

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In Re:	§	Case No. 00-CV-00005-DT
	§	(Settlement Facility Matters)
	§	
Dow Corning Corporation,	§	Hon. Denise Page Hood
	§	
Reorganized Debtor	§	

**ORDER PURSUANT TO SECTION 3.03 OF EXHIBIT 1 TO THE
STIPULATION AND ORDER APPROVING LIEN RESOLUTION PROCEDURES**

On June 30, 2005, this Court approved the “Amended Stipulation and Order Establishing Procedures for the Review of Asserted Liens Against Settling Implant Claimants,” (Docket Number 169) (hereinafter “Stipulation and Order”). Exhibit 1 to the Stipulation and Order contains a provision at Section 3.03 that provides:

3.03 The existence of a personal or business affiliation between the Lien Judge or a Claimant and the Alleged Lienholder shall be considered a conflict of interest and will preclude the Lien Judge from serving in that dispute. In the event of such a conflict, the Alleged Lienholder will be advised of the right to file a motion directly with the District Court and the motion will be filed and heard *de novo* by the District Court under applicable federal and local rules.

The initial Lien Judge Frank Andrews was disqualified because he had a conflict of interest with regard to lien claims filed by the MDL-926 Settlement Fund. Judge Andrews has fiduciary roles in both the Revised Settlement Program in MDL-926 and with the Settlement Facility – Dow Corning Trust. A replacement Lien Judge to serve on the MDL lien claims – the SF-DCT Claims Administrator David Austern – was named in an Order dated February 9, 2007 (Docket # 489). The MDL-926 Settlement Fund has alleged that Mr. Austern also has a conflict of interest in ruling on its lien claims.

Pursuant to Section 3.03 of Exhibit 1 attached to the Stipulation and Order, and pursuant to the Court's jurisdiction over the assets of the SF-DCT and authority to resolve controversies and disputes regarding interpretation of the Amended Joint Plan of Reorganization and Plan Documents, see Amended Joint Plan at § 8.7.3, it is hereby ORDERED that:

1. The Order of February 9, 2007 (Docket #489) appointing SF-DCT Claims Administrator David Austern as the Lien Judge is hereby vacated.
2. Pursuant to Section 3.03 of Exhibit 1 to the Lien Resolution Procedures, the District Court shall hear the lien claims asserted by the MDL-926 Settlement Fund *de novo*. The Federal Rules of Civil Procedure shall apply. Unless expressly exempted by this Order, all other provisions of the Lien Resolution Procedures shall apply.
3. It appears that there is a common threshold issue that is applicable to all lien claims asserted by the MDL-926 Settlement Fund, that is, whether the MDL-926 Settlement Fund has standing or any legal basis to assert a lien against Settling Claimants in the Dow Corning case. To avoid duplication of efforts and conserve the judicial assets of this Court, the Court hereby orders that all MDL lien claims against Settling Claimants shall be consolidated pursuant to Rule 42 of the Federal Rules of Civil Procedure for the purpose of determining this issue.

4. The MDL-926 Claims Office shall have until June 29, 2007 to file a motion and submit a brief with legal authority supporting its position and shall send a copy of the motion and brief to all Settling Claimants as defined above or, if they are represented, to their attorney of record, the CAC and the Debtor's Representatives.
5. Thereafter, the Claimants' Advisory Committee shall assist in coordinating a response by the Settling Claimants. Such Response or responses shall be filed on or before August 1, 2007. Nothing in this Order precludes an individual Settling Claimant from filing a response on her behalf provided such response is filed on or before August 1, 2007.
6. The Court shall hear argument on the matter on **September 19, 2007 at 9 a.m.** This date is subject to change depending on the status of other matters previously set for hearing that day.

Dated: June 18, 2007

/s/ Denise Page Hood
Denise Page Hood
United States District Judge