

**Case No: 23-1936**

**United States Court of Appeals for the Sixth Circuit**

In re: SETTLEMENT FACILITY DOW CORNING TRUST

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KOREAN CLAIMANTS,

Interested Party-Appellant,

v.

DOW SILICONES CORPORATION, et al.,

Interested Parties-Appellees,

and

FINANCE COMMITTEE,

Movant-Appellee.

**On Appeal from the United District Court  
for the Eastern District of Michigan**

**Petition for Rehearing**

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## I. INTRODUCTION

The Opinion on Korean claimants' appeal from the United States District Court for the Eastern District of Michigan was served on November 7, 2024. Korean Claimants ("the Appellants") file this Petition for Rehearing pursuant to 6 Cir. I.O.P. 40 to bring a claimed error of fact or law in the Opinion to the panel's attention. Korean claimants do not use this Petition for Rehearing for re-argument of issues previously presented.

## II. ERROR OF FACTS

This Court found, "The Korean Claimants sought repayment to no avail. The Claims Administrator denied repayment *because their checks expired before June 3, 2019*. Rather than seek relief in district court, the claimants appealed the Order. That is the appeal before us today."(Page 4, Opinion)

This phrase is meaningfully fundamental to direct what and how the Korean claimants sought from this the appeal. This Court made an error in founding that the Claims Administrator denied repayment *because their checks expired before June 3, 2019*.

If we look what the Korean claimants did regarding request for repayment (“request for reissuance of expired checks”), the Korean claimants (actually seven claimants in \*\*3-31 attached as Appendix to Reply brief and three claimants in \*32-37 attached as Appendix to Reply brief)<sup>1</sup> requested the reissuance for checks because the checks expired. They submitted letters of request for reissuance to the SF-DCT in 2018 to 2019 (See Appendix 1, 2 \*\*3-37). However, the SF-DCT did not act on the letters; (1) What the SF-DCT said was shown in the letters of the SF-DCT (See in \*\*34-37). *First*, the letters of the SF-DCT were written before Closing Order 2 and the following Order at this appeal. However, this Court assumed that the SF-DCT denied repayment after Closing Order 2. It is an error. *Second*, the reason of the SF-DCT for denying repayment was the address of the requesting claimants. The letters of the SF-DCT specified it. But this Court found that the Claims Administrator denied repayment *because their checks expired before June 3, 2019* in accordance with Closing Order 2 and the Order at this appeal. It is an error. (2) What the SF-DCT did not do anything from the claimants’ request for reissuance of checks was regarding seven claimants in \*\*3-31 attached as Appendix to Reply brief. As shown from a copy of the checks, the checks were issued on July 2, 2018. As shown on the records, the checks were returned as invalid because of “stale

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<sup>1</sup> The amount of payment that they were supposed to receive from the SF-DCT, if calculated from the face amount of checks, reached 56,500 dollars.

dated” in January 2019. Right after the notice of a Korean bank, the claimants requested the reissuance of checks to the SF-DCT. The SF-DCT did not do anything and did not reply or respond to their request for repayment. Surprisingly, after nearly four years later(2019-2023), the SF-DCT sent the AOR the letters for the above seven claimants (including other irrelevant claimants) by saying, “This letter is in response to your request postmarked October 23, 2023 and October 30, 2023 to reissue previously issued and uncashed payment(s) on behalf of the claimant mentioned above. Your request will be granted *if a current confirmed address is received from the claimant*”, on November 14, 2023. What it means is that the SF-DCT failed to reply to their request for repayment from the seven claimants over four years (2019-2023). However, this Court blamed the claimants on sitting idly at least 1,764 days each to seek payment (Page 7, Opinion). It is an error. (3) As shown in the letters of the SF-DCT (See \*\*148-211 attached as Appendix of Reply brief), the SF-DCT denied repayment on the basis of address of those claimants who requested for reissuance of check (36 claimants out of 200 claimants at issue in this appeal). The SF-DCT said either, “Your request will be granted *if a current confirmed address is received from the claimant*”, or “Your request is DENIED. *This claimant’s SID was posted to the sfdct.com website on June 19, 2022 pursuant to Closing Order #5 issued by the Court on June 13, 2022*”. The SF-DCT denied repayment even if the claimants requested before Closing Order 2

issued on March 3, 2019 or before Closing Order 5 issued on June 13, 2022. However, this Court found that the Claims Administrator denied repayment because *their checks expired before June 3, 2019*. The SF-DCT' reason for denying repayment regarding 36 claimants has nothing to do with the Order at issue in this appeal. It is a gross error.

### III. CONCLUSION

For foregoing reasons, the Korean claimants request this Court to grant the petition for rehearing for the appeal.

Date: November 16, 2024

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on November 16, 2024, I have electronically filed the above document with the Clerk of Court by ECF system that will notify to all relevant parties in the record.

Date: November 16, 2024

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