

**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 FOR OREDER TO ALLOW THE KOREAN CLAIMANTS’ ATTORNEY
TO RECEIVE ATTORNY’S FEE AND EXPENSES REGARDING RETURNED
CHECKS NOT CASHED**

The movant (“the Korean claimants’ attorney ”) files this motion for order the SF-DCT to allow the movant to receive attorney’s fee and expenses incurred for the claimants since the movant returned checks to the SF-DCT.

Closing Order 2 was entered on March 19, 2019. The movant returned over 100 checks to the SF-DCT before March 19, 2019. And also, the movant returned several dozen checks to the SF-DCT after March 19, 2019.

Clause 10 of Closing Order 2 specified in Section B ATTORNY OBLIGATION TO NOTIFY THE SF-DCT AND RETURN UNDISTRIBUTED FUNDS,

10. An attorney who is unable to locate a claimant for whom a payment has been issued and who has returned the full amount of the payment check to the SFDCT may apply for payment of allowable fees and expenses through the lien process. (ECF Number 1413). Upon receipt of the returned check or payment, the SF-DCT will send the attorney a copy of the Lien Resolution Procedures and notify the attorney that, to obtain fees or expenses, (s)he must submit a completed lien form to the SF-DCT on or before 30 days from the date the form was sent to the attorney by the SF-DCT. Attorneys, however, can assert a lien at any time prior to receipt of the letter from the SF-DCT as well. See Revised

Exhibit 1 to Agreed Stipulation and Order: Procedures for the Review of Asserted Liens Against Settling Implant Claimants (ECF Number 1413-1) at Paragraph 4.01a. If the claimant or authorized representative is subsequently located, the SF-DCT shall reissue a payment net of attorney fees and expenses, if any, allowed by the Lien Judge, to the claimant or representative, subject to certain deadlines for reissuance of checks as provided herein and any other applicable Order.

However, the SF-DCT failed to send the movant a copy of the Lien Resolution Procedures and to notify the movant that, to obtain fees or expenses, (s)he must submit a completed lien form to the SF-DCT on or before 30 days from the date the form was sent to the movant by the SF-DCT.

The movant requested the SF-DCT whether the movant was able to file an application for an attorney's lien to obtain attorney's fee and expenses incurred for the claimants.

The SF-DCT denied the movant's request by saying that, at this time, the movant is unable to file a lien for attorney's fee because all of Korean claims at the SF-DCT have a status of closed.

The SF-DCT had obligation under Closing Order 2 that when the movant returned checks for the claimants that the movant was unable to locate the claimants for whom a payment has been issued, the SF-DCT must send the movant a copy of the Lien Resolution Procedures and to notify the movant that, to obtain fees or expenses, (s)he must submit a completed lien form to the SF-DCT on or before 30 days from the date the form was sent to the movant by the SF-DCT. This obligation should apply all of the checks returned to the SF-DCT both before Closing Order 2 was entered and after Closing Order 2 was entered.

The SF-DCT violated Clause 10 of Closing Order 2. The SF-DCT should have observed Closing Order 2.

The SF-DCT denied numerous payments to the Korean claimants by Clause of address update and confirmation under Closing Order 2. It became apparent that the SF-DCT applied the Clause discriminatorily against the Korean claims, revealing it during the process of briefing for the Order to Show Cause regarding the Survey under Closing Order 4.

This court is blind on all of the SF-DCT's violations in relation to the Korean claims so far. This court has been requested by the movant to correct the SF-DCT's wrong handlings of the Korean claims including its disposition of address update and confirmation. This court is requested to execute supervisory duty and functions over the SF-DCT under the Plan and the SFA.

For the foregoing reasons, the movant files this motion to respectfully request this court to allow the movant to receive attorney's fee and expenses incurred for the claimants for whom a payment has been issued and not cashed and returned.

Date: September 24, 2024

Respectfully submitted,

(signed) Yeon-Ho Kim
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Proposed Order

It is Ordered that the Korean claimants' attorney to be allowed to file with SF-DCT the Attorney Lien Form to collect attorney's fee and expenses for the claimants for whom a payment has been issued but the checks were returned and this Motion is Granted.

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

DATED:

CERTIFICATE OF SERVICE

I hereby certify that on September 24, 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: September 24, 2024

Signed by Yeon-Ho Kim