

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

IN RE: URETHANE ANTITRUST LITIGATION

MDL No: 1616

Case No: 04-md-1616-JWL

**PRACTICE AND PROCEDURE ORDER UPON TRANSFER
PURSUANT TO 28 U.S.C. § 1407(a)**

It appearing that civil actions transferred to this Court and listed on Schedule A merit special attention as complex litigation., it is hereby ORDERED that:

1. Prior to the initial scheduling conference and entry of a comprehensive order governing all further proceedings in this case, the provisions of this Order shall govern the practice and procedure in those actions that are transferred to this Court by the Judicial Panel on Multidistrict Litigation pursuant to its order dated August 23, 2004 and filed in this court on September 1, 2004. Those cases are listed on Schedule A attached to this Order. This Order will also apply to any “tag-a-long actions” later filed in, removed to, or transferred to this Court.

2. The civil actions listed on Schedule A are consolidated for pretrial purposes. This consolidation, however, does not constitute a determination that the actions should be consolidated for trial, nor does it have the effect of making any entity a party to any action in which he, she or it has not been named, served or added in accordance with the Federal Rules of Civil Procedure (“FRCP”).

3. All matters relating to pretrial and discovery proceedings in this case will be addressed at an initial scheduling conference to be held on **Friday, October 15, 2004 at 10:00 a.m.** in Conference Room #649, Robert J. Dole United States Courthouse, 500 State Avenue, Kansas City, Kansas. Counsel are expected to familiarize themselves with the *Manual for Complex Litigation Fourth (2004)* (“MCL 4d”) and be prepared at the conference to suggest procedures that will facilitate the expeditious, economical, and just resolution of this litigation.

The items listed in MCL 4d Sections 11.21, 11.211, 11.212, and 11.213 shall, to the extent applicable, constitute a tentative agenda for the conference. Counsel shall confer and seek consensus to the extent possible with respect to the items on the agenda, including a proposed discovery plan, amendment of pleadings, and consideration of any class action allegations and motions. If the parties have any suggestions as to any case management orders or additional agenda items, these shall be submitted by **October 1, 2004**.

4. Prior to the initial scheduling conference, counsel for each group of parties whose interests are similarly aligned shall, to the extent that they have not already done so, confer and seek consensus on the selection of a liaison counsel for each group, who will be charged with essentially administrative matters. For example, liaison counsel shall be authorized to receive orders and notices from the Court on behalf of all parties within their liaison group and shall be responsible for preparation and transmittal of copies of such orders and notices to the parties in their liaison group. Liaison counsel shall be required to maintain complete files with copies of all documents served upon them and shall make such files available to parties within their liaison group upon request. Liaison counsel are also authorized to receive orders and notices from the

Judicial Panel on Multidistrict Litigation pursuant to Rule 5.2 of the Panel's *Rules of Procedure* on behalf of all parties within their liaison group and shall be responsible for the preparation and transmittal of copies of such orders and notices to the parties in their liaison group. The expenses incurred in performing the services of liaison counsel shall be shared equally by all members of the liaison group in a manner agreeable to the parties or as determined by the Court failing such agreement. Appointment of liaison counsel shall be subject to approval of the Court. At the initial scheduling conference the parties should also be prepared to discuss any additional needs for an organizational structure consistent with the efficient handling of this matter, including those suggestions contained in Section 10.22 of MCL 4d.

5. Plaintiffs and defendants shall submit to the chambers of the undersigned, by either mail or email at ksd_lungstrum_chambers@ksd.uscourts.gov , no later than **October 1, 2004** a brief written statement indicating their preliminary understanding of the facts involved in the litigation and the critical factual and legal issues. These statements will not be filed with the Clerk, will not be binding, will not waive claims or defenses , and may not be offered in evidence against a party at later proceedings. The parties' statements shall list all pending motions, as well as related cases pending in state or federal court, together with their current status, including any discovery taken to date, to the extent known. The parties shall be limited to one such submission for all plaintiffs and one such submission for all defendants.

6. Each party represented by counsel shall appear at the initial scheduling conference through their attorney who will have primary responsibility for the party's interest in this litigation. Attendance at the conference will not waive objections to jurisdiction, venue or service.

7. Prior to the initial scheduling conference, service of all documents shall be made on each of the attorneys on the panel attorney service list attached hereto and designated as Schedule B. Any attorney who wishes to have his or her name added to or deleted from such Panel Attorney Service List may do so upon request to the Clerk and notice to all other persons on such service list. The parties shall present to the Court at the initial scheduling conference a list of attorneys and their addresses, email addresses, telephone numbers and facsimile numbers. Only one attorney for each party separately represented shall be included on such a list.

8. Each defendant is granted an extension of time for responding by motion or answer to the complaint(s) until a date to be set by the Court. Pending the initial scheduling conference and further orders of this court, all outstanding discovery proceedings are stayed, no further discovery shall be initiated, and the time requirements to perform any acts or file any papers pursuant to FRCP 26 through 37 are tolled.

9. The Clerk of the Court will maintain a master docket case file under the style “**In Re: Urethane Antitrust Litigation**” and the identification number in the District of Kansas is **04-md-1616** and the Multidistrict Litigation identification number is **MDL 1616**. When a pleading is intended to be applicable to all actions, this shall be indicated in caption by the words: “**This Document Relates to All Cases.**” When a pleading is intended to apply to other than all cases, this Court’s docket number for each individual case to which the document is related shall appear immediately after the words “**This Document Relates to...**”.

10. Any document which is to be filed in any of these actions shall be filed with the Clerk of this Court and not with the transferor district. The District Court of Kansas is an

electronic court and all filings shall be submitted electronically unless otherwise ordered by the court. Counsel are required to register for electronic filing on the Form A attached hereto. The court directs counsel to the court's website, www.ksd.uscourts.gov, for information and instructions for electronic filing.

11. The parties are directed to make all entries on the master docket sheet (04-md-1616) with a notation listing the cases to which the document applies; except that a document closing a case will also be entered on the individual docket sheet for the case to which it applies. All documents shall be filed in the master file. Unless specifically ordered otherwise, no chambers copies need to be provided.

12. Any document filed in any of these actions which is substantially identical to any other document filed in another of these actions shall be sufficient if it incorporates by reference the document to which it is substantially identical. Where counsel for more than one party plan to file substantially identical documents they shall join in the submission of such documents and shall file only one document on behalf of all so joined.

13. Any order including protective orders previously entered by this Court or any transferor district court shall remain in full force and effect unless modified by this Court upon application.

14. When an action that properly belongs as a part of In Re: Urethane Antitrust Litigation is hereinafter filed in the District of Kansas or removed or transferred here from another court, the Clerk of this Court shall:

- a. File a copy of this Order in the separate file for such action;

- b. Make an appropriate entry on the master docket sheet;
- c. Mail to the attorneys for the plaintiff in the newly filed or transferred case a copy of this Order; and
- d. Upon the first appearance of any new defendant, mail to the attorneys for the defendant in such newly filed or transferred cases a copy of this Order.

15. Counsel who appear in a transferor court prior to transfer need not enter an additional appearance before this Court.

16. In the event that a case is remanded from this court, the parties shall furnish to the Clerk of the Court a stipulation or designation of the contents of the record and furnish all necessary copies of any pleadings filed so as to enable the Clerk of the Court to which it is remanded to comply with the order of remand.

17. Each party shall take reasonable steps to preserve documents and other records containing information potentially relevant to the subject matter of this litigation.

18. In accordance with FRCP 5(d), discovery requests and responses are not to be filed with the Clerk nor sent to the Judge's chambers except when specifically ordered by the Court to the extent needed in connection with a motion.

19. Unless otherwise ordered by this Court, all substantive communications with the Court shall be in writing, with copies to opposing counsel. Inquiries to the Court concerning scheduling and related matters shall be directed to **Sharon Scheurer**, courtroom deputy for the undersigned, whose telephone number is **(913) 551-6579**, or to the chambers email account, which is ksd_lungstrum_chambers@ksd.uscourts.gov.

20. The court recognizes that cooperation by and among Plaintiffs' counsel and by and among Defendants' counsel is essential for the orderly and expeditious resolution of this litigation. The communication of information among and between Plaintiffs' counsel and among and between Defendants' counsel shall not be deemed a waiver of attorney-client privilege or the protection afforded attorney work product, and cooperative efforts contemplated above shall not in any way be used against any Plaintiff by any Defendant or against any Defendant by any Plaintiff. Nothing contained in this Provision shall be construed to limit the rights of any party or counsel to assert the attorney-client privilege or attorney work product doctrine.

Dated in Kansas City, Kansas this 7th day of September, 2004.

s/ John W. Lungstrum _____

John W. Lungstrum

Chief Judge

SCHEDULE A

MDL-1616 -- In re Urethane Antitrust Litigation

Northern District of California

Liquidation Reserve Account Trust, etc. v. Uniroyal Chemical Co. Inc., et al.,
C.A. No. 3:04-1422
Industrial Rubber Products, Inc. v. Crompton Corp., et al., C.A. No. 3:04-1597
Rahco Rubber Products, Inc. v. BASF AG, et al., C.A. No. 4:04-1272

Northern District of Illinois

Creative Urethanes, Inc. v. Crompton Corp., et al., C.A. No. 1:04-2213
Kryptane Systems, LLC v. BASF AG, et al., C.A. No. 1:04-2416
RWM Casters v. BASF AG, et al., C.A. No. 1:04-3060

District of Kansas

Beynon Sports Surfaces, Inc. v. Crompton Corp., et al., C.A. No. 2:04-2165

District of New Jersey

Belting Industries Co., Inc. v. BASF AG, et al., C.A. No. 2:04-1390
Maine Industrial Tires Limited v. Crompton Corp., C.A. No. 2:04-1635
Standard Rubber Products, Inc. v. BASF AG, et al., C.A. No. 3:04-1383

Northern District of Ohio

Artic-Temp, Inc. v. Crompton Corp., et al., C.A. No. 5:04-725

Eastern District of Pennsylvania

Alco Industries, Inc. v. Crompton Corp., et al., C.A. No. 2:04-1339
Globe Rubber Works, Inc. v. Crompton Corp., C.A. No. 2:04-1654

Western District of Pennsylvania

Rubber Engineering & Development Co. v. Uniroyal Chemical Co., Inc., et al.,
C.A. No. 2:04-460
Quabaug Corp. v. Uniroyal Chemical Co., et al., C.A. No. 2:04-643
PSI Urethanes, Inc. v. Uniroyal Chemical Co., Inc., C.A. No. 2:04-658

**Judicial Panel on Multidistrict Litigation - Panel Attorney Service List
for
MDL 1616 - In re Urethane Antitrust Litigation**

***** Report Key and Title Page *****

Please Note: This report is in alphabetical order by the last name of the attorney. A party may not be represented by more than one attorney. See Panel rule 5.2(c).

Party Representation Key

- * Signifies that an appearance was made on behalf of the party by the representing attorney.
 - # Specified party was dismissed in some, but not all, of the actions in which it was named as a party.
- All counsel and parties no longer active in this litigation have been suppressed.

This Report is Based on the Following Data Filters

Docket: 1616 - Urethane AT

For Open Cases

Judicial Panel on Multidistrict Litigation - Panel Attorney Service List

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Docket: 1616 - In re Urethane Antitrust Litigation

Status: Transferred on 08/23/2004

Transferee District: KS Judge: Lungstrum, John W.

Printed on 08/23/2004

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Note: Please refer to the report title page for complete report scope and key.

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Form A

UNITED STATES DISTRICT COURT
DISTRICT OF KANSAS
Electronic Filing Registration Form



Name: _____
Office: _____
Address: _____
Address: _____
City: _____ State: _____ Zip: _____
Office Phone: _____ Ext.: _____ Fax: _____

Kansas Bar #: MDL 1616 (04-md-1616) or Date Admitted PHV: _____

Internet E-mail Address: _____

Last 4 Digits of Social Security Number: _____

E-Mail Software Used: _____
(i.e. Outlook Express, Groupwise, etc.)

Do you have a PACER account? Yes No

Type of Practice: (Check all that apply): Civil Criminal Admitted Pro Hac Vice

By registering, attorneys consent to electronic service of all documents.

By completing this form, attorneys certify that they are members in good standing of the bar of this court or admitted pro hac vice in a case currently pending before this court and that they have read and are familiar with the rules of practice and the administrative procedures guide governing electronic filing, both which may be found at www.ksd.uscourts.gov.

The electronic filing of a petition, pleading, motion, or other paper by an attorney who is a registered participant in the Electronic Filing System shall constitute the signature of that attorney under Federal Rule of Civil Procedure 11.

Each attorney admitted pro hac vice must complete and sign an Electronic Filing Registration Form. The attorney may then retrieve documents electronically through PACER and will receive System-generated notices of electronic filings. However, the System will not allow the attorney to file documents electronically.

By registering, the undersigned agrees to abide by the rules and regulations in the most recent general order currently in effect and any changes or additions that may be made in the future to the general order, the administrative procedures guide or this court's local rules.

YOUR LOGIN AND PASSWORD WILL BE MAILED TO YOU.

Return this form ***via hand delivery or U.S. mail*** to:

Clerk, U.S. District Court
Electronic Filing Registration
259 U.S. Courthouse
500 State Avenue
Kansas City, Kansas 66101

Date

Applicant's Signature