

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

IN RE  
URETHANE ANTITRUST LITIGATION

MDL No. 1616

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This document relates to:  
The Polyether Polyol Cases

Civil No. 2:04-md-01616-JWL

**THE DOW CHEMICAL COMPANY'S MOTION TO DECERTIFY THE CLASS**

The Dow Chemical Company moves the Court to decertify the class. The grounds for this motion include the following:

- The Plaintiffs' common evidence will not prove every class member was impacted by the alleged conspiracy.
- Impact has been assumed, not analyzed, for all class members whose damages were only extrapolated and not modeled by Dr. McClave.
- Two intra-class conflicts preclude satisfaction of Rule 23's adequacy requirement.
- Plaintiffs cannot establish the due diligence prong of each class member's fraudulent concealment claim with common evidence.

The grounds for this motion are fully stated in the supporting memorandum, which is incorporated by reference. For the reasons stated in the supporting memorandum, Dow asks the Court to grant this motion and decertify the class.

Dated: January 22, 2013

Respectfully submitted,

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By /s/Brian R. Markley

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**Certificate of Service**

On January 22, 2013, a copy of **THE DOW CHEMICAL COMPANY'S MOTION TO DECERTIFY THE CLASS** was filed with the Court through the ECF system, which provides electronic service of the filing to all counsel of record who have registered for ECF notification in this matter.

*s/ Brian R. Markley*  
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Attorney for The Dow Chemical Company