

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

**IN RE: ETHYLENE PROPYLENE
DIENE MONOMER (EPDM)
ANTITRUST LITIGATION**

CIVIL ACTION NO.
3:03md1542 (SRU)

THIS DOCUMENT RELATES TO ALL
ACTIONS

ORDER OF CLASS CERTIFICATION

For the reasons set forth in the Ruling on Motion for Class Certification dated February 13, 2009, it is hereby ORDERED, with respect to the claims against defendants DSM Copolymer, Inc. and DSM Elastomers Europe B.V. (collectively, the “defendants”), that:

1. Plaintiffs’ motion for class certification (doc. #184) is GRANTED;
2. The following plaintiff class (the “Class”) is hereby certified pursuant to Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure:

All individuals or entities (excluding governmental entities, Defendants and their parents, predecessors, subsidiaries, affiliates, and co-conspirators) who purchased ethylene propylene diene monomer (“EPDM”) in the United States directly from one or more of the Defendants or any predecessor, subsidiary or affiliate of any Defendant at any time during the period from January 1, 1997 to December 31, 2001 (the “Class Period”).

3. The Court hereby finds and concludes that: the Class is so numerous that joinder of all members is impracticable; there are questions of law and fact common to the Class that predominate over individual questions; the claims of the representative plaintiffs are typical of the claims of the members of the Class; the representatives will fairly and adequately protect the interests of the Class, and that a class action is superior to all other available methods for the fair and efficient adjudication of this controversy;

4. The Class is certified for resolution of all claims in plaintiffs' Second Consolidated Amended Complaint filed July 1, 2004 and all defenses asserted in defendants' Answers thereto;

5. The Class is certified for resolution of the following factual and legal issues:

- a. Whether Defendants and their co-conspirators engaged in a combination and conspiracy among themselves to fix, raise, maintain and/or stabilize prices of EPDM sold in the United States, including limiting supply and/or allocating markets and customers for the sale of EPDM in the United States;
- b. Whether Defendants and their co-conspirators engaged in a combination and conspiracy among themselves to fix, raise, maintain and/or stabilize prices of EPDM sold outside the United States, including limiting supply and/or allocating markets and customers for the sale of EPDM outside the United States and whether such conduct impacted the prices charged for EPDM in the United States;
- c. The identity of the participants in Defendants' conspiracy;
- d. The duration of Defendants' conspiracy and the nature and character of the acts performed by Defendants and their co-conspirators in furtherance of the conspiracy;
- e. Whether Defendants' alleged conspiracy violated Section 1 of the Sherman Act;
- f. The effect of Defendants' conspiracy on the prices of EPDM sold in the United States during the class period;
- g. The amount and recipients of damages; and
- h. Whether Plaintiffs and the Class are entitled to injunctive relief.

6. Pursuant to Fed. R. Civ. P. 23(g), the Court hereby designates the following as Class Counsel: Steven O. Sidener, Esq. of Gold, Bennett, Cera & Sidener, LLP; Anthony J. Bolognese, Esq. of Bolognese & Associates, LLC; and Howard Sedran, Esq. of Levin, Fishbein, Sedran, & Berman. Any request for modification of designated Class Counsel should be

submitted by February 27, 2009.

7. By March 16, 2009, the parties will submit for the Court's approval a class notice program and forms of notice, pursuant to Fed. R. Civ. P. 23(c)(2)(B), that are agreeable to counsel for all parties in this action.

It is so ordered.

Dated at Bridgeport, Connecticut, this 13th day of February 2009.

/s/ Stefan R. Underhill
Stefan R. Underhill
United States District Judge