

**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**

**ORDER AND JOINT STIPULATION OF THE CLAIMANTS’ ADVISORY  
COMMITTEE AND DEBTOR’S REPRESENTATIVES FOR APPROVAL  
TO PAY FULL PAYMENT LONG-TERM OPTION LATE CLAIMANTS  
BASED ON RECOMMENDATION OF CLAIMS ADMINISTRATOR**

WHEREAS this Court has previously entered the December 12, 2007 *Agreed Order Allowing Certain Late Claimants Limited Rights To Participate In The Plan’s Settlement Facility*, ECF No. 606, PageID.8503 (hereinafter “Late Claim Order”);  
and

WHEREAS the Late Claim Order allowed certain late claimants limited rights to participate in the settlement options under the Amended Joint Plan of Reorganization (the “Plan”). One of the settlement options – the Full Payment Long-Term Option – allowed claimants to elect full payment on all eligible benefit claims such as Rupture, Explant, and Disease; and

WHEREAS such payments were, by the terms of the Late Claim Order, deferred until timely filed claims were processed and until it was clear that payment of these late claims would not negatively affect first or second priority payments to timely claimants; and

WHEREAS the Late Claim Order provides that the Court may allow payment of these late claims after making certain findings as provided in paragraph 7 of the Late Claim Order – as set forth below; and

WHEREAS the Claims Administrator has confirmed that the prerequisites for payment of these late claims have been satisfied and further recommends that such claims be paid.

Now, therefore, the Claimants' Advisory Committee and the Debtor's Representatives, having received the analysis and recommendation of the Claims Administrator and having determined based on that analysis and recommendation that the conditions necessary to permit payment of these late claims have been met, jointly seek the approval of the Court to proceed to issue payments in accordance with Court-approved payment procedures and state as follows:

1. Pursuant to Paragraph 7 of the Late Claim Order, the Court must approve the payment of these claims before the payment process can be initiated.

Paragraph 7 provides that:

DCC Eligible Late Claimants who elect the Full Payment Long-Term Option shall be eligible to receive payment only if and after the Court determines that payment of such claims (a) will not have any effect on the payment of Base Payments to timely filed claimants, including timely NOI claimants, and (b) will not have a materially adverse effect on the payment of Premium Payments to timely filed claimants, including (if applicable) timely NOI claimants. The CAC and DCC may agree that the Court may make such determination on an expedited basis upon the joint submission of the CAC, DCC, and the Claims Administrator that includes the number of DCC Eligible Late Claimants who elect the Full Payment Long-Term Option, the number of such individuals who qualify for payment under such option, the aggregate cost of paying such qualified claims, the most recent analysis of the Independent Assessor estimating the funds required to pay pending and anticipated timely claims and NOI claims and showing that payment of the DCC Eligible Late Claimants who elect this option will not affect such payments.

Late Claim Order, ECF No. 606, PageID.8509-10.

2. The Claims Administrator has reported that all timely filed claims have been processed and will be paid (subject to address verification) during the Fourth Quarter of 2022 except for those claimants who elect to appeal their final claim decision or who must cure payment related issues. Declaration of Kimberly Smith-Mair (“Smith-Mair Dec.”), Exhibit 1 at ¶4.
3. The Claims Administrator has reported that the review of all Full Payment Long-Term Option claims under the Late Claim Order has also been completed, and that these claims are now ready to be paid, subject to address verification. Smith-Mair Dec. at ¶6.

4. The Claims Administrator has summarized the status of the claimants who elected the Full Payment Long-Term Option (Smith Mair Dec., at ¶¶7-13):
  - a. There are 96 individuals who elected the Full Payment Long-Term Option.
  - b. All of these claims have been reviewed and processed in accordance with the Plan.
  - c. The total aggregate amount payable to these 96 individual late claimants is \$1,882,200.
  - d. As of the end of September 2022, the Settlement Facility-Dow Corning Trust (the “SFDCT”) will have paid all eligible base payments to timely claimants and will have paid all Second Priority Payments to those eligible for such payments who have properly verified their addresses as required by Closing Order 2, and the NOI claimants will have all been paid.
  - e. The payment of these Full Payment Long Term Option claims will not affect any of the above noted payments and accordingly the conditions set forth in paragraph 7 have been satisfied. Smith-Mair Dec. at ¶¶10-13.
5. Accordingly, the parties submit that the Settlement Facility may be authorized to schedule the distribution of address verification letters to the Full Pay Long-

Term Option claimants and to issue payments to those individuals who provide a current verified address and who otherwise satisfy any applicable requirements for payment.

Accordingly, the Court finds that the conditions set forth in the Late Claim Order have been satisfied and that the Settlement Facility shall be authorized to take the necessary steps to commence the process of issuing payments to the eligible late claimants.

SO ORDERED.

Dated: June 30, 2022

S/DENISE PAGE HOOD  
Denise Page Hood  
United States District Judge

SO STIPULATED and AGREED:

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# **EXHIBIT 1**

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

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**DECLARATION OF KIMBERLY SMITH-MAIR**

I, Kimberly D. Smith-Mair, declare as follows based upon my knowledge, recollection, and review of data and documents maintained by the Settlement Facility-Dow Corning Trust (“Settlement Facility” or “SF-DCT”):

1. I am the Claims Administrator for the Settlement Facility. I was appointed Claims Administrator on February 11, 2021 (effective March 1, 2021) by order of the United States District Court for the Eastern District of Michigan, 2:00-mc-00005, ECF No. 1590, PageID.27377.

2. Prior to that, from 2011 until March 1, 2021, I served as the Claims Operation Manager for the Settlement Facility. I have been employed in various departments at the SF-DCT since 2001.



3. I have personal knowledge of the claims data and of the information set forth herein.

4. All timely filed claims have been processed and will be paid both their Base Payment and any applicable Second Priority Payment (subject to address verification) during the Fourth Quarter of 2022 except for those claimants who elect to appeal their final claim decision or have other individual payment related circumstances that need to be addressed.

5. The maximum total amount that could potentially be paid for all the remaining claims is known.

6. The review of all Full Payment Long-Term Option claims under the December 12, 2007 *Agreed Order Allowing Certain Late Claimants Limited Rights to Participate In The Plan's Settlement Facility*, ECF No. 606, PageID.8503 ("Agreed Order") is complete in accordance with the Plan and the Agreed Order, and the claims are ready to be paid.

7. There are 96 individuals eligible under the Agreed Order who elected the Full Payment Long-Term Option.

8. This includes 70 claimants who are approved for Explant Payments totaling \$255,000; 85 claimants who are approved for Rupture Payments totaling \$1,212,000; 21 claimants who are approved for Disease Payments totaling \$310,000;

and 53 claimants who are approved for Expedited Release Payments totaling \$105,300.

9. The total aggregate amount payable to these 96 individual claimants is \$1,882,200.

10. The payment of these 96 Full Payment Long-Term Option claims will not affect any Base Payment or Premium Payment.

11. On September 7, 2007, the Court entered a *Consent Order Resolving The Motion of Dow Corning Corporation To Establish Procedure To Match Notices of Intent To Rule 3005 Claims And Limit Participation in Settlement Program By Non-Matched Notice of Intent Filers* (“Consent Order”). The SF-DCT has completed its review of all 3,146 eligible Notice of Intent (“NOI”) claims as well.

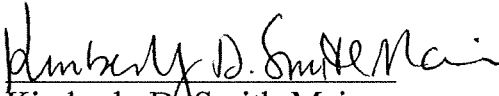
12. The payment of the 96 Full Payment Long-Term Option claims will not affect any Base Payment or Premium Payment to a timely NOI claimant.

13. There are sufficient funds available to the SF-DCT to make payments to eligible Late Claimants.

14. Based on this information, and after conferring with the Claimants Advisory Committee and Dow Silicones Corporation, the successor to Dow Corning Corporation, I recommend the Court approve payment to all Full Payment Long-Term Option Claimants at this time.

Pursuant to 28 U.S.C. Section 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed this 29 day of June 2022.

  
Kimberly D. Smith-Mair  
Claims Administrator