

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N :

AXIOM PLASTICS INC.

Plaintiff

- and -

E.I. DUPONT CANADA COMPANY

Defendant

Proceeding under the *Class Proceedings Act, 1992*

REPLY

1. Except as herein expressly admitted, the plaintiff, Axiom Plastics Inc. (“Axiom”), denies the allegations contained in the Statement of Defence and repeats and relies upon the allegations in the Statement of Claim.
2. With respect to paragraph 19(a) and 23 of the Statement of Defence, Axiom denies that Tier 2 suppliers enjoy any benefit from the arrangements between E.I. DuPont Canada Company (“DuPont”) and the Tier 1 conspirators. The arrangements do not provide the Tier 2 suppliers with “preferential” prices but, rather, force them to pay inflated prices for engineering resins above competitive levels.
3. Contrary to the allegations and denials in the Statement of Defence, the conspiracy prices agreed upon and arranged between DuPont and the Tier 1 conspirators are strictly enforced and maintained by DuPont and the Tier 1 conspirators.

4. Contrary to the allegations in paragraphs 23, 34, 35, 36, 39 and 40 of the Statement of Defence, DuPont does not permit its authorized distributors to sell engineering resins to Tier 2 suppliers at prices lower than the conspiracy prices set by DuPont. The agreements between DuPont and its authorized distributors do not set out "suggested list or retail prices" but stipulate the prices at which engineering resins must be sold. DuPont has actively intervened to prevent authorized distributors from selling below the prices set by DuPont and Tier 1 conspirators.

5. Contrary to the allegation in paragraph 24 of the Statement of Defence, neither DuPont nor the Tier 1 conspirators have disclosed to the Tier 2 suppliers the arrangements and agreements between them pursuant to which the prices of engineering resins are fixed and monies are paid to the Tier 1 conspirators.

6. With respect to paragraphs 26 to 33 of the Statement of Defence, Axiom denies that DuPont and Tier 1 conspirators demanded certification letters for the purpose of determining whether resins met manufacturing specifications. The demands by DuPont and Tier 1 conspirators for certification letters were in an effort to identify the source of engineering resin supply of Tier 2 manufacturers. These demands were for the improper and unlawful purpose of enforcing the conspiracy, coercing Tier 2 suppliers to buy only from DuPont and its authorized distributors at conspiracy prices and terminating the availability of alternative sources of supply.

7. Contrary to the allegations in paragraph 40 of the Statement of Defence, DuPont, through its representatives Eric Beyeler and Kathryn Parke, confirmed that the reason for the request for certification letters was to identify and cut off Axiom's source of supply of engineering resins.

8. Axiom at all times used certified DuPont resins in its manufacturing process. At no time did it use inferior or adulterated product.

9. Contrary to the allegations in paragraphs 40(c), (e) and (f) of the Statement of Defence, representatives of both DuPont and Intier Automotive Inc. (“Intier”) informed Axiom that if it did not resume buying its engineering resins at the prices fixed and maintained by DuPont and Intier, Intier would continue to withhold money owing to Axiom. DuPont and Intier confirmed that similar steps were taken against Tier 2 suppliers who purchased DuPont resins from sources other than DuPont’s authorized distributors at prices set by DuPont and Tier 1 co-conspirators.

August 25, 2006

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AXIOM PLASTICS INC. and E.I. DUPONT CANADA COMPANY
Plaintiff Defendant

Court File No: [05-CV-302358 CP](#)

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Proceeding commenced at [TORONTO](#)

REPLY

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