



SE 257310

No.
Vancouver Registry

In the Supreme Court of British Columbia

Between

City of Kamloops

Plaintiff

and

Atkore, Inc.; Atkore International, Inc.; Atkore Plastic Pipe Corp. d/b/a Heritage Plastics; Atkore RMCP, Inc.; Aliaxis North America Inc.; Cantex, Inc.; Charlotte Pipe & Foundry; Cresline Plastic Pipe Co., Inc.; Diamond Plastics Corporation; IPEX Inc.; IPEX USA LLC; PipeLife Jetstream, Inc.; J-M Manufacturing Company, Inc. d/b/a JM Eagle; Multi Fittings Corporation; National Pipe & Plastics, Inc.; Northern Pipe Products, Inc.; Oil Price Information Service LLC; Otter Tail Corporation; Prime Conduit, Inc.; Sanderson Pipe Corporation; Southern Pipe, Inc.; Westlake Corporation; Westlake Pipe & Fittings Corporation; Westlake Canada Inc.; and Vinyltech Corporation.

Defendants

NOTICE OF CIVIL CLAIM

This action has been started by the plaintiff for the relief set out in Part 2 below.

If you intend to respond to this action, you or your lawyer must

- (a) file a response to civil claim in Form 2 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim on the plaintiff.

If you intend to make a counterclaim, you or your lawyer must

- (c) file a response to civil claim in Form 2 and a counterclaim in Form 3 in the above-named registry of this court within the time for response to civil claim described below, and
- (d) serve a copy of the filed response to civil claim and counterclaim on the plaintiff and on any new parties named in the counterclaim.

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to civil claim within the time for response to civil claim described below.

Time for response to civil claim

A response to civil claim must be filed and served on the plaintiff(s),

- (a) if you were served with the notice of civil claim anywhere in Canada, within 21 days after that service,
- (b) if you were served the notice of civil claim anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the notice of civil claim anywhere else, within 49 days after that service, or
- (d) if the time for response to civil claim has been set by order of the court, within that time.

PART 1: STATEMENT OF FACTS

THE NATURE OF THE ACTION

1. Polyvinyl chloride (PVC) pipes are widely used in Canada. Notable uses include water supply and distribution, stormwater, sewage and wastewater collection, electrical conduit, and plumbing. This action concerns a conspiracy to fix prices and overcharge the plaintiff and the Class for PVC Pipes.

2. The Defendants entered into an unlawful agreement that had as its object combining, fixing, raising, maintaining, and stabilizing the prices of PVC Pipes. The Defendants conspired to use temporary price increases associated with COVID-era supply chain issues as an opportunity to artificially maintain inflated prices after raw material prices fell to pre-COVID levels.
3. The Defendants performed their agreement by sharing confidential pricing and other information directly with each other and through an information-exchange firm. The Defendants coordinated price increases, and ensured that each adhered to the agreement to keep prices elevated. Collectively, they extracted artificially inflated profits from their customers, including the plaintiff and the Class.

DEFINITIONS

4. In this claim:
 - (a) **“Class Period”** means between January 1, 2021, and the date of certification;
 - (b) **“Conduit Pipes”** means PVC Pipes used as a protective tube to shield and route electrical wiring;
 - (c) **“Manufacturer Defendants”** means Atkore, Inc.; Atkore International, Inc.; Atkore Plastic Pipe Corp. d/b/a Heritage Plastics; Atkore RMCP, Inc.; Aliaxis North America Inc.; Cantex, Inc.; Charlotte Pipe & Foundry; Cresline Plastic Pipe Co., Inc.; Diamond Plastics Corporation; IPEX Inc.; IPEX USA LLC; PipeLife Jetstream, Inc.; J-M Manufacturing Company, Inc. d/b/a JM Eagle; Multi Fittings Corporation; National Pipe & Plastics, Inc.; Northern Pipe Products, Inc.; Otter Tail Corporation; Prime Conduit, Inc.; Sanderson Pipe Corporation; Southern Pipe, Inc.; Westlake Corporation; Westlake Pipe & Fittings Corporation; Westlake Canada Inc., and Vinyltech Corporation;
 - (d) **“Municipal Pipes”** means PVC Pipes used in water supply and distribution services and in stormwater, sewage and wastewater collection;

- (e) **“Plumbing Pipes”** means PVC Pipes used in residential, commercial, and industrial plumbing applications, including drain, waste, or vent pipes;
- (f) **“PVC”** means polyvinyl chloride;
- (g) **“PVC Fittings”** means detachable pieces of PVC that connect two or more PVC Pipes;
- (h) **“PVC Pipes”** means Municipal Pipes, Plumbing Pipes, Conduit Pipes, and PVC Fittings;
- (i) **“PVC Resin”** means the raw form of PVC, serving as the raw material for the production of PVC Pipes.

THE PLAINTIFF AND THE CLASS

5. The City of Kamloops (**“Kamloops”**) is a municipality incorporated in 1893. It has grown through a series of amalgamations, and presently covers nearly 300 square kilometers in British Columbia’s southern interior.
 6. Kamloops runs highly complex municipal water and wastewater systems. A number of factors make providing water services challenging in Kamloops. These include the large spatial footprint of the water network, the complexity of the geography and topography, and the high level of demand particularly in the dry summer months. Much of the piping and fittings used in these water systems are PVC.
 7. Kamloops is also responsible for installing electrical conduit for city projects. Much of the electrical conduit installed by Kamloops is PVC.
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8. As part of its water and electrical systems, Kamloops purchases large quantities of PVC pipes annually. It purchases pipes both from distributors and through general contractors who purchase pipes as components of completing infrastructure projects.

9. During the Class Period, Kamloops has spent millions of tax dollars on PVC Pipes, during which time the price it pays for individual PVC Pipes has risen substantially, at least doubling across a vast array of PVC products.

10. The action is brought on behalf of members of the following class:

All persons and entities, including the federal government and provincial, municipal, and Indigenous governments, who during the Class Period purchased PVC Pipes in Canada (the "Class").

Excluded from the Class are the Defendants, their parent companies, subsidiaries and affiliates.

THE DEFENDANTS

11. Various persons, partnerships, sole proprietors, firms, corporations and individuals not named as Defendants in this lawsuit, the identities of which are presently unknown, have participated as co-conspirators with the Defendants in their unlawful behaviours alleged in this Notice of Civil Claim, and have performed and made statements in furtherance of the conspiracy or in furtherance of the anticompetitive conduct.

12. The Defendants and their co-conspirators agreed, combined, and conspired to inflate, fix, raise, maintain, or artificially stabilize prices of PVC Pipes sold in Canada, including in British Columbia.

13. The Defendants and their co-conspirators are jointly and severally liable for the actions of, and damages allocable to, their co-conspirators, including unnamed co-conspirators.

14. Where a particular entity within a corporate family of Defendants engaged in anti-competitive conduct, it did so on behalf of all entities within that corporate family. The individual participants in the conspiratorial meetings, communications, and discussions entered into agreements on behalf of, and reported those meetings and discussions to, their respective corporate families.

IPEX Defendants

15. Aliaxis North America Inc. ("**Aliaxis North America**") is a company incorporated under the laws of Ontario and continued under the laws of New Brunswick. Its registered office is located at Brunswick House, 1000-44 Chipman Hill, PO Box 20105 Brunswick Square, Saint-John, NB, E2L 2A9. Aliaxis is a holding company that is part of the Aliaxis Group, and is a subsidiary of Aliaxis SA, a Belgian Corporation.
16. IPEX Inc. ("**IPEX**"), a company incorporated under the laws of Ontario, and is a wholly owned subsidiary of Aliaxis North America. It has its registered office at 1425 North Service Rd. E. Unit 3. Oakville, ON L6H 1A7. During the class period, IPEX Inc. has at all times been a leading manufacturer and distributor of PVC Pipes in Canada, including Conduit Pipes, Municipal Pipes, Plumbing Pipes, and PVC Fittings.
17. IPEX USA LLC ("**IPEX USA**") is a company incorporated under the laws of Delaware, with its headquarters located at 10100 Rodney Street Pineville, North Carolina, 28134 USA. IPEX is a wholly owned subsidiary of Aliaxis SA, a Belgian corporation. IPEX is a converter of PVC Pipes, including Conduit Pipes, Municipal Pipes, Plumbing Pipes, and PVC Fittings.
18. Multi Fittings Corporation ("**Multi Fittings**") is a privately held company headquartered in Pineville North Carolina, USA. Its corporate headquarters is at the same address as IPEX USA, at 10100 Rodney Street, Pineville, North Carolina, USA, 28134. In 1996, Multi Fittings was acquired by IPEX USA LLC. It is now a controlled subsidiary of Aliaxis SA. Multi Fittings has a customer service centre located in London, Ontario. During the class period, Multi Fitting is and was a converter of PVC Fittings sold in Canada, including British Columbia.
19. During the Class Period, Aliaxis North America, IPEX, IPEX USA, and Multi Fittings (the "**IPEX Defendants**") manufactured and sold, directly and indirectly, PVC Pipes including Conduit Pipes, Municipal Pipes, Plumbing Pipes, and PVC Fittings in Canada, including British Columbia.

Westlake Defendants

20. Westlake Corporation is a corporation incorporated under the laws of Delaware. Its corporate headquarters is located at 2801 Post Oak Blvd., Suite 600 Houston, Texas, 77056, USA. Westlake is a converter of PVC Pipes, including Conduit Pipes, Municipal Pipes, Plumbing Pipes and PVC Fittings.
 21. Westlake Corporation owns a series of subsidiary corporations.
 22. Westlake Pipe & Fittings Corporation is a corporation incorporated under the laws of Delaware. It was formerly known as North American Pipe Corporation, or NAPCO. Its office is located at 2801 Post Oak Blvd., Houston, Texas, 77056, USA. Westlake Pipe & Fittings Corporation is a converter of PVC Pipes, including Conduit Pipes, Municipal Pipes, Plumbing Pipes and PVC Fittings. Westlake Pipe & Fittings Corporation is a wholly owns subsidiary of Westlake Corporation.
 23. Westlake Canada Inc. is a federally incorporated corporation, incorporated under the laws of Canada. Its registered office is at 199 Bay Street, Suite 4000, Toronto, ON, M5L 1A9.
 24. During the Class Period, Westlake Corporation, Westlake Pipe & Fittings Corporation, and Westlake Canada Inc. (collectively the "**Westlake Defendants**") manufactured and distributed PVC Pipes, including Conduit Pipes, Municipal Pipes, Plumbing Pipes and PVC Fittings in Canada in Canada. This includes selling PVC Pipes in British Columbia, both directly and through distributors.
 25. The Westlake Defendants carry on business at locations throughout Canada, including in Abbotsford, British Columbia, at 3065 Sumas Mountain Road, Abbotsford, BC V3G 2L4. The Westlake Defendants also have locations in Melocheville, Quebec, Concord, Ontario, and Woodbridge, Ontario.
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Atkore Defendants

26. Atkore, Inc. is a corporation incorporated under the laws of Delaware. Its corporate headquarters is located at 16100 S Lathrop Ave Harvey, Illinois, 60426, USA.
 27. Atkore International Inc. is a corporation incorporated under the laws of Delaware, and is a wholly owned subsidiary of Atkore Inc. It shares a corporate headquarters address with Atkore, Inc. at 16100 S Lathrop Ave Harvey, Illinois, 60426, USA.
 28. Atkore Plastic Pipe Corp. d/b/a Heritage Plastics is a wholly owned subsidiary of Atkore Inc. It shares a corporate headquarters address with Atkore, Inc. at 16100 S Lathrop Ave Harvey, Illinois, 60426, USA. Heritage Plastics is the brand name on various PVC Pipe products sold by the Atkore Defendants, including Conduit Pipes, Municipal Pipes, Plumbing Pipes and PVC Fittings.
 29. Atkore RMCP, Inc. is a subsidiary of Atkore Inc. It shares a corporate headquarters address with Atkore, Inc., at 16100 S Lathrop Avenue, Harvey, Illinois, 60426, USA. In 2019, Atkore Inc. acquired the assets of Rocky Mountain Colby Pipe, which used the trade name Cor-Tek.
 30. Atkore Inc. Atkore International Inc. Atkore Plastic Pipe Corp d/b/a Heritage Plastics, and Atkore RMCP collectively are referred to as the “**Atkore Defendants**”.
 31. The Atkore Defendants are converters, and manufacture PVC Pipes, including Conduit Pipes, Municipal Pipes, Plumbing Pipes and PVC Fittings. PVC Pipe fittings manufactured and sold by the Atkore Defendants are branded under various names, including Heritage Plastics, Cor-Tek, Ridgeline, Queen City Plastics, and Allied Tube & Conduit (the “**Atkore PVC Pipes**”). During the Class Period the Atkore PVC Pipes were are sold in Canada including British Columbia, both directly by the Atkore Defendants and through distributors.
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The Mitsubishi/Shin-Etsu Defendants

32. Cantex Inc. ("**Cantex**") is a corporation incorporated under the laws of Delaware. Its headquarters is located at 301 Commerce Street, Suite 2700, Fort Worth, Texas, 76102-4127, USA. Cantex is a converter of PVC Pipe Systems, including Conduit Pipe and Conduit Fittings.
 33. Diamond Plastics Corporation ("**Diamond Plastics**") is a corporation incorporated under the laws of Delaware. Its headquarters is located at 1212 Johnstown Road, Grand Island, Nebraska, 68803, USA. During the class period, Diamond Plastics manufactured and sold PVC Pipes including Municipal Pipe, Plumbing Pipe, and associated PVC Fittings. During the Class Period Diamond Plastics, both directly and through distributors, sold PVC Pipes in Canada, including in British Columbia.
 34. Prime Conduit Inc. ("**Prime Conduit**") is a corporation incorporated under the laws of Delaware. Its headquarters is located at 23240 Chagrin Boulevard, Suite 405 Beachwood, Ohio, 44122, USA. During the Class Period, Prime Conduit manufactured PVC Pipes, including Conduit Pipe and Conduit Fittings. During the Class Period Prime Conduit, both directly and through distributors, sold PVC Pipes in Canada, including in British Columbia.
 35. Sanderson Pipe Corporation ("**Sanderson**") is a privately held corporation incorporated under the laws of Delaware. It has headquarters located at 875 International Blvd, Clarksville, TN 37040 USA. During the Class Period, Sanderson manufactured PVC Pipes, including Municipal Pipe, Plumbing Pipe, and corresponding PVC Fittings.
 36. Southern Pipe, Inc. ("**Southern Pipe**") is a corporation incorporated under the laws of Delaware. It is headquartered at 135 Random Drive, New London, North Carolina, 28127, USA. During the Class Period, Southern Pipe manufactured PVC Pipes, including Conduit Pipe and corresponding PVC Fittings. During the Class Period Southern Pipe, both directly and through distributors, sold PVC Pipes in Canada, including in British Columbia.
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37. The Mitsubishi Corporation ("**Mitsubishi**") and Shin-Etsu Chemical Co. Ltd. ("**Shin-Etsu**") are Japanese corporations. Mitsubishi and Shin-Etsu co-own each of Cantex, Diamond Plastics, Prime Conduit, Sanderson Pipe, and Southern Pipe. Collectively, Cantex, Diamond Plastics, Prime Conduit, Sanderson Pipe, and Southern Pipe are referred to as the "**Mitsubishi Defendants**".
38. During the Class Period the Mitsubishi Defendants manufactured PVC Pipes that were sold in Canada including in British Columbia, both directly by the Mitsubishi Defendants and through distributors.

JM Manufacturing Company, Inc.

39. J-M Manufacturing Company, Inc. d.b.a. JM Eagle ("**JM Eagle**") is a privately held corporation incorporated under the laws of California. It is headquartered at 5200 W Century Blvd, Los Angeles, California, 90045, USA. JM Eagle is a converter of PVC Pipes, including Conduit Pipe, Municipal Pipe, Plumbing Pipe, and corresponding PVC Fittings. During the Class Period JM Eagle manufactured PVC Pipes that were sold in Canada including in British Columbia, both directly by JM Eagle and through distributors.

Otter Tail Defendants

40. Otter Tail Corporation is a corporation incorporated under the laws of Minnesota. Its headquarters is located at 215 South Cascade Street, Box 496, Fergus Falls, Minnesota, 56538, USA.
41. Northern Pipe Products, Inc. is a corporation incorporated under the laws of North Dakota. Its head office is located at 1302 39th Street NW, Fargo, North Dakota, 58102-2808, USA. ~~It is a wholly owned subsidiary of Otter Tail Corporation. It is a~~ converter of PVC Pipe Systems, including Municipal Pipe, Plumbing Pipe, and corresponding PVC Fittings.
42. Vinyltech Corporation ("**Vinyltech**") is a corporation incorporated under the laws of Arizona. It is headquartered at 201 South 61st Avenue Phoenix, Arizona, 85043, USA. It is a wholly owned subsidiary of Otter Tail Corporation. It is a converter of

PVC Pipes, including Municipal Pipe, Plumbing Pipe and corresponding PVC Fittings.

43. Otter Tail Corporation, Vinyltech, and Northern Pipe Products Inc. collectively are the "**Otter Tail Defendants**".
44. During the Class Period the Otter Tail Defendants manufactured PVC Pipes that were sold in Canada including in British Columbia, both directly by the Otter Tail Defendants and through distributors.

National Pipes and Plastics, Inc.

45. National Pipe & Plastics Inc. ("**National Pipe**") is a corporation incorporated under the laws of Delaware. Its headquarters is located at 1 N. Page Ave, Endicott, New York, 13760, USA. National Pipe is a converter of PVC Pipes, including Conduit Pipe, Municipal Pipe, Plumbing Pipe and PVC Fittings. During the Class Period National Pipe manufactured PVC Pipes that were sold in Canada including in British Columbia, both directly by the National Pipe and through distributors.

PipeLife JetStream Inc.

46. PipeLife Jetstream Inc. ("**PipeLife**") is a privately held corporation incorporated under the law of Delaware. Its headquarters is located in at 1700 S Lincoln St, Siloam Springs, Arkansas, 72761, USA. PipeLife is a converter of PVC Pipes, including Municipal Pipes, Plumbing Pipes, and corresponding PVC Fittings. During the Class Period PipeLife manufactured PVC Pipes that were sold in Canada including in British Columbia, both directly by the PipeLife and through distributors.

Charlotte Pipe & Foundry

47. Charlotte Pipe & Foundry ("**Charlotte**") is a corporation incorporated under the laws of North Carolina. It is headquartered at 2109 Randolph Road, Charlotte, North Carolina, 28207, USA. Charlotte is a converter of PVC Pipes, including Municipal Pipe, Plumbing Pipe, and corresponding PVC Fittings. During the Class

Period Charlotte manufactured PVC Pipes that were sold in Canada including in British Columbia, both directly by Charlotte and through distributors.

Cresline Plastic Pipe Co., Inc.

48. Cresline Plastic Pipe Co., Inc. ("Cresline") is a corporation incorporated under the laws of Indiana. It is headquartered at 600 Cross Pointe Boulevard, Evansville, Indiana 47715, USA. Cresline is a converter of PVC Pipes, including Municipal Pipe, Conduit Pipe, and corresponding PVC Fittings. During the Class Period Cresline manufactured PVC Pipes that were sold in Canada including in British Columbia, both directly by the Cresline and through distributors.

OPIS

49. Oil Price Information Service LLC ("OPIS") is a corporation incorporated under the laws of Delaware, domiciled at 2099 Gaither Road 5th Floor Rockville, Maryland, 20850 USA. OPIS is a wholly owned subsidiary of News Corp. OPIS is a price reporting agency that publishes information on numerous commodity industries.

THE PVC PIPES INDUSTRY

50. Manufacturers of PVC Pipes are known as "converters".
51. PVC Pipe manufacturing requires PVC Resin, which is blended with additives and then fed into an extruder, which heats and blends the PVC mixture. Molten PVC is shaped and cooled, and finally cut and inspected.
52. PVC Pipes are both manufactured in, and imported into, Canada.
53. PVC Pipes are popular for use within Canadian water systems as they are durable, resistant to corrosion, and relatively affordable as compared to alternative materials. These same feature make PVC Pipes attractive for use as electrical conduit and in plumbing. The market for PVC Pipes in Canada is growing, as Canadian municipalities and Indigenous governments are increasingly installing PVC Pipes to replace aging sewer and water infrastructure.
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54. PVC pipe converters tend to focus on a specific PVC market segment, such as municipal pipes or electrical conduit.
55. PVC Pipes are commoditized. They are standardized to meet particular technical and operational characteristics. Many of the Manufacturer Defendants' products are essentially interchangeable with products produced by another converter.
56. The market for PVC Pipes is substantial. The Canadian market for plastic piping as a whole is estimated at over \$3 billion CAD annually.
57. The Manufacturer Defendants constitute the vast majority of converters filling the market for PVC Pipes for municipal water, electrical conduit, and plumbing purposes in Canada.
58. The PVC Pipe industry is highly concentrated, as there are significant entry costs associated with meeting industry and regulatory standards, and manufacturing PVC pipes is a cost-intensive process. This creates a barrier to a new competitor taking advantage of inflated prices to enter the market.
59. The demand for PVC Pipes is inelastic. Pipes made from other materials are not close substitutes. Further, even with artificially elevated prices, the cost of using PVC Pipes is lower than using other materials such as high-density polyethylene, ductile iron, stainless steel, or copper. Consequently, increases in price of PVC Pipes across the market do not correlate to proportional decreases in demand. Rather, all else being equal, increasing prices of PVC Pipes across the market leads to increased profits, and is not offset by decrease in sales.

OPIS' SUBSCRIPTION PRICING SERVICE

60. OPIS was established in 1977, and was initially an oil price reporting agency. It has grown into a worldwide information firm providing services to the energy community with market news, data, and analysis. This includes news, data and analysis for products such as PVC, which is manufactured using petrochemicals.

61. OPIS purports to provide “public transparency” across supply chains so that “all stakeholders can buy and sell” with confidence. However, in reality OPIS provides a service that has repeatedly been used to manipulate prices.
62. OPIS provides its in depth pricing and market intelligence only to subscribers.
63. OPIS offers a subscription service called PetroChem Wire wherein it publishes daily prices and market trends across the petrochemical chain. Within PetroChem Wire, during the Class Period OPIS provided a product called PVC & Pipe Weekly, which it advertised as providing the “most thorough review of the PVC and pipe markets”, and the “most accurate weekly pricing” for “PVC resin, ethylene, recycled PVC and the global PVC market, including exports out of the US.” OPIS suspended publication of PVC & Pipe Weekly in about November 2024, after a lawsuit was launched in the United States alleging price fixing of PVC Pipes.
64. OPIS employs Donna Todd, as Petrochem Wire Associate Director, PVC & Pipe. Ms. Todd reports on the PVC resin and pipe markets, and was actively engaged in contributing to and leading the PVC & Pipe Weekly publication.
65. Throughout the class period, Ms. Todd conspired on behalf of OPIS with the Manufacturer Defendants to share sensitive information in order to facilitate the price fixing scheme detailed below. This included facilitating the exchange of confidential, proprietary, and competitively sensitive data between and among the Manufacturer Defendants, and communicating for the purpose of ensuring the Manufacturer Defendants kept to their unlawful agreement.

PVC PIPE PRICING

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66. Pricing for PVC Pipes increased dramatically between 2019 and 2022, coinciding with COVID-era supply chain issues. Specifically, the price of PVC Resin roughly doubled between late 2019 and early 2022.
 67. However, by January 2023, the price of PVC Resin had fallen to roughly pre-COVID price levels, and has stayed relatively stable since.

68. Nevertheless, despite the reversion of PVC Resin prices, due to the Defendants' coordinated behaviour as described below, pricing for PVC Pipes has remained elevated above competitive levels.

THE DEFENDANTS CONSPIRE TO MAINTAIN HIGH PRICING

69. The acts alleged under this heading are, collectively, the **"Conspiracy Acts"**.
70. Beginning in January 2021, the Defendants expressly agreed to conspire to combine, fix, raise, maintain, and stabilize the price of PVC Pipes. The Defendants operated as a hub-and-spokes conspiracy with OPIS as the hub.
71. During the Class Period, senior executives and employees of the Defendants, acting in their capacities as agents for the Defendants, engaged in communications, conversations, and attended meetings with each other at times and places, some of which are unknown to the Plaintiff (the **"Communications"**).
72. As a result of the Communications, the Manufacturer Defendants and their co-conspirators unlawfully conspired and agreed to:
- (a) unreasonably enhance the prices of PVC Pipes in Canada, including in British Columbia, and elsewhere;
 - (b) fix, maintain, increase, or control the prices of PVC Pipes in in Canada, including in British Columbia, and elsewhere;
 - (c) monitor and enforce adherence to an agreed-upon pricing scheme for PVC Pipes; and
 - ~~(d) unduly lessen competition in the sale of PVC Pipes in Canada, including in British Columbia, and elsewhere.~~
73. In furtherance of the conspiracy, during the Class Period, the Manufacturer Defendants and their co-conspirators, and/or their servants and agents:

- (a) fixed, maintained, increased, controlled, and/or enhanced unreasonably the prices of PVC Pipes in Canada, including in British Columbia, and elsewhere;
 - (b) communicated secretly, in person, by telephone, and by email, text, WhatsApp, and other forms of electronic communications, to discuss and fix prices of PVC Pipes;
 - (c) made formal agreements with respect to the prices of PVC Pipes;
 - (d) exchanged information, including through provision and receipt of confidential information to and from OPIS regarding the prices of PVC Pipes for the purposes of monitoring and enforcing adherence to the agreed-upon prices;
 - (e) fixed, maintained, controlled, prevented or lessened the supply of PVC Pipes; and
 - (f) disciplined any conspirator which failed to comply with the conspiracy.
74. The Defendants unlawfully conspired to conceal their anti-competitive behaviour from their customers and other industry participants. The knew that their unlawful scheme and conspiracy would unlawfully increase the price at which PVC Pipes would be sold from the price that would otherwise be charged on a competitive basis. The Defendants knew that their unlawful scheme and conspiracy would injure purchasers of PVC Pipes.
75. The Manufacturer Defendants agreed to and did provide confidential pricing information to OPIS. OPIS in turn disseminated that information, along with invitations to raise and maintain prices to the Manufacturer Defendants. The Manufacturer Defendants agreed to and did use the information obtained through OPIS to fix, maintain, or increase the pricing of PVC Pipes.
76. OPIS was aware of the Manufacturer Defendants' intention to engage in their unlawful conspiracy and intended to assist the Manufacturer Defendants in

inflating the prices for PVC Pipes sold in Canada, including in British Columbia and elsewhere. Further, OPIS knowingly counselled the commission of the unlawful conspiracy either with the intention that the Manufacturer Defendants engage in the unlawful conspiracy or with the knowledge of the unjustified risk that the Manufacturer Defendants would likely engage in the unlawful conspiracy as a result of OPIS's conduct. This included OPIS:

- (a) providing a forum in and vehicle through which the conspirators have conspired;
- (b) collecting and distributing confidential pricing information using pricing indices;
- (c) facilitating direct communications amongst the Manufacturer Defendants in respect of PVC Pipe pricing;
- (d) inviting the Manufacturer Defendants to collude on price; and
- (e) discouraging Manufacturer Defendants from not participating in the conspiracy.

77. The Manufacturer Defendants and their co-conspirators were motivated to conspire and their predominant purposes and predominant concerns were to harm the Plaintiff and other persons in Canada who purchased PVC Pipes by extracting excessive payments from them.

78. The Canadian subsidiaries of the foreign Defendants and the foreign co-conspirators participated in and furthered the objectives of the conspiracy by knowingly modifying their competitive behaviour in accordance with instructions received from their respective parent companies, and thereby acted as their agents in carrying out the conspiracy and are liable for such acts.

79. The Conspiracy Acts alleged in this claim to have been done by each Defendant and each co-conspirator were authorized, ordered, and done by each Defendant's

officers, directors, agents, employees, or representatives while engaged in the management, direction, control, or transaction of its business affairs.

80. The Conspiracy Acts had the object of and the effect of increasing the market price for PVC Pipes, and therefore raised the prices charged by converters and distributors who did not take part in the Conspiracy Acts.
 81. Relying on the higher price umbrella set by the Defendants, non-conspirator converters were able to, and did, maximize their profits by charging higher prices for PVC Pipes than they would have in a competitive market. Non-conspirator converters conduct in charging higher prices was a direct response to the higher prices for PVC Pipes caused by the Defendants' conspiratorial conduct and exercise of collective market power. But for the conspiracy, the Defendants would have charged lower, competitive prices for PVC pipes, and the non-conspirator converters would have needed to follow those lower prices or risk losing market share.
 82. During the Class Period, Class Members who directly and indirectly purchased PVC Pipes suffered damages measured as the difference between the actual prices paid by them and the "but for" prices that they would have obtained had there been a competitive market for PVC Pipes. The Defendants were aware and intended that the alleged conspiracy would cause Class Members to pay supra-competitive prices for PVC Pipes.
 83. During the Class Period, Class Members who directly and indirectly purchased PVC Pipes manufactured by non-conspirator converters ("**Umbrella Purchasers**") suffered damages measured as the difference between the actual prices paid by them and the "but for" prices that they would have obtained in a competitive market. The Defendants were aware and intended that the alleged conspiracy would result in Umbrella Purchasers paying supra-competitive prices for PVC Pipes during the Class Period.
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84. The Defendants knew or should have known that their unlawful scheme and conspiracy would injure purchasers of PVC Pipes by requiring them to pay excessive prices. The Defendants' conduct inflated the price paid by Class Members for PVC Pipes.
85. For the purpose of implementing the conspiracy, the Manufacturer Defendants communicated amongst themselves, directly, through Ms. Todd, and through OPIS. This included communications with Ms. Todd through text messaging applications including WhatsApp.
86. Examples of communications amongst the defendants, facilitated by OPIS, include:
 - (a) In January 2021, OPIS reported that "some market participants believed that the market [for PVC Pipes] needed to be reset". However, it reported that others said there is "no reason converters can't push prices higher" and that the "only requirement would be discipline".
 - (b) In October 2022, OPIS had reported that notwithstanding a "steep drop in pipe demand", prices have "remained rock solid".
 - (c) On November 22, 2022, OPIS reported that there "had been some cases of buyers fishing for a lower price by claiming that a competitor had sold to them at a lower number, but a phone call or two proved that this was not the case. So far, nobody has blinked".
 - (d) In January 2023, OPIS reported that "Northern Pipe and Ipex indicated they would follow whatever the market does". It also reported that month that converters "know demand will not kick in for weeks but were confident they could hold prices firm as long as distributors were on the same page".
 - (e) On February 3, 2023, (at a point when PVC Resin prices had fallen over the preceding 40 weeks), OPIS reported that "converters have rallied around a price increase for Feb 1 which would push municipal pipe prices up". OPIS

reported on February 10, 2023, that “increase announcements had been unanimous”, but “not all converters were particularly enthusiastic about the idea of trying to push for higher prices in early Feb”. These converters had “said demand was still too low to support raising prices”. On February 23, 2023, OPIS reported that “Converters spoke about working in concert with large distributors for months to keep prices from sliding” and “expressed some concern about whether distributors would return the favor and help keep prices from dropping”.

- (f) In May 2023 OPIS reported that some market participants said PVC Resin prices were “predicted to drop in May and June” and demand was “still moribund”, and that as a result there was neither a “demand pull” nor a “cost push” to move prices higher. Nevertheless, OPIS reported that “some converters” believed that “Atkore needs to take a hard stance next week on new business at the higher price levels”.
 - (g) In March 2024, OPIS reported that competitors “said everyone needs to start moving prices up on business written from now on”.
 - (h) In May 2024, OPIS reported that “converters said the price hikes won’t work unless everyone is working together to implement them”. Further, that same month OPIS reported that converters “hope to push prices higher next week but concede that it will have to be a unanimous effort to have any chance of success”. That same month OPIS reported that the unanimous price increase effort succeeded in raising PVC electrical conduit prices up \$.10 USD / ft over three weeks.
-
- (i) On June 21, 2024, OPIS reported that converters will “try again to raise prices” and suggested a standard increase and that all “aim for the same implementation date” and further that “if that increase is successful, to do it again”. In the same publication, OPIS stated converters were seeking a “single price increase that would take prices up by about 5% over the current market level”. This invitation was accepted, and within a week OPIS

reported that all major converters had raised prices with almost identical pricing in every region they served.

87. Prices for PVC Pipes continue to be up to 5x higher than pre-COVID levels. These prices remained locked in at artificially elevated levels, costing the class members huge sums of money.

THE DEFENDANTS HAVE ACTIVELY CONCEALED THEIR ANTI-COMPETITIVE CONSPIRACY

88. The plaintiff and Class Members had no actual or constructive knowledge of the facts underlying this proceeding. Rather, during the class period and continuing to the present, the Defendants took active steps to conceal their efforts to collude with respect to price from purchasers of municipal PVC Pipes. The facts of the conspiracy came to light only through litigation in the United States.

DAMAGES

89. As a result of the Conspiracy Acts:
- (a) the prices of PVC Pipes have been enhanced unreasonably and/or fixed at artificially high and non-competitive levels; and
 - (b) competition in the sale of PVC Pipes has been unduly restrained.
90. By reason of the alleged violations of the *Competition Act*, RSC 1985, c 19 (2nd Suppl.) (the "**Competition Act**") and the common law, the Plaintiff and the Class paid more for PVC Pipes than they would have paid in the absence of the illegal conspiracy and, as a result, the Plaintiff and the Class have suffered damages (the "**Overcharge**").
-
91. The Plaintiff asserts that the Overcharge is capable of being quantified on an aggregate basis as the difference between the prices of PVC Pipes actually paid by the Class and the prices which would have been paid in the absence of the unlawful conspiracy. The Defendants and their co-conspirators are jointly and severally liable for the entire Overcharge.

PART 2: RELIEF SOUGHT

92. The Plaintiff, its own behalf, and on behalf of the Class, claims against the Defendants and their co-conspirators:

- (a) a declaration that the Manufacturer Defendants and their co-conspirators, and each of them, conspired each with the other to raise, maintain, fix, and stabilize the price of PVC Pipes during the Class Period, in violation of statutory, common law, and equitable laws as alleged in this claim;
 - (b) a declaration that the Manufacturer Defendants and their co-conspirators, and each of them, conspired, combined, agreed or arranged to prevent or lessen, unduly, competition in the manufacture or production of PVC Pipes or to enhance unreasonably the price thereof;
 - (c) a declaration that OPIS aided, abetted and/or counselled the conspiracy to raise, maintain, fix, and stabilize the price of PVC Pipes during the Class Period, in violation of statutory, common law, and equitable laws as alleged in this claim;
 - (d) a declaration that OPIS aided, abetted and/or counselled the conspiracy to prevent, or lessen unduly, competition in the manufacture or production of PVC Pipes or to enhance unreasonably the price thereof;
 - (e) an order certifying this action as a class proceeding against the Defendants and appointing the Plaintiff as representative plaintiff in respect of the Class;
 - (f) general damages for conspiracy and unlawful interference with economic interests in the amount of the Overcharge;
-
- (g) a declaration that the Defendants account for and make restitution to the Plaintiff and the Class in an amount equal to the Overcharge;
 - (h) judgment in the amount of the Overcharge;

- (i) general damages for conduct that is contrary to Part VI of the *Competition Act*;
- (j) punitive damages;
- (k) an injunction enjoining the Defendants and their co-conspirators from conspiring or agreeing with each other, or others, to raise, maintain, fix, or stabilize the price of PVC Pipes;
- (l) costs of investigation and prosecution of this proceeding pursuant to section 36 of the *Competition Act*;
- (m) pre-judgment and post-judgment interest pursuant to the *Court Order Interest Act*, RSBC 1996, c 78, s 128;
- (n) disgorgement of the revenues generated by the Defendants from their unlawful misconduct;
- (o) costs of all notices and of administering the plan of distribution of the judgment in this action, together with applicable taxes; and
- (p) such further and other relief as to this Honourable Court may deem just.

PART 3: LEGAL BASIS

93. The Plaintiff pleads and rely upon the *Class Proceedings Act*, RSBC, 1996 c. 50, the *Competition Act*, and the *Court Jurisdiction and Proceedings Transfer Act*, RSBC 2003, c 28 (the "*CJPTA*").

CAUSES OF ACTION

Breach of the Competition Act

94. The Conspiracy Acts are in breach of section 45 of Part VI of the *Competition Act* as they involved unlawful agreements between competitors to fix prices, allocate markets and control supply of PVC Pipes, caused injury to the Plaintiff and the Class and render the Defendants and their co-conspirators jointly and severally

liable to pay damages and costs of investigation pursuant to section 36 of the *Competition Act*. Further, the Canadian subsidiaries of the foreign Defendants and their foreign co-conspirators are jointly and severally liable to the Plaintiff and the Class pursuant to s. 36 of the *Competition Act* for acts in contravention of s. 46(1) of the *Competition Act* by implementing directives, instructions, intimations of policy or other communications from a foreign Defendant.

95. The plaintiff and Class members have an action against the Defendants in respect of price increases charged by non-conspirator converters under ss. 36(1)(a) and 45 of the *Competition Act* as the elevated price paid to non-Defendants occurred as a result of the Defendants' conspiratorial conduct.
96. Further, or alternatively, OPIS is a party to an offence under the *Competition Act*, as it aided, abetted and counselled the conspiracy, contrary to ss. 21 and 22 of the *Criminal Code*, R.S.C., 1985, c. C-46 (the "***Criminal Code***"). Specifically, OPIS aided, abetted, and counseled the conspiracy by knowingly counseling, instigating and promoting the formation of the conspiracy and encouraging, inviting, assisting, and enforcing performance of the conspiracy by the Manufacturer Defendants.

Civil Conspiracy

97. Further, or alternatively, the Conspiracy Acts were unlawful acts directed towards the Plaintiff and the Class, which unlawful acts the Defendants and their co-conspirators knew in the circumstances would likely cause injury to the Plaintiff and the Class and, as such, the Defendants and their co-conspirators are jointly and severally liable for the tort of civil conspiracy. Further, or alternatively, the predominant purpose of the Conspiracy Acts was to injure the Plaintiff and the Class, and the Defendants and their co-conspirators are jointly and severally liable for the tort of conspiracy to injure.
98. The Defendants and their co-conspirators voluntarily entered into agreements with each other to use unlawful means, which resulted in loss and damages to the Plaintiff and the Class. The unlawful means include the following:

- (a) entering into agreements in contravention of section 45(1) of the *Competition Act*;
- (b) implementing directives or other communications in contravention of section 46(1) of the *Competition Act*; and
- (c) aiding, abetting, and/or counselling the commission of the above offences, contrary to section 21 and 22 of the *Criminal Code*.

99. The unlawful means included OPIS aiding and abetting the conspiracy, as described above.
100. In furtherance of the conspiracy, the Manufacturer Defendants and their co-conspirators carried out the Conspiracy Acts described above.
101. The acts particularized above were unlawful acts directed towards purchasers of PVC Pipes, including the Plaintiff, which unlawful acts the Defendants and their co-conspirators knew in the circumstances would likely cause injury to those purchasers including the Plaintiff.
102. The Manufacturer Defendants and their co-conspirators were motivated to conspire. Their predominant purposes and concerns were to harm the Plaintiff and the Class by requiring them to pay artificially high prices for PVC Pipes.
103. The Defendants and their co-conspirators intended to cause economic loss to the Plaintiff and the Class. In the alternative, the Defendants and their co-conspirators knew that their unlawful acts would likely cause injury to the Plaintiff and the Class.
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104. The Canadian defendants participated in and furthered the objectives of the conspiracy by knowingly modifying their competitive behaviour in accordance with instructions received from their respective parent companies and thereby acted as agents in carrying out the conspiracy and are liable for such acts.
105. The Plaintiff and the Class suffered damages as a result of the Defendants' conspiracy.

Unjust Enrichment

106. Further, and in the alternative, the Plaintiff and the Class are entitled to claim and recover based on equitable and restitutionary principles.
107. The Defendants have each been unjustly enriched by the receipt of a portion of the Overcharge (the “**Defendants’ Received Overcharge**”). The Class Members have suffered a corresponding deprivation of the Defendants’ Received Overcharge.
108. Since the Defendants’ Received Overcharge resulted from the wrongful acts of the Defendants and their co-conspirators, there is and can be no juridical reason justifying the Defendants retaining any part of it. In particular, any contracts upon which the Defendants purport to rely to receive the Defendants’ Received Overcharge are void because they are (1) prohibited by statute, entered into with the object of doing an act prohibited by statute, and/or require performance of an act prohibited by statute, (2) in contravention of common law principles, and/or (3) in contravention of public policy, in that they are, amongst other things, in restraint of trade.
109. The Defendants are required to make restitution to the Plaintiff and the Class for the Defendants’ Received Overcharge because, among other reasons:
- (a) the Defendants were unjustly enriched by receipt of the Defendants’ Received Overcharge;
 - (b) the Class suffered a deprivation by paying the Defendants’ Received Overcharge;
-
- (c) the Defendants and their co-conspirators engaged in inappropriate conduct and committed wrongful acts by engaging in the conspiracies alleged in this claim;
 - (d) the Defendants’ Received Overcharge was acquired in such circumstances that the Defendants may not in good conscience retain it;

- (e) justice and good conscience require restitution;
 - (f) the integrity of the marketplace would be undermined if the court did not order restitution; and
 - (g) there are no factors that would, in respect of the artificially induced Defendants' Received Overcharge, render restitution unjust.
110. The Plaintiff pleads that equity and good conscience requires the Defendants to make restitution to the Plaintiff and the Class of the Defendants' Received Overcharge, or alternatively to disgorge the Defendants' Received Overcharge to the Plaintiff and the Class.
111. It would be unconscionable for the Defendants to retain the unlawful Defendants' Received Overcharge obtained as a result of the Conspiracy Acts and/or unlawful means misconduct.
112. All amounts payable to the Class on account of disgorgement should be calculated on an aggregate basis pursuant to section 29 of the *Class Proceedings Act*, or otherwise.

Fraudulent Concealment

113. The Defendants and their co-conspirators actively, intentionally, and fraudulently concealed the existence of the conspiracy from the public, including the Plaintiff and the Class. The Defendants and their co-conspirators represented to purchasers and others that their pricing and bidding activities were unilateral, thereby misleading the Plaintiff and the Class. The Defendants used OPIS to conceal their misconduct. ~~The affirmative acts of the Defendants alleged herein,~~
including acts in furtherance of the conspiracy, were fraudulently concealed and carried out in a manner that precluded detection.
114. The Defendants' anti-competitive conspiracy was self-concealing. The Defendants took active, deliberate and wrongful steps to conceal their participation in the alleged conspiracy.

115. Because the Defendants' agreements, understandings and conspiracies were kept secret, the Plaintiff and the Class were unaware of the Defendants' unlawful conduct and they did not know that they were paying supra-competitive prices for PVC Pipes.

Punitive Damages

116. The Plaintiff asserts that the Defendants' and their co-conspirators conduct was high-handed, outrageous, reckless, wanton, entirely without care, deliberate, callous, disgraceful, wilful, in contumelious disregard of the Plaintiff's rights and the rights of the Class, and as such renders the Defendants liable to pay aggravated, exemplary and punitive damages.

JURISDICTION

117. There is a real and substantial connection between British Columbia and the facts alleged in this proceeding. The Plaintiff and the Class plead and rely upon the *CJPTA* in respect of the Defendants. Without limiting the foregoing, a real and substantial connection between British Columbia and the facts alleged in this proceeding exists pursuant to sections 10 (f) – (i) of the *CJPTA* because this proceeding:

- (a) concerns restitutionary obligations that, to a substantial extent, arose in British Columbia;
- (b) concerns a tort committed in British Columbia;
- (c) concerns a business carried on in British Columbia; and
- ~~(d) is a claim for an injunction ordering a party to do or refrain from doing anything in British Columbia.~~

Plaintiff's address for service:

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Fax: (604) 689-7554

Email: service@cfmlawyers.ca

Place of trial: Vancouver Law Courts

Address of the registry: 800 Smithe Street, Vancouver, BC V6Z 2E1

Date: 26/SEP/2025



Signature of lawyer
for plaintiff

Reidar Mogerman and Oliver Pulleyblank

**ENDORSEMENT ON ORIGINATING PLEADING OR PETITION FOR SERVICE
OUTSIDE BRITISH COLUMBIA**

The Plaintiff claims the right to serve this pleading/petition on the Defendants outside British Columbia on the ground that:

The Plaintiff is a British Columbia municipality and has suffered loss in British Columbia. This Action concerns a tort that was committed in British Columbia, a business carried on in British Columbia, is a claim for an injunction ordering a party to do or refrain from doing anything in British Columbia, and concerns restitutionary obligations that, to a substantial extent, arose in British Columbia. The Supreme Court of British Columbia has jurisdiction with respect to this matter and the Plaintiff pleads *the Court Jurisdiction and Proceedings Transfer Act*, 2003, SBC Chapter 28 and amendments thereto.

Rule 7-1 (1) of the Supreme Court Civil Rules states:

- (1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,
 - (a) prepare a list of documents in Form 22 that lists
 - (i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and
 - (ii) all other documents to which the party intends to refer at trial, and
 - (b) serve the list on all parties of record.

APPENDIX

CONCISE SUMMARY OF NATURE OF CLAIM:

Proposed class action alleging a price fixing conspiracy in respect of PVC Pipes.

THIS CLAIM ARISES FROM THE FOLLOWING:

A personal injury arising out of:

- a motor vehicle accident
- medical malpractice
- another cause

A dispute concerning:

- contaminated sites
- construction defects
- real property (real estate)
- personal property

- the provision of goods or services or other general commercial matters
- investment losses
- the lending of money
- an employment relationship
- a will or other issues concerning the probate of an estate
- a matter not listed here

THIS CLAIM INVOLVES:

- a class action
 - maritime law
 - aboriginal law
 - constitutional law
 - conflict of laws
 - none of the above
 - do not know
-