

**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
(Settlement Facility Matters)**

Hon. Denise Page Hood

**NOTICE OF DOW SILICONES CORPORATION AND THE DEBTOR'S
REPRESENTATIVES OF CONCURRENCE IN FINANCE COMMITTEE'S
MOTION FOR ORDER TO SHOW CAUSE WITH RESPECT TO LAW
FIRMS AND COUNSEL WHO HAVE FAILED TO RESPOND TO THE
AUDIT SURVEY REQUIRED BY CLOSING ORDER 4 (ECF NO. 1697)**

Dow Silicones Corporation (“Dow Silicones”) and the Debtor’s Representatives (the “DRs”) respectfully submit this Notice of Concurrence in the Finance Committee’s Motion for Order to Show Cause with Respect to Law Firms and Counsel Who have Failed to Respond to the Audit Survey Required by Closing Order 4, ECF No. 1697 (the “Motion”).

The Finance Committee filed the Motion on March 21, 2023. This Court granted the Motion on March 28, 2023. Order to Show Cause, ECF No. 1699. Subsequently the Claimants’ Advisory Committee (the “CAC”) filed a motion for reconsideration and responded to the Motion with certain objections. This Court’s Order Granting Motion for Reconsideration issued on April 20, 2023 (ECF No. 1709) (“April 20 Order”) did not require any response from the DRs or Dow

Silicones. The April 20 Order does, however, note that the original Motion filing did not expressly state whether other parties concurred in the Motion. *Id.* By this Notice, Dow Silicones and the DRs confirm that they do concur in that Motion. Dow Silicones and the DRs further state that the possibility of sanctions was expressly noted in this Court's Closing Order 4 Requiring Completion of Court-Directed Audit Survey and Return of Funds Pursuant to Closing Order 2, ECF No. 1640 ("Closing Order 4").

Dow Silicones and the DRs believe it is relevant to note that Closing Order 4 is intended to determine whether "the law firm has distributed the payment(s) and whether the claimant or authorized representative received the appropriate amount of funds." *Id.* Dow Silicones and the DRs note further that, as this Court noted in the April 20 Order, the issue of conducting an audit of the distribution of payments to claimants and the procedure for addressing attorneys who failed to respond to the notices ordered by this Court had been discussed over a lengthy period by the parties and the Court.

The Finance Committee and the Settlement Facility-Dow Corning Trust ("Settlement Facility") identified the attorneys and firms that had cashed at least one payment on behalf of a claimant, prepared the notice lists, distributed the notices, and tracked the responses. *See* Motion at ¶¶ 9-11, PageID.32467; Motion at Exh. 1, Declaration of Kimberly Smith-Mair Regarding Finance Committee's Order to

Show Cause (“Smith-Mair Dec.”), ECF No. 1697-1. The Settlement Facility sent a second notice to the attorneys and firms that failed to respond to the first notice. *Id.* Both the DRs and the CAC assisted the Settlement Facility in drafting that second notice. Dow Silicones further assisted the process by undertaking to research and identify email addresses for lawyers and law firms for which the Settlement Facility did not have current contact information. Dow Silicones engaged paralegals at no charge to the Settlement Fund to conduct this research. The Settlement Facility provided a list of 2,424 lawyers and law firms to the research paralegals who then provided the results of their research to the Settlement Facility so that the notices could be sent to verified addresses. The notices sent to attorneys and claimants included a copy of Closing Order 4 and the cover letters noted the possibility of sanctions for failure to respond. *See* Motion at Exh. 1, Smith-Mair Dec., ECF No. 1697-1, PageID.32471.

Despite the extensive efforts of the Settlement Facility and the parties, the Settlement Facility reported that there were 814 law firms/lawyers who did not respond to the multiple notices. Motion at ¶ 11, PageID.32467 and Motion at Exh. 1, Smith-Mair Dec., at ¶ 8, ECF No. 1697-1, PageID.32471. Those are the firms/lawyers that are the subject of the Motion.

The Motion is before this Court to determine the appropriate action. It simply asks the Court to issue the order to show cause so that the Court can then review

responses and determine what action, if any, is warranted with respect to lawyers and firms that have not responded to an order of this Court. It is not the province of the Finance Committee or the parties to make that determination. We are confident that the Court will determine the fair and appropriate response and will not impose unreasonable or unwarranted sanctions.

Dated: April 24, 2023

Respectfully submitted,

/s/ Deborah E. Greenspan
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CERTIFICATE OF SERVICE

I hereby certify that on April 24, 2023, I electronically filed the foregoing document with the Clerk of the Court using the ECF System which will send notification of such filing to all registered counsel in this case.

Dated: April 24, 2023

/s/ Deborah E. Greenspan

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