

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

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IN RE  
URETHANE ANTITRUST  
LITIGATION

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) MDL No. 1616  
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) Civil No. 2:04-md-1616-JWL-DJW  
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) **PUBLICATION NOTICE OF**  
) **CLASS ACTION SETTLEMENT**  
) **WITH CHEMTURA, NOTICE OF**  
) **FAIRNESS HEARING, AND**  
) **PROOF OF CLAIM FORMS**  
)

This Document Relates To:  
The Polyester Polyol Cases

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**TO: ALL PERSONS AND ENTITIES IN THE UNITED STATES WHO DIRECTLY PURCHASED ALIPHATIC POLYESTER POLYOLS, ALIPHATIC POLYESTER POLYMERS AND PREPOLYMERS, AND ALIPHATIC POLYESTER-BASED POLYURETHANE SYSTEMS ("POLYESTER POLYOL PRODUCTS") AT ANY TIME DURING THE PERIOD FROM JANUARY 1, 1998 THROUGH AUGUST 16, 2006 FROM ANY OF THE FOLLOWING DEFENDANTS:**

**BAYER AG, BAYER CORPORATION, BAYER MATERIALSCIENCE AG, BAYER MATERIALSCIENCE LLC (f/k/a BAYER POLYMERS LLC), CHEMTURA CORPORATION (f/k/a CROMPTON CORPORATION), RHEIN CHEMIE CORPORATION, RHEIN CHEMIE RHEINAU GmbH, AND UNIROYAL CHEMICAL COMPANY, INC.**

**I. NOTICE OF PROPOSED SETTLEMENT WITH CHEMTURA.**

This Settlement (the "Chemtura Settlement") arises out of a class action lawsuit. In 2004, Plaintiffs Skypark Manufacturing LLC (f/k/a Burtin Urethane Corporation), Maine Industrial Tires Limited, and Urethane Product Industries, Inc., filed suit against Defendants Bayer AG, Bayer Corporation, Bayer MaterialScience AG, Bayer MaterialScience LLC (f/k/a Bayer Polymers LLC), Rhein Chemie Corporation, Rhein Chemie Rheinau GmbH (collectively, "Bayer"); and Chemtura Corporation (f/k/a Crompton Corporation) and Uniroyal Chemical Company, Inc. (collectively, "Chemtura"). Plaintiffs allege that the Defendants unlawfully agreed to fix, raise, maintain or

stabilize prices and/or allocate markets for Polyester Polyol Products sold in the United States during the period from January 1, 1998 to the present, in violation of the federal antitrust laws, namely, Section 1 of the Sherman Act, 15 U.S.C. § 1. Plaintiffs claim that, as a result of these alleged violations of the antitrust laws, they and other Class Members paid more for Polyester Polyol Products than they would have paid absent such wrongful conduct.

On August 16, 2006, the Court certified the following class (the “Class”):

All direct purchasers (excluding governmental entities and excluding Defendants and their present and former parents, predecessors, subsidiaries and affiliates) of aliphatic polyester polyols, aliphatic polyester polymers and prepolymers, and aliphatic polyester-based polyurethane systems in the United States from any of the Defendants, or any present or former parent, subsidiary or affiliate thereof, at any time during the period from January 1, 1998 to the present.

Also excluded from the Class are those persons who previously, timely and validly requested exclusion from the Class. Plaintiffs mailed individual notice of the class certification to all known members of the Class and published a summary notice in *Chemical Week*.

On October 17, 2006, after a fairness hearing, the Court approved a settlement between Plaintiffs and Bayer (the “Bayer Settlement”), pursuant to which Bayer paid \$18 million into an interest-bearing escrow account (the “Bayer Settlement Fund”) for the benefit of the Class. Pursuant to the Bayer Settlement, the Court dismissed claims by Plaintiffs and all Class Members against Bayer, finding that “[t]he settlement was fairly and honestly negotiated. It resulted from vigorous arm’s-length negotiations which were undertaken in good faith by counsel with significant experience litigating antitrust class actions.” Plaintiffs mailed individual notice of the Bayer Settlement to all known members of the Class and published a summary notice of the Bayer Settlement in *Chemical Week*.

On behalf of the Class, Plaintiffs have now reached a negotiated settlement of the claims

against Chemtura and have entered into the proposed Chemtura Settlement. This Chemtura Settlement is subject to final approval by the Court following a Fairness Hearing.

## **II. NOTICE OF FAIRNESS HEARING AND PROOF OF CLAIM FORMS**

YOU ARE HEREBY NOTIFIED, pursuant to an Order of the United States District Court for the District of Kansas, that a Fairness Hearing will be held on February 25, 2008 at 10:30 a.m., before the Honorable John W. Lungstrum, United States District Judge, in Courtroom No. 427, United States Courthouse, 500 State Avenue, Kansas City, Kansas 66101, for the purpose of: (1) determining whether the Chemtura Settlement in the above-captioned class action litigation, consisting of a payment of \$15.0 million (the “Chemtura Settlement Fund”) by Chemtura should be finally approved by the Court as fair, reasonable and adequate; (2) considering Class Counsel’s application for an award of attorneys’ fees (not to exceed 30% of all settlement proceeds, plus interest) and reimbursement of costs and expenses; (3) considering payment of incentive awards to Class Plaintiffs of \$10,000.00 each; and (4) considering Class Counsel’s proposed Plan of Allocation of settlement proceeds (described below).

If you purchased Polyester Polyol Products directly from any of the Defendants during the relevant time period, as described in the Class definition in Section I above, and if you did not previously request to be excluded from the Class, then you are a Class Member. If you are a Class Member, and if the Court approves the Chemtura Settlement, you will be legally bound by the Chemtura Settlement, and thus you will not be able to sue or continue to sue Chemtura over the legal claims in this case.

If the Court approves the Chemtura Settlement, the Net Settlement Fund (the proceeds in the Chemtura and Bayer Settlement Funds after payment of all fees and expenses awarded by the Court) will be distributed to Class Members who submit a valid claim form and who have qualified claims.

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. Each claimant's *pro rata* share will be based on the dollar amount of its purchases of Polyester Polyol Products from all Defendants (for a list of the trade names of the Polyester Polyol Products, go to [www.completeclaimsolutions.com/polyesterpolyol/](http://www.completeclaimsolutions.com/polyesterpolyol/) and review Attachment A to the Class Notice or contact Plaintiffs' Class Counsel listed below). Purchases must have been made directly from one or more Defendants during the Class Period to qualify.

Based on purchase data provided by Chemtura and Bayer, each claimant's claim form has been pre-filled with the total net purchase amounts, separated by year (net of freight charges, discounts, etc.) of Polyester Polyol Products that claimant purchased from Chemtura and Bayer, respectively. The amount(s) listed, together with the years the claimant purchased Polyester Polyol Products, will be used to determine the claimant's net purchases throughout the Class Period and accordingly, the claimant's *pro rata* share of the net settlement fund.

**Please note** that the purchase data listed in the pre-filled claim form were derived from information Plaintiffs received from Bayer and Chemtura. Bayer was unable to provide Plaintiffs with purchase data from January 2, 2006 through August 16, 2006. Chemtura was unable to provide Plaintiffs with Fomrez purchase data from January 1, 1998 through September 30, 1999. Accordingly, if you purchased polyester polyol products from Bayer from January 2, 2006 through August 16, 2006 and/or if you purchased Fomrez products from Chemtura from January 1, 1998 through September 30, 1999, you may supplement your claim by listing the purchases in the chart below and submitting (with this claim form) proof of purchases (such as invoices, purchase orders, cancelled checks, etc.). **Additionally, if you believe that any of the purchase data listed in your pre-filled claim form are incorrect, you may list your purchases by year and by defendant and provide**

proof of purchases (such as invoices, purchase orders, cancelled checks, etc.).

If you previously filed a timely and valid exclusion from the Bayer Settlement with the Court, then you will only be able to recover your *pro rata* share of the Chemtura Settlement Fund. All other claimants will be able to recover their *pro rata* share of the Net Settlement Fund.

The Court retains the power to approve or reject, in full or in part, any individual claim of a Class Member based on equitable grounds. The alleged overcharge is only a portion of the price you paid for the applicable products. Your recovery will be less than the total amount that you paid for the products.

To share in the distribution of the Chemtura Settlement Fund or the Net Settlement Fund, you must establish your rights by filing a Proof of Claim and Release form on or before March 21, 2008. If you are a Class Member and you have not received a detailed Class Notice and a Proof of Claim form, you may obtain copies by writing to:

Claims Administrator  
Urethane Antitrust Litigation  
Polyester Polyol Cases  
Complete Claim Solutions, LLC  
P.O. Box 24707  
West Palm Beach, FL 33416

or by email at:

[polyesterinfo@completeclaimsolutions.com](mailto:polyesterinfo@completeclaimsolutions.com).

Please do not contact the Court or the Clerk's office for information.

To object to the Chemtura Settlement, Class Counsel's application for an award of attorneys' fees, Class Counsel's proposed incentive awards to Class Plaintiffs, or Class Counsel's proposed Plan of Allocation of settlement proceeds, you must be a Class Member. If you want to object, you must do so by January 22, 2008. If you object no later than that date, you may appear at the Fairness

Hearing if you choose. You may appear at the Fairness Hearing yourself or you may retain an attorney at your own expense to appear on your behalf. All members who timely and validly object to the Chemtura Settlement are still Class Members and will be legally bound by the Chemtura Settlement if approved by the Court.

To obtain a copy of the Chemtura Settlement Agreement and a more detailed Class Notice describing the terms of the Chemtura Settlement and rights of the Class Members, please contact the Claims Administrator, listed above, or Class Counsel, listed below:

Susan G. Kupfer Glancy Binkow & Goldberg LLP One Embarcadero Center, Suite 760 San Francisco, CA 94111 skupfer@glancylaw.com	Steven A. Kanner Freed Kanner London & Millen LLC 2201 Waukegan Road, Suite 130 Bannockburn, IL 60015 skanner@fkmlaw.com	
Jason S. Hartley Ross Dixon Bell 550 West B Street, Suite 400 San Diego, CA 92101 jhartley@rdblaw.com	W. Joseph Bruckner Lockridge Grindal Nauen PLLP Suite 2200 100 Washington Avenue South Minneapolis, MN wjbruckner@locklaw.com	
<b>Plaintiffs' Class Counsel</b>		

**PLEASE DO NOT CONTACT THE COURT, THE CLERK'S OFFICE, BAYER, OR CHEMTURA REGARDING THIS NOTICE.**

Dated: October 25, 2007.

s/ John W. Lungstrum  
Hon. John W. Lungstrum  
United States District Judge