal year ended October 31, 2003. In the 2003 Form 10-K both Defendants Ustian and Lannert signed the Statement of Financial Responsibility acknowledging that "[m]anagement is responsible for establishing and maintaining a system of internal controls throughout its operations that provides reasonable assurance as to the integrity and reliability of the financial statements. . . ." The signed Statement of Responsibility went on to say that "[m]anagement believes that the [C]ompany's system of internal controls is adequate to accomplish these objectives."

30. The 2003 Form 10-K also included an unqualified opinion letter from Deloitte finding that the "consolidated financial statements *present fairly, in all material respects*, the financial position of Navistar International Corporation and Consolidated Subsidiaries at October 31, 2002 and 2003, and the results of their operations and their cash flow for each of the three years in the period ended October 31, 2003, *in conformity with accounting principles generally accepted* in the United States of America." (Emphasis added)

31. Further, Defendant Schwetschenau signed the 2003 Form 10-K as required by Section 13 or 15(d) of the Securities and Exchange Act of 1934.

B. Fiscal 2004

32. On December 15, 2003 Navistar issued a press release detailing its strategy for a profitable fiscal 2004. Ustian noted "[w]e expect to be profitable in 2004 and we reaffirm our

2004 target bonus goal of \$2.02 per diluted common share based on forecasted industry volume of 304,500 units. We demonstrated in the second half of 2003 that we can be profitable at low industry volumes and as demand increases, we expect our earnings will accelerate.”

33. For fiscal year 2004 Navistar again reported earnings meeting or exceeding the Company’s guidance:

Date of Press Release	Quarter	Results Reported	Previous Guidance
February 23, 2004	Fiscal First Quarter 2004	Net loss from continuing operations = \$23 million, or \$0.34 per diluted common share	The Company had previously given guidance of a net loss of \$0.40 to \$0.50 per share. (December 15, 2003 press release)
May 20, 2004	Fiscal Second Quarter 2004	Net income from continuing operations = \$41 million, or \$0.54 per diluted common share	The Company had previously given guidance of earnings of \$0.45 to \$0.55 per share. (May 20, 2004 press release)
August 19, 2004	Fiscal Third Quarter 2004	Net income from continuing operations = \$56 million, or \$0.73 per diluted common share	The Company had previously given guidance of earnings of \$0.60 to \$0.70 per share. (May 20, 2004 press release)
February 15, 2005	Fiscal Fourth Quarter 2004	Net income from continuing operations = \$159 million, or \$2.02 per diluted common share	The Company had previously given guidance of earnings of \$1.88 per share. (December 6, 2004 press release)

34. Navistar also filed Form 10-Qs with the SEC for each quarter of fiscal 2004. Those Form 10-Qs were dated March 8, 2004, June 9, 2004, and September 10, 2004, were signed by defendants Ustian, Lannert and Schwetschenau, and represented that the financial

statements contained therein were prepared in material conformity with generally accepted accounting principles

35. On February 15, 2005, Navistar issued its 2004 Form 10-K, which according to the earnings release issued that day included “restated financial statements for the fiscal years 2002 and 2003 and restated financial information for the first three quarters of 2004” primarily related to its finance subsidiary, Navistar Financial Corporation. According to the 2004 Form 10-K, the purpose of the restatement was to correct the following issues: “(i) the accounting for the securitization of its retail notes and finance lease receivables and its retained interests in such securitizations; (ii) deferred taxes related to retail note and finance lease securitization transactions and secured borrowings to fund operating leases; and (iii) an agreement to repurchase equipment.” The restatement of fiscal year 2002 resulted in an increase in the net loss of \$2 million from \$536 million net loss to \$538 million net loss. The restatement of fiscal year 2003 resulted in an increase in the net loss of \$3 million from \$18 million net loss to and \$21 million net loss.

36. The 2004 Form 10-K also included Deloitte’s unqualified opinion on the financial statements noting that the “consolidated financial statements *present fairly, in all material respects*, the financial position of Navistar International Corporation and Consolidated Subsidiaries at October 31, 2004 and 2003, and the results of their operations and their cash flow for each of the three years in the period ended October 31, 2004, *in conformity with accounting principles generally accepted* in the United States of America..” (Emphasis added)

37. Both Defendants Ustian and Lannert signed the Statement of Financial Reporting Responsibility in the 2004 Form 10-K noting that “[m]anagement is responsible for establishing

and maintaining a system of internal controls throughout its operations that provides reasonable assurances as to the integrity and reliability of the financial statements. . . .”

38. Further, Defendant Schwetschenau signed the 2004 Form 10-K as required by Section 13 or 15(d) of the Securities and Exchange Act of 1934.

C. Fiscal 2005

39. During the fiscal year 2005 Navistar again reported results meeting its previous guidance:

Date of Press Release	Quarter	Results Reported	Previous Guidance
April 25, 2005	Fiscal First Quarter 2005	Net income from continuing operations = \$18 million, or \$0.24 per diluted common share	The Company had previously given guidance of earnings of \$0.20 to \$0.25 per share. (December 6, 2004 press release)
June 9, 2005	Fiscal Second Quarter 2005	Net income from continuing operations = \$53 million, or \$0.70 per diluted common share	The Company had previously given guidance of earnings of \$0.65 to \$0.70 per share. (April 14, 2005 press release)
September 7, 2005	Fiscal Third Quarter 2005	Net income from continuing operations = \$64 million, or \$0.83 per diluted common share	The Company had previously given guidance of earnings of \$0.75 to \$0.85 per share. (June 9, 2005 press release)

40. Navistar also filed Form 10-Qs with the SEC for each quarter of fiscal 2005. Those Form 10-Qs were dated April 25, 2005, June 9, 2005, and September 9, 2005, were signed by defendants Ustian, Lannert and Schwetschenau, and represented that the financial statements

contained therein were prepared in material conformity with generally accepted accounting principles

41. Each of the quarterly earnings announcements and Form 10-Q filings were materially false and misleading because the Company misapplied GAAP in determining its financial results.

The Truth Begins To Emerge

42. On December 14, 2005, at approximately 11:03 a.m. EST, Navistar issued a press release announcing that Navistar would postpone its previously scheduled meeting for that day with security analysts and stockholders because its Fiscal 2005 audit was still in process. Defendant Ustian commented that “[a]s a company, we have high standards and our audit process is taking longer than expected.” The press release stated that the Company planned to file its 2005 Form 10-K on time in January 2006. In response to this announcement Navistar’s stock dropped on December 14, 2005 by \$2.11 to close at \$28.17

43. On January 17, 2006 Navistar issued a further press release announcing that it would not be filing its 2005 Form 10-K on its January 17 filing deadline. The Company claimed to still be in discussions with Deloitte regarding “a number of open items.” Navistar gave no guidance as to when to expect the 2005 Form 10-K to be filed since it was unsure when their discussions with Deloitte would be concluded.

The [C]ompany and Deloitte are reviewing a number of open items including some complex and technical accounting issues and the [C]ompany cannot determine the impact the resolution of these issues may have, if any, on the per share earnings guidance issued last September. The [C]ompany’s Form 10-K for fiscal 2005 will be filed with the Securities and Exchange Commission as soon as practical.

44. The January 17, 2006 press release blamed the delay on a member of the Deloitte audit team becoming ill: “In mid December 2005, a key member of the Deloitte audit team went on an unexpected, extended medical leave.” According to the press release, Deloitte had a new audit team working on the completion of Navistar’s fiscal 2005 year end audit.

45. On February 16, 2006, Navistar issued an update on the progress of its completion of the 2005 Form 10-K. Ustian commented that “We are committed to taking positive actions that move toward resolution of the complex and technical accounting items that are under review.” In discussing the progress being made and the steps toward completing the 2005 financials, Ustian commented on the help being given by two of the Company’s senior finance executives, Bill Caton and Defendant Lannert.

Bill Caton, executive vice president of finance, who joined the [C]ompany last October and has extensive experience in dealing with complex and technical issues will take the lead in the working to complete the review of the accounting issues. Robert Lannert, the [C]ompany’s chief financial officer, will continue to provide financial leadership to the [C]ompany during this transition period.

46. The February 16, 2006 press release went on to say that in order “to facilitate the completion of the audit, Mark T. Schwetschenau, the [C]ompany’s senior vice president and controller, has been reassigned to another position within the company.”

47. On February 21, 2006, Navistar issued a press release providing another update on its accounting review noting that it was continuing “to work toward a resolution” of the items under review and that progress was being made. It was in this press release that Navistar first mentioned the possibility of a restatement of previously issued financial statements: “The [C]ompany’s review of the accounting matters may result in changes to its previously issued financial statements, including the possibility of a restatement.”

48. In the February 21, 2006 press release Navistar detailed among the many items being reviewed included the accounting for operating leases, consolidation of subsidiaries, and revenue and expense recognition. The press release also informed investors that it had hired external consultants to help with this process:

Among the items being reviewed are whether certain leases should have been capitalized rather than accounted for as operating leases, whether certain affiliates should have been consolidated rather than reported on the equity method, and certain timing adjustments that would shift revenue and expense amounts between reporting periods. Matters identified at this stage are necessarily preliminary and subject to change. To assist in the ongoing efforts to complete the review of the [C]ompany's financial statements, the [C]ompany has retained external consultants, including Huron Consulting Group and Skadden, Arps, Slate, Meagher & Flom, LLP.

49. Finally, midday on April 7, 2006, Navistar issued a press release announcing that it would be restating its financial results for the fiscal years 2002 through 2004 and the first three quarters of 2005. The press release indicated that the restatement would cover more items than had previously been disclosed as being reviewed, including accounting for expected outside funding of various product development projects, timing of recognition of certain collectible items such as rebates and warranty recoveries, accounting for the Company's warranties outside of the terms of contractual agreements, and at one of the Company's foundry operations switching balances and expense amounts between reporting periods. The press release further informed investors that the Company would be replacing Deloitte as its external auditor with KPMG LLP ("KPMG") and that it would be KPMG who would opine on the restated financials and the 2005 Form 10-K:

The need for the restatements has been identified in the ongoing review of accounting matters that have prevented the company from filing its fiscal 2005 annual report on Form 10-K and its first quarter 2006 quarterly report on Form

10-Q on time. With the change of independent auditors the timing of the filing of the 2005 Form 10-K, including the prior periods on a restated basis, cannot be determined at this time.

According to Bill Caton, Navistar's executive vice president, finance, to date, the company has identified items requiring restatement to include accounting for anticipated external funding of product development programs; timing of recognition of amounts deemed to be collectible from certain suppliers, including rebates and warranty recoveries; accounting for warranty to be provided by the company outside of the terms of the contractual arrangements; and shifting balances and expense amounts between reporting periods at one of the company's foundry operations. The company's review process continues and will likely result in the identification of additional items requiring correction in the restated results.

50. The April 7, 2006 press release also informed investors that Navistar had named James A. Blanda as interim corporate controller to replace Defendant Schwetschenau, who the Company disclosed on February 21, 2006, had been reassigned for the purpose of facilitating the completion of the 2005 audit.

51. On July 17, 2006 Moody's Investors Service issued a press release announcing its withdrawal of its ratings of Navistar's B1 senior unsecured and B3 subordinate notes:

Moody's Investors Service withdrew its ratings of Navistar International Corporation (B1 senior unsecured and B3 subordinate) due to its belief that it lacks adequate financial information to maintain a rating...

Navistar has been unable to file Form 10K for its fiscal year ending October 31, 2005. In addition, on April [7]th the company announced that it had concluded that its financial statements for the years ended October 31, 2002 through 2004, and all quarterly financial statements for periods after November 1, 2002, should not be relied upon because of errors in these financial statements.

52. By July 17, 2006, shares of Navistar common stock had fallen to \$20.95 per share. This is an additional \$7.22 per share drop from the initial \$2.11 per share drop

experienced by the stock when Navistar announced that it would delay its December 14, 2005 shareholder and analyst meeting due to a delay in the 2005 audit.

Post Class Period Events

53. In the months following the April 7, 2006 announcement that 2003 through 2004 financial statements and the three quarters of 2005 would be restated, Navistar continued to update investors on the progress of the accounting review.

54. On September 5, 2006, Navistar announced that Bill Caton had been elected Chief Financial Officer of the Company and that Defendant Lannert would “focus on future strategic initiatives” in a senior advising role.

55. On February 13, 2007, Navistar announced that its stock had been suspended from trading on NYSE because it had been unable to file fiscal 2005 financial statements with the SEC.

56. Finally, on October 25, 2007, Navistar released summary preliminary and unaudited results for fiscal years 2002 through 2005. According to the press release, “[t]he [C]ompany’s pre-tax restatement adjustments total negative \$1.12 billion during the restatement period of 2003 and prior, 2004 and the first three quarters of 2005.” Of the \$1.12 billion, \$321 million was an increase to warranty reserve and “represented the largest change to operational results.”

57. According to the presentation prepared by Navistar in conjunction with the analyst conference call it held on October 25, 2007, \$343 million related to fiscal years 2002 and prior, \$263 million related to fiscal year 2003, \$330 million related to fiscal year 2004, and \$92 million related to the three quarters of fiscal 2005. Allocating the \$1.12 billion in adjustments

across the various issues being reviewed for restatement, the presentation indicated that \$321 million related to expenses for under reserved product warranties, \$386 million related to employee benefits arrangements, \$111 million related to operating leases which should have been capitalized, and \$36 million related to revenue recognition timing issues associated with risk of loss.

58. The Navistar's presentation for the analyst conference call also noted that in management's SOX 404 Assessment, there were 15 material weaknesses identified in 2005.

59. The October 25, 2007 press release also addressed management's assessment of Navistar's financial reporting internal controls, finding a number of material weaknesses.

Management has assessed the effectiveness of Navistar's internal controls over financial reporting and identified a number of material weaknesses. This assessment determined a need to establish stronger awareness regarding consistent application of highly ethical standards across all areas of the company, the importance of internal controls over financial reporting and strict adherence to generally accepted accounting principles (GAAP).

60. Navistar also informed investors in the October 25, 2007 press release that an independent law firm had completed its own review of the internal control environment at Navistar. This investigation "determined that most of the errors corrected in the restatement were due to lack of proper accounting knowledge, which resulted in misapplication of GAAP" but that it had "also identified instances of *intentional misconduct*" that resulted in some of the material restatement adjustments. (Emphasis added)

61. On October 31, 2007, Navistar issued a Form 8-K announcing that Defendant Lannert's employment as a senior advisor had been terminated.

Defendants' Participation in the False and Misleading Statements

62. During the Class Period Defendant Ustian signed the Form 10-Qs issued on March 13, 2003, June 13, 2003, September 12, 2003, March 8, 2004, June 9, 2004, September 10, 2004, April 25, 2005, June 9, 2005, and September 9, 2005, which were materially false and misleading because, contrary to statements within these SEC filings, the financial statements were not presented in accordance with GAAP. Defendant Ustian also signed the Form 10-Ks issued on December 19, 2003, and February 15, 2005, which were materially false and misleading because, contrary to statements within these SEC filings, the financial statements were not presented in accordance with GAAP. Defendant Ustian participated in the preparation of and contributed to each of these SEC filings. In the December 19, 2003 Form 10-K Defendant Ustian signed the Statement of Financial Responsibility which included the following statement: “Management believes that the [C]ompany’s system of internal controls is adequate to accomplish these objectives.” This statement was materially false and misleading because due to the magnitude of the misstatement management must have known or was recklessly negligent in not knowing that the internal controls were not adequate. Defendant Ustian also participated and contributed to the earnings releases issued by Navistar on February 13, 2003, May 15, 2003, August 15, 2003, December 2, 2003, February 23, 2004, May 20, 2004, August 19, 2004, February 15, 2005, April 25, 2005, June 9, 2005, and September 7, 2005, which were false and misleading because the financial results were not in accordance with GAAP. Further, Defendant Ustian participated and contributed to the press release on January 17, 2006, which blamed the delay in the filing of the 2005 Form 10-K on the fact that “a key member of the Deloitte audit team went on an unexpected, extended medical leave” which

was false and misleading because the actual cause of the delay was the accounting issues which ultimately lead to the decision to restate previously issued financial statements.

63. During the Class Period Defendant Lannert signed the Form 10-Qs issued on March 13, 2003, June 13, 2003, September 12, 2003, March 8, 2004, June 9, 2004, September 10, 2004, April 25, 2005, June 9, 2005, and September 9, 2005 which were materially false and misleading because, contrary to statements within these SEC filings, the financial statements were not presented in accordance with GAAP. Defendant Lannert also signed the Form 10-Ks issued on December 19, 2003, and February 15, 2005, which were materially false and misleading because, contrary to statements within these SEC filings, the financial statements were not presented in accordance with GAAP. Defendant Lannert participated in the preparation of and contributed to each of these SEC filings. In the December 19, 2003 Form 10-K Defendant Lannert signed the Statement of Financial Responsibility which included the following statement: “Management believes that the [C]ompany’s system of internal controls is adequate to accomplish these objectives.” This statement was materially false and misleading because due to the magnitude of the misstatement management must have known or was recklessly negligent in not knowing that the internal controls were not adequate.

64. During the Class Period Defendant Schwetschenau signed the Form 10-Qs issued on March 13, 2003, June 13, 2003, September 12, 2003, March 8, 2004, June 9, 2004, September 10, 2004, April 25, 2005, June 9, 2005, and September 9, 2005, which were materially false and misleading because, contrary to statements within these SEC filings, the financial statements were not presented in accordance with GAAP. Defendant Schwetschenau also signed the Form 10-Ks issued on December 19, 2003, and February 15, 2005, which were

materially false and misleading because, contrary to statements within these SEC filings, the financial statements were not presented in accordance with GAAP. Defendant Schwetschenau participated in the preparation of and contributed to each of these SEC filings.

65. During the Class Period Deloitte issued opinion letters for the Form 10-Ks issued on December 19, 2003, and February 15, 2005. In each of the opinion letters Deloitte opined that the “consolidated financial statements present fairly, in all material respects, the financial position of Navistar International Corporation and Consolidated Subsidiaries..., and the results of their operations and their cash flow for each of the three years ended” at each of the respective year ends were “in conformity with accounting principles generally accepted in the United States of America.” These statements were false and misleading as neither of those Form 10-Ks presented the financial statements in accordance with GAAP.

66. During the Class Period Navistar issued Form 10-Qs on March 13, 2003, June 13, 2003, September 12, 2003, March 8, 2004, June 9, 2004, September 10, 2004, April 25, 2005, June 9, 2005, and September 9, 2005, which were materially false and misleading because, contrary to statements within these SEC filings, the financial statements were not presented in accordance with GAAP. Navistar also issued Form 10-Ks on December 19, 2003 and February 15, 2005 which were materially false and misleading because, contrary to statements within these SEC filings, the financial statements were not presented in accordance with GAAP.

SCIENTER

67. Defendants’ false representations and material omissions were made with *scienter* in that: Defendants knew or recklessly disregarded that the public documents and statements issued or disseminated by Navistar were materially false and misleading as described above;

knew or were reckless in not knowing that the false financial results would be issued or disseminated to the investing public; and knowingly and substantially participated in the preparation and/or issuance or dissemination of such statements or documents.

68. Additionally, Defendant Deloitte consented to the use of its opinion that Navistar's financial statements were presented in conformity with GAAP, knowing that the internal controls over financial reporting were inadequate to ensure that the financial statements actually did conform with GAAP. Further, Deloitte allowed Navistar to use one of its audit team members as the "scape goat" for the delay in filing Navistar's 2005 Form 10-K as Navistar and Deloitte tried to mask the fact that the actual reason for the delay was serious and material accounting issues.

69. Defendants Ustian,, Lannert and Schwetschenau signed the 2003 and 2004 Form 10-K's knowing that the internal controls were inadequate to ensure that the financial statements were not materially false and misleading.

70. The sheer magnitude of the restatement indicates that all of the Defendants either knew or were reckless in not knowing that the financial statements were false and misleading.

INAPPLICABILITY OF STATUTORY SAFE HARBOR

71. The statutory safe harbor provided for forward-looking statements under certain circumstances does not apply to any of the allegedly false statements pleaded in this Complaint. The statements alleged to be false and misleading herein all relate to then-existing facts and conditions. In addition, to the extent certain of the statements alleged to be false may be characterized as forward looking, they were not identified as "forward-looking statements" when made, there was no statement made with respect to any of those representations forming the

basis of this complaint that actual results “could differ materially from those projected,” and there were no meaningful cautionary statements identifying relevant important factors that could cause actual results to differ materially from those in the purportedly forward-looking statements. Alternatively, even if the statutory safe harbor were to otherwise apply to any forward-looking statements pleaded herein, defendants are liable for those false forward-looking statements because at the time each of those forward-looking statements was made, the particular speaker had actual knowledge that the particular forward-looking statement was false, and/or the forward-looking statement was authorized and/or approved by an executive officer of Navistar who knew that those statements were false when made.

72. The statutory safe harbor provided for forward-looking statements under certain circumstances, moreover, does not apply to false statements or material omissions of existing facts.

COUNT I

Against All Defendants Pursuant to Section 10(b) of The Exchange Act and Rule 10b-5 Thereunder

73. Plaintiffs incorporate by reference and reallege each of the foregoing allegations.

74. During the Class Period, the defendants, individually and in concert, engaged in a plan, scheme, and course of conduct, pursuant to which they knowingly and/or recklessly engaged in acts, transactions, practices, and courses of business which operated as a fraud upon plaintiffs and other members of the Class, and made various untrue and deceptive statements of material fact and omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading to plaintiffs and other

Class members as set forth above. The purpose and effect of this scheme was to induce plaintiffs and the Class to purchase Navistar securities at artificially inflated prices.

75. During the Class Period, defendants, pursuant to their plan, scheme and unlawful course of conduct, knowingly and/or recklessly issued, or caused to be issued statements to the investing public as described above.

76. Defendants knew and/or recklessly disregarded the falsity of the foregoing statements. As senior officers and/or directors of the Company, involved in its operations, the Individual Defendants had access to the non-public information detailed above.

77. Throughout the Class Period, Navistar acted through the Individual Defendants, whom it portrayed and represented to the press and public as its valid representatives. The willfulness, motive, knowledge, and recklessness of the Individual Defendants are therefore imputed to Navistar, which is primarily responsible for the securities law violations of the Individual Defendants while acting in their official capacities as Company representatives, or, in the alternative, which is liable for the acts of the Individual Defendants under the doctrine of respondent superior.

78. Each of the defendants knew or recklessly disregarded the fact that the above acts and practices, misleading statements, and omissions would adversely affect the integrity of the market in Navistar securities. Had the adverse facts defendants concealed been properly disclosed, Navistar's securities would not have sold at the artificially inflated prices they did during the Class Period.

79. As a result of the foregoing, the market price of Navistar securities was artificially inflated during the Class Period. In ignorance of the false and misleading nature of the

representations, plaintiffs and other members of the Class relied, to their detriment, on the integrity of the market as to the price of Navistar securities.

80. Had plaintiffs and the other members of the Class and the marketplace known of the true operating and financial results of Navistar, which, due to the actions of defendants were not disclosed, plaintiffs and the Class would not have purchased or otherwise acquired their Navistar securities during the Class Period or, if they had acquired Navistar securities during the Class Period, they would not have done so at the artificially inflated prices at which they purchased their stock during the Class Period. Hence, plaintiffs and the Class were damaged by said defendants' violations of Section 10(b) and Rule 10b-5.

81. Plaintiffs and the Class were injured because the risks that materialized were risks of which they were unaware as a result of defendants' misrepresentations, omissions and other fraudulent conduct alleged herein. The decline in the price of Navistar's securities was caused by the public dissemination of the true facts, which were previously concealed or hidden. Absent said defendants' wrongful conduct, plaintiffs and the Class would not have been injured.

82. The price of Navistar securities declined materially upon public disclosure of the true facts which had been misrepresented or concealed, as alleged in this complaint. Plaintiffs and other members of the Class have suffered substantial damages as a result of the wrongs alleged herein.

83. By reason of the foregoing, defendants violated Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder.

COUNT II

Against The Individual Defendants **Pursuant to Section 20(a) of the Exchange Act**

84. Plaintiffs incorporate by reference and reallege each of the foregoing allegations.

85. By reason of their status as officers, members of senior management and/or directors of Navistar, the Individual Defendants were “controlling persons” of Navistar within the meaning of Section 20 of the Exchange Act and had the power and influence to cause Navistar to engage in the unlawful conduct complained of herein. Because of their positions of control, the Individual Defendants were able to and did, directly or indirectly, control the conduct of Navistar’s business, the information contained in its filings with the SEC and public statements about its business. The Individual Defendants were provided with or had unlimited access to copies of the Companies’ internal reports, and press releases and public filings alleged by plaintiffs to be misleading prior to and/or shortly after these statements were issued and had the ability to prevent the issuance of the statements or cause the statements to be corrected. Navistar controlled the Individual Defendants and all of its employees.

86. In particular, the Individual Defendants had direct involvement in the day-to-day operations of the Company and therefore are presumed to have had the power to control or influence the particular statements giving rise to the securities violations as alleged herein, and exercised the same.

87. As set forth above in Count I, Navistar violated Section 10(b) and Rule 10b-5 promulgated thereunder by its acts and omissions as alleged in this Complaint. By virtue of their positions as controlling persons of Navistar, the Individual Defendants are liable for the

Company's violations of Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder, as alleged in Count I, pursuant to Section 20(a) of the Exchange Act.

88. As a direct and proximate result of defendants' wrongful conduct, plaintiffs and other members of the Class suffered damages in connection with their purchases of the Company's securities during the Class Period.

WHEREFORE, plaintiffs on their own behalf and on behalf of the Class pray for judgment as follows:

- a. Declaring this action to be a proper class action maintainable pursuant to Rule 23 of the Federal Rules of Civil Procedure and plaintiffs to be a proper class representative;
- b. Awarding plaintiffs and the Class compensatory damages, together with appropriate prejudgment interest at the maximum rate allowable by law;
- c. Awarding plaintiffs and the Class their costs and expenses for this litigation including reasonable attorneys' fees and other disbursements; and
- d. Granting such other and further relief as this Court deems to be just and proper.

JURY TRIAL DEMAND

Plaintiffs demand a trial by jury of all issues so triable.

Respectfully submitted,

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