

**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.Judge Denise Page Hood

**MOTION TO STAY THE COURT’S ORDER REGARDING MOTIONS FILED BY
THE KOREAN CLAIMANTS (ECF NO.1783)**

The movant (“the Korean claimants”) files this Motion to Stay this Court’s Order regarding Motions Filed by the Korean claimants (ECF Nos.1752, 1757, 1758, 1767, 1776) pending appeal in the United States Court of Appeals for the Sixth Circuit.

This Court issued the Order Regarding Motions Filed by the Korean claimants (ECF Nos. 1752, 1757, 1758, 1767, 1776) on July 31, 2024.

Pursuant to Fed.R.Civ.P.62 (c), stay of proceedings to enforce a judgment or an order can be sought by a losing party. Pursuant to E.D.Mich.L.R.7.1(a)(1), the Korean claimants must ascertain whether the contemplated Motion will be opposed by the Debtor, the Debtor’s Representatives, the Claimants’ Advisory Committee, and the Finance Committee. It is apparent that they do not agree so it is unnecessary for the procedure for concurrence to take place.

Whether a stay is granted requires four factors: (1) the likelihood that the party seeking the stay will prevail on the merits of the appeal (2) the likelihood that the moving party will be irreparably harmed absent a stay (3) the prospect that others will be harmed if the court

grants the stay and (4) the public interest in granting the stay. *Grutter v. Bollinger* 247 F.3d 631,633(6th Cir.2001), *Michigan Coalition of Radioactive Material Users, Inc. v. Griepentrog* 945 F.2d 150,151(6th Cir.1991)

A. Likelihood to Prevail

The Korean claimants' appeal is pending the United States Court of Appeals for the Sixth Circuit (Case No. 24-1653) The issue is: (1) whether the Court has no authority over the Claims Administrator's disposal of 109 Korean claimants' expedited payments and (2) whether the Court has no authority over the Claims Administrator's denial of the Korean claimants' address updates and the Korean claimants' motion is an attempt to revisit the claims that were denied by this court and affirmed by the Sixth Circuit.

First, the Claims Administrator ("the SF-DCT") made a mistake in handling the filing of 109 claimants. The Claims Administrator sent Notification Status letters that their disease claims were not approved in 2015 although they have never submitted the documents for the disease claim (But the Claims Administrator alleged that they submitted the disease claims form in 2009 and they checked on the box that they attached the document for the claim). The Claims Administrator sent the expedited payment checks in 2018 assuming that they failed to keep the deadline for submitting the documents for the disease claim. They returned the checks to the SF-DCT. The SF-DCT sent the Acknowledgment letters that the deadline for cure expired. The Acknowledge letters also said that they could apply for the disease claims for a new disease or condition before June 3, 2019. They submitted the disease claims form and the document for the disease claims on June 1, 2019. The Claims Administrator and the Appeals Judge together denied their appeals on the basis of Notification Status letters. Accordingly, the process for their disease claims was not legitimate. This court ruled that the Claims Administrator had authority and the court had no authority. If so, why the court undertook the supervision over the SF-DCT under the Plan and the Documents is not

explainable. This court has authority over claims of claimants. If either the SF-DCT or the Claims Administrator including the Appeals Judge committed an illegitimacy, the court must step in and cure it.

Second, the Korean claimants received a request for their address updates from 2015. The total number of the claimants who received the request from the SF-DCT was 676 claimants (except around the 130 claimants under the Show Cause Order). They submitted their address updates. The SF-DCT determined that ALL of their address updates shall not be confirmed because around 30 percent of their addresses could not be confirmed. (The Claims Administrator neither notify it to the AOR nor allow the AOR to meet her and explain) This court ruled that Closing Order 2 was affirmed by the Sixth Circuit and Closing Order 3 was not appealed by the Korean claimants and Closing Order 5 was not successfully reviewed by the Sixth Circuit because of the filing deadline for notice of appeal so this court denied a revisit to them by the Korean claimants' Motion for Lift-off the Address Update and Confirmation Requirement. As stated in the Motion clearly, the Korean claimants did not challenge the Orders of this court. The Korean claimants requested for correction of discriminatory treatments that happened to the Korean claimants. The SF-DCT and the Claims Administrator revealed discriminatory actions against the Korean claimants in the process. The court must step in and cure it.

B. Likelihood to be Irreparably Harmed

The appellees (the Debtor, the Debtor's Representatives, the Claimants' Advisory Committee and the Finance Committee) stated in the filings with the court that the SF-DCT would close the end of 2024. It is not certain that the Sixth Circuit would rule on the Korean claimants' appeal by then. Since the SF-DCT does not operate in practice, the Korean claimants are likely to be irreparably harmed.

C. Prospect that Other Claimants Will be Harmed

The other claimants will not be harmed since they have received the checks from the SF-DCT in full as far as their claims were approved. They were not requested for the address updates from the SF-DCT.

D. Public Interest for Stay

This court was biased regarding the Korean claimants. The AOR for the Korean claimants filed numerous motions with this court over two decades. This court has never granted even once. This court did not execute its duty of supervisory function to the SF-DCT and the Claims Administrator regarding the Korean claims either although this court was aware of agony of ALL of the Korean claimants. The Korean claimants hardly understand why this court is so merciless.

The appeal from this court's Order (ECF No.1783) is the last resort to the US courts including this court. A public interest can be served in full if this court grants this Motion.

For the foregoing reasons, the movant files this Motion to Stay to respectfully request for Grant.

Date: August 25, 2024

Respectfully submitted,

(signed) Yeon-Ho Kim
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Proposed Order

It is Ordered that the Korean claimants' Motion to Stay the Order Regarding Motions Filed by the Korean Claimants (ECF Nos. 1752, 1757, 1758, 1767, 1776) is Granted

S/DENISE PAGE HOOD
DENISE PAGE HOOD
United States District Judge

DATED:

CERTIFICATE OF SERVICE

I hereby certify that on August 25, 2024, this motion 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: August 25, 2024

Signed by Yeon-Ho Kim