

Court File No.:

CV-12-446 737 00CP

**ONTARIO  
SUPERIOR COURT OF JUSTICE**



**HERIDAN CHEVROLET CADILLAC LTD. and  
PICKERING AUTO MALL LTD.**

Plaintiffs

- and -

**DELPHI AUTOMOTIVE LLP, FURUKAWA ELECTRIC CO. LTD., AMERICAN  
FURUKAWA INC., FUJIKURA LTD., FUJIKURA AMERICA INC., LEAR  
CORPORATION, LEONI AG, LEONI KABEL GMBH, SUMITOMO ELECTRIC  
INDUSTRIES LTD., YAZAKI CORPORATION, YAZAKI NORTH AMERICA INC. and  
DOE CORPORATION Nos 1 to 10**

Defendants

Proceeding under the *Class Proceedings Act, 1992*

**STATEMENT OF CLAIM**

TO THE DEFENDANTS:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiffs. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiffs' lawyers or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service, in this court office, WITHIN TWENTY DAYS after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

If you wish to defend this proceeding but are unable to pay legal fees, legal aid may be available to you by contacting a local Legal Aid office.

Date: February 17, 2012

Issued by:

  
Local Registrar

Address of Court Office:  
Superior Court of Justice  
393 University Ave., 10<sup>th</sup> Floor  
Toronto, ON M5G 1E6

**TO: DELPHI AUTOMOTIVE LLP**  
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Troy, Michigan, 48098-2815, USA

**AND TO: FURUKAWA ELECTRIC CO. LTD.**  
Marunouchi Nakadori Bldg., 2-3, Marunouchi 2-chome,  
Chiyodaku, Tokyo, 100-8322, Japan

**AND TO: AMERICAN FURUKAWA INC.**  
47677 Galleon Drive  
Plymouth, Michigan, 48170, USA

**AND TO: FUJIKURA LTD.**  
1-5-1, Kiba,  
Kouto-ku, Tokyo, 135-8512, Japan

**AND TO: FUJIKURA AMERICA INC.**  
3150-A Coronado Drive  
Santa Clara, California, 95054, USA

**AND TO: LEAR CORPORATION**  
21557 Telegraph Road  
Southfield, Michigan, 48033, USA

**AND TO: LEONI AG**  
Marienstrasse 7  
90402 Nuremberg, Germany

**AND TO: LEONI KABEL GMBH**  
Stieberstrabe 5  
91154 Roth, Germany

**AND TO: SUMITOMO ELECTRIC INDUSTRIES LTD.**  
Shibaura Renasite Tower 3-9-1 Shibaura  
Minato-ku, Tokyo, 108-8539, Japan

**AND TO: YAZAKI CORPORATION**  
17th Floor, Mita-Kokusai Bldg., 4-28 Mita 1-chome  
Minato-ku, Tokyo, 108-8333, Japan

**AND TO: YAZAKI NORTH AMERICA INC.**  
6801 Haggerty Road  
Canton, Michigan, 48187, USA

**CLAIM**

1. The plaintiffs claim on their own behalf and on behalf of other members of the proposed class:
  - (a) A declaration that the defendants conspired and agreed with each other to rig bids and fix, raise, maintain, or stabilize the price of Automotive Wire Harness Systems sold in Canada during the Class Period;
  - (b) A declaration that the defendants did, by agreement, threat, promise or like means, influence or attempt to influence upwards, or discourage or attempt to discourage the reduction of the price at which the defendants supplied Automotive Wire Harness Systems in Canada between January 1, 2000 until March 12, 2009;
  - (c) Damages or compensation in an amount not exceeding \$500,000,000:
    - (i) for loss and damage suffered as a result of conduct contrary to Part VI of the *Competition Act*, R.S.C. 1985, c. C-34 ("*Competition Act*");
    - (ii) for civil conspiracy;
    - (iii) for unjust enrichment;
  - (d) An injunction, interlocutory and permanent, enjoining the defendants, their affiliates, successors, transferees and assignees and officers, directors, partners, agents and employees thereof, from maintaining or renewing the conduct, conspiracies, agreements or arrangements alleged herein, or from entering into

any other conduct, conspiracies, agreements or arrangements having a similar purpose or effect;

- (e) Punitive, exemplary and aggravated damages in the amount of \$50,000,000 or such other sum as this court finds appropriate at the trial of the common issues;
- (f) Pre-judgment interest in accordance with section 128 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43 ("*Courts of Justice Act*"), as amended;
- (g) Post-judgment interest in accordance with section 129 of the *Courts of Justice Act*;
- (h) Investigative costs and costs of this proceeding on a full-indemnity basis pursuant to section 36 of the *Competition Act*; and
- (i) Such further and other relief as this Honourable Court deems just.

### **Summary of Claim**

2. This lawsuit centres on a conspiracy by the defendants, who supply wire harness systems used in automobiles, to fix, maintain, increase and control the prices, rig bids and allocate the market and customers in Canada and elsewhere for automotive wire harness systems. The conspiracy was in effect from January 1, 2000 to the date of issuance of this statement of claim (the "**Class Period**") and targeted the Canadian automotive industry, raising prices to all members of the proposed class.

3. As a direct result of the unlawful conduct alleged herein, the plaintiffs and the proposed class paid artificially inflated prices for automobiles containing automotive wire harness systems

manufactured, marketed or sold by the defendants during the Class Period and have thereby suffered losses and damages.

4. “Automotive Wire Harness Systems” are electrical distribution systems used to direct and control electronic components, wiring, and circuit boards in an automotive vehicle. The term “**Automotive Wire Harness Systems**” as used herein includes the following: automotive electrical wiring, lead wire assemblies, cable bond, automotive wiring connectors, automotive wiring terminals, electronic control units, fuse boxes, relay boxes, junction block, and power distributors.

#### **The Parties**

5. The plaintiff, Sheridan Chevrolet Cadillac Ltd. (“**Sheridan**”), was an automotive dealer in Pickering, Ontario pursuant to a Dealer Sales and Service Agreement with General Motors of Canada Limited (“**GMCL**”) from 1977 to 2009.

6. The plaintiff, Pickering Auto Mall Ltd. (“**Pickering**”), was an automotive dealer in Pickering, Ontario pursuant to a Dealer Sales and Service Agreement with GMCL from 1989 to 2009.

7. The plaintiffs seek to represent the following class (the “**Proposed Class**”):

All entities that carried on business in Canada at any time from January 1, 2000 to the date of issuance of this statement of claim that purchased directly from an automotive manufacturer an automobile containing an Automotive Wire Harness System manufactured, marketed or sold by one or more of the defendants or any of their affiliates.

Excluded from the class are the defendants, their parent companies, subsidiaries and affiliates.

8. The Proposed Class consists primarily of automotive dealers in Canada and comprises virtually all automotive dealers in Canada during the Class Period. The precise number of members of the Proposed Class is not known but estimated to be several thousand.

9. The defendant, Delphi Automotive LLP ("**Delphi**"), is incorporated under the laws of the State of Delaware in the United States of America and has its principal place of business in Troy, Michigan. Delphi, directly or indirectly through its predecessors, affiliates or subsidiaries, manufactured, marketed, sold or distributed Automotive Wire Harness Systems that were purchased in Canada during the Class Period.

10. The defendant, Furukawa Electric Co. Ltd. ("**Furukawa**"), is a Japanese corporation. Furukawa, directly or indirectly through its predecessors, affiliates or subsidiaries, manufactured, marketed, sold or distributed Automotive Wire Harness Systems that were purchased in Canada during the Class Period.

11. The defendant, American Furukawa Inc. ("**American Furukawa**"), is incorporated under the laws of the State of Delaware in the United States of America with locations in Plymouth, Michigan. American Furukawa manufactured, marketed, sold or distributed Automotive Wire Harness Systems that were purchased in Canada during the Class Period. American Furukawa is owned and controlled by Furukawa. Furukawa and American Furukawa are referred to herein as "**Furukawa**".

12. The defendant, Fujikura Ltd. ("**Fujikura**"), is a Japanese corporation. Fujikura, directly or indirectly through its predecessors, affiliates or subsidiaries, manufactured, marketed, sold or

distributed Automotive Wire Harness Systems that were purchased in Canada during the Class Period.

13. The defendant, Fujikura America Inc. (“**Fujikura America**”), is incorporated under the laws of the State of Delaware in the United States of America with locations in Santa Clara, California and Farmington Hills, Michigan and is owned and controlled by Fujikura. Fujikura America, directly indirectly through its predecessors, affiliates or subsidiaries, manufactured, marketed, sold or distributed Automotive Wire Harness Systems that were purchased in Canada during the Class Period. Fujikura and Fujikura American are referred to herein as “**Fujikura**”.

14. The defendant, Lear Corp. (“**Lear**”), is incorporated under the laws of the State of Delaware in the United States of America and has its principal place of business in Southfield, Michigan. Lear, directly or indirectly through its predecessors, affiliates or subsidiaries, manufactured, marketed, sold or distributed Automotive Wire Harness Systems that were purchased in Canada during the Class Period.

15. The defendant, Leoni AG (“**Leoni**”), is a German corporation. Leoni, manufactured, marketed, sold and distributed either directly or indirectly through its predecessors, affiliates and subsidiaries, including the defendant Leoni Kabel GmbH (“**Leoni Kabel**”), Automotive Wire Harness Systems that were purchased in Canada during the Class Period. Leoni Kabel is a German corporation. Leoni and Leoni Kabel are referred to herein as “**Leoni**”.

16. The defendant, Sumitomo Electric Industries Ltd. (“**Sumitomo**”), is a Japanese corporation. Sumitomo, directly or indirectly through its predecessors, affiliates or subsidiaries,



manufactured, marketed, sold or distributed Automotive Wire Harness Systems that were purchased in Canada during the Class Period.

17. The defendant, Yazaki Corporation (“**Yazaki**”), is a Japanese corporation. Yazaki manufactured, marketed, sold and distributed either directly or indirectly through its predecessors, affiliates and subsidiaries, including the defendant, Yazaki North America Inc. (“**Yazaki NA**”) Automotive Wire Harness Systems that were purchased in Canada during the Class Period. Yazaki NA is incorporated under the laws of the State of Delaware in the United States of America and has its principal place of business in Canton Township, Michigan. Yazaki NA is owned and controlled by Yazaki. Yazaki and Yazaki NA Inc. are referred to herein as “**Yazaki**.”

18. Various persons, partnerships, sole proprietors, firms, corporations and individuals not named as defendants in this lawsuit, and individuals, the identities of which are presently unknown, including senior executives and employees of the defendants, have participated as co-conspirators with defendants in the unlawful conduct alleged in this statement of claim, and have performed acts and made statements in furtherance of the conspiracy or in furtherance of the unlawful conduct.

19. The defendants, Doe Corporation Nos 1 to 10, are corporations, the identities of which are presently unknown to the plaintiffs, that participated as co-conspirators with the other defendants, or some of them, in the unlawful conduct alleged herein, and have performed acts and made statements in furtherance of the conspiracy or in furtherance of the unlawful conduct alleged herein.

20. The defendants are jointly and severally liable for the actions of and damages allocable to all co-conspirators.

21. Whenever reference is made herein to any act, deed or transaction of any corporation, the allegation means that the corporation or limited liability entity engaged in the act, deed or transaction by or through its officers, directors, agents, employees or representatives while they were actively engaged in the management, direction, control or transaction of the corporation's business or affairs.

### **The Automotive Wire Harness Industry**

22. Automotive Wire Harness Systems consist of the wires or cables and data circuits that run throughout an automotive vehicle. To ensure safety and basic functions (e.g., going, turning and stopping), as well as to provide comfort and convenience, automobiles are equipped with various electronics which operate using control signals running on electrical power supplied from the battery. The Automotive Wire Harness System is the conduit for the transmission of these signals and electrical power.

23. Automotive Wire Harness Systems are installed by automobile original equipment manufacturers (“OEMs”) in new cars as part of the automotive manufacturing process. They are also installed in cars to replace worn out, defective or damaged Automotive Wire Harness Systems.

24. For new cars, the OEMs – mostly large automotive manufacturers such as General Motors, Chrysler, Toyota and others – purchase Automotive Wire Harness Systems directly from the defendants. Automotive Wire Harness Systems may also be purchased by component

manufacturers who then supply such systems to OEMs. These component manufacturers are also called “**Tier Manufacturers**” in the industry. A Tier I manufacturer supplies Automotive Wire Harness Systems directly to an OEM.

25. When purchasing Automotive Wire Harness Systems and related products, OEMs issue Requests for Quotation (“**RFQs**”) to automotive parts suppliers. Automotive parts suppliers submit quotations, or bids, to OEMs in response to RFQs. The OEMs usually award the business to the selected automotive parts supplier for a fixed number of years consistent with the estimated production life of the parts program. Typically, the bidding process begins approximately three years before the start of production of a new model. Japanese OEMs procure parts for North-American-manufactured vehicles in Japan, the United States and Canada.

26. The plaintiffs and members of the Proposed Class purchased Automotive Wire Harness Systems indirectly from one or more of the defendants. The defendants and their co-conspirators supplied Automotive Wire Harness Systems to OEMs for installation in vehicles manufactured and sold in Canada and elsewhere. The defendants and their co-conspirators manufactured Automotive Wire Harness Systems: (a) in North America for installation in vehicles manufactured in North America and sold in Canada, (b) in Japan for export to North America and installation in vehicles manufactured in North America and sold in Canada, and (c) in Japan for installation in vehicles manufactured in Japan for export to and sale in Canada.

27. The defendants intended as a result of their unlawful conspiracy to inflate the prices for cars sold to automotive dealers in Canada and elsewhere.

28. The defendants unlawfully conspired to agree and manipulate prices for Automotive Wire Harness Systems and to mislead and conceal their anti-competitive behaviour from the OEMs and automotive dealers. The defendants knew that their unlawful scheme and conspiracy would unlawfully increase the price at which Automotive Wire Harness Systems would be sold to the OEMs from the price that could be charged on a competitive basis. By charging inflated prices to the OEMs, the defendants knew that their unlawful scheme and conspiracy would injure the plaintiffs and all members of the Proposed Class. By increasing the cost of Automotive Wire Harness Systems to the OEMs, the defendants were aware that this would inflate the prices at which OEMs would sell to automobiles to the plaintiffs and all members of the Proposed Class.

29. The global Automotive Wire Harness Systems market size reached US \$21.9 billion in 2009, and increased by 32.2% to US \$29 billion in 2010.

30. The global Automotive Wire Harness Systems market is dominated and controlled by large manufacturers, the top six of which control almost 90% of the global market. Of those, the largest four control almost 77% of the global market.

31. Yazaki is the largest manufacturer of Automotive Wire Harness Systems in the world and controls approximately 30% of the global market. Its Automotive Wire Harness Systems are used by every carmaker in Japan. Yazaki's largest customers are Toyota, Chrysler, Ford, Renault-Nissan, Honda, and General Motors. In the Western Hemisphere, it supplies Chrysler, Ford, General Motors, Honda, Isuzu, Mazda, Mitsubishi, Nissan, Renault, Subaru and Toyota.

32. Sumitomo is the second largest manufacturer of Automotive Wire Harness Systems, and controls approximately 24% of the global market.

33. Delphi is the third largest maker of Automotive Harness Systems. It controls approximately 16 % of the global market. Its two largest customers are General Motors and Ford.

34. Lear controls approximately 5% of the global market for Automotive Wire Harness Systems. Lear supplies Toyota, General Motors, Ford, and BMW.

35. Leoni controls approximately 6% of the global market for Automotive Wire Harness Systems.

36. Furukawa controls approximately 4% of the global market for Automotive Wire Harness Systems.

37. By virtue of their market shares, the defendants are the dominant manufacturers and suppliers of Automotive Wire Harness Systems in Canada and the world.

#### **Investigations into International Cartel and Resulting Fines**

38. A globally coordinated investigation into collusion in the Automotive Wire Harness Systems industry is underway in the United States of America, Europe, and Japan.

39. Delphi, Furukawa, Lear, Leoni, Sumitomo, and Yazaki have all been the subject of information requests or search warrants by competition authorities in Japan, Europe or the United States of America in relation to the international investigation.

40. Japan's Fair Trade Commission has fined Furukawa, Fujikura, Sumitomo and Yazaki a combined 12.9 billion yen (US\$169 million) for price-fixing relating to Automotive Wire Harness Systems.

41. The United States Department of Justice is conducting an investigation of potential collusion in the Automotive Wire Harness Systems industry affecting the North American automotive market.

42. In or about February 2010, investigators from the United States Federal Bureau of Investigation ("FBI") executed search warrants and conducted searches of three Detroit-area auto parts makers as part of a federal antitrust investigation. The FBI executed warrants and searched the offices of these companies, including Yazaki. Affidavits supporting issuance of the warrants were sealed in United States federal court.

43. Furukawa and Yazaki have agreed to plead guilty and pay a total of US\$670 million in criminal fines to the United States for their role in a price-fixing and bid-rigging conspiracy in the sale of Automotive Wire Harness Systems to OEMs.

44. The automotive industry in Canada and the United States is an integrated industry. Automobiles manufactured on both sides of the border are sold in Canada. The unlawful conspiracy affected prices of Automotive Wire Harnesses in the United States of America and Canada, including Ontario.

**Plaintiffs Purchased Vehicles Containing Automotive Wire Harness Systems Manufactured and Sold by Defendants**

45. Sheridan purchased for resale during the Class Period the following brands of vehicles manufactured by GMCL or its affiliates: Chevrolet, Oldsmobile and Cadillac.

46. Sheridan also purchased for resale vehicles during the Class Period manufactured by the following other automotive manufacturers: Suzuki Canada Inc., CAMI Automotive Inc., GM Daewoo Auto & Technology Company and Daewoo Motor Co..

47. Pickering purchased for resale during the Class Period the following brands of vehicles manufactured by GMCL or its affiliates: Isuzu, Saab and Saturn.

48. Pickering also purchased for resale during the Class Period vehicles manufactured by the following other automotive manufacturers: Isuzu Motors Ltd., Adam Opel AG and Subaru Canada Inc.

49. The vehicles purchased by Sheridan and Pickering were manufactured in whole or in part at various times in Ontario or other parts of Canada, the United States of America, Japan and other parts of the world.

50. Sheridan and Pickering purchased vehicles containing Automotive Wire Harnesses manufactured and sold by the one or more of the defendants that were the subject of the conspiracy described herein.

**Breaches of Part VI of *Competition Act***

51. From January 2000, until at least January 2010, the defendants engaged in a conspiracy to rig bids for and to fix, maintain, increase or control the prices of Automotive Wire Harness Systems sold to customers in Canada and elsewhere.

52. The defendants carried out the conspiracy by:

- (a) participating in meetings, conversations, and communications in the United States of America, Japan and elsewhere to discuss the bids and price quotations to be submitted to OEMs selling automobiles in Canada and elsewhere;
- (b) agreeing, during those meetings, conversations, and communications, on bids and price quotations to be submitted to OEMs in Canada and elsewhere;
- (c) agreeing on the prices to be charged and to control discounts for Automotive Wire Harness Systems in Canada and to otherwise fix, increase, maintain or stabilize those prices;
- (d) agreeing, during those meetings, conversations, and communications, to allocate the supply of Automotive Wire Harness Systems sold to OEMs in Canada and elsewhere on a model-by-model basis;
- (e) agreeing, during those meetings, conversations, and communications, to coordinate price adjustments requested by OEMs in Canada and elsewhere;
- (f) submitting bids, price quotations, and price adjustments to OEMs in Canada and elsewhere in accordance with the agreements reached;



- (g) selling Automotive Wire Harness Systems to OEMs in Canada and elsewhere at collusive and supra-competitive prices;
- (h) accepting payment for Automotive Wire Harness Systems sold to OEMs in Canada and elsewhere at collusive and supra-competitive prices;
- (i) engaging in meetings, conversations, and communications in the United States, Japan and elsewhere for the purpose of monitoring and enforcing adherence to the agreed-upon bid-rigging and price-fixing scheme;
- (j) employing measures to keep their conduct secret, including but not limited to using code names and meeting at private residences or remote locations; and
- (k) preventing or lessening, unduly, competition in the market in Canada in the production, manufacture, sale or distribution of Automotive Wire Harness Systems in Canada.

53. As a result of this international bid-rigging and price-fixing conspiracy, OEMs paid supra-competitive prices for Automotive Wire Harness Systems installed in vehicles sold to members of the Proposed Class and, as a result, sold automobiles to the members of the Proposed Class at inflated costs.

54. The conduct described above constitutes offences under Part VI of the *Competition Act*, in particular, sections 45(1), 46(1) and 47(1) of the *Competition Act*. The plaintiffs claim loss and damage under section 36(1) of the *Competition Act* in respect of such unlawful conduct.

55. Such conduct further constituted an offence under section 61(1) of the *Competition Act* for the period from January 1, 2000 until the repeal of that section on March 12, 2009. The

plaintiffs claim damages under section 36(1) of the *Competition Act* in respect of conduct contrary to section 61(1) of the *Competition Act* for the period from January 1, 2000 to March 12, 2009.

### **Civil Conspiracy**

56. The defendants entered into agreements with each other to use unlawful means which resulted in losses and damages, including special damages, to the plaintiffs and members of the Proposed Class. The unlawful means include the following:

- (a) Entering into agreements to rig bids and fix, maintain, increase or control prices of Automotive Wire Harness Systems sold to customers in Canada and elsewhere in contravention of sections 45(1), 46(1), 47(1) and (during the period in which it was in force) 61(1) of the *Competition Act*;
- (b) Entering into agreements to rig bids and fix, maintain, increase or control prices of Automotive Wire Harness Systems sold to customers in Canada and elsewhere in contravention of the laws of the United States of America, Japan and other countries; and
- (c) aiding, abetting and counselling of the commission of the above offences, contrary to sections 21 and 22 of the *Criminal Code* R.S.C. 1985, c. C-46.

57. In furtherance of the conspiracy, the defendants, their servants, agents and unnamed co-conspirators carried out the acts described in paragraph 51 above.

58. The defendants and unnamed co-conspirators were motivated to conspire. Their predominant purposes and concerns were to harm the plaintiffs and other members of the

Proposed Class by requiring them to pay artificially high prices for Automotive Wire Harness Systems, and to illegally increase their profits on the sale of Automotive Wire Harness Systems.

59. The defendants and unnamed co-conspirators intended to cause economic loss to the plaintiffs and other members of the Proposed Class. In the alternative, the defendants and unnamed co-conspirators knew in the circumstances their unlawful acts would likely cause injury.

### **Unjust Enrichment**

60. As a result of their conduct, the defendants benefited from a significant enhancement of their sales volumes, profits and market share. All members of the Proposed Class have suffered a corresponding deprivation as a result of being forced to pay inflated prices for vehicles containing Automotive Wire Harness Systems. There is no juristic reason or justification for the defendants' enrichment, as such conduct is unlawful under the *Competition Act* and similar laws of other countries in which the unlawful acts took place and is tortious and unjustifiable.

61. It would be inequitable for the defendants to be permitted to retain any of the ill-gotten gains resulting from their unlawful conspiracy.

62. The plaintiffs and the members of the Proposed Class are entitled to the amount of the defendants' ill-gotten gains resulting from their unlawful and inequitable conduct.

### **Damages**

63. The defendants' conspiracy had the following effects, among others:

- (a) Price competition has been restrained or eliminated with respect to Automotive Wire Harness Systems sold to OEMs selling vehicles to the plaintiffs and other members of the Proposed Class in Ontario and the rest of Canada;
- (b) The prices of Automotive Wire Harness Systems have been fixed, maintained, increased or controlled at artificially inflated levels for resale as a component of a vehicle sold to the plaintiffs and other members of the Proposed Class in Ontario and the rest of Canada; and
- (c) The plaintiffs and members of the Proposed Class have been deprived of free and open competition in Automotive Wire Harness Systems in Ontario and the rest of Canada.

64. Automotive Wire Harness Systems are identifiable, discrete physical products that remain essentially unchanged when incorporated into a vehicle. As a result, Automotive Wire Harness Systems follow a traceable chain of distribution from the defendants to the OEMs and from the OEMs to the plaintiffs and the members of the Proposed Class. Costs attributable to Automotive Wire Harness Systems can be traced through the OEMs to the plaintiffs and the members of the Proposed Class.

65. By reason of the wrongful conduct alleged herein, the plaintiffs and the members of the Proposed Class have sustained losses to their businesses by virtue of having paid higher prices for vehicles containing Automotive Wire Harness Systems than they would have paid in the absence of the defendants' illegal conduct. As a result, the plaintiffs and the members of the Proposed Class have suffered losses and damages in an amount not yet known but to be determined. Full particulars of the losses and damages will be provided before trial.

66. Because the defendants' conspiracies, agreements or arrangements were concealed, the plaintiffs and members of the Proposed Class were unaware of the unlawful conduct and could not have discovered its existence through reasonable diligence.

### **Punitive, Aggravated and Exemplary Damages**

67. The defendants used their market dominance, illegality and deception in furtherance of a conspiracy to illegally profit from the sale of Automotive Wire Harness Systems. They were, at all times, aware that their actions would have a significant adverse impact on all members of the Proposed Class. The defendants' conduct was high-handed, reckless, without care, deliberate, and in disregard of the plaintiffs' and Proposed Class members' rights.

68. Accordingly, the plaintiffs request substantial punitive, exemplary and aggravated damages in favour of each member of the Proposed Class.

### **Injunctive Relief**

69. The unlawful conduct alleged herein has caused and will continue to cause irreparable harm to the members of the Proposed Class. The plaintiffs request interlocutory and permanent injunctive relief enjoining the defendants, their affiliates, successors, transferees and assignees and officers, directors, partners, agents and employees thereof, from maintaining or renewing the conduct, conspiracies, agreements or arrangements alleged herein, or from entering into any other conduct, conspiracies, agreements or arrangements having a similar purpose or effect.

**Service of Statement of Claim Outside Ontario**

70. The plaintiffs are entitled to serve this statement of claim outside Ontario without a court order pursuant to the following rules of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194 because:

- (a) Rule 17.02 (f)(i) – the claim relates to a contract made in Ontario;
- (b) Rule 17.02 (g) – the claim relates to a tort committed in Ontario;
- (c) Rule 17.02 (h) – the claim relates to damage sustained in Ontario arising from a tort; and
- (d) Rule 17.02 (o) – the defendants residing outside of Ontario are necessary and proper parties to this proceeding.

February 17, 2012

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Plaintiffs

-and-

DELPHI AUTOMOTIVE LLP et. al.  
Defendants

Court File No.

CJ-12-44673700CP

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT TORONTO

**STATEMENT OF CLAIM**

**SOTOS LLP**

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