

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

IN RE: URETHANE ANTITRUST LITIGATION

**This Document Relates To:
The Polyether Polyol Cases**

No. 04-MD-1616-JWL

NOTICE OF PARTIAL CLASS ACTION SETTLEMENT AND FAIRNESS HEARING

If you purchased polyether polyols, MDI, TDI, MDI-TDI blends, or polyether polyol systems between 1999 and 2004, a class action settlement with BASF Corporation may affect your rights.

PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY.

NOTICE IS HEREBY GIVEN that a class action settlement with defendant BASF Corporation (“BASF”) has been agreed to by the settling parties. The settlement provides for a cash payment to the class of \$51 million, payable in three equal annual installments. If you are a member of the Class and have not previously requested to be excluded from the Class, your rights may be affected by the settlement. Your rights and options are described below.

The BASF settlement is in addition to the Huntsman settlement, which provided for a cash payment to the Class of \$33 million, payable in three equal annual installments. Notice of the Huntsman settlement was mailed to Class Members in June 2011. On September 27, 2011, the Court held a Fairness Hearing and granted final approval of the Huntsman settlement.

A Fairness Hearing will be held on December 12, 2011 at 10:00 a.m. before the Honorable John W. Lungstrum, United States District Judge, in Courtroom 427, United States Courthouse, located at 500 State Avenue, Kansas City, Kansas 66101, to (i) finally determine whether the proposed BASF settlement is fair, reasonable and adequate to the Class; (ii) consider Class Plaintiffs’ proposed Plan of Allocation and Distribution for the BASF and Huntsman settlement proceeds; and (iii) consider Class Counsel’s petition for an award of attorneys’ fees and reimbursement of costs and expenses.

I. THE CLASS

On July 29, 2008, the United States District Court for the District of Kansas (“the District Court”) issued an order certifying this lawsuit as a class action for the following Class: All persons and entities who purchased Polyether Polyol Products (defined below) directly from a defendant at any time from January 1, 1999 through December 31, 2004 in the United States and its territories (excluding all governmental entities, any defendants, their employees, and their respective parents, subsidiaries and affiliates). Polyether Polyol Products are: propylene oxide-based polyether polyols; monomeric or polymeric diphenylmethane diisocyanates (MMDI or PMDI – collectively, MDI); toluene diisocyanates (TDI); MDI-TDI blends; or propylene oxide-based polyether polyol systems (except those that also contain polyester polyols).

Defendants are:

- **BAYER AG, BAYER CORPORATION, and BAYER MATERIALSCIENCE LLC (f/k/a Bayer Polymers LLC);**
- **BASF CORPORATION and BASF SE (f/k/a BASF AG);**
- **THE DOW CHEMICAL COMPANY;**
- **HUNTSMAN INTERNATIONAL LLC; and**
- **LYONDELL CHEMICAL COMPANY.**

The District Court set a deadline of December 24, 2008 for Class Members to exclude themselves from the class action. If you did not previously exclude yourself, you are a member of the Class.

II. BACKGROUND OF THE CLASS ACTION

Plaintiffs, Seegott Holdings, Inc., Industrial Polymers, Inc., and Quabaug Corporation (collectively, “Plaintiffs”), have filed suit against Defendants Bayer AG, Bayer Corporation, Bayer MaterialScience LLC (f/k/a Bayer Polymers LLC) (collectively, the “Bayer Defendants”), BASF, BASF SE, The Dow Chemical Company (“Dow”), Huntsman International LLC (“Huntsman”), and Lyondell Chemical Company (“Lyondell”). Plaintiffs allege that Defendants unlawfully agreed to fix, raise, maintain or stabilize the prices of and allocate customers and markets for Polyether Polyol Products (as defined above) sold in the United States and its territories during the period January 1, 1999 through December 31, 2004 in violation of the federal antitrust laws. Plaintiffs allege that, as a result of such violations of the antitrust laws, they and other members of the Class paid more for Polyether Polyol Products than they would have paid absent such wrongful conduct.

On August 30, 2006, the District Court approved a class action settlement with the Bayer Defendants for \$55.3 million. In January 2011, checks were distributed to members of the Class who submitted qualified claims.

As described above, the Court certified this lawsuit as a class action. At that time, the Court appointed the attorneys listed below in Part VIII to represent the Class as Class Counsel at the expense of the Class to be paid from any recovery.

From September 2008 through December 2010, the parties engaged in extensive merits discovery, including the production and review of millions of pages of documents and the depositions of more than 100 witnesses domestically and overseas. But for a few discrete items, merits discovery in this litigation is closed, and the parties now are participating in expert discovery and preparing for trial, which is scheduled for January 2013.

Plaintiffs entered into class action settlement agreements with Huntsman and Lyondell, which the District Court approved on September 28, 2011.

Plaintiffs have entered into a settlement agreement with BASF, subject to approval by the District Court. Although BASF has agreed to settle with Plaintiffs on the terms described below in this Notice, BASF denies engaging in any wrongful conduct.

The lawsuit will continue against the sole remaining defendant, Dow, who has not entered into a settlement agreement with Plaintiffs.

THE COURT HAS NOT RULED ON ANY OF THE CLAIMS OR DEFENSES OF THE PARTIES. THIS NOTICE IS NOT TO BE UNDERSTOOD AS AN EXPRESSION OF ANY OPINION BY THE COURT AS TO THE MERITS OF ANY OF THE CLAIMS OR DEFENSES ASSERTED BY PLAINTIFFS OR DEFENDANTS.

III. THE PROPOSED SETTLEMENT

The following description of the proposed BASF settlement is a summary only. The Settlement Agreement is on file with the Court and available online at www.PolyetherPolyolSettlement.com.

A. The Settlement Agreement

The Settlement Agreement requires BASF to:

- i. Pay into the Settlement Fund a total of \$51 million, in three annual installments of \$17 million each; and
- ii. Produce additional documents and data that Plaintiffs reasonably request, and assist Plaintiffs with document authentication and transaction data-related requests in the further prosecution of this litigation.

B. Release of Claims Against BASF

If the Court approves the Settlement Agreement after the Fairness Hearing (and that approval is not challenged or is affirmed on appeal), each member of the Class (the "Releasors") shall have completely released, acquitted, and forever discharged BASF Corporation, BASF SE, BASF Coordination Center Comm. V., and BASF Canada, Inc., and their respective past and present, direct and indirect, parents, subsidiaries, affiliates, officers, directors, employees, agents, attorneys, servants and representatives (the "Releasees") from any and all claims, demands, actions, suits, and causes of action, whether class, individual, or otherwise in nature, damages whenever incurred, liabilities of any nature whatsoever, including costs, expenses, penalties, and attorneys' fees, known or unknown, suspected or unsuspected, asserted or unasserted, in law or equity that Releasors, or any one of them, whether directly, representatively, derivatively, or in any other capacity, ever had, now have, or hereafter can, shall, or may have against the Releasees, relating in any way to any conduct by Releasees and/or any joint and several liability arising from the conduct of any of the Defendants in the Class Actions from the beginning of time until the Effective Date concerning the pricing, purchase, selling, discounting, marketing, manufacturing, offering and/or distributing of the Products in the United States and its territories or for delivery in the United States and its territories ("Released Claims"). The Released Claims also include, but are not limited to, all claims asserted or which could have been asserted in the Class Actions relating to or arising out of the facts, occurrences, transactions, or other matters alleged or otherwise raised during the proceedings by Plaintiffs and/or BASF in the above-captioned actions. This release shall not affect the rights of any Class Member to pursue claims unrelated to the allegations in this litigation, such as claims concerning any product defect, breach of contract, or similar claim against BASF relating to Polyether Polyol Products.

The release and dismissal of the claims of the Class against BASF and Releasees will have no effect upon any claims Class Members may have against the Defendants other than BASF and Releasees.

C. Opinion of Class Counsel

In light of Class Counsel's informed opinion of the strengths and weaknesses of the parties' claims and defenses in this litigation, the payment amount, and the other benefits provided in the Settlement Agreement, Class Counsel believe that the proposed settlement is fair, reasonable and adequate, and in the best interests of the Class.

IV. THE PROPOSED PLAN OF ALLOCATION AND DISTRIBUTION

At the Fairness Hearing, Class Counsel will ask the Court to approve the proposed Plan of Allocation and Distribution ("Plan") of the BASF and Huntsman settlement proceeds. The proposed Plan will be submitted to the Court by November 2, 2011, at which time it will be filed with the Court and made available online at www.PolyetherPolyolSettlement.com.

If the proposed Plan is approved, the Net Settlement Fund from the BASF and Huntsman settlements (*i.e.*, the amount available for distribution to Class Members after payment of such fees and expenses as are awarded by the Court) will be distributed to Class Members who submit their Proof of Claim in accordance with Section V. below and have qualified claims. The Court may approve or reject, in full or in part, any individual claim of a Class Member based on equitable grounds.

The District Court previously set a deadline of December 24, 2008 for Class Members to exclude themselves from the class action. If you did not previously exclude yourself, you are a member of the Class.

The Net Settlement Fund will be distributed on a *pro rata* basis among those Class Members who timely and properly file a Proof of Claim in proportion to the total dollar amount of their purchases of Products directly from Defendants during the Class Period. To qualify, purchases must have been made directly from one or more Defendants during the Class Period.

V. SUBMISSION OF CLAIM FORMS

If the Court approves the proposed Plan of Allocation and Distribution, the Settlement Administrator will send a Proof of Claim form to all Class Members that did not timely exclude themselves from the Class. Even if you already submitted a claim form in connection with the distribution of Bayer Settlement Fund, you will need to submit another claim form to be eligible for a distribution from the BASF and Huntsman settlement funds.

Based on purchase data provided by Defendants from their sales records, each claimant's claim form will set forth the claimant's total purchase amounts (net of freight charges, discounts, credits, rebates, or other off-sets), separately by Defendant, during the Class Period. The Settlement Administrator will compile this data and calculate each Class Member's total purchases in an effort to save the Class Members the cost and burden of retrieving and compiling their own records (or hiring a third party to do so). If you believe your pre-printed purchase data is inaccurate, you may provide your own purchase data as long as it is supported by proof of your purchases, such as invoices, purchase orders, or cancelled checks. The claim form will advise you of the deadline for filing claims and other procedural details.

You should retain all documents that substantiate the purchases of the Products that you made during the Class Period from each of the Defendants, even if you already have submitted such records to the Settlement Administrator in connection with the distribution of the Bayer Settlement Fund.

The foregoing is only a summary of the Plan of Allocation and Distribution. For the details please see the Motion for Approval of the Plan of Allocation and Distribution and its supporting papers, which will be filed with the Court on November 2, 2011, at which time they will be available on request from Class Counsel and will be posted to the Urethane Settlement website, www.PolyetherPolyolSettlement.com.

Class Counsel believe the proposed Plan is a fair, reasonable and adequate method for allocating the Settlement Fund, and they will ask the Court to enter an Order approving the Plan and authorizing its implementation.

If you change your address, or if this Notice was not mailed to your correct address, you should immediately provide your correct address to the Settlement Administrator at the following address: *Urethane Antitrust Litigation – Polyether Polyol Cases*, c/o Rust Consulting, Inc., P.O. Box 24628, West Palm Beach, FL 33416. If the Settlement Administrator does not have your correct address, you may not receive the claim form or other important documents in this litigation.

VI. THE PETITION FOR AWARD OF ATTORNEYS' FEES AND COSTS

The Court has appointed Class Counsel to represent you and other Class Members. The fees for Class Counsel's services will be paid from the Settlement Fund created by the BASF and Huntsman settlements and you will not be otherwise charged for these lawyers. Class Counsel will petition the Court for payment of attorneys' fees not to exceed one-third of the BASF and Huntsman settlement funds and for reimbursement of expenses incurred through June 30, 2011 in their prosecution of this litigation in an amount not to exceed \$5.1 million. The Petition for Award of Attorneys' Fees and Reimbursement of Litigation Expenses will be filed with the Court by November 2, 2011 and will be available on request from Class Counsel and will be posted to the Urethane Settlement website, www.PolyetherPolyolSettlement.com.

VII. FAIRNESS HEARING

On December 12, 2011, at 10:00 a.m., the District Court will hold a Fairness Hearing at which it will consider (i) whether the BASF Settlement Agreement should be finally approved as fair, adequate and reasonable to the Class and whether the claims of the Class against BASF should be dismissed with prejudice, and (ii) whether to approve the proposed Plan of Allocation and Distribution and the petition for attorneys' fees and costs. You do not need to appear at that hearing. Any member of the Class may object to the BASF Settlement Agreement or to the proposed Plan of Allocation and Distribution or the petition for attorneys' fees and costs, and any such objections must be in writing and filed with the Clerk, United States District Court for the District of Kansas, 500 State Avenue, Kansas City, Kansas 66101, no later than November 23, 2011, with copies served upon the counsel identified below:

Richard A. Koffman, Esq. Cohen Milstein Sellers & Toll PLLC 1100 New York Avenue, NW Suite 500 West Washington, DC 20005-3964 Attorney for Plaintiffs	Gerard A. Dever, Esq. Fine, Kaplan and Black, R.P.C. 1835 Market Street 28th Floor Philadelphia, PA 19103 Attorney for Plaintiffs	Andrew S. Marovitz, Esq. Mayer Brown LLP 71 S. Wacker Drive Chicago, IL 60606 Attorney for BASF Defendants	David T. Harvin, Esq. Vinson & Elkins LLP First City Tower 1001 Fannin Street, Suite 2500 Houston, TX 77002-6760 Attorney for Huntsman
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If you object to the Settlement and have filed a timely objection to the Settlement, you also may appear at the Fairness Hearing regarding the Settlement, but you are not required to do so. If you choose to do so, you can appear either yourself or by retaining an attorney at your own expense to appear on your behalf. All Class Members who timely object to the Settlement are still members of the Class and are legally bound by the Settlement. The time and date of the hearing may be continued from time to time. Notice of any such continuance shall be set forth on the Court's docket.

VIII. ADDITIONAL INFORMATION

THE ABOVE IS ONLY A SUMMARY OF THE SETTLEMENT AGREEMENT AND RELATED MATTERS.

To obtain copies of the September 21, 2011 Settlement Agreement with BASF, see www.PolyetherPolyolSettlement.com. For more detailed information concerning the matters involved in the litigation, the pleadings, the Settlement Agreement, the Orders entered by the Court and the other papers filed in the class action may be inspected at the Office of the Clerk of the United States District Court for the District of Kansas, 500 State Avenue, Suite 259, Kansas City, Kansas 66101, during regular business hours.

ALL INQUIRIES CONCERNING THIS NOTICE AND THE SETTLEMENT AGREEMENTS SHOULD BE DIRECTED TO CLASS PLAINTIFFS' COUNSEL OR THE SETTLEMENT ADMINISTRATOR AT THE ADDRESSES SET FORTH BELOW:

Richard A. Koffman, Esq. Cohen Milstein Sellers & Toll PLLC 1100 New York Avenue, NW Suite 500 West Washington, DC 20005-3964 (202) 408-4600 rkoffman@cohenmilstein.com	Gerard A. Dever, Esq. Fine, Kaplan and Black, R.P.C. 1835 Market Street 28th Floor Philadelphia, PA 19103 (215) 567-6565 gdever@finekaplan.com	Urethane Antitrust Litigation Polyether Polyol Cases c/o Rust Consulting, Inc. P.O. Box 24628 West Palm Beach, FL 33416 UrethaneInfo@CompleteClaimSolutions.com 877-741-1226
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INQUIRIES SHOULD NOT BE DIRECTED TO BASF, HUNTSMAN, THE COURT OR THE CLERK'S OFFICE.

BY ORDER OF THE COURT DATED SEPTEMBER 28, 2011

JOHN W. LUNGSTRUM, JUDGE

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS

Urethane Antitrust Litigation
Polyether Polyol Cases
c/o Rust Consulting, Inc.
P.O. Box 24628
West Palm Beach, FL 33416

IMPORTANT LEGAL DOCUMENT