

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOTHERN DIVISION**

IN RE:	§	CASE NO: 00-CV-00005-DT
	§	(Settlement Facility Matters)
DOW CORNING CORPORATION	§	
	§	
Reorganized Debtor	§	
	§	
	§	Hon. Denise Page Hood

**YEON HO KIM’S CROSS MOTION FOR ENTRY OF AN ORDER TO  
SHOW CAUSE WITH RESPECT TO THE FINANCE COMMITTEE**

Yeon Ho Kim, the attorney for the Korean Claimants, files this Motion to require the Finance Committee to show cause why the Finance Committee should not be sanctioned, held in contempt, and otherwise required to pay five million dollars to Yeon Ho Kim as a result of reaching to the settlement agreement with him.

The late Claims Administrator, David Austern, and the current Claims Administrator, Ann Phillips, had proposed to hold mediation to settle the Korean Claims to Yeon Ho Kim.

Yeon Ho Kim agreed to the proposal.

The Parties knew the issues yet resolved, including but not limited to, the cancellation of the approvals of the product of manufacturer, the re-categorization of country, and frequent rejections of the doctor’s reports for disease evaluation.

Around that time of mediation proposal, the hundreds of the Korean Claimants who had submitted the full set of disease claims did not receive a check, and a thousand of the Korean Claimants who were waiting for submitting affirmative statements to prove the product of

manufacture could not submit either affirmative statements or disease reports to the SFDCT.

To resolve the issues, the Korean Claimants filed the Motions over the period. The Dow Corning Corporation, Debtor's Representatives and the Claimants' Advisory Committee filed the Joint Motion to Render the Motions Moot.

Following the agreement for mediation, Yeon Ho Kim and the Finance Committee agreed to choose Professor Francis McGovern the sole mediator.

The mediator ordered the Claims Administrator to submit a position paper for the SFDCT, and ordered Yeon Ho Kim to submit the reply to the position paper.

Mediation conference was held in a dispute resolution service center in Washington DC on August 10, 2012.

Yeon Ho Kim offered twelve million dollars to settle the Korean Claims pending the SFDCT.

David Austern and Ann Phillips placed several phone calls to Houston during conference. The mediator had separate meetings with them.

David Austern and Ann Phillips counter-offered five million dollars. Yeon Ho Kim asked the mediator to raise to eight million dollars. The mediator said that it was impossible.

Yeon Ho Kim accepted the counter-offer. Yeon Ho Kim shook hands with the mediator, David Austern and the Claims Administrator and left the conference room. A verbal agreement to settle was consummated.

David Austern and Ann Phillips sent a written agreement reflecting the verbal agreement

to Yeon Ho Kim. Yeon Ho Kim signed on it and sent back to David Austern and Ann Phillips. A written agreement was drafted by them and there was no change made by Yeon Ho Kim. Thus the written agreement was consummated too.

The Finance Committee has the authority with respect to distribution of funds and review of claims operations and shall have the authority to bring actions on behalf of the Trust and to defend the Settlement Facility, the Trust, the Claims Administrator, the Financial Committee, and any agents or employees of the Trust, including actions to enforce obligations in the Plan Documents. *See* SFA Clause 4.08 Finance Committee

In fact, the Finance Committee has general powers over the SFDCT's rights and obligations.

The Finance Committee is composed of three members consisting of the individuals holding the following positions: the Special Master, a single Appeals Judge, and the Claims Administrator. The Finance Committee shall act by majority vote. *See* SFA Clause 4.08

The Special Master is Professor Francis McGovern and the Claims Administrator is Ann Phillips. They made a majority of the Finance Committee. Professor McGovern was the sole mediator and Ann Phillips sat in the mediation conference room and argued for the SFDCT with David Austern, the ex-Claims Administrator.

Therefore, the party which proposed mediation, held the mediation conference, offered five million dollars to settle the Korean Claims, reached to the agreements (verbal and written), drafted the written agreement, and received the written agreement signed back from Yeon Ho Kim is the Finance Committee. The Finance Committee was responsible for executing the payment pursuant to the agreements.

However, the Finance Committee did not respect the agreements and failed to execute the payment of five million dollars to Yeon Ho Kim.

Yeon Ho Kim demanded the Finance Committee to execute the payments of five million dollars in accordance with the settlement agreement.

Yeon Ho Kim filed this Court the Motion for Recognition and Enforcement of Mediation on December 15, 2016. The Finance Committee said in the Response to the Motion that no agreement was ever executed. It is a lie.

This Court supervises the Finance Committee's authority with respect to distribution of funds and review of claims operations and its execution of general powers.

The Finance Committee's breach of the settlement agreement and failure of respecting its own mediation result, and even of accusing Yeon Ho Kim of contradicting the SFA and the Court's custody over the funds in question is a violation of the Bankruptcy Code and Rule as the party. Therefore, the imposition of civil contempt sanctions is warranted.

Yeon Ho Kim asks the Court to enter an order the Finance Committee to appear the before this Court on a date that the Court designates as soon as possible and show cause why the Finance Committee should not be sanctioned, held in contempt, and otherwise required to pay \$5,000,000 immediately after the settlement agreement was consummated to Yeon Ho Kim.

Date: January 17, 2018

Respectfully submitted,

(signed) Yeon Ho Kim

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**CERTIFICATE OF SERVICE**

I hereby certify that on January 17, 2018, this Response to the Motion has been electronically filed with the Clerk of Court using ECF system, and the same has been notified to all of the relevant parties of record.

Dated: January 17, 2018

Signed by Yeon Ho Kim