

**SUPERIOR COURT OF JUSTICE**

B E T W E E N:

MICHAEL GARIEPY, LYNN MARION,  
WAYNE McGOWAN, PAUL BERTHELOT  
and DALE ELLIOTT

Plaintiffs

- and -

SHELL OIL COMPANY,  
E.I. DU PONT DE NEMOURS and COMPANY,  
HOECHST CELANESE CORPORATION

Defendants

Proceeding under the *Class Proceedings Act*, 1992

**NOTICE OF MOTIONS FOR THE PROPOSED CERTIFICATION AND SETTLEMENT AGREEMENT APPROVAL**

**TO:** All persons and entities who own or who previously owned any improvements to real property or structures in Canada in which there is or was during the time of such ownership, polybutylene plumbing with acetal insert fittings and/or a polybutylene heating system with acetal insert fittings.

"Polybutylene plumbing " refers to water supply plumbing containing pipes fabricated, in whole or in part, from the polybutylene, and insert fittings, including tees, inserts, elbows, couplings, fabricated in whole or in part, from acetal resin, whether sold and/or installed as a system or as separate pieces.

**PURPOSE OF THIS NOTICE**

Class proceedings lawsuits have been initiated in Ontario (Court File Nos. 30781/99 and 46565/97), British Columbia (Court File Nos. C994680 and C967239), Alberta (Court File No. 990317943) and Quebec (File No. 200-06-000001-985) ("the Actions"). These lawsuits relate, in part, to the alleged unsuitability of pipes made from polybutylene and pipe fittings made from acetal resin for use in potable plumbing systems. The two other defendants in the actions, Shell Oil Company and E.I. DuPont De Nemours and Company, have already settled these claims against them.

On June 14, a Settlement Agreement was reached between the Defendant, Hoechst Celanese Corporation ("Celanese"), and the Plaintiffs in the Ontario action.

For the Settlement Agreement to become effective, the Ontario Superior Court must certify the action as a class proceeding and approve the Settlement Agreement. If the

Settlement Agreement is approved, all Class Members will be bound by its terms, unless they “opt out” of the Settlement Agreement.

If the Settlement Agreement is approved, a court-approved notice will be made to all Class Members setting out the terms of the Settlement Agreement and the rights of Class Members under the Settlement Agreement.

## **KEY TERMS OF THE SETTLEMENT AGREEMENT**

The Settlement Agreement provides that, in exchange for a full release and dismissal of claims against it, Celanese agrees to pay:

(a) \$200 to any class member who filed and was paid on a claim in the settlement of the Actions by E.I. DuPont de Nemours & Co. (“DuPont”), provided the class members have verifiable documentation that they had a valid claim under the DuPont settlement; and

(b) \$400 to any class member who did not file a claim under the DuPont settlement, provided the class members have verifiable proof that they had a polybutylene plumbing system containing acetal insert fittings which was replumbed.

Celanese has committed to paying a minimum of \$500,000 and a maximum of \$1,000,000 to the benefit of class members, excluding administration and counsel fees which it will also pay.

## **LOCATION AND TIME OF HEARING FOR CERTIFICATION AND SETTLEMENT AGREEMENT APPROVAL**

The Ontario Superior Court will hold a hearing to determine whether to certify the action as a class proceeding as against Celanese only, and approve the Settlement Agreement as follows:

September 10, 2010, at 10:00 a.m., at the courthouse at 361 University Avenue, Toronto, Ontario. (“the Approval Hearing”)

**You do not need to do anything now to be eligible to receive benefits under the Settlement Agreement if it is approved by the Court. It is not necessary for you to participate in the Approval Hearing.**

If you are a Class Member, you have the right to ask the Court for permission to participate in the Approval Hearing.

You have the right to retain your own lawyer to represent you at the hearing. If you do so, you will be responsible for paying your lawyer's fees and expenses and may be responsible for the costs of other parties if the Court so determines.

To participate in the hearing, you or your lawyer must serve and file a written statement of objection to the authorization and Settlement Agreement approval. This statement of objection should set out the specific reasons for your objection, including any legal authority you wish to bring to the Court's attention and any evidence you wish to introduce in support of your objection.

If you file a statement of objection, you or your lawyer must also appear at the hearing and address the Court. To do so, you or your lawyer must serve and file a Notice of Appearance which sets out the name, address and telephone number of you and your lawyer, and the relevant Court File Number and case name.

**All statements of objection and notices of appearance must be served on Class Counsel and filed with the Court no later than 10 days before the hearing.**

#### **ADDITIONAL INFORMATION**

If you would like further information about the terms of the Settlement Agreement or a copy of the complete agreement, please visit [www.classaction.ca](http://www.classaction.ca) or contact Class Counsel:

#### **Siskinds LLP**

680 Waterloo Street  
London, ON N6A 3V8  
Tel: (519) 672-2121 ext. 2409  
Toll Free: 1-800-461-6166 ext. 2409  
Fax: (519) 672-6065  
Attn: Megan Johnston  
[www.classaction.ca](http://www.classaction.ca)

INQUIRIES SHOULD NOT BE DIRECTED TO THE COURT.

#### **INTERPRETATION**

This notice contains a summary of some of the terms of the Settlement Agreements. If there is a conflict between the provisions of this notice and the Settlement Agreements, including the schedules to the Settlement Agreements, the terms of the Settlement Agreements shall prevail.

PUBLICATION OF THIS NOTICE HAS BEEN AUTHORIZED BY THE ONTARIO SUPERIOR COURT OF JUSTICE.