

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

IN RE:

**SETTLEMENT FACILITY-
DOW CORNING TRUST**

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**CASE NO. 00-CV-00005-DT
(Settlement Facility Matters)**

Hon. Denise Page Hood

CLOSING ORDER 5

**NOTICE THAT CERTAIN CLAIMS WITHOUT A CONFIRMED CURRENT ADDRESS
SHALL BE CLOSED AND ESTABLISHING PROTOCOLS FOR ADDRESSING
PAYMENTS FOR CLAIMANTS IN BANKRUPTCY.**

Whereas this Court has previously entered Closing Order 1, Closing Order 2, Closing Order 3, and Closing Order 4, all for the general purpose of facilitating the completion of the operations of the Settlement Facility Dow Corning Trust (SFDCT or Settlement Facility), accounting for all assets of the Settlement Fund, and assuring efficient final distribution of payments as specified by the Amended Joint Plan of Reorganization of Dow Corning Corporation (the “Plan”); and

Whereas to complete the orderly termination of the Settlement Facility it is necessary to establish protocols to guide the final disposition of certain claims for which final payment cannot efficiently be issued for various reasons and to establish guidelines for addressing claim payments for claimants in bankruptcy;

Accordingly, this Court now enters Closing Order 5 to further facilitate the efficient closure of the SFDCT as set forth herein.

A. Background of Relevant Terms of Closing Orders.

1. This Court entered *Closing Order 1 for Final June 3, 2019 Deadline (Establishing Final Cure Deadlines, Revised Claims Review Procedures and Appeal Deadlines)* (“Closing Order 1”) on July 25, 2018. ECF 1447.

2. This Court entered *Closing Order 2 (Regarding Additional Procedures For Incomplete And Late Claims; Protocols For Issuing Payments; Audits of Attorney Distributions of Payments; Protocols For Return of Undistributed Claimant Payment Funds; Guidelines For Uncashed Checks and For Reissuance of Checks; Restrictions on Attorney Withdrawals)* (“Closing Order 2”) on March 19, 2019. ECF 1482. Closing Order 2 reiterated the Court’s previous directive that it is the obligation of claimants and attorneys to keep the Settlement Facility apprised of changes in address and other contact information. Closing Order 2 further directed the Settlement Facility to assure that it has a current confirmed address for the claimant before issuing any payment to or for that claimant and provides that the Settlement Facility may not send payments to any attorney unless the Settlement Facility has a confirmed current address for that attorney or law firm. The terms of Closing Order 2 are intended to maximize Settlement Fund assets for distribution to claimants and to minimize the time and cost associated with addressing payments that cannot be distributed.

3. This Court entered *Closing Order 3 Notice that Certain Claims Will Be Permanently Barred and Denied Payment Unless a “Confirmed Current Address” Is Provided To The SF-DCT On Or Before June 30, 2021* (“Closing Order 3”) on March 25, 2021. ECF 1598. Closing Order 3 identified 381 claims that had been submitted to the SFDCT but could not be processed because the claimant could not be located. Closing Order 3 established a deadline by which the identified claimants were required to provide a confirmed current address. Closing Order 3

directed the SFDCT to permanently close the claims of those 381 claimants who did not timely provide the confirmed current address.

4. This Court entered *Closing Order 4 Requiring Completion of Court-Directed Audit Survey and Return of Funds Pursuant to Closing Order 2* (“Closing Order 4”) on April 1, 2022. ECF 1640. Closing Order 4 directs lawyers and law firms to confirm that they are no longer holding Settlement Fund assets that cannot be distributed to clients within 180 days of the date that the payment check is issued, and to return any such assets to the Settlement Facility in accordance with the Plan. This procedure assures that the maximum Settlement Fund assets are preserved for the benefit of eligible claimants and that Settlement Fund assets are not distributed in a manner that is inconsistent with the Plan.

B. Establishing Final Closure Date for Claims Submitted by Claimants Who have not Provided a Timely Valid Current Address

1. The Settlement Facility has completed the first review of all timely submitted benefit claims and has distributed notification of status letters to those claimants. There are no timely filed claims that remain unreviewed. The Settlement Facility currently is finalizing claims that provide information in response to the notification of status letter and is also addressing appeals and lien claims. The process of finalizing claims and addressing appeals and liens and issuing payments is anticipated to be completed during the fourth quarter of 2023.

2. The Settlement Facility is also distributing Second Priority Payments to eligible claimants who previously received a base payment and have verified their current addresses in accordance with Closing Order 2. As required by Closing Order 2, the Settlement Facility distributes the Second Priority Payments after it receives a confirmed current address for the claimant. Between September of 2021 and March of 2022, the Settlement Facility has conducted an address verification process to enable payment of Second Priority Payments.

3. If the address verification mailing is returned as undeliverable, the Settlement Facility conducts a series of further procedures, as previously approved by this Court, in an effort to identify a different address for the claimant. See Closing Order 3; ECF 1598. As provided in the standard procedures, if a different address is identified, the Settlement Facility will mail the address verification request to the claimant at that new address.

4. When the Settlement Facility is unable to locate a claimant after employing the standard procedures, the Settlement Facility categorizes the claimant as one with a ‘bad address’.

5. In addition, the Settlement Facility has been distributing address verification letters to claimants who are newly eligible for a Base Payment and will continue to distribute address verification letters to claimants who become eligible for a ‘base payment’ in the future based on the expiration of a cure deadline. (To the extent these claimants qualify for a disease payment, they are also eligible for a Second Priority Payment.) If the address verification letter is returned as undeliverable, then the claimant may be designated as having a ‘bad address’. In some cases, the claimant has failed to respond to the verification mailing – but the mailing has not been returned as undeliverable.

6. To further assure an orderly closing and to preserve assets, it is appropriate to establish a deadline by which the claims identified in paragraphs 8 and 9 above will be closed permanently. The Settlement Facility’s data shows that the vast majority of responses to the verification mailings are received within 4 weeks of the verification mailing. Accordingly, to facilitate closure and to preserve assets for distribution, the Settlement Facility is directed to employ the mechanism previously authorized by the Court in Closing Order 3. The Settlement Facility shall post on its website a list of the SID numbers (claimant identification numbers) for those claimants who have been identified as having a “bad address” and those who have not responded to the verification mailing on or before the date that is four weeks after the mailing to

those claimants. The Settlement Facility shall maintain this list on its website for 90 days. If a claimant responds on or before the end of that 90-day period, the SID number shall be removed from the posted list and the Settlement Facility will proceed to finalize processing or payment of the claim as appropriate. If the claimant does not respond on or before the end of the 90-day period, the claim shall be permanently closed.

C. Final Distribution Process for Claimants in Bankruptcy

1. The Settlement Facility has advised that some claimants who are eligible to receive payments have filed for bankruptcy. Where a claimant has filed for bankruptcy, the claimant or claimant's counsel is directed to identify the court in which the bankruptcy is proceeding, provide contact information for the bankruptcy court and, where applicable, any trustee in bankruptcy. The Settlement Facility shall communicate with the court and/or the trustee and remit payment for an eligible claimant as directed by the court or trustee provided that the Settlement Facility shall not deposit funds into any account unless it is clear that such funds will be paid to or for the benefit of an eligible claimant and will not be distributed in some other manner or be escheated. The Settlement Facility and the Claims Administrator are directed to and shall have the authority to seek guidance from the Finance Committee, the Parties, and the Court in determining whether a payment appropriately may be issued where the claimant is in bankruptcy.

SO ORDERED.

Dated: June 13, 2022

S/DENISE PAGE HOOD

Denise Page Hood
United States District Judge

SO STIPULATED and AGREED:

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