

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

IN RE: URETHANE ANTITRUST)
LITIGATION) No. 04-MD-1616-JWL

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This Document Relates To:)
The Polyether Polyol Cases)
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**NOTICE INFORMING YOU OF A
MODIFICATION OF THE CLASS DEFINITION**

**If you purchased polyether polyols, MDI, TDI, MDI-TDI
blends, or polyether polyol systems in 2004, a modification of
the class definition may affect your rights.**

PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY.

This Notice is being sent to let you know about a recent development in the above-captioned lawsuit. In 2008, the Court certified this litigation as a class action and defined the Class to include entities that purchased Polyether Polyol Products (as defined below in Part I) between 1999 and 2004. On May 15, 2013, the Court issued an Order modifying the definition of the Class certified in this case to **exclude** purchases made during 2004. If you purchased polyether polyols, MDI, TDI, MDI-TDI blends, or polyether polyol systems during 2004, your rights may be affected by that Order.

I. BACKGROUND OF THE CLASS ACTION

In November 2004, Plaintiffs Seegott Holdings, Inc., Industrial Polymers, Inc. and Quabaug Corporation filed suit against Defendants Bayer AG, Bayer Corporation, Bayer MaterialScience AG, and Bayer MaterialScience LLC (collectively, the “Bayer Defendants”), BASF SE and BASF Corporation (collectively, the “BASF Defendants”), The Dow Chemical Company (“Dow”), Huntsman International LLC (“Huntsman”), and Lyondell Chemical Company (“Lyondell”). Plaintiffs had alleged in their Complaint that Defendants unlawfully agreed to fix, raise, maintain or stabilize the prices of Polyether Polyol Products (as defined below) sold in the United States and its territories during the period from January 1, 1999 through December 31, 2004 in violation of the federal antitrust laws. **POLYETHER POLYOL PRODUCTS are defined to mean:** (1) propylene oxide-based polyether polyols; (2) monomeric or polymeric diphenylmethane diisocyanates (MMDI or PMDI – collectively, “MDI”); (3) toluene diisocyanates (“TDI”); (4) MDI-TDI blends or (5) propylene oxide-based polyether polyol systems (except those that also contain polyester polyols). 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.

Plaintiffs and the Class reached negotiated settlements of the claims against the Bayer Defendants, the BASF Defendants, Huntsman and Lyondell. These settlements have been approved by the Court and are now final. Notice was previously provided about those settlements.

Plaintiffs tried their antitrust claims against Dow to a jury, the Honorable John W. Lungstrum presiding, in January and February, 2013. At the conclusion of the trial, the jury rendered a verdict in favor of Class Plaintiffs. On May 15, 2013, the Court entered its Memorandum and Order denying Dow’s post-trial motions and modifying the time period of the Class to conform to the evidence developed during discovery and presented at trial. The Court also has entered Final Judgment against Dow and in favor of the plaintiff Class in the amount of \$1,060,847,117.00 for purchases between November 24, 2000 and December 31, 2003.

Dow is pursuing an appeal of the jury verdict and judgment rendered against it. The net proceeds of the judgment (if any) will not be distributed to members of the Class until after Dow’s appeal is concluded.

II. PURPOSE OF NOTICE

The purpose of this Notice is to advise you of important information about a modification in the Class definition made in the Court’s May 15, 2013 Order. The prior Class notices advised you that the Class period extended from January 1, 1999

through December 31, 2004. As a result of the Court's May 15, 2013 Order, the Class period has been shortened, and **now ends on December 31, 2003**. This decision could impact you in one of two ways:

- **If you purchased Polyether Polyol Products from any of the Defendants (as described above), but only purchased them in 2004, you are no longer a member of the Class proceeding against Dow and will not be able to participate in any Class recovery from Dow. You are no longer represented by Class Counsel.**
- **If you purchased Polyether Polyol Products before and during 2004, your 2004 purchases are no longer part of the claims being pursued in this class action against Dow. You may participate in any Class recovery from Dow, but your 2004 purchases will not be considered in calculating your recovery. Class Counsel will continue to represent you for purchases made before 2004, but Class Counsel will not represent you for purchases you made during 2004.**

To protect your legal rights to seek recovery from Dow for any purchases you made during 2004, you may wish to consult with your own lawyer at your own expense. You should act promptly because any claims arising from 2004 purchases could become time-barred by the statute of limitations. By Court order the statute of limitations has been tolled as of May 15, 2013, but it will begin running again as of October 8, 2013.

Nothing in this Notice is an expression by the Court as to the likelihood of success in obtaining relief or as to the merits of any claims you may assert against Dow arising from any purchases made during 2004. This Notice is intended merely to advise you of the modification of the Class definition and the status of the case.

The modification of the Class definition only applies to the claims against Dow. It does not affect the claims that were settled with the Bayer Defendants, the BASF Defendants, Huntsman and Lyondell nor your entitlement to settlement payments that you have received or will receive in the future from those settlements. Prior Notice has been provided about those settlements.

III. ADDITIONAL INFORMATION

This Notice gives only a summary of the lawsuit and the Court's Order dated May 15, 2013. A copy of the Order and many other case related documents are available at www.polyetherpolyollitigation.com. Any important updates concerning Dow's appeal of the jury verdict and judgment will be posted to this website. Any questions or inquiries regarding this Notice or this class action should be directed to Class Counsel or the Class Administrator at the below addresses:

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PLEASE DO NOT DIRECT INQUIRIES TO THE COURT OR THE CLERK'S OFFICE.

BY ORDER OF THE COURT DATED JULY 26, 2013

*JOHN W. LUNGSTRUM
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS*