IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS

IN RE: URETHANE ANTITRUST LITIGATION))	MDL 1616 Civil No. 04-md-01616-JWL
)	
This Document Relates To:)	
The Polyether Polyol Cases)	
)	

ORDER GRANTING CLASS PLAINTIFFS' MOTION FOR AN ORDER AUTHORIZING THE RETENTION OF A PORTION OF THE BASF/HUNTSMAN SETTLEMENT FUND TO PAY APPEAL BOND PREMIUMS, IF NECESSARY, AND FOR REIMBURSEMENT OF ADDITIONAL LITIGATION FUND EXPENSES

AND NOW, upon consideration of Class Plaintiffs' Motion For An Order Authorizing
The Retention Of A Portion Of The BASF/Huntsman Settlement Fund To Pay Appeal Bond
Premiums, If Necessary, And For Reimbursement Of Additional Litigation Fund Expenses, Dkt.
No. 2967 (the "Motion"), and all papers submitted in support of or in opposition thereto, and
after an October 1, 2013 hearing thereon, the Court hereby **ORDERS** that the Motion is **GRANTED**. The Court specifically **ORDERS** that:

- 1. The Notice provided of the Motion complied with this Court's August 8, 2013

 Order (Dkt. 2973), meets the requirements of Rule 23 of the Federal Rules of Civil Procedure

 and due process, was the best notice practicable under the circumstances, and constitutes due and
 sufficient notice to all persons entitled thereto.
- 2. The Objection of Canal Lining Systems LLC (Dkt. No. 2993), which provided no explanation of the basis for its objection, is hereby **OVERRULED**. Only one other objection was filed (Dkt. No. 2992), but it was withdrawn prior to the October 1, 2013 hearing on the

Motion. Dkt. No. 3017.

- 3. For purposes of this Order, the "Huntsman Escrow Account" shall mean the Escrow Account as defined by paragraph 11 of the Huntsman Settlement Agreement dated May 27, 2011, as modified by this Court's Order of December 21, 2011 (Dkt. No. 2249). The "BASF Escrow Account" shall mean the Escrow Account as defined by paragraph 11 of the BASF Settlement Agreement dated September 21, 2011, as modified by this Court's Order of January 11, 2012 (Dkt. No. 2291).
- 4. A total of \$3,600,000.00 shall be retained in the BASF Escrow Account and the Huntsman Escrow Account to pay any *supersedeas* bond premiums that may be awarded pursuant to Fed. R. App. P. 39(e)(3) after the conclusion of The Dow Chemical Company's appeal. In the event some or all of these reserved funds are not needed to satisfy any such award, Class Plaintiffs may move for an appropriate Order to determine the disposition of such funds. Approximately thirty-nine percent (39%) of the reserved funds, or \$1,404,000.00, shall be retained in the Huntsman Escrow Account. Approximately sixty-one percent (61%) of the retained funds, or \$2,196,000.00, shall be retained in the BASF Escrow Account.
- 5. Co-Lead Counsel Fine, Kaplan and Black, R.P.C. and Cohen Milstein Sellers & Toll PLLC ("Co-Lead Counsel") are awarded litigation costs and expenses incurred during the period July 1, 2011 through May 31, 2013 in the amount of \$3,081,726.22. Approximately thirty-nine percent (39%) of this award, or \$1,201,873.23, shall be paid from the funds held in the Huntsman Escrow Account. Approximately sixty-one percent (61%) of this award, or \$1,879,852.99, shall be paid from the funds held in the BASF Escrow Account.

6. The Court retains jurisdiction over matters that are the subject of this Order until after full disbursement of the Escrow Accounts, and/or as necessary to effectuate the terms of this Order.

IT IS SO ORDERED this <u>1st</u> day of <u>October</u>, 2013.

s John W. Lungstrum

Hon. John W. Lungstrum United States District Judge