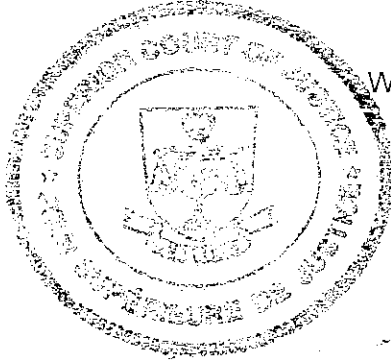


**ONTARIO
SUPERIOR COURT OF JUSTICE**

The Honourable Mr.) Friday, the 16th day
Justice Nordheimer) of April, 2004

BETWEEN:



MICHAEL GARIEPY, LYNE MARION,
WAYNE MCGOWAN, PAUL BERTHELOT, DALE ELLIOTT
and ROSS BAPTIST

Plaintiffs

- and -

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

Defendants

Proceeding under the *Class Proceedings Act*, 1992

JUDGMENT

THIS MOTION, made by the representative plaintiffs, for:

- (a) certification of this proceeding as a class proceeding as against the settling defendant, Shell Oil Company ("Shell"), for settlement purposes only, pursuant to section 5 of the *Class Proceedings Act*, 1992 as amended (the "Act");
- (b) judgment approving and implementing the Settlement Agreement between Class Counsel and Shell, pursuant to subsection 29(2) of the *Act*; and
- (c) an order approving the proposed Notice of Certification and Settlement Approval,

was heard on December 19, 2003 and April 16, 2004 at 361 University Avenue, Toronto, Ontario.

ON READING the following:

- (a) The Notice of Motion;
- (b) The Affidavits of:
 - (i) Michael J. Peerless, sworn December 12, 2003 and December 15, 2003 and the exhibits attached thereto;
 - (ii) Paul Berthelot, sworn December 5, 2003;
 - (iii) Dale Elliott, sworn December 10, 2003;
 - (iv) Michael Gariepy, sworn December 8, 2003;
 - (v) Wayne McGowan, sworn December 11, 2003;
 - (vi) Hugh Saum III, sworn December 11, 2003, and the exhibits attached thereto;
- (c) The Settlement Agreement entered into between Class Counsel and Shell dated October 15, 2003 (the defined terms in which are used in this Judgment);
- (d) The proposed Notice of Certification and Settlement Approval (the "Notice");
- (e) The Notice Plan, and;
- (f) The Notice of Return of Motion;

AND ON READING the facts and briefs of authorities filed by the plaintiffs, Shell and the defendant Hoechst Celanese Corporation ("Celanese");

AND ON HEARING the submissions of counsel for the plaintiffs, Shell and Celanese;

AND ON RECEIVING the Order of the Divisional Court dated March 4, 2004, granted on the consent of the parties for the purpose only of implementing this Settlement, setting aside the July 9, 2002 Order of this Court, in so far as that Order related to the Defendant Shell, which had denied certification in the litigation context;

Certification

1. **THIS COURT ORDERS AND DECLARES**, at request of the plaintiffs and on consent of Shell, that this action be and is hereby certified as a class proceeding as against Shell for settlement purposes only.

2. **THIS COURT ORDERS AND DECLARES** that the Settlement Class be and is hereby defined as:

All persons and entities, as of the date of first publication of Notice of the approval of the Shell Settlement, who own or who previously owned a Unit in Ontario and any of the Canadian provinces or territories other than British Columbia or Quebec, constructed between January 1, 1978 and December 31, 2002, in which there is or was during the time of such class member's ownership, any of the following:

- (i) A PB Plumbing System;
- (ii) A PB Hot Water Heating System; or
- (iii) A PB Yard Service Line.

3. **THIS COURT ORDERS AND DECLARES** that the following be and hereby are excluded from the Settlement Class:

- (a) All persons who, in accordance with the procedures established by the respective Courts, execute a timely request for exclusion from the Settlement Class;
- (b) The defendant companies, the parents, subsidiaries and affiliates of any of them, and the officers and directors of each of them;
- (c) All persons who have previously executed a release in favour of Shell of their claims with respect to their PB Plumbing Systems, PB Hot Water Heating Systems, or PB Yard Service Lines;
- (d) All persons who otherwise have previously executed a release with, or received relief from, the Consumer Plumbing Recovery Center or the Plumbing Claims Group, Inc.; and

(e) All builders, manufacturers, dealer, retailers, or other commercial resellers of Units unless such person actually occupies the Unit himself or rents out the Unit to another person.

4. **THIS COURT ORDERS AND DECLARES** that the common issue for the Settlement Class be and hereby is defined as:

What claims do the Shell Settlement Class members have against Shell arising from their ownership of real property or structures containing polybutylene plumbing systems, yard service lines, or heating systems?

5. **THIS COURT ORDERS AND DECLARES** that Paul Berthelot, Dale Elliott, Michael Gariepy and Wayne McGowan be and are hereby appointed as the representative plaintiffs for the Shell Settlement Class.

Settlement Approval

6. **THIS COURT ORDERS AND DECLARES** that the Settlement Agreement, as attached hereto as Schedule "A", but with the exclusion of the provisions relating to class counsel fees and disbursements contained in paragraph 11 of the Settlement Agreement, is fair, reasonable and in the best interests of class members, and that it be and is hereby approved pursuant to section 29 of the Act.

7. **THIS COURT ORDERS AND DECLARES** that the Settlement Agreement, as attached hereto as Schedule "A", but with the exclusion of the provisions relating to class counsel fees and disbursements contained in paragraph 11 of the Settlement Agreement, be and is hereby binding upon the parties and all members of the Settlement Class.

Notification of the Class

8. **THIS COURT ORDERS** that the Settlement Class members shall be notified of the certification of the Class Action, the Court approval of the Settlement Agreement of the Class Action, and the procedure whereby a Settlement Class member may opt out of the Class Action, by publication of a Notice in the form attached hereto as Schedule "B" (the "Legal Notice") and delivered and published in the manner set out in the Settlement Agreement, including the Notice Plan attached hereto as Schedule "C".

Opt Out Provisions

9. **THIS COURT ORDERS AND DECLARES** that all Settlement Class members are bound by the Settlement Agreement and this Judgment, except for persons who comply with the opt out procedures as specified in the Legal Notice (Schedule "B"). All Settlement Class members who do not timely elect to be excluded from the settlement class will be members of the class and be bound by this final Judgment.

Administration

10. **THIS COURT ORDERS** that Crawford Class Action Services be and is hereby appointed as the administrator of the Settlement Agreement (the "Claims Administrator") on the terms and conditions and with the powers, rights, duties and responsibilities set out in this Judgment and the Settlement Agreement attached hereto as Schedule "A".
11. **THIS COURT ORDERS AND DECLARES** that the Claims Administrator preserve any records created, and plumbing and heating components obtained, in the claims process and give each claimant a caution to document the existence of the polybutylene systems in a property before any replumb or any repairs and to preserve any plumbing components removed during any replumb or repairs, to the extent such components are not provided to the claims facility.

Releases and Bar Orders

12. **THIS COURT ORDERS AND DECLARES** that each Settlement Class member, except for persons who comply with the opt out procedures as specified in the Legal Notice (Schedule "B"), shall be deemed to and does hereby release and forever discharge Shell from all subrogation claims of the Settlement Class member's insurance carriers or other subrogees not protected from waiver by the provisions of the Settlement Class member's applicable insurance policies, arising out of or relating to their PB Plumbing Systems, Hot Water Heating Systems, or Yard Service Lines.
13. **THIS COURT ORDERS AND DECLARES** that each Settlement Class member, except for persons who comply with the opt out procedures as specified in the Legal Notice (Schedule "B"), is deemed to have released all claims against Shell arising from their PB Plumbing Systems, Hot Water Heating Systems, or Yard Service Lines.
14. **THIS COURT ORDERS** that each Settlement Class member, except for persons who comply with the opt out procedures as specified in the Legal Notice (Schedule "B"), upon

making a claim for payment from Shell under the terms of this Judgment and the Settlement Agreement, execute a Release:

- (a) releasing Shell, its parents, subsidiaries, and affiliates, and their officers, directors, employees, and agents, of all claims, known or unknown that the Settlement Class member has had, now has, or which later appear or accrue, for any loss, damage or expense arising out of or relating to the Settlement Class member's ownership of any structure containing a PB Plumbing Systems, Hot Water Heating Systems, or Yard Service Lines; and
 - (b) protecting Shell from all crossclaims, third party claims, and claims for contribution and indemnity in the event that any Settlement Class member commences or continues litigation or makes or pursues a claim against any other person or entity arising out of or relating to the Settlement Class member's PB Plumbing Systems, Hot Water Heating Systems, or Yard Service Lines.
15. **THIS COURT ORDERS** that each Settlement Class member who makes a claim pursuant to the Settlement Agreement is required to affirmatively disclose to any subsequent purchaser of the property that is the subject of the claims herein referred to, that such property contains a PB Plumbing System, Hot Water Heating System, or Yard Service Line, that there has been a leak or polybutylene related failure (if such leak or failure has occurred), and that the Settlement Class member has made a claim for compensation from the Shell Settlement Fund.
16. **THIS COURT ORDERS** that all claims for contribution, indemnity, or other claims over, whether asserted or unasserted or asserted in a representative capacity, inclusive of interest, GST and costs, relating to PB Plumbing Systems, Hot Water Heating Systems, or Yard Service Lines. which were or could have been brought in the Class Actions by the Non-Settling Defendant, or any person or party, against the Settling Defendant, are barred, prohibited, and enjoined in accordance with the following terms, unless such claim is made with respect to a claim brought by a person who has opted out of the Settlement Agreement:
- (a) the Plaintiffs shall not make joint and several claims against the Non-Settling Defendant, but shall restrict their claims to several claims against the Non-Settling Defendant such that the Plaintiffs shall be entitled to receive only those damages proven to have been caused solely by the Non-Settling Defendant;

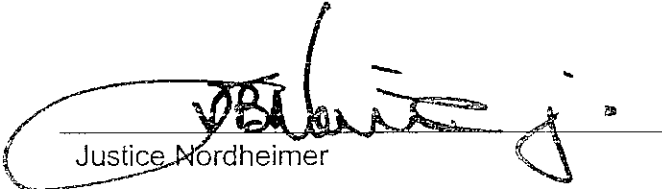
- (b) the Non-Settling Defendant may obtain an Order providing for discovery from the Settling Defendant as deemed appropriate by the Court; and
- (c) except as otherwise provided herein, nothing in this Judgment shall prejudice or in any way interfere with the rights of Settlement Class members to pursue all of their other rights and remedies against the Non-Settling Defendant.

Continuing Jurisdiction

- 17. **THIS COURT ORDERS** that it has jurisdiction over this matter, and shall remain seized of this matter for the purposes of any further approvals or determinations with respect to the Settlement Agreement and its administration.

Dismissal of Action

- 18. **THIS COURT ORDERS** that, in accordance with the approval of this Court of the Settlement Agreement, the within action be and is hereby finally dismissed as against Shell.


Justice Nordheimer

