

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

In re:	§	
	§	Case No. 00-CV-00005
	§	(Settlement Facility Matters)
SETTLEMENT FACILITY DOW	§	
CORNING TRUST	§	
	§	
	§	Hon. Denise Page Hood
	§	

**FINANCE COMMITTEE’S RESPONSE
TO MOTION FOR PREMIUM PAYMENTS TO KOREAN CLAIMANTS**

The Finance Committee respectfully submits this Response in opposition to Yeon Ho Kim’s Motion for Premium Payments to Korean Claimants (Doc. No. 1545) (“Motion for Premium Payments”).

Pursuant to the Finance Committee’s powers outlined in the Settlement Facility and Fund Distribution Agreement (“SFA”), including the authority to “develop recommendations for submission to the District Court regarding the release of funds payable from the Settlement Fund and the Litigation Fund, as specified at Article VII herein,” and to “bring actions on behalf of the Trust and to defend the Settlement Facility, the Trust, the Claims Administrator, the Finance Committee, and any agents or employees of the Trust, including actions to enforce obligations in the Plan Documents,” the Finance Committee respectfully joins the request of the Dow Silicones Corporation, the Debtor’s Representatives and the Claimants’ Advisory that the Motion for the Premium Payments be denied. *See* SFA

§§4.08(b)(ii)(2), 4.08(c)(2). For the reasons provided in the Memorandum In Support of the Response of Dow Silicones Corporation, The Debtor's Representatives and the Claimants Advisory Committee to Motion for Premium Payments to Korean Claimants (Doc. No. 1546), which is adopted and incorporated in its entirety by reference herein, the Motion for Premium Payments must be denied because: 1) counsel for Korean Claimants has not complied, or caused his clients to comply with Closing Order 2 of this Court (Doc. No. 1482), as required by the Court's January 29, 2019 Order Authorizing Fifty Percent of Second Priority Payments (Doc. No. 1476); and 2) the Motion for Premium Payments is an unauthorized appeal of a Claims Administrator's decision that is barred by the Plan. *See In re Settlement Facility Dow Corning Trust* 760 F. App'x. 406, 411 (6th Cir. 2019) ("To the extent the Korean Claimants seek to challenge any substantive decisions of the Claims Administrator with respect to any particular claims, such review is beyond the scope of the plan. 'The Plan provides no right of appeal to the Court.'") (*quoting In re Settlement Facility Dow Corning Tr.*, No. 12-10314, 2012 WL 4476647, at *2 (E.D. Mich. Sept. 28, 2012).

CONCLUSION

For the foregoing reasons, the Finance Committee respectfully requests that the Court deny the Motion to Pay Premium Payments.

July 20, 2020

Respectfully submitted,

SMYSER KAPLAN & VESELKA LLP

/s/ Karima G. Maloney

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CERTIFICATE OF SERVICE

I hereby certify that on July 20, 2020, the foregoing pleading has been electronically filed with the Clerk of Court using the ECF system which will send notice and copies of the document to all registered counsel in this case.

By: /s/ Karima G. Maloney

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