

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

**If you bought polyether polyols, MDI, TDI, MDI-TDI blends, or polyether polyol systems between 1999 and 2003, a class action settlement with The Dow Chemical Company may affect your rights.**

*A Federal Court authorized this Notice. This is not a solicitation from a lawyer.*

- A class action settlement with defendant The Dow Chemical Company (“Dow”) has been agreed to by the settling parties. The settlement provides for a cash payment to the class of \$835 million. 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 lawsuit alleges that Dow conspired with other Defendant chemical manufacturers to fix the price of Polyether Polyol Products sold in the United States, causing customers to be overcharged when they bought those Products.
- Dow denies it did anything wrong and has asserted a number of defenses but has nevertheless agreed to settle to avoid the cost and risk of continued litigation.
- If you bought Polyether Polyol Products directly from a Defendant at any time from January 1, 1999 through December 31, 2003 in the United States and its territories (excluding all governmental entities, any defendants, their employees, and their respective parents, subsidiaries and affiliates), you could be a Class Member. See Questions 4-6 for the class definition.
- If you are a Class Member, your legal rights will be affected whether you act or you don’t act. This notice includes information about the litigation, the Settlement, the proposed Plan of Allocation, and Class Counsel’s petition for an award of attorneys’ fees, incentive awards and reimbursement of costs and expenses. Please read the entire notice carefully.
- A fairness hearing will be held on July 27, 2016 at 10 a.m. before the Honorable John W. Lungstrum, United States District Judge, in the United States Courthouse, located at 500 State Avenue, Kansas City, Kansas 66101, to (i) finally determine whether the proposed Dow settlement is fair, reasonable and adequate to the Class; (ii) consider Plaintiffs’ proposed Plan of Allocation for the Dow settlement proceeds; and (iii) consider Class Counsel’s petition for an award of attorneys’ fees, incentive awards and reimbursement of costs and expenses.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</b>	
<b>DO NOTHING</b>	You do not have to take any action now to participate in the Settlement. You will be eligible to submit a claim at a later date to receive money from the Settlement. See Question 8 below.
<b>OBJECT TO THE SETTLEMENT</b>	Write to the Court explaining why you don’t like the Settlement, the Plan of Allocation, or the petition for an award of attorneys’ fees, incentive awards and reimbursement of costs and expenses. See Question 10 below.
<b>GO TO THE FAIRNESS HEARING</b>	You may attend the Fairness Hearing, which is a public Court hearing. If you have submitted the required written objection, you may ask to speak in Court about your opinion of the Settlement, the Plan of Allocation, or the petition for an award of attorneys’ fees, incentive awards and reimbursement of costs and expenses. See Questions 14-16 below.

These rights and options – **and the deadlines to exercise them** – are explained in this Notice.

**BASIC INFORMATION**

**1. What is this lawsuit about?**

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 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. Plaintiffs alleged 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 were approved by the United States District Court for the District of Kansas (“the Court”) and are now final. Notice was previously provided about those settlements.

Plaintiffs tried their antitrust claims against Dow to a jury in 2013. At the conclusion of the trial, the jury found in favor of Class Plaintiffs and against Dow. On May 15, 2013, the Court denied Dow’s post-trial motions and modified the Class Period to January 1, 1999 through December 31, 2003. This change was implemented to conform the class definition to the evidence developed during discovery and presented at trial. The Court also entered Final Judgment against Dow and in favor of the Class in the amount of \$1,060,847,117.00 for purchases between November 24, 2000 and December 31, 2003 (the “Damages Period”). In other words, the jury found no damages for the period prior to November 24, 2000. **Thus, any claims to be filed for participation in the Dow Settlement will be restricted to the purchases made from any Defendant during the Damages Period of November 24, 2000 through December 31, 2003.**

Dow appealed the jury verdict and judgment. The United States Court of Appeals for the Tenth Circuit affirmed on September 29, 2014 and denied Dow’s request for rehearing on November 7, 2014. On March 9, 2015, Dow petitioned the Supreme Court of the United States to consider a further appeal, and on May 11, 2015 Class Plaintiffs opposed Dow’s petition. On February 25, 2016, before the Supreme Court decided whether to consider Dow’s appeal, the parties reached the proposed settlement.

**2. What is a class action?**

The Court has certified this lawsuit as a Class Action. In a Class Action, one or more people or businesses, called class representatives, sue on behalf of themselves and others who have similar claims. All of those who have claims similar to the class representatives are class members, except for those who are excluded or who exclude themselves from the class (see Questions 4-6). The Court has appointed Plaintiffs as the representatives of a class of all entities that purchased Polyether Polyol Products (defined in Question 4 below) during the Class Period.

**3. Why is there a settlement?**

Plaintiffs’ Counsel have investigated the facts and law regarding the Plaintiffs’ and the Class’s claims and Dow’s defenses. The parties engaged in lengthy, detailed negotiations to reach the Settlement. The Class Representatives and Plaintiffs’ Counsel recommend the Settlement as being in the best interests of the Class.

Dow denies that it has done anything wrong. It has asserted a number of defenses, but it has agreed to settle to avoid the cost and risk of further litigation.

If the Settlement is approved, Dow will no longer be a Defendant and the lawsuit will end. If the Settlement is not approved, Dow will remain in the case and Plaintiffs will continue to pursue the claims asserted against Dow.

**WHO IS IN THE DOW SETTLEMENT?**

**4. How do I know if I am part of the Class?**

The Class is defined to include:

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, 2003 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 (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.

If you did not previously exclude yourself from the class action, you are a member of the Class.

**5. What does it mean to purchase “directly” from the Defendants?**

The Class is limited to persons or entities that purchased “directly” from any of the Defendants at any time during the class period. You do not need to have purchased from Dow to be a member of the Class. Instead, the Settlement covers direct purchases from any of the Defendants (or their subsidiaries or controlled affiliates) during the relevant period. A purchase from an intermediary, such as a distributor, is not a direct purchase.

**6. What if I have already excluded myself from the Class?**

You are not a member of the Class if you previously excluded yourself from the Class.

On July 29, 2008, the Court issued an Order certifying this lawsuit as a class action. The Court set a deadline of December 24, 2008 for Class Members to exclude themselves from the Class. If at that time you excluded yourself from the Class, Plaintiffs’ Counsel no longer represent you with respect to any claims against Dow, you are not a member of the Class, and you cannot participate in the Dow Settlement.

If you did not previously exclude yourself, and otherwise meet the Class definition, then you are a member of the Class.

**THE SETTLEMENT BENEFITS**

**7. What does the Settlement provide, and how will the proceeds be allocated and distributed?**

Dow has agreed to pay \$835 million for the benefit of the Class. The Settlement Agreement is on file with the Court and available online at [www.PolyetherPolyolSettlement.com](http://www.PolyetherPolyolSettlement.com).

Plaintiffs’ Counsel will propose a Plan of Allocation and Distribution of the Settlement Fund, which must be approved by the Court. Under the proposed Plan, the Net Settlement Fund (the settlement amount available after deducting attorneys’ fees, incentive awards, expenses of the litigation and administrative costs, if awarded by the Court) will be distributed in accordance with each Class Member’s estimated overcharges for the Damages Period between November 24, 2000 and December 31, 2003 (as defined on page 2), as calculated by Plaintiffs’ damages expert. Based on these calculations, each Class Member that files a timely claim then will be allocated a share of the funds available for distribution, such that its share will be in proportion to the total of all Claimants’ overcharges.

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.

This is only a summary of the Plan of Allocation and Distribution. For the details please read the Motion for Approval of the Plan of Allocation and Distribution and its supporting papers, which will be filed with the Court on June 1, 2016, at which time they will be available on request from Class Counsel and will be posted to the Settlement website, [www.PolyetherPolyolSettlement.com](http://www.PolyetherPolyolSettlement.com).

**8. When do I submit a Claim and how will the Claims process work?**

If the Court approves the Settlement and the proposed Plan of Allocation and Distribution, the Settlement Administrator will send a Proof of Claim form to all potential Class Members.

**Even if you already submitted a claim form in connection with the distribution of Bayer, BASF and Huntsman settlement funds, you will need to submit another claim form to be eligible for a distribution from the Dow Settlement Fund.**

Based on sales data provided by the Defendants and analysis of the data conducted by Plaintiffs' expert, a personalized Claim Form will be distributed to potential Class Members. It will identify a Class Member's purchase amounts (net of freight charges, discounts, credits, rebates, or other off-sets), separately by type of Polyether Polyol Product, during the period from November 24, 2000 through December 31, 2003 (i.e., the Damages Period for which Class Members will be entitled to recover from the Settlement Fund). The Settlement Administrator will compile this data for each Class Member.

**Class Members do not need to incur 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 Damages 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, Huntsman and BASF Settlement Funds.**

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 address provided below in Question 17. If the Settlement Administrator does not have your correct address, you may not receive the Proof of Claim form or other important documents in this litigation.

**9. As a member of the Class, what am I giving up?**

If the Settlement is approved and becomes final, you will release Dow over the matters at issue in this lawsuit. The specific claims you are giving up against Dow and its affiliates are described in paragraph 26 of the Settlement Agreement. You are "releasing" those claims regardless of whether or not you later submit a claim form. You are not releasing any potential breach of contract and product liability claims. The Settlement Agreement is available at [www.PolyetherPolyolSettlement.com](http://www.PolyetherPolyolSettlement.com) or by contacting the Settlement Administrator as directed below.

**OBJECTING TO THE SETTLEMENT, PLAN OF ALLOCATION, OR FEE PETITION**

**10. How do I tell the Court that I don't like the Settlement, the Plan of Allocation, or the Fee Petition?**

If you are a member of the Class (see Questions 4-6), you may object to all or part of the Settlement, the Plan of Allocation, or Plaintiffs' Counsel's requests for reimbursement of expenses, an award of attorneys' fees, and an award of incentive payments to the class representatives.

To object, you must send a letter that includes the following:

- Your name, address, telephone number and email address.
- A statement saying that you object to one or more of the Settlement, the Plan of Allocation, Plaintiffs' Counsel's requests for reimbursement of expenses, an award of attorneys' fees, or an award of incentive payments to the class representatives, in *In re Urethane [Polyether Polyol] Antitrust Litigation*, No. 04-MD-1616-JWL (D. Kan.).
- Proof of your membership in the Class.
- The reasons you object along with any supporting materials, including any legal support and any evidence to support your objection.
- Your signature.

You must submit your objection, no later than July 1, 2016 to each of the following addresses:

Clerk of Court  
United States District Court for  
the District of Kansas  
500 State Ave.  
Kansas City, KS 66101

Plaintiffs' Counsel:  
**FINE, KAPLAN AND BLACK, R.P.C.**  
Attn: Gerard A. Dever, Esq.  
One South Broad Street, 23<sup>rd</sup> Floor  
Philadelphia, PA 19107

Dow's Counsel:  
**EIMER STAHL LLP**  
Attn: Nathan P. Eimer, Esq.  
224 S. Michigan Avenue  
Suite 1100  
Chicago, IL 60604

**COHEN MILSTEIN SELLERS & TOLL PLLC**  
Attn: Richard A. Koffman, Esq.  
1100 New York Avenue, NW, Suite 500  
Washington, D.C. 20005-3964

If by the July 1, 2016 deadline you do not object to the Settlement, the Plan of Allocation, Plaintiffs' Counsel's requests for reimbursement of expenses, an award of attorneys' fees, or an award of incentive payments to the class representatives, as instructed above, you will be deemed to have waived your right to object.

### THE LAWYERS REPRESENTING YOU

#### 11. Do I have a lawyer in this case?

The Court has appointed the firms listed below ("Plaintiffs' Counsel") as Co-Lead Class Counsel in this case:

**FINE, KAPLAN AND BLACK, R.P.C.**  
One South Broad Street, 23<sup>rd</sup> Floor  
Philadelphia, PA 19107

**COHEN MILSTEIN SELLERS & TOLL PLLC**  
1100 New York Avenue, NW, Suite 500  
Washington, D.C. 20005-3964

Plaintiffs' Counsel represent you and other members of the Class. The fees for Class Counsel's services will be paid from the Settlement Fund created by the Dow Settlement and you will not be otherwise charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

#### 12. How will the lawyers be paid?

The Court will decide how much Plaintiffs' Counsel will be paid. Class Counsel will petition the Court for payment of attorneys' fees not to exceed one-third of the Dow Settlement Fund and for reimbursement of certain out-of-pocket expenses incurred since July 1, 2011 in their prosecution of this litigation in an amount not to exceed \$2.5 million. Class Counsel also will petition the Court for payment of incentive awards from the Dow Settlement Fund to the three Class Representatives not to exceed a total of \$500,000 in recognition of their substantial time and effort expended in prosecuting this action.

The Petition for Award of Attorneys' Fees and Incentive Awards and Reimbursement of Litigation Expenses will be filed with the Court by June 1, 2016 and will be available on request from Class Counsel and will be posted to the Settlement website, [www.PolyetherPolyolSettlement.com](http://www.PolyetherPolyolSettlement.com).

#### 13. Should I get my own lawyer?

You do not need to hire your own lawyer, but if you hire a lawyer to speak for you or appear in Court, you or your lawyer must submit a written objection to the addresses listed in Question 10 by July 1, 2016. If you hire your own lawyer, you will have to pay for that lawyer at your own expense.

### THE COURT'S FINAL APPROVAL HEARING

#### 14. When and where will the Court decide whether to approve the Settlement, the Plan of Allocation, and the Fee Petition?

The Court will hold a Final Approval Hearing at 10 a.m. on July 27, 2016, in the United States Courthouse, 500 State Avenue, Kansas City, Kansas 66101. The hearing may be moved to a different date or time without additional notice, so please check [www.PolyetherPolyolSettlement.com](http://www.PolyetherPolyolSettlement.com) for any schedule updates.

At this hearing, the Court will consider (i) whether the Dow Settlement Agreement should be finally approved as fair, reasonable and adequate to the Class and whether the claims of the Class against Dow should be dismissed with prejudice, and (ii) whether to approve the proposed Plan of Allocation and Distribution and the petition for attorneys' fees, incentive awards and expenses. If written objections have been submitted, the Court will consider them at that time.

At or after the hearing, the Court will decide whether to approve the Settlement, the Plan of Allocation, and the request for attorneys' fees, incentive awards, and reimbursement of litigation expenses. The Court's decision may be appealed.

**15. Do I have to come to the Final Approval Hearing?**

No. Attendance is not required. Plaintiffs' Counsel are prepared to answer questions on your behalf. If you send an objection, you don't have to come to Court to talk about it. Class Members who objected may (but do not have to) appear at the Final Approval Hearing, in person or through an attorney hired at their own expense.

**16. May I come to the Final Approval Hearing?**

Yes, anyone can attend the Final Approval Hearing and watch. If you want to appear at the Final Approval Hearing and object, in person or through an attorney hired at your own expense, you need to submit a written objection to the addresses listed in Question 10 by July 1, 2016.

**GETTING MORE INFORMATION**

**17. How can I keep informed as to the status of the settlement approval and claims process and how do I get more information?**

The best way to keep informed of the status of the settlement approval process and the claims process is by visiting the settlement website at [www.PolyetherPolyolSettlement.com](http://www.PolyetherPolyolSettlement.com). The website will (i) contain links to copies of relevant documents and answer frequently asked questions; (ii) inform Class Members as to any changes in the date of the Final Approval Hearing; (iii) inform Class Members as to the results of the Hearing; (iv) provide information relating to the administration of the claims process, which will commence after the settlement is finally approved; and (v) provide details on all proposed changes or modifications to the settlement approval and claims process and the Plan of Allocation. **You should consult the website frequently to keep informed of the settlement and claims process.**

This Notice summarizes the Settlement, the proposed Plan of Allocation, and the petition for an award of attorneys' fees, incentive awards and costs. More details are in the Settlement Agreement and other papers filed with the Court. You can get complete copies of the relevant documents at [www.PolyetherPolyolSettlement.com](http://www.PolyetherPolyolSettlement.com). You may also contact the Settlement Administrator:

Urethane Antitrust Litigation  
c/o GCG  
PO Box 10223  
Dublin, OH 43017-5723  
1-877-741-1226  
[questions@polyetherpolyolsettlement.com](mailto:questions@polyetherpolyolsettlement.com)

If you did not receive this Notice in the mail from the Settlement Administrator, you can contact the Settlement Administrator and register to receive future information.

Complete copies of public pleadings, Court rulings and other filings are available for review and copying at the Clerk's office. The address is United States District Court for the District of Kansas, 500 State Avenue, Kansas City, Kansas 66101.

*If you have any questions, you may contact Don Perelman or Jerry Dever of Fine Kaplan and Black (215-567-6565). Please do not contact the Court or the Judge.*