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UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

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<p>IN RE: POLYCHLOROPRENE RUBBER (CR) ANTITRUST LITIGATION</p> <p>THIS DOCUMENT RELATES TO:</p> <p><u>Bayer Settlement</u></p>	<p>DOCKET NO. 3:05 MD 1642 (PCD) (D. Conn.)</p> <p>3:05CV00367(PCD) 3:05CV00368(PCD) 3:05CV00369(PCD) 3:05CV00370(PCD) 3:05CV00394(PCD) 3:05CV00519(PCD) 3:05CV00605(PCD)</p>
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**[PROPOSED] ORDER AND RULE 54(b) FINAL JUDGMENT**

Plaintiffs and Defendants Bayer AG, Bayer Corporation, Bayer MaterialScience LLC (f/k/a Bayer Polymers LLC) (collectively referred to as the "Bayer") entered into the Amended Global Settlement Agreement and the CR Implementing Settlement Agreement (jointly, the "Settlement Agreement") to fully and finally resolve the Class' Claims against Bayer and other Releasees. On July 19, 2006, the Court entered its Order Granting Preliminary Approval Of Proposed Settlement With The Bayer Defendants ("Preliminary Approval Order"). Among other things, the Preliminary Approval Order authorized Plaintiffs to disseminate notice of the settlement, the fairness hearing, and related matters to the Class. Notice was provided to the Class pursuant to the Preliminary Approval Order and the Court held a fairness hearing on November 7, 2006.

Having considered Plaintiffs' Motion for Final Approval of Settlement with Bayer and Approval of the Plan of Allocation, oral argument presented at the fairness hearing, and the complete records and files in this matter.

**IT IS HEREBY ORDERED, ADJUDGED AND DECREED:**

1. The Court has jurisdiction over the subject matter of this litigation.
2. Terms capitalized in this Order and Final Judgment have the same meanings as those used in the Settlement Agreement.
3. The Preliminary Approval Order outlined the form and manner by which the Plaintiffs would provide the Class with notice of the settlement, the fairness hearing, and related matters. The notice program included individual notice to members of the Class who could be identified through reasonable effort, as well as the publication of a summary notice in *The Wall Street Journal*, *Rubber & Plastics News*, and *Chemical Marketing Reporter*. Proof that the mailing and publication conformed with the Preliminary Approval Order has been filed with the Court. This notice program fully complied with Fed.R.Civ.P. 23, and the requirements of due process. It provided due and adequate notice to the Class.
4. The settlement was attained following an extensive investigation of the facts. It resulted from vigorous arm's-length negotiations which were undertaken in good faith by counsel with significant experience litigating antitrust class actions.
5. Final approval of the settlement with Bayer is granted pursuant to Fed.R.Civ.P. 23(e), because it is "fair, reasonable and adequate" to the Class. In reaching this conclusion, the Court considered: the complexity, expense, and likely duration of the litigation, the Class' reaction to the settlement and the result achieved.

6. The following Class is certified, for settlement purposes, pursuant to Fed.R.Civ.P. 23:

All persons and entities in the United States and its territories who directly purchased CR from Defendants and DuPont Dow Elastomers, LLC ("DDE") at any time from January 1, 1999 through December 31, 2003. Excluded from the Class are Defendants and DDE, their respective parents, employees, subsidiaries and affiliates, and all government entities.

This Class satisfies the prerequisites for certification set forth in Fed.R.Civ.P. 23(a), in that:

(a) the Class is so numerous that joinder of all members is impracticable; (b) the members of the Class share common questions of law or fact; (c) Plaintiffs' claims are typical of those of the Class; and (d) Plaintiffs have, and will, fairly and adequately protect the interests of the Class. In addition, the requirements of Fed.R.Civ.P. 23(b)(3) are satisfied in that: (a) common questions of law or fact predominate over questions affecting only individual members; and (b) litigating this case as a class action is superior to other methods available for the fair and efficient adjudication of the controversy. Therefore, final certification of the Class is granted.

7. Plaintiffs are adequate representatives of the Class and are hereby appointed as the class representatives.

8. Pursuant to Fed.R.Civ.P. 23(g), Class Counsel, previously appointed by the Court (Cohen, Milstein, Hausfeld & Toll, P.L.L.C.; Gold Bennett Cera & Sidener LLP; Bolognese & Associates, LLC; and Levin Fishbein Sedran & Berman), are appointed as counsel for the Class. These firms have, and will, fairly and competently represent the interests of the Class.

9. The people/entities identified on Exhibit A have timely and validly requested exclusion from the Class and, therefore, are excluded. Such people/entities are not included in or bound by this Order and Final Judgment. Such people/entities are not entitled to any recovery from the settlement proceeds obtained through this settlement. However, this Final Order and

Judgment in no way affects their right to participate in any recovery obtained from any other Defendant.

10. All Released Claims are hereby dismissed with prejudice and without costs. The Releasors are barred from instituting or prosecuting, in any capacity, an action or proceeding that asserts a Released Claim against any Releasee. This dismissal applies only in favor of Bayer and the other Releasees. It is made without prejudice to any claims the Class has against any other Defendant.

11. The escrow accounts established by the parties, and into which Bayer has deposited fifteen million one hundred fifty thousand dollars (\$15,150,000) as the settlement amount plus accrued interest thereon, is approved as a Qualified Settlement Fund pursuant to Internal Revenue Code Section 468B and the Treasury Regulations promulgated thereunder.

12. This Order and Final Judgment does not settle or compromise any claims by Plaintiffs or the Class against the Defendants or other persons or entities other than the Releasees, and all rights against any other Defendant or other person or entity are specifically reserved. The sales of CR to members of the Class by Bayer shall remain in these cases against the Non-Settling Defendants as a basis for damage claims and shall be part of any joint and several liability claims against any Non-Settling Defendant or other person or entity other than the Releasees.

13. Neither the Settlement Agreement, nor any act performed or document executed pursuant to the Settlement Agreement, may be deemed or used as an admission of wrongdoing in any civil, criminal, or administrative proceeding.

14. Without affecting the finality of this Order and Final Judgment, the Court retains exclusive jurisdiction over: (a) the enforcement of this Order and Final Judgment; (b) the

enforcement of the Settlement Agreement; (c) any application for attorneys' fees and reimbursement of expenses made by Class Counsel; and (d) the distribution of the settlement proceeds to the Class Members.

15. Pursuant to Fed.R.Civ.P. 54(b), the Court finds that there is no just reason for delay and hereby directs the entry of judgment as to defendants Bayer AG, Bayer Corporation, Bayer MaterialScience LLC (f/k/a Bayer Polymers LLC), LANXESS AG and LANXESS Corporation.

**IT IS SO ORDERED.**

Dated: November 7, 2006

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HON. PETER C. DORSEY  
UNITED STATES DISTRICT JUDGE

## **EXHIBIT A**

**EXHIBIT A - BAYER CR OPT-OUTS**

1. Bandag, Incorporated  
(including all its predecessors, successors, subsidiaries and affiliates)
2. Bridgestone Americas Holding, Inc.  
(including all its predecessors, successors, subsidiaries and affiliates)
3. Carlisle Companies Incorporated  
(including all its predecessors, successors, subsidiaries and affiliates)
4. Caterpillar Inc.  
(including all its predecessors, successors, subsidiaries and affiliates)
5. Continental Tire North America, Inc.  
Continental AG  
(including all their respective predecessors, successors, subsidiaries and affiliates)
6. Cooper Tire & Rubber Company  
(including all its predecessors, successors, subsidiaries and affiliates except for Nishikawa Standards, Inc., Cooper Standard Automotive, Inc. and Standard Products Company)
7. Michelin North America, Inc.  
(including all its predecessors, successors, subsidiaries and affiliates)
8. Milliken & Company  
(including all its predecessors, successors, subsidiaries and affiliates)
9. Parker Hannifin Corporation  
(including all its predecessors, successors, subsidiaries and affiliates)
10. Pirelli North America, Inc.  
(including all its predecessors, successors, subsidiaries and affiliates)
11. PolyOne Corporation  
(including all its predecessors, successors, subsidiaries and affiliates)
12. RBX Industries, Inc.  
(including all its predecessors, successors, subsidiaries and affiliates)
13. The Goodyear Tire & Rubber Company  
(including all its predecessors, successors, subsidiaries and affiliates)
14. The Lubrizol Corporation  
(including all its predecessors, successors, subsidiaries and affiliates)
15. Yokohama Tire Corporation  
(including all its predecessors, successors, subsidiaries and affiliates)

**BAYER CR LATE OPT-OUTS**

1. Safic-Alcan SAS
2. Safic-Alcan Portugal, Lda
3. Safic-Alcan España, S.A.