

**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. Chief Judge Denise Page Hood

**SUPPLEMENTAL BRIEF OF YEON HO KIM REGARDING EXHIBIT L
FILED BY THE FINANCE COMMITTEE**

The Finance Committee filed Exhibit L in support of the Motion for Entry of an Order to Show Cause with respect to Yeon Ho Kim. The Finance Committee presented it to respond to the question of the Court in the hearing whether an attorney representing a number of Claimants such as over 2,600 Claimants would have the obligation to update the addresses of the Claimants to the Settlement Facility. The Finance Committee responded in the affirmative and then presented the Claimant Information Guide, Exhibit L, as the evidence to prove it.

However, Exhibit L is Claimant Information Guide of Class 5 and has nothing to do with the Claimants that Yeon Ho Kim represent. The Korean Claimants are Class 6.2 in more than 90 percents (Yeon Ho Kim filed 1,815 Claims and the Settlement Facility acknowledged about 150 Claims only as Class 6.1) and the rest of Claimants are Class 6.1.

Even if the Finance Committee files Claimant Information Guide of Class 6.2 and Class 6.1 and the Claimant Information Guides include the same Clauses indicated in Exhibit L as follows;

Q9-14 If I move and forget to notify the Settlement Facility in writing, my Notification of Status letter might take days or weeks to be forwarded to my new address. Will any of the time periods and deadlines be extended because of this?

No. unless your move occurred close in time to the date of the Notification of Status letter in which case the Claims Administrator will review and make individual case determinations. *It is your responsibility to notify the Settlement Facility of any address change* (emphasized).

Q9-15 I moved and did not notify the Bankruptcy Court or Settlement Facility of my new address and I missed the deadline to file the Participation Form to elect to withdraw or litigate. Can I file it now?

No. You have an affirmative obligation to update your address with the Settlement Facility and the Bankruptcy Court (emphasized),

the above Clauses for responsibility and obligation to update the Claimants' addresses only apply either when a Claimant files the Participation Form to elect to withdraw or litigate (Q9-15) or when a Claimant files Claim Form (explant, rupture, disease) (Q9-14)

and her Notice of Status letter is about to be mailed.

These Clauses shall apply upon filing the Participation Form and filing the Claims Forms because the Questions direct the Clauses to those occasions. These Clauses shall not extend beyond those occasions and shall not reach to after the Claimant received the disease payment and *thereafter* (emphasized) because there is no Clause in Claimant Information Guide that the Claimant is responsible for, or has an obligation to, update their addresses even after the disease payment was made (Normally, the disease payment is the last payment for claims).

In particular, the 148 Claimants filed the Participation Form in 2003 and filed the Claim Forms in 2004. They received their disease payments in 2014. Because they have been paid out from the Settlement Facility, they have no responsibility for updating their addresses to the Settlement Facility.

In addition, the Claims Administrator declared in her letter to Yeon Ho Kim on August 22, 2011 (Doc No. 810) that the Korean Claimants shall not be eligible for the Premium Payment because the affirmative statements for POM were fabricated. Therefore, the 148 Claimants took it for granted that the Settlement Facility finished their Claims and there was nothing left for them to receive from the Settlement Facility because they had already received the disease payments, the last payments. The Settlement Facility also admitted in its pleading that nearly all of the Korean Claims finished.

However, the Settlement Facility sent letters for address updates to the 148 Claimants and Yeon Ho Kim. Although Yeon Ho Kim submitted Address Update Forms for the 148 Claimants to the Settlement Facility (the Settlement Facility regarded that the Claimants marked as “Not Changed” failed to update their addresses) but it does not mean that Yeon Ho Kim assumed his responsibility for updating the addresses of the 148 Claimants. It should be interpreted as a simple courtesy.

The Settlement Facility abused the power regarding address updates for the 148 Claimants by asking Yeon Ho Kim to update their addresses and utilizing it for filing the Motion to show cause with respect to Yeon Ho Kim.

How in the world the debtor (Dow Silicones Corporation) which had been saved from liquidation because of the creditors’ mercy (casting consent votes to the Proposed Reorganization Plan) in this Bankruptcy Court comes back to the creditors(the Claimants) and can ask for the addresses of the creditors(the Claimants) and return the paid money to the debtor(Settlement Facility-Dow Corning Corporation) just because the addresses of the creditors(the Claimants) are not correct or were not updated? What if the debtor (the Finance Committee working for Dow Silicones Corporation) filed the Motion for Imposing Sanctions on the lawyer(Yeon Ho Kim) for the creditors(the 148 Claimants)? Is a debtor superior to a creditor?

The Settlement Facility abused the power by misinterpreting the Clauses in the SFA and the Finance Committee collaborated with the Settlement Facility regarding address updates for the 148 Claimants.

In addition, Claimant Information Guide was not agreed by the Claimants. It might be approved by this Court before it was disseminated in 2004. However, the Clauses, Q9-14 and 9-15, in Claimant Information Guide shall not be interpreted as asserted by the Finance Committee. Such interpretation forces the Claimants to be obliged to report their address changes to the Settlement Facility for good even if their case for Dow Corning Silicone Breast Implant Class Action was over since they had been completely paid for their Claims.

Date: March 24, 2018

Respectfully submitted,

(signed) Yeon Ho Kim

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CERTIFICATE OF SERVICE

I hereby certify that on March 24, 2018, this Response to Order to Show Cause 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: March 24, 2018

Signed by Yeon Ho Kim