

## **NOTICE OF SETTLEMENT APPROVAL IN THE EPDM CLASS ACTION LITIGATION**

**PLEASE READ THIS NOTICE CAREFULLY. IT MAY AFFECT YOUR LEGAL RIGHTS.**

**TO: All persons in Canada who purchased EPDM or EPDM Products in Canada between January 1, 1997 to December 31, 2001, except the defendants and certain parties related to the defendants.**

Ethylene Propylene Diene Monomer (“EPDM”) is a synthetic rubber used in a variety of applications such as automotive weather-stripping and seals, radiator, garden and appliance hose, electrical insulation, roofing membranes and rubber mechanical goods. Some of the common trade names for EPDM include Buna, Royalene, Royaltherm, Keltan, Nordel, and Vistalon. EPDM Products are products that directly or indirectly contain or are derived from EPDM.

### **I. CLASS ACTION SETTLEMENT**

Class proceedings lawsuits have been initiated in Ontario, British Columbia, and Quebec alleging that the defendants participated in an unlawful conspiracy to raise, fix, maintain, or stabilize the price of EPDM in Canada and/or to allocate markets and customers for the sale of EPDM in Canada (collectively the “Proceedings”).

A settlement has been reached with DSM Elastomers Europe B.V. and DSM Copolymer, Inc. (collectively “the DSM Defendants”). Under the terms of the Settlement Agreement, the DSM Defendants have paid Cdn\$1,750,000.00 in exchange for a full release of claims against each of them and certain related entities. The DSM Defendants deny the allegations in the Proceedings and deny any wrongdoing or liability whatsoever. The settlement represents the resolution of disputed claims and will resolve the Proceedings.

The DSM settlement was approved as being fair, reasonable and in the best interest of settlement class members by the Ontario Court on May 13, 2011, the British Columbia Court on May 24, 2011, and the Quebec Court on June 16, 2011.

Notice was previously published advising that separate settlements had been reached with:

- Chemtura Corporation (f/k/a Crompton Corporation), Crompton Co/Cie., Crompton Canada Corporation, and Uniroyal Chemical Company Inc. (the “Crompton Settlement”)
- DuPont Dow Elastomers L.L.C., E.I. du Pont de Nemours and Company, E.I. du Pont Canada Company, The Dow Chemical Company, and Dow Chemical Inc. (the “DDE Settlement”)
- Polimeri Europa S.r.l., Polimeri Europa S.p.A., Polimeri Europa Americas Inc., Enichem S.p.A., Enichem Americas Inc., and Syndial S.p.A. (the “Polimeri Settlement”)
- Bayer Inc., Bayer A.G., Bayer Material Science A.G., Bayer Material Science LLC, and Bayer Corporation (the “Bayer Settlement”).

These settlements have been approved by the courts and the settlement funds have been distributed to eligible settlement class members.

## **II. DISTRIBUTION OF THE SETTLEMENT FUNDS**

As part of the DSM settlement approval hearing, the Courts approved a protocol for distributing the DSM settlement funds, plus accrued interest.

Under the distribution protocol, settlement class members who purchased EPDM will be entitled to direct compensation. Settlement class members cannot claim compensation for any EPDM purchases in respect of which they have previously released their claims, either as part of a private settlement and/or as part of the class action settlement reached in related U.S. litigation.

Settlement class members who purchased EPDM Products will be compensated through a distribution to the following national organizations that operate for the general benefit of such settlement class members: AUTO21, Automobile Protection Association, Canadian Roofing Contractors' Association, London Community Foundation, and Habitat for Humanity.

Before the settlement funds are distributed, the following costs will be deducted: Class Counsel fees and expenses, costs of notice and administration, and obligations by Quebec Settlement Class Members to the Fonds d'Aide.

Class Counsel legal fees were approved by the Ontario, British Columbia and Quebec Courts in the amount of \$437,500.00 plus disbursements in the amount of \$110,035.23 plus applicable taxes.

A copy of the distribution protocol is available online at **[www.epdmclassaction.com](http://www.epdmclassaction.com)**.

## **III. PARTICIPATING IN THE SETTLEMENT**

Settlement class members who wish to apply for direct monetary compensation under the settlement must file a Claim Form, postmarked no later than **October 11, 2011**. A copy of the Claim Form is available online at **[www.epdmclassaction.com](http://www.epdmclassaction.com)**.

Settlement class members who previously filed an eligible claim in connection with the earlier Crompton, DDE, Polimeri and Bayer settlements need not file a new Claim Form to be eligible for additional compensation from the DSM settlement. All previously filed eligible claims will be assessed by the Claims Administrator in connection with the DSM settlement.

## **IV. CLASS COUNSEL**

The law firm of Siskinds<sup>LLP</sup> represents settlement Class Members in Ontario, and in provinces other than British Columbia or Quebec, as well as corporations of more than 50 employees in Quebec. Siskinds<sup>LLP</sup> can be reached toll free at:

Telephone (toll-free): 1-800-461-6166 ext. 2455

Email: [charles.wright@siskinds.com](mailto:charles.wright@siskinds.com)

Mail: 680 Waterloo Street, London, Ontario N6A 3V8, Attention: Charles Wright.

The law firm of Poyner Baxter <sup>LLP</sup> represents settlement Class Members in British Columbia. Poyner Baxter <sup>LLP</sup> can be reached at:

Telephone: 604-988-6321

Email: [classaction@poynerbaxter.com](mailto:classaction@poynerbaxter.com)

Mail: Lansdale Quay Plaza, #408-145 Chadwick Court, North Vancouver, BC V7M 3K1,  
Attention: Ken Baxter.

The law firm of Siskinds Desmeules s.e.n.c.r.l. represents individuals and corporations of 50 or less employees who are settlement Class Members in Quebec. Siskinds Desmeules s.e.n.c.r.l. can be reached at:

Telephone: 418-694-2009

Email: [simon.hebert@siskindsdesmeules.com](mailto:simon.hebert@siskindsdesmeules.com)

Mail: Les promenades du Vieux-Quebec, 43 rue De Buade, bureau 320, Quebec City, QC G1R 4A2, Attention: Me Simon Hébert.

## **V. QUESTIONS ABOUT THE SETTLEMENT OR THE CLAIMS PROCESS**

This notice contains only a summary of the settlement and settlement class members are encouraged to review the complete Settlement Agreement. A copy of the Settlement Agreement is available online at **[www.epdmclassaction.com](http://www.epdmclassaction.com)**.

If you have questions about the settlement or the claims process, please contact the claims administrator by email at [claims@nptricepoint.com](mailto:claims@nptricepoint.com) or by toll-free telephone at 1-866-432-5534. **INQUIRIES SHOULD NOT BE DIRECTED TO THE COURT.**

## **VI. INTERPRETATION**

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

This notice has been authorized by the Ontario Superior Court of Justice, the British Columbia Supreme Court, and the Superior Court of Quebec.

---

<p><b>CLAIM FORMS MUST BE POSTMARKED NO LATER THAN OCTOBER 11, 2011. QUESTIONS? VISIT <a href="http://www.epdmclassaction.com">www.epdmclassaction.com</a>, EMAIL <a href="mailto:claims@nptricepoint.com">claims@nptricepoint.com</a> OR CALL TOLL-FREE 1-866-432-5534</b></p>
---