

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

**In Re:**

**DOW CORNING LITIGATION**

**Civil Action No. 00-CV-00001**

**MASTER DOCKET**

**HONORABLE DENISE PAGE HOOD**

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**CASE MANAGEMENT ORDER NO. 1**

Pursuant to the Amended Joint Plan of Reorganization (the “Plan”), personal injury tort claimants are being offered the choice to settle their claims according to a schedule of benefits or to opt out and pursue litigation against the DCC Litigation Facility, Inc. (“Facility”). This Court has and will exercise jurisdiction over all litigation between the Facility and Non-Settling Tort Claimants.<sup>1</sup> Claimants who elect to opt out (together with certain other tort claimants to whom no settlement is offered and who are designated as, and do not elect to be, Opt-Out Claimants under the Plan) will be permitted to commence or continue actions against the Facility in this Court, subject to any further orders of the Court transferring or remanding any or all of any such claimant’s claims. This order is entered, following extensive negotiations over its terms between representatives of Dow Corning, its Shareholders and the Tort Committee, to establish general procedures for processing and resolving such Opt-Out Claims. Upon consultation with the parties and the recommendation of the Special Master, this order will be supplemented to provide more specific procedures (consistent with the

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<sup>1</sup> Such litigation herein is referred to as “Opt-Out Litigation.” The cases comprising the Opt-Out Litigation are referred to herein as “Opt-Out Cases.” Non-Settling Tort Claimants (as defined in the Plan) are referred to herein as “Opt-Out Claimants.” The Claims of the Opt-Out Claimants are referred to herein as “as “Opt-Out Claims.”

terms of this order and the Plan) as the contours of the Opt-Out Litigation become better known.

After hearings on April 12 and 13, 2000, the Court orders as follows:

**1. Jurisdiction**

(a) Jurisdiction over any Opt-Out Cases and any other litigation brought against the Facility will reside in the Eastern District of Michigan.

(b) In general, cases may be tried either in the Eastern District of Michigan or in the federal court in which the claim arose. In selected cases originally filed in state court and not removed pre-petition, individual cases may be remanded for trial to state courts recommended by the Special Master and approved by counsel for all parties to the case (including the Facility). This order is not intended to abrogate or supersede prior or future Sixth Circuit decisions in this case.

(c) In the event that any case is remanded or transferred, the Eastern District of Michigan will retain authority over all consolidated pre-trial proceedings including Daubert, discovery and other matters bearing upon issues common to Opt-Out cases. When the consolidated proceedings have been completed, a case may be certified for trial, if the parties have completed the pre-trial settlement procedure. The certification will be conditioned upon compliance with the terms of this order.

**2. General Requirement for the Administration/Resolution of Opt-Out Litigation**

All procedures set forth herein and in subsequent recommendations by the Special Master and case management orders shall be designed to assure that settlement and litigation of all Opt-Out Claims are accomplished as expeditiously and efficiently as possible within the Litigation Fund (as that term is defined in Section 3.01(a)(i) of the Settlement Facility and Fund Distribution Agreement). Such procedures may include provisions governing the terms of payment of Opt-Out Claims once

settled or litigated to judgment.

**3. Appointment and Duties of Special Master**

(a) A special master shall be appointed to assist the District Court in the administration of the litigation against the Facility, in order to meet the requirements of Paragraph 2 above.

(b) The Special Master will establish (subject to District Court approval) the following in order to meet the requirements of Paragraph 2 above.

(1) The identification, number, timing and sequencing of individual cases for ADR, discovery, and trial.

(2) Pre-trial procedures, including procedures for resolution of Opt-Out Cases prior to trial.

(3) Procedures for certifying cases for trial.

(4) The content of ADR.

(5) Trial venue.

(6) The Special Master shall review the proposed settlement of Opt-Out Claims to assure a fair distribution of the Litigation Fund.

(7) The Special Master will review and approve the costs of the Facility, including defense costs, in accordance with the provisions of paragraph 16(b) below.

**4. Master Docket and File**

To manage Opt-Out Cases efficiently, a master docket and case file is established under the

caption "In re Dow Corning Litigation" with Civil Action No. 00-CV-00001. This master docket will establish a record of orders, pleadings, motions, and other documents that may affect the Opt-Out Cases generally. Any paper, when filed and docketed in the master case file, to the extent applicable, will be deemed automatically entered in each of the Opt-Out Cases, without the need for separate filing and docketing in the individual cases.

**5. Opening of Individual Cases**

(a) Opt-Out Claimants who already have actions pending shall have individual case files established or amended in this Court, as provided in subparagraph (b) below. Subject to subparagraph (f) below, Opt-Out Claimants who do not have a previous action pending against Dow Corning or its Shareholders and affiliates shall commence an action against the Facility by filing a complaint within 60 days of opting out. The answer (or other responsive pleading) by the Facility shall be filed at the time and pursuant to the procedures described in paragraph 6(b) hereof.

(b) Upon receipt of the necessary information from the parties or from the transferor courts, either electronically or by other means, the Clerk of this Court will open each previously existing case as an individual case in this Court, with its own case number. The necessary information will include but is not limited to the names of the plaintiff(s), the jurisdiction from which the case has been transferred and the case number in that jurisdiction. The parties are under a continuing obligation to assist the Clerk in identifying such cases and in obtaining the information needed to open these cases in this Court. The defendant in all such cases shall be the Facility.

(c) The Clerk of the Court will periodically send to the Clerks of the transferor courts a listing of the cases in their courts in which claims against Dow Corning or its shareholders

and affiliates have been transferred to this Court. Prosecution of claims against other defendants in those cases, other than defendants released or who have had claims against them transferred pursuant to the Plan, may proceed in those transferor courts. The Clerk of this Court will also send a copy of this Order to the transferor courts.

(d) The clerks of the transferor courts shall retain the physical files of all transferred cases until further order of this Court. It is expected that courts will need to retain these files for up to five (5) years at which time this Court will review this Order and consider the transfer or archiving of these files. The Clerk of this Court shall be responsible for informing the clerks of the transferor courts of this Order.

(e) When orders, pleadings, motions, and other documents in the case files in the transferor courts are needed in this Court, the parties shall jointly arrange to obtain copies of such documents for filing in this Court as a composite record with an index setting forth the titles of the individual documents included in it.

(f) Each Opt-Out Claimant who is a minor on the Effective Date shall have until the earlier of (i) the date that is one hundred and eighty days after such claimant's eighteenth birthday or (ii) the fifteenth anniversary of the Effective Date to initiate an action in the manner set forth in subparagraph 5(a) of this order. Each Opt-Out Claimant who has not yet manifested injury on the Effective Date shall have until the earlier of (x) the date that is one hundred and eighty days after such claimant's illness or symptoms (of sufficient severity to support a disease payment) have become manifest or (y) the fifteenth anniversary of the Effective Date to initiate an action in the manner set forth in subparagraph 5(a) of this order.

**6. Master Pleadings for Breast Implant and Non-Breast Implant Claims**

(a) Plaintiffs' National Steering Committee has filed in Case No. CV-92-P-10000-S in the Northern District of Alabama (1) a Master Complaint and Amended Master Complaint containing allegations that would be suitable for adoption by reference in individual cases and (2) a sample complaint illustrating how allegations from the Amended Master Complaint can be incorporated into an individual case. National Liaison Counsel for Opt Out Claimants shall cause these documents to be filed on or before 90 days after the Effective Date in the master case file, civil action number 00-CV-00001, with appropriate revisions so that the Facility is the defendant in place of Dow Corning and the Shareholders. Verdict forms in any subsequent trials will not include provision for any findings against the Shareholders.

The allegations of the Amended Master Complaint are not deemed automatically included in any particular case. However, in order to avoid possible problems with statutes of limitations or doctrines of repose, it shall be deemed (except to the extent a plaintiff thereafter files an amended complaint disavowing such claims and theories or limits its claims and theories to those contained in an amended complaint) that, as of this date, for cases now pending in this Court (or as transferred to this Court) a motion is filed in each such case to amend the complaint to add any potentially applicable claims and theories from the Amended Master Complaint not contained in the complaint actually filed in this case. If a plaintiff desires to add any such claims and theories, that plaintiff must do so through a specific motion filed in plaintiff's case not more than 30 days after the case is certified for trial.

(b) On or before 60 days after the Amended Master Complaint has been filed, the Facility shall cause to be filed in the master case file, civil action number 00-CV-00001, a copy of a

Master Answer (or other responsive pleading) similar to that previously filed in Case CV 92-P-10000-S in the Northern District of Alabama with appropriate revisions to the case caption. When so filed in this civil action, these answers or responses constitute an answer in each transferred and pending case or when such cases are hereafter filed in, removed to, or transferred to this Court except to the extent the defendant later files a separate answer in an individual case.

(c) It is anticipated that an amended, more specific complaint and answer may be required for an individual case before a case is scheduled for trial or remanded to a transferor court for trial, but that amendments of pleadings prior to that time should generally be avoided. A further amended complaint shall not be required in cases that have previously complied with this provision.

**7. General Sequence of Cases**

The Opt-Out Cases shall proceed toward certification for trial according to the following sequence: (1) opt-out period; (2) consolidated motion practice, as specified in paragraph 9(b)(2); (3) pre-trial settlement procedures; (4) case-specific discovery; and (5) trial.

**8. Pre-trial Settlement Procedures**

(a) The Special Master shall establish pre-trial settlement procedures after consultation with National Liaison Counsel and approval of the Court. These procedures shall include individual ADR as well as procedures to effect the bulk resolution of claims. All Opt-Out Cases will be subject to some form of pre-trial settlement procedure unless exempted by the Court upon recommendation of the Special Master. The development and execution of pre-trial settlement procedures shall begin as soon as practicable following the Election Deadline, but in no event prior to the Effective Date, with the goal of resolving as many claims as possible without the need for further litigation.

(b) The timing of settlement payments other than payments to foreign claimants under separate settlements with Dow Corning and all related matters will be determined by the Finance Committee in consultation with the Special Master and with the approval of the Court.

**9. Initial Schedule for Opt-Out Cases Not Resolved Through Settlement**

(a) Prior to the Election Deadline specified in the Plan and related documents, the Court will engage in docketing procedures, receive pleadings in new actions, and work with the Special Master to establish procedures that will facilitate the prompt resolution of Opt-Out Cases.

(b) During the 270 days following the later to occur of (i) the Election Deadline or (ii) the Effective Date, the following will proceed simultaneously:

(1) The Court and the Special Master will implement pre-trial settlement procedures designed to facilitate settlements.

(2) The Court will set any hearing on Daubert and other common issue motions no earlier than 270 days following the later to occur of (i) the Election Deadline or (ii) the Effective Date. The Court will set an appropriate schedule for briefing and any necessary discovery. Nothing in this Order prejudices the right of any party to argue that any particular common issue adjudication is or is not appropriate or consistent with existing law.

(3) An Opt-Out Claimant may ask the Special Master to certify, and upon the recommendation of the Special Master the Court may consider allowing certain claims to proceed to trial upon the completion of pre-trial settlement procedures, if it appears that no common issue proceedings are applicable to such cases.

(4) The Opt-Out Claimants will complete and serve upon the Facility the Questionnaire described in paragraph 11 below and will provide copies of all potentially relevant



medical records or provide authorization for the facility to obtain such records.

**10. Completed Discovery**

Hundreds of depositions of plaintiffs, corporate representatives and experts have been taken in the MDL and related state court proceedings. In addition, millions of documents are available for inspection through the MDL Depository in Cincinnati, Ohio. The documents are also available on CD-ROM Disks.

These documents and depositions are available to the parties for use in individual trials in accordance with the Rules of Evidence and various orders of the MDL Court. Additional non-case specific discovery will only be conducted if it is recommended by the Special Master and authorized by the Court.

The report of the 706 Panel appointed in the MDL proceeding, together with the record associated with the 706 Panel process (including any depositions) similarly will be available to the parties for use in individual trials in accordance with the Rules of Evidence and various orders of the MDL Court.

**11. Case Specific Discovery**

(a) Plaintiffs and their spouses are required to complete and serve on counsel for the Facility within 120 days after the later of the Election Deadline or the date on which the claimant's individual complaint is filed in the Master Docket the questionnaire that was approved in the MDL proceeding. Plaintiffs who have previously answered the questionnaire or equivalent state court interrogatories, need only update their previously filed questionnaire or interrogatories.

(a) After the case is certified for trial the Facility may:

(1) conduct a deposition of a plaintiff limited (unless extended by

stipulation or court order) to a maximum of six hours of direct examination;

(2) conduct a medical exam. The Court may, upon motion, require additional exams or disallow the medical exam;

(3) conduct depositions of the plaintiff's physicians who can or are reasonably expected to provide testimony relevant to implant related claims. The direct examination of such physicians shall be limited (unless extended by stipulation or court order) to a maximum of three hours per physician, unless the physician will testify to issues of general causation in which case an additional three hours will be allowed.

(4) The Court will establish additional procedures governing the taking of expert depositions and additional discovery and will coordinate such procedures with those established by the MDL Court.

(c) Upon recommendation of the Special Master, discovery and additional claim investigation consistent with the foregoing (but with more stringent time limitations), may be conducted in certain cases to inform the settlement process. Any such discovery will be without prejudice to subsequent discovery consistent with the aggregate time limits set forth above.

## **12. Certification of Cases for Trial**

(a) Following the completion of Pre-Trial Settlement Procedures applicable to a specific individual case, the Court, with the assistance and upon the recommendation of the Special Master, certify cases for trial, and the Court will determine whether they will be tried in the Eastern District of Michigan, in the federal district courts in the district in which the claim arose, or in an appropriate state court, consistent with the terms of Paragraph 1 above.

(b) In recommending and certifying cases for trial, the Court and the Special

Master shall take into account all appropriate factors, including:

(1) Allowing for the determination of any appeals from any rulings by the Court with respect to significant Daubert or other common issues.

(2) The need to assure the integrity of the Litigation Fund and the fair distribution of the Litigation Fund to claimants.

(3) The available resources of the Facility to defend and resolve Opt-Out Claims. This will include consideration of the availability of witnesses, defense counsel, and support personnel and the burden imposed by the defense on the Reorganized Dow Corning. The Court and the Special Master will specifically preserve the ability of the Facility to prepare for and effectively try each case certified for trial. It is the intent of this subparagraph that issues of trial readiness, the feasibility of defending litigation and the flow of cases through the trial docket do not compromise the ability of the Facility to litigate or settle cases.

(4) Settlement history, both of Opt-Out Claims as a whole and individual cases in particular.

(5) The filing of the case.

(6) The merits of the case.

(7) The readiness of the case for trial.

(8) Judicial efficiency.

(9) Hardship (severity of ailment, etc.)

(c) In addition to the foregoing and the applicable provisions of subsequent case management orders, cases will be remanded only to those courts which have agreed to be bound by this and any supplemental case management orders entered by this Court. In addition, the parties'

consent to the remand to state court of a case that has been certified for trial shall not be unreasonably withheld.

**13. Punitive Damages**

There will be no recovery for punitive damages against the Facility, Dow Corning or its Shareholders.

**14. Preparation and Filing of Papers**

(See ¶ 15 below regarding Motion Practice).

(a) Pleadings and other documents that apply to all cases generally or are applicable to a large number of cases that would push the name of the paper to the second page should bear a caption similar to that shown in Format #1 of Attachment A (“Sample Formats”).

(b) A document having specific application to a particular case or cases should include a short caption and case number assigned by this Court as shown in Format #2 of Attachment A.

(1) In the first document filed by a party in an individual case, the prior court history and case number(s) should also be shown, as indicated in Format #2 of Attachment A.

(2) Documents that relate only to a specific case or group of cases and would not be of general interest to other litigants (e.g., motions to add, substitute, or withdraw as counsel for parties in particular cases) should not be filed nor referenced in the Master Docket and Case File.

(c) Pursuant to Fed. R. Civ. P. 5 (d), discovery materials shall not be filed with the Court. (See E.D. Mich. L.R. 26.2)

(d) Documents sent to the Court should be stapled only once and should have two

punched holes at the top, 2-3/4 inches center to center, and should not have "blue backs" or any cover sheets.

(e) Except as provided in paragraph 5 of this Order, or as directed by the Court, when submitting documents for filing with the Court, parties should deliver or send one, signed original to:

Dow Corning Litigation Unit, Room 128  
U.S. District Court  
Theodore Levin United States Courthouse  
231 West Lafayette Blvd.  
Detroit, MI 48226

(1) If the document is intended to be filed in an individual case, rather than or in addition to the Master Case file, parties should deliver or send to the Dow Corning Litigation Unit one additional copy for each case in which it is to be filed.

(2) Parties should not deliver or send any copies of documents to the Dow Corning Litigation Unit or informational or courtesy copies to the Judge's chambers unless specifically requested to do so. Parties should also not submit an additional copy of a document to the Court expecting that it will be returned with a "filed" stamp and date on it.

(3) The numbers to communicate with the Dow Corning Litigation Unit are as follows:

Telephone:	(313) 234-5090
FAX Filing:	(313) 234-5395
Hot Line	(313) 234-5370
PACER <sup>2</sup> :	(800) 229-8015 or (313) 234-5276
Internet:	<a href="http://www.mied.uscourts.gov">http://www.mied.uscourts.gov</a>

(4) The Court will permit attorneys to transmit documents for filing by

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<sup>2</sup> PACER is a computerized service for obtain docket data.

facsimile (FAX) machines. The faxed documents, when received by the Dow Coming Litigation Unit, will be deemed as original documents suitable for filing subject to the following conditions:

(i) The document must comply with Fed. R. Civ. P. 10 and 11.

For purposes of Fed. R. Civ. P. 11(a), "signature" includes a signature transmitted by FAX.

(ii) The document will not be accepted for filing if it requires a filing fee.

(iii) The document must be accompanied by a transmittal sheet that includes:

- the name, address, telephone and FAX number of the sender;
- the caption of the case(s) and a description of the document;
- the number of pages transmitted, excluding the transmittal page.

(iv) The document must be intended to be filed in only one case (whether in the Master Case File or in an individual case file). The Clerk, however, is authorized to waive this limitation on special request and upon satisfactory arrangements by the sending attorney to pay the costs of copying documents for filing in multiple cases.

(v) All pages, including the transmittal page, must be 8 ½" by 11" in size. Excluding the transmittal page (but including any exhibits or attachments to the document), the pages must be sequentially numbered at the bottom center and not be more than 25 pages.

(vi) The original of the document must be retained by the sender unless Clerk requests that it be sent to replace the faxed copy.

(vii) Documents received after 4:00 p.m., Eastern Time, or on a holiday or weekend, will be filed on the next business day.

(f) Parties are requested not to file pleadings, motions, and other documents until

the case has been opened and assigned a number in this Court. Any requests, based on exigent circumstances, for leave to file a document prior to that time should be made by arranging a telephone conference call with Judge Denise Page Hood and opposing counsel.

(g) General correspondence and other documents that do not need to be docketed and filed in a case should be sent to the judge's chambers addressed to:

The Hon. Denise Page Hood  
U.S. District Judge  
Theodore Levin United States Courthouse  
231 West Lafayette Blvd., Room 251  
Detroit, MI 48226

Send one copy only. Do not send a copy of such documents to the Dow Corning Litigation Unit unless requested by the Court to do so.

- (1) The telephone number for the judge's chambers is (313) 234-5165.
- (2) Correspondence and documents may be transmitted to the Judge's chambers by FAX only if advance authorization is given. Authorization should be requested only in exigent circumstances where transmission by other methods is not feasible. The chamber's FAX number is (313) 234-5358. (Do not submit documents for filing via this fax number).

(h) The Magistrate Judge assigned to this matter is:

The Hon. Marc L. Goldman  
U.S. Magistrate Judge  
Theodore Levin United States Courthouse  
231 West Lafayette Blvd., Room 704  
Detroit, MI 48226

- (1) The telephone number for the Magistrate Judge's chambers is (313) 234-5115.
- (2) Correspondence and documents may be transmitted to the Magistrate

Judge's chambers by FAX only if advance authorization is given. Authorization should be requested in exigent circumstances where transmission by other methods is not feasible. The chambers' FAX number is (313) 234-5650. (Do not submit documents for filing via this fax number).

**15. Special Provisions Relating to Motions**

**(a) Non-Substantive and Substantive Orders Without Objections**

**(Stipulations and Order)**. The party initiating a stipulation to a non-substantive order (e.g., to add, substitute, or withdraw as counsel and for extension of time, other than to extend deadlines established by Court), or a substantive order (e.g., order to dismiss parties or claims, with or without prejudice), after consulting with opposing counsel, may submit the stipulation, signed by the parties, and a proposed order granting the relief requested by the party initiating the stipulation, to the Dow Corning Litigation Unit. Such stipulations should be clearly labeled "non-substantive" or "substantive" stipulations. A self-addressed stamped envelope shall accompany the Stipulation and the Proposed Order. The Court shall serve the party seeking the relief who shall then be responsible for serving copies of the order to opposing counsel, and, if different, National Liaison Counsel for the plaintiffs and the Facility.

**(b) Bundling of Contested Motions.** Contested motions shall be filed in accordance with the procedure set forth below and E.D. Mich. L.R. 7. 1:

**(1) The Motion.** The movant shall prepare the motion and brief and serve it on the opposing party and National Liaison Counsel, while retaining custody of the original. A letter indicating that the motion has been prepared and served shall be sent to the Judge's chambers. The submission of this letter will inform the Court that a motion has been served and will begin the time



frame for the filing of the response or reply and for any request for an extension of time to file the response or reply permitted by E.D. Mich. L.R. 7.1(c) and (d).

(2) **The Response.** An original and two copies of the response to the motion shall be served on the movant and one copy served upon all other interested parties and National Liaison Counsel. If a reply is prepared, one copy shall be served upon opposing counsel, other interested counsel and National Liaison Counsel. In no circumstances shall a response to a motion or a reply include a motion.

(3) **Extension of Time and Requests to Exceed Page Limits.** Motions for an extension of time to respond, for additional time to file supporting documents and brief, for authorization to exceed page limits and for other similar topics shall be addressed, if possible, in accordance with paragraph (a) of this section. If concurrence is not obtained, an ex parte so stating and a proposed order may be filed with the Court in conformity with L.R. 7.1 (b), 7. 1 (f). The parties may not stipulate to, nor will the Court grant, time extensions of more than fourteen (14) days, briefs longer than thirty (30) pages, or reply briefs longer than ten (10) pages. Longer page limits may be established with respect to the litigation of issues common to a large number of case.

(4) **Filing with the Court.** When the motion is ready for submission to the Court, the movant shall deliver or send (not fax) one set of original documents (motion, response, any reply and attachments) and one copy of the set of documents to the Dow Coming Litigation Unit with a cover letter setting forth the title of each paper contained in the bundle. Contested motions may not be filed by FAX. The original documents should be clearly marked “**ORIGINAL**” and the copy should be clearly marked “**JUDGE’S COPY.**” The movant shall also submit stamped envelopes addressed to each party to the motions.

(5) **Notice of Hearing.** Upon filing of the original documents, the Court will send a notice of hearing to all parties to the motion and to National Liaison Counsel.

(c) **Pending Motion.** All pending motions in existing cases are hereby dismissed without prejudice to any substantive or timeliness issue. These motions may be refiled in accordance with paragraphs 14 and 15 of this Order.

**16. Miscellaneous Provisions**

(a) Subject to further order of this Court, attorneys who are admitted to practice and in good standing in any United States District Court are hereby permitted to appear pro hac vice in this litigation without need for any other motion, order or payment of fee for the purpose of signing and filing papers only. Attorneys who wish to appear personally must be admitted to practice in the United States District Court for the Eastern District of Michigan. An application may be obtained from the Clerk's Office. By signing or filing any document in this Court, all attorneys agree to adhere to the disciplinary standards and civility principles applicable in this Court, to the Federal Rules of Civil Procedure, and to be subject to this Court's jurisdiction with respect to enforcement of such standards and rules.

(b) The Special Master (with court approval) will review and, applying customary standards of reasonableness, approve all requests for payment of defense costs or for the budget approval relating to the administrative costs (including defense costs) of the Facility. In determining whether or to what extent to approve such costs or such budgets, the Special Master shall provide reasonable assurances that the total costs over the life of the Facility bear a reasonable relationship to the total funding available under the Litigation Fund and the preservation of those funds for paying Opt-Out Claims. The Special Master, in reviewing requests for payment of costs, may, upon

application, pay an enhanced fee if justified in the Special Masters' sole discretion on the basis of the efficient, expeditious, and economical resolution of cases without the necessity of litigation, or may pay a lower fee if the Special Master believes that the Facility or the lawyers have failed to expeditiously, efficiently and economically resolve claims without resort to litigation.

(c) The Facility may retain as counsel any attorney previously retained by Dow Corning and/or its Shareholders in connection with implant related matters.

(d) All otherwise privileged or settlement related information furnished to the Facility (for purposes of conducting litigation or settlement activities) by Dow Corning or any other Released Party or an officer, employee, agent or attorney for Dow Corning and any other Released Party (including, without limitation all privileged and confidential information concerning implants and raw materials used in the manufacture of Dow Corning and non-Dow Corning breast implants and the distribution thereof, the history of the conduct of Dow Corning's or such Released Parties' business and Dow Corning's or such released parties defense strategy and settlement history and litigation involving litigation facility obligations) shall be protected under the attorney client, work product, joint defense and settlement privileges. Such exchanges of information are encouraged by the Court in order to foster the effective and efficient conduct of the business of the Facility and will enjoy the full protections accorded to such privileged materials under the law.

(e) Pursuant to E.D. Mich. L.R. 1.2, the provisions of the Eastern District Local Rules are temporarily suspended to the extent they are inconsistent with the terms of this Order. The Local Rules are otherwise applicable. A copy of the Local Rules may be obtained from Darby Printing at (800) 848-2995.

ORDERED this the \_\_\_\_\_ day of \_\_\_\_\_ 2000

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DENISE PAGE HOOD  
United States District Judge

**SAMPLE FORMATS**

**Format #1: This Caption Generally Applies to All Cases  
or to a Large Number of Cases:**

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

In Re:

DOW CORNING CORPORATION,

Civil Action No. 00-CV-00001

Debtor.

HONORABLE DENISE PAGE HOOD

(Generally Applies to All Cases)

[or]

(Applies to Cases Listed in Appendix A  
As Set Forth in Format #3 Below)

[TYPE OF PAPER, e.g. "MOTION"] BY [NAME OF FILING PARTY]  
FOR [PURPOSE OF FILING PAPER]

[Text of document]

This the \_\_\_\_\_ day of \_\_\_\_\_, 2000

\_\_\_\_\_  
(Identification of signatory)

[Name of Counsel and Firm]

[Address]

[Telephone and FAX numbers]

**Format #2: This Caption Applies to a Few Specific Cases:**

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

In Re:

DOW CORNING CORPORATION,

Civil Action No. 00-CV-00001

Debtor.

HONORABLE DENISE PAGE HOOD

\_\_\_\_\_ /

(Plaintiff v. Defendant)

MIE #: (as provided by the court)

(Prior federal court districts and ##)

(Prior state court name(s) and ##)

(Plaintiff v. Defendant)

MIE #: (as provided by the court)

(Prior federal court districts and ##)

(Prior state court name(s) and ##)

[TYPE OF PAPER, e.g. "MOTION"] BY [NAME OF FILING PARTY]  
FOR [PURPOSE OF FILING PAPER]

[Text of document]

This the \_\_\_\_\_ day of \_\_\_\_\_, 2000

\_\_\_\_\_  
(Identification of signatory)

[Name of Counsel and Firm]

[Address]

[Telephone and FAX numbers]

**Format 3: Appendix A**

(Use an appendix like this when listing numerous cases that would push name of the paper to the second page)

**Specific cases to which applicable:**

<u>Short Case Caption</u>	<u>MIE Case #</u>	<u>Case History</u>		
		<u>ALN Case #</u>	<u>Prior USDC ##</u>	<u>St. Ct. Case #</u>
<b>(Example)</b>				
Crony v. Dow Chem.	97-CV-10675	2:95-10877	CAS 3:95-00780	SUP.CT., SAN DIEGO, CA, 2754-02583
Zilch v. Dow Chem.	97-CV-10676	2:95-10878	TXN 1:95-12127	

**Format 4: Certificate of Service**

**(Use Caption Formats 1 or 2)**

**CERTIFICATION OF SERVICE:**

I certify that, on \_\_\_\_\_, 2000, a copy of (titles of document, with all appendices and attachments, was served on:

(by mail or FAX)	National Liaison Counsel for Plaintiffs
(by mail or FAX)	Litigation Manager, Dow Corning Litigation Facility
(by mail or FAX)	[names of all other applicable counsels]

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[Name/Address of Person Responsible for Service]