

NOTICE OF CERTIFICATION IN THE MATTER OF HYDROGEN PEROXIDE CLASS ACTION LITIGATION

READ THIS NOTICE CAREFULLY AS IT MAY AFFECT YOUR RIGHTS

NATURE OF THE LAWSUIT

On January 14, 2010, the action was certified as a class proceeding by order of the Ontario Superior Court of Justice. The Order appointed Irving Paper Limited, Irving Pulp & Paper, Limited, and Distributech Inc. as representative plaintiffs for the Class.

The representative plaintiffs, on behalf of themselves and the Class of persons described below, are claiming damages from the defendants Atofina Chemicals Inc., Arkema Inc., Arkema Canada Inc., Arkema S.A., FMC Corporation, and FMC of Canada, Ltd. for unlawfully conspiring to fix, maintain, and/or increase the price of hydrogen peroxide.

The court has not taken any position as to the likelihood of recovery on the part of the representative plaintiffs or other members of the Class, or as to the truth or merits of the claims or defences asserted by either side. The allegations made by the representative plaintiffs have not been proven in court.

THE CLASS

By court order, the Class of persons affected this lawsuit include:

All persons in Canada (excluding the defendants and their subsidiaries, affiliates and predecessors) who purchased hydrogen peroxide, products containing hydrogen peroxide, or products produced using hydrogen peroxide in Canada between January 1, 1994 and January 5, 2005.

THE COMMON ISSUES

By court order, the class proceeding will determine the following common issues:

- (a) Are the defendants, or some of them, liable for conspiracy to fix prices for hydrogen peroxide?
 - (i) Did the defendants unlawfully conspire with each other to limit or lessen, unduly, the production of hydrogen peroxide, or to enhance unreasonably the price of hydrogen peroxide?
 - (ii) Was the defendants' unlawful conduct directed towards the plaintiffs and other Class members?
 - (iii) Did the defendants know, or ought they have known, in the circumstances that injury to the plaintiffs and other Class members was likely to result?
 - (iv) Did the plaintiffs and other Class members suffer injury?

- (b) Did the defendants, or some of them, breach Part VI of the *Competition Act* giving rise to liability pursuant to s. 36 of the *Competition Act*?
 - (i) Did the defendants conspire with each other to limit or lessen, unduly, the production of hydrogen peroxide, or to enhance unreasonably the price of hydrogen peroxide?
 - (ii) Did the plaintiffs and other Class members suffer injury?
- (c) Over what period of time did the conspiracy take place?
- (d) Over what period of time did the conspiracy affect the price of hydrogen peroxide?
- (e) Did the defendants take affirmative and/or fraudulent steps to conceal the conspiracy?
- (f) Can damages be measured on an aggregate, Class-wide basis and if so, what are the aggregate damages?
- (g) Was the conduct of the defendants, or any of them, such that they ought to pay global exemplary or punitive damages to the plaintiff and Class members?
- (h) Should the full costs of investigation in connection with this matter, including the cost of the proceeding or part thereof, be fixed or assessed on a global basis pursuant to section 36 of the *Competition Act* and if so, in what amount?

OPTING OUT OF THE PROCEEDINGS

The deadline to opt out of this proceeding has already passed. If you previously opted out of this proceeding, you will not be able to participate in any further judgments. If you did not previously opt out of this proceeding, you will be bound by any future judgment obtained in this proceeding whether favourable or not, including judgment on the common issues.

FINANCIAL CONSEQUENCES

The class proceeding will determine the common issues described above. If the common issues are determined in favour of the Class, Class members may be entitled to receive financial compensation from the defendants.

No Class member, other than the representative plaintiffs, will be liable for costs with respect to the determination of the common issues.

Counsel have entered into an agreement with the representative plaintiffs with respect to legal fees and disbursements. The agreement provides that Counsel will only be paid in the event of success in the case. The agreement provides that the Class will pay to Counsel a percentage contingency fee plus disbursements and taxes. The amount of the fee and the disbursements to be paid must be approved by the court. The agreement also provides that any costs awarded to the representative plaintiffs will be retained by Class Counsel.

ADDITIONAL INFORMATION

This Notice was approved by order of the Ontario Superior Court of Justice. The court offices will be unable to answer any questions about the matters in this notice. The certification order and other information are available on the website www.hydrogenperoxideclassaction.ca.

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