

Exhibit E

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

In re:

**SETTLEMENT FACILITY DOW
CORNING TRUST**

§
§
§
§
§
§
§

**Case No. 00-CV-00005
(Settlement Facility Matters)**

Hon. Denise Page Hood

**DECLARATION OF KIMBERLY SMITH-MAIR
IN SUPPORT OF THE RESPONSE OF DOW SILICONES
CORPORATION, THE DEBTOR'S REPRESENTATIVES, THE
CLAIMANTS' ADVISORY COMMITTEE AND THE FINANCE
COMMITTEE TO THE KOREAN CLAIMANTS' ATTORNEY'S MOTION
FOR ORDER TO ALLOW THE KOREAN CLAIMANTS' ATTORNEY TO
RECEIVE ATTORNEY'S FEES AND EXPENSES REGARDING
RETURNED CHECKS NOT CASHED**

I, Kimberly Smith-Mair, declare as follows based upon my recollection and review of certain data and documents:

1. I am the Claims Administrator for the Settlement Facility-Dow Corning Trust ("Settlement Facility" or "SF-DCT").
2. As Claims Administrator, I have knowledge of past and present procedures implemented to process the Settling Breast Implant Claims in accordance with the terms of the Settlement Facility and Fund Distribution Agreement ("SFA") and the Claims Resolution Procedures ("Annex A" to the SFA).
3. As Claims Administrator, I have knowledge of the Amended Joint Plan of Reorganization of Dow Corning Corporation, and of all Orders issued by the Court that pertain to the administration and payment of claims submitted to the SF-DCT.
4. As Claims Administrator, I have knowledge of the Lien Resolution Procedures.

5. As Claims Administrator, I have knowledge of all notices and information posted by the SF-DCT and of notices, letters, and information sent to and received from attorneys of record regarding issues relating to notice, deadlines, and all matters related to assuring the validity of claim submissions and compliance with the procedures, guidelines, and rules of the SF-DCT and of Annex A.
6. As Claims Administrator I have knowledge of all submissions made by claimants and counsel for claimants and of the determinations made by the Appeals Judge and the Lien Judge.
7. I have reviewed and am familiar with the Motion for Order to Allow the Korean Claimants' Attorney to Receive Attorney's Fee and Expenses Regarding Returned Checks Not Cashed ("Motion") filed by Mr. Yeon-Ho Kim as counsel for certain Korean Claimants.
8. The Motion states that it pertains to approximately 100 checks that were returned to the Settlement Facility before March 2019 and some additional checks returned shortly after that date.
9. I have reviewed the Settlement Facility records and those records show that the only checks that counsel for Korean Claimants returned to the Settlement Facility consist of 109 Expedited Release payment checks that were returned to the Settlement Facility on or about February 14, 2019. These checks were returned in batches with the same cover letter. The cover letter states that the checks were being returned pursuant to a paragraph in Closing Order 1 that specifies that the deadline for electing claim categories is June 3, 2019.
10. The Settlement Facility records do not show any checks returned by counsel for Korean Claimants after the February 14, 2019 date.
11. The 109 Expedited Release Payments were issued after the claimants failed to cure deficiencies in their disease claims. The cure deadlines for all of these underlying disease claims expired in 2014 and 2015.
12. At no time did counsel for Korean Claimants ever advise the Settlement Facility—in writing or otherwise—that he could not locate one or more of the 109 clients whose Expedited Release checks were returned as stated above.
13. The SF-DCT sent a letter to each of the 109 Korean Claimants acknowledging the return of the Expedited Release payments. These Acknowledgment Letters stated that the cure deadline had expired and no additional reviews

could occur on their previous claim. The Acknowledgment Letters further provided the options available to the Korean Claimants under the Plan. Each claimant could, at that point:


- File an Error Correction OR
- Apply for a claim for a **new** disease or condition on or before June 3, 2019 provided that the new disease or condition manifested after the cure deadline expired on their original disease claim OR
- Request the return of the original Expedited Release Payment.

Attached hereto as Exhibit 1 is a true and correct copy of an example of an Acknowledgement Letter that each Claimant received.

14. The Settlement Facility did not receive any request to reissue the original Expedited Release payments to any of the 109 claimants. Instead, on June 1, 2019 counsel submitted the same disease claims for those claimants that had been denied in 2014/2015 and that are barred by the Plan as noted above. These submissions were treated as a request to extend the cure deadline and were rejected based on the Plan and this Court's closing orders. Counsel disputed the Settlement Facility's determination and filed an appeal with the Appeals Judge – which was denied. Counsel then filed a motion for reconsideration of the denial of the appeals. The Appeals Judge issued an order denying the motion for reconsideration.
15. On or about September 22, 2024, counsel for Korean Claimants inquired whether he could file a lien for attorney fees based on those Expedited Release payments. I advised counsel that he could not file a lien because all of Korean claims at the Settlement Facility have a status of closed.
16. I have reviewed the Settlement Facility records and counsel for Korean Claimants has not submitted an Alleged Lienholder Claim for any of the claimants he represents.

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

Executed this 7 day of October 2024.


Kimberly Smith-Mair

EXHIBIT

1



SETTLEMENT FACILITY

DOW CORNING TRUST

P.O. Box 52429
Houston, Texas 77052

Telephone 713.874.6099
866.874.6099

April 10, 2017

0623222

SID: 2783612

KIM YEON-HO INTL LAW OFFICES
STE 4105 KOREA WORLD TRADE CTR BLDG
159-1 SAMSUNG-DONG KANGNAM-KU
SEOUL
KOREA, REPUBLIC OF

**RE: MEE R JO
ACKNOWLEDGEMENT OF RETURNED EXPEDITED RELEASE PAYMENT**

You have returned your Expedited Release payment; however, you did not include a new Claim form or instructions to proceed with a new disease review. If you have elected to wait and apply for a new disease in the future, this option remains available to you. However, please be advised that the cure deadline has expired on your Atypical Connective Tissue Disease (ACTD) claim. Therefore, no additional reviews can be performed on your ACTD claim. However, the following options remain available:

1. File an Error Correction. However, you may not submit additional medical records or request a deadline extension with an Error Correction request.
2. Apply for a new disease or condition on or before June 3, 2019 that manifested after the expiration of the ACTD cure deadline.
3. Request the return of the original Expedited Release Payment

For assistance or question, you may refer to our website at www.dcsettlement.com or contact the Claims Assistance Program toll-free at 1-866-874-6099.

Sincerely,

Claims Operations
Settlement Facility - Dow Corning Trust