IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOTHERN DIVISION

IN RE:	§	CASE NO: 00-CV-00005
	§	(Settlement Facility Matters)
SETTLEMENT FACILITY DOW	§	
CORNING TRUST	§	
	§	
	§	
	§	Honorable Denise Page Hood

REPLY OF THE KOREAN CLAIMANTS TO RESPONSE OF DOW SILICONES CORPORATION, THE DEBTOR'S REPRESENTATIVES AND THE FINANCE COMMITTEE TO THE KOREAN CLAIMANTS' CROSS MOTION TO DENY MOTION TO TERMINATE FUNDING PURSUANT TO SECTION 2.01(C) OF THE FUNDING PAYMENT AGREEMENT AND TO TERMINATE THE SETTLEMENT FACILITY PURSUANT TO SECTION 10.03 OF THE SETTLEMENT FACILITY AND FUND DISTRIBUTION AGREEMENT AND FOR ORDER TO MAKE PYAMENTS IN DEFAULT TO THE KOREAN CLAIMANTS

I. INTRODUCTION

The Movants filed their Response to the Korean claimants' Cross-Motion on November 9, 2024. Counsel for the Korean claimants arrived in Detroit on November 9, 2024 for the hearing of November 11, 2024 and just checked in a neighboring Hotel around midnight of November 10, 2024 and opened the

personal computer and then found the Response of the Movants filed.

II. LIES OF THE CLAIMS ADMINISTRATOR

The Claims Administrator stated in her Declaration (See 8.a.2) of the Declaration) that with respect to Exhibit 1 of EXHBIT B she found that 38 were reviewed and determined to contain fraudulent records. To make Exhibit 1 of EXHIBIT B, Counsel eliminated the claimants who received the notice of exclusion due to the POM deficiencies, which was alleged by the Movants as fraudulent, so that there is none of claimants in Exhibit 1 of Exhibit B that the SF-DCT determined to contain fraudulent records. It is a lie.

The Claims Administrator stated in her Declaration (See 8.a.4) of the Declaration) that 2 claimants did not cure the POM deficiencies before the cure deadline expired. However, POM deficiencies do not require the cure deadline. It is a lie.

The Claims Administrator stated in her Declaration (See 8.a. 6) of the

Declaration) that 1 claimant is deceased and the claimant did not provide probate documents required by the rules of the Settlement Facility be the applicable deadline and, accordingly, the claim was closed. Counsel did not provide the information of the deceased to the SF-DCT. There was none of the Korean claimants whose family filed the death certificate with the SF-DCT. The SF-DCT must have created this non-existent information of the alleged deceased. The Statement of the Claims Administrator is a lie.

The Claims Administrator stated in her Declaration (See 8.b.3) of the Declaration) that with respect to Exhibit 2 of EXHIBIT B she found that 2 were fully paid (Disease Base and 100% Premium Payment). However, Counsel eliminated the claimants who were fully paid. It is a lie.

Based upon the lies above, the Claims Administrator concluded in her Declaration that the total amount of money owed to the Korean claimants by the SF-DCT, $6,064,350, is clearly incorrect and therefore there are several inconsistencies in EXHIBIT B. She even stated that all of the claims submitted by the Korean claimants have been resolved even though whether all of the claims of the Korean claimants were resolved is the issue that this Court must

deliberate.

The Claims Administrator is notorious not to be neutral and independent from the representatives of Dow Corning by submitting numerous Declarations to the Court whenever the submission is beneficial to Dow Corning and detrimental to the Korean claimants. This Court has been relied on the statements of the Claims Administrator heavily in deciding on the motions by the Korean claimants. Counsel was aware of that but has been skipping it by trusting a good judgment of this Court.

This Court decided in other motions of the Korean claimants that the decision of the Claims Administrator regarding individual claims is final and binding except the procedure of appeal to the Appeals Judge. The Claims Administrator who is lying and submitting misinformation to the Court is not reliable to find her decision on individual claims final and binding.

The Claims Administrator even held the Korean claim-files without notifying to Counsel for several years. The Korean claimants have not been heard from

the SF-DCT and the Claims Administrator since they received the notice of approval. They filed their claims and were notified that their claims have been approved in 2015 to 2016. If this Court looks into Exhibit 1 of EXHBIT B, it is clear. The fifth column of Exhibit 1 of EXHIBIT B is "Amount of Base Payment Not Received". The SF-DCT sent the notice of approval to those claimants on the fifth column of Exhibit 1 of EXHIBIT B in 2015 to 2016. However, the SF-DCT did not send the check reflecting the approval and just held without notifying what happened to their claim. The claimants who were approved in 2015 to 2016 but did not receive the base payment are 81 claimants as shown in Exhibit 1 of EXHIBIT B at the fifth column. The total amount of non-payment is US489,500 dollars except the premium payment. The Claims Administrator failed to address the claimants in her Declaration, which is believed intentional. The Claims Administrator focused only to reveal inconsistencies of the Counsel's statement in EXHIBIT B. It is the evidence that her statement that all of the claims submitted by the Korean claimants have been resolved is a lie.

III. THE MEANING OF "ALLOWED" UNDER THE SECTION 2.01(C)(i) OF THE FPA

The Movants assert that the FPA does not require that all claims be paid in order to terminate funding. The Movants further assert that the language of Section 2.01(C)(i) of the Funding Payment Agreement quite clearly provides that for termination to occur, *Allowed* claims in Classes 5-19 must have been paid and Allowed is defined in the Plan with respect to the Product Liability Claims (*i.e.*, the claims of the Korean claimants) as a claim that "has been approved for payment pursuant to the Settlement Facility Agreement or the Litigation Facility Agreement". quoting Plan at §1.3.

Counsel agrees to the Movants' assertion that Allowed is defined in the Plan with respect to the Korean claims as a claim that has been approved for payment pursuant to the Settlement Facility Agreement.

The Korean claimants in Exhibit 1 of EXHIBIT B and the most parts of the Korean claimants in Exhibit 2 of EXHIBIT B have been approved pursuant to the Settlement Facility Agreement. They submitted the POM claim and the disease claim to the SF-DCT. Their claims were approved by the SF-DCT. The reason that the SF-DCT denied the payment (the premium payment to some claimants and the base payment and the premium payment to some claimants)

to the Korean claimants is “address”.

When the Settlement Facility Agreement was negotiated and finally effectuated in June 2004, there was no requirement for address update or confirmation by the SF-DCT in the Settlement Facility Agreement. The requirement of address update was agreed by the Parties of Dow Corning Bankruptcy Procedure in Mach 2019 through Closing Order 2. Before Closing Order 2, there was no clause with respect to approval for payment regarding address update in the Settlement Facility Agreement.

Because there was no clause in the Settlement Facility Agreement regarding address update when the claims of the Korean claimants were approved by the SF-DCT before Closing Order 2, the claims of the Korean claimants were *Allowed* claims as defined in the Plan and asserted by the Movants. The Movants nevertheless assert that the claims of the Korean claimants were not allowed claims under Section 2.01(C) of the Funding Payment Agreement so that even if the Korean claimants were not paid actually, they were fully paid by assuming that Section 2.01(C) did not contemplate that all claims must be paid to terminate funding or otherwise finally resolved. This reasoning is just bizarre.

IV. NECESSITY OF ORDER FOR PAYMENT

The Korean claimants are in dire situation where their long-awaited payment hope is fading if the Movants' Motion to Terminate is granted.

They would adhere to the system of the Korean courts to collect from the subsidiary of Dow Corning Corporation and the reorganized Dow Corning Corporation in the Korean courts. Counsel is not able to confirm whether they would actually file a lawsuit in the Korean courts. Counsel is not responsible for lawsuits in Korea to the Korean claimants under their retainer agreement.

Counsel just request this Court to lead to resolve the Korean claims by any possible ways including the SF-DCT.

V. CONCLUSION

For the foregoing reasons, the Korean claimants request this Court to Deny the

Motion by the Movants and to Grant the Cross-Motion by the Korean claimants.

Date: November 10, 2024

Respectfully Submitted,

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CERTIFICATE OF CERVICE

I hereby certify that I electronically filed the foregoing document with the Clerk of the Court using the ECF System which will be sent to all registered counsel in this case.

Date: November 10, 2024

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