

# **Exhibit F**

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

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**IN RE:**

**SETTLEMENT FACILITY DOW  
CORNING TRUST**

§  
§  
§ **CASE NO. 00-CV-00005**  
§ **(Settlement Facility Matters)**  
§  
§ **Hon. Denise Page Hood**  
§  
§  
§

**DECLARATION OF ANN M. PHILLIPS REGARDING THE  
MOTION FOR PREMIUM PAYMENTS TO KOREAN CLAIMANTS**

I, Ann M. Phillips, declare as follows based upon my recollection and review of certain data and documents;

1. I am the Claims Administrator for the Settlement Facility-Dow Corning Trust ("SF-DCT").
2. As Claims Administrator, I have knowledge of past and present Claims Administrator decisions, including procedures implemented to process the Settling Breast Implant Claims in accordance with the terms of the Settlement Facility and Fund Distribution Agreement ("SFA") and the Claims Resolution Procedures ("Annex A to the SFA").
3. As Claims Administrator I have knowledge of all Orders issued by the Court that pertain to the administration and payment of claims submitted to the SF-DCT.
4. I have reviewed and am familiar with the Motion for Premium Payments to Korean Claimants.
5. I am familiar with Closing Order 2 and am responsible for assuring that its terms are implemented at the SF-DCT.

6. The SF-DCT has the obligation under the SFA and Annex A to the SFA to implement procedures to ensure distribution of Settlement Fund assets only in accordance with the terms of the SFA and applicable Orders.
7. To that end, the SF-DCT has maintained procedures for several years to track claimant addresses to assure that eligible claimants receive their payments.
8. The SF-DCT sends award letters to claimants when a payment is issued to that claimant. The purpose of the award letter is to inform the unrepresented claimant that they should be receiving a check in the mail so that they can look for it and to inform represented claimants that they can contact their attorney to make arrangements to receive the payment if the check is issued to the attorney.
9. When the award letter is returned as undeliverable the SF-DCT seeks to determine whether the claimant in fact received the check. If the SF-DCT cannot identify a current address for the claimant and cannot reach the claimant, the SF-DCT will contact the attorney for that claimant and direct the attorney to refund the money to the SF-DCT. There are two request for current address sent to the attorney of record before the request to return the funds is made.
10. The SF-DCT is not always successful in recovering funds in cases where a claimant cannot be located after a check has been issued.
11. Closing Order 2 requires the SF-DCT to verify addresses before checks are issued. This procedure helps the SF-DCT to assure that claimants receive their payments and reduces the number of instances where the SF-DCT learns that the address on file is not current only after the check is mailed.
12. On April 4, 2019, after Closing Order 2 was entered, the SF-DCT sent a mailing to all claimants eligible at that time to receive a Premium Payment requesting confirmation of the claimant's current address. The letter to the claimant provides a space for the claimant to confirm or update her address. The claimant is then supposed to return the document to the SF-DCT. Where applicable, the attorneys of record for those claimants were also sent a separate mailing that requested

confirmation of the attorney's address and included a form listing the attorney's claimants that the attorney could complete to either confirm the claimant's address or provide a current address or indicate if counsel no longer represented the claimant. These address verification letters were sent to the addresses that the SF-DCT had on file.

13. Since the April 4, 2019 mailing, the SF-DCT has continued to send address verification letters to attorneys and claimants. The SF-DCT conducts these address verifications when a claim is eligible for payment and the SF-DCT has not received address information for the claimant within the prior 90 days.
14. All payments remain on hold until the SF-DCT obtains a verified address.
15. The SF-DCT analyzes the responses received to the address verification requests and determines whether the address information received is reliable and constitutes a proper verification.
16. For example, on occasions where the claimant's attorney of record and the claimant submit different address information, the SF-DCT will accept the address provided by the claimant and notify the attorney so that the attorney can update the relevant records.
17. If the SF-DCT has reason to conclude that address information provided by the attorney is not reliable, the SF-DCT will implement additional verification procedures even if the claimant has not responded.
18. For example, the SF-DCT seeks other forms of verification when the attorney lists an address but prior mailings to that address have been returned as undeliverable.
19. If the SF-DCT verifies an address and then learns after a payment is distributed to the attorney of record that the claimant's address is not valid, the SF-DCT will request the address from the attorney or require the attorney to return the payment.
20. The SF-DCT maintains a comprehensive claims database that contains information about each claimant and the status of each claimant's

submissions. The database contains information that enables me to examine and determine the status of processing, evaluation and payment of the claimants represented by Mr. Kim and the history of mailings to such claimants and to counsel.

21. For several years before the entry of Closing Order 2, the SF-DCT attempted to confirm address information for Korean Claimants represented by Mr. Kim.
22. For example, attached as Exhibit A is a true and correct copy of a May 16, 2017 letter sent to Mr. Kim informing him that address confirmation was required from the claimants on claims for which correspondence had been returned as undeliverable but payments had been made to counsel as attorney of record. The letter also included as enclosures an address update/correction form and a list of 132 claimants. The letter stated that form had to be signed by the claimant or the estate representative, and not by counsel.
23. Mr. Kim responded by letter dated June 8, 2017 stating that most Korean Claimants did not want to receive a letter from the SF-DCT and that he assumed some did not want him to update their address. A true and correct copy of Mr. Kim's June 8, 2017 letter is attached as Exhibit B.
24. On June 21, 2017, I responded to Mr. Kim's June 8 letter and advised that claimants have an affirmative obligation to update their address with the Settlement Facility and that no further processing would occur on those claims for whom Mr. Kim had failed to comply with the SF-DCT's written requests for current address information. A true and correct copy of the June 21, 2017 cover letter is attached as Exhibit C. The letter also included as enclosures an address update/correction form and a list of the same 132 claimants.
25. On July 28, 2017, Mr. Kim responded to my June 21 letter by stating that the claimants did not want to update their addresses and that he could not do so without their permission. A true and correct copy of Mr. Kim's July 28, 2017 letter is attached as Exhibit D.
26. The correspondence described above was the subject of a Motion for Entry of an Order to Show Cause filed by the Finance Committee on


January 10, 2018. As the Motion for Order to Show Cause explains, the Finance Committee sent correspondence to Mr. Kim to follow up on the attempts of the SF-DCT to obtain verified addresses for this group of claimants. Although some additional addresses were provided after the Motion was filed, many of them proved to be invalid.

27. On March 13, 2019, the SF-DCT sent a letter to Mr. Kim advising him, among other things, that updated addresses were required on certain claims and advising of the specific address format as recommended by the United States Postal Service. The letter also included several referenced enclosures. Attached as Exhibit E is a true and correct copy of a March 13, 2019 letter regarding Specific Notice of June 3, 2019 Deadline.
28. As part of the general April 4, 2019 mailing to claimants and attorneys of record, the SF-DCT mailed a letter to Mr. Kim listing 924 claimants for which the SF-DCT needed address verification before distributing Premium Payments. A true and correct copy of the letter sent to Mr. Kim on April 4, 2019 is attached hereto as Exhibit F. The letter included as an enclosure a form listing the 924 claimants. The form was structured so that Mr. Kim could fill in language to confirm whether the identified address for each claimant was correct or to provide an updated address or to indicate if counsel no longer represented the claimant. The address listed on the form for each claimant was the address that the SF-DCT had on file.
29. Mr. Kim did not return the form sent with the April 4, 2019 mailing.
30. As part of the April 2019 mailings, these 924 claimants were also directly sent address verification letters requesting confirmation of the claimant's current address. These letters were sent to the addresses that the SF-DCT had on file.
31. Of the 924 letters sent to these Korean Claimants, 436 have been returned as undeliverable to date.
32. A total of 28 claimants represented by Mr. Kim responded to the April 4, 2019 verification mailing and returned address information to the SF-DCT. The SF-DCT has issued 50% Premium Payments for these 28 claimants represented by Mr. Kim.

33. On June 3, 2019, Mr. Kim provided certain address updates to the SF-DCT. These address updates covered a variety of claims. These address update forms included 190 claimants eligible for Premium Payments. The SF-DCT sent a mailing to these individuals at the updated addresses that were provided. Of those mailings, 43 have been returned as undeliverable to date.
34. A substantial portion of the address verification letters sent to claimants represented by Mr. Kim have been returned as undeliverable. The SF-DCT conducted an audit of mailings to Korean Claimants in early 2020. That audit revealed that of 1,382 claimants represented by Mr. Kim who are eligible for future payments, 600 had correspondence sent directly to the claimants that has been returned as undeliverable. That audit also revealed that 39.2% of mailings to 2,476 claimants with eligible Class 5 and 6 claims were returned as undeliverable. The audit also revealed that 50% of the mailings to updated addresses provided by Mr. Kim in January 2018 were returned as undeliverable.
35. It can take a considerable amount of time for undeliverable mail to be returned from South Korea to the SF-DCT. In some cases, mail has been returned more than a year after the original mailing. The SF-DCT cannot be certain that the address verification mailings noted above that were not returned were actually delivered. In most cases, those addresses had previously been identified as addresses that were invalid because previous mailings had been returned as undeliverable.
36. The SF-DCT has promptly paid any Korean Claimant who is eligible for a payment once the claimant's address is verified as required by Closing Order 2, and remains prepared to continue to do so.
37. All claimants represented by Mr. Kim who are eligible for a Premium Payment for whom the SF-DCT has a verified address have been paid.
38. The percentage of returned mail from mailings to claimants represented by Mr. Kim is much higher than the general rate of returned mail that the SF-DCT has experienced. Several mailings have resulted in a 40 to 50 percent return rate.

39. These rates of undeliverable mail far exceed the rate of undeliverable mail that the SF-DCT has experienced with other counsel.
40. In light of this history, the SF-DCT sent a letter to Mr. Kim on March 3, 2020 advising him that pursuant to Closing Order 2, the SF-DCT would not issue payments without a confirmed current address that has been verified directly by the Claimant as a current mailing address where the Claimant is receiving mail. The letter stated that payments would be sent to his office for distribution to the Claimant after the Claimant directly confirms that they currently reside at the address. A true and correct copy of the March 3, 2020 letter is attached as Exhibit G. The letter also included as enclosures a copy of Closing Order 2 and a list of 1,259 claimants represented by Mr. Kim who may be eligible for payments but for whom the SF-DCT did not have a confirmed address.
41. The SF-DCT has not received any additional address information for Korean Claimants since the notification was sent to Mr. Kim in March.

Pursuant to 28 U.S.C. Section 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed this 20th day of July 2020.



Ann M. Phillips



## **EXHIBIT A**

S F D C T

SETTLEMENT FACILITY  
DOW CORNING TRUST

P.O. Box 52429  
Houston, Texas 77052

Telephone 713.874.6099  
866.874.6099

May 16, 2017

KIM YEON-HO INTL LAW OFFICES  
STE 4105 KOREA WORLD TRADE CTR BLDG  
159-1 SAMSUNG-DONG KANGNAM-KU  
SEOUL  
REPUBLIC OF KOREA

**Subject: MISSING OR INVALID ADDRESS**

Dear Mr. Kim:

The Settlement Facility-Dow Corning Trust (SF-DCT) has address information for the Claimants on the attached list that is not valid. Correspondence mailed to the claimants by the SF-DCT regarding the breast implant Claim payments was returned undeliverable, with no available forwarding address. As a result of this returned mail, the claim is now on HOLD until we can confirm that we have located either the claimant or, if the claimant listed is deceased, the person with the authority to act on behalf of the claim. The SF-DCT has previously sent written notice that an Address Update/Correction Form must be completed and returned; however, a Form meeting SF-DCT requirements has not been received for any of the 132 claimants listed.

At the time of the Claim payments you were the attorney of record. We have confirmed that the claim awards are cashed; therefore, it is reasonable to assume that current address information is available.

Please note that address confirmation is required to remove the HOLD on the Claim. This can only be accomplished by returning a completed **Address Update/Correction Form**, signed by the claimant or the estate representative. You cannot complete this Form for the Claimant. Please have the claimant complete the attached Address Update/ Correction Form and forward the information to:

SF-DCT  
P.O. Box 52429  
Houston, Texas 77052

**If you were unable to locate the Claimant to distribute the Payment awards, returning the amounts intended for this claimant, until current address information can be obtained, is required. Pursuant to the Settlement Facility and Fund Distribution Agreement Article X Section 10.09, all funds in the Settlement Facility are in the custody of the Court until the funds have actually been paid to and received by a Claimant.**

If you have any questions regarding this matter, you may contact our Claims Assistance Program at 1.866.874.6099 or send an inquiry addressed to Quality Management at [info@sfdct.com](mailto:info@sfdct.com).

Enclosure:  
Address Update/Correction Form  
Claimant List

**EXHIBIT B**

Dear Mrs. Ellen Bearicks,

I received your letter to ask me for the address update of the enclosed Claimants.

First of all, most of the Korean Claimants do not want to receive a letter including an award letter from the SF-DCT. They say that they do not want their family members including their husbands to know whether they received breast implant surgery, or whether they received checks (money) in relation to diseases from the surgery. Some of the Claimants filed complaints with me that I had released their addresses to the SF-DCT. They want me to keep their filing itself confidential. I assume that they do not want me to update their addresses.

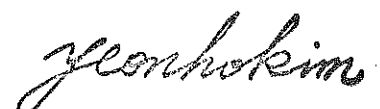
Secondly, I am not allowed to release the personal information of the enclosed Claimants to the SF-DCT under the Korean laws even if they are my clients to represent before the SF-DCT. The address information is their personal information. I must get their permissions and their submissions of new addresses, which are not possible.

They left their smart phone numbers to me and I have them for all. So I have no problem to contact them whenever it is necessary and to distribute the payments to them. It is not true that I cannot locate the enclosed Claimants so I cannot distribute the payments to them.

For the resolution of the disputes with the Korean Claimants, the SF-DCT must keep its numerous promises of the POM approvals. The SF-DCT held many Claimants' submissions by disregarding its promises in the meetings with me in 2003-2004. You were in the meetings when I explained how and why the affirmative statements of surgeons were written like that. You are one of the responsible people to solve. In addition, The SF-DCT must respect a mediation proposed to me. You took the phones from Mrs. Ann Phillips while processing the mediation in the DC. You knew that I and the SF-DCT reached to an agreement. The motions for the withdrawal of the cancelations of the POM approvals by the SF-DCT and for the respect of the mediation proposed by the SF-DCT are pending the Court. The SF-DCT must take the initiative before the Court's ruling.

Date: June 8, 2017

Yeon Ho Kim



## **EXHIBIT C**

**S | F | D | C | T**  
—|—|—|—|—  
**SETTLEMENT FACILITY**  
DOW CORNING TRUST

P.O. Box 52429  
Houston, Texas 77052

Telephone 713.874.6099  
866.874.6099

June 21, 2017

KIM YEON-HO INTL LAW OFFICES  
STE 4105 KOREA WORLD TRADE CTR BLDG  
159-1 SAMSUNG-DONG KANGNAM-KU  
SEOUL  
REPUBLIC OF KOREA

Dear Mr. Kim,

This letter responds to your letter to Ellen Bearicks of June 8, 2017. First, the establishment of residence entitles a person to certain legal protections in the United States and is a prerequisite to confirming a person's identity. A claimant does not have the fundamental right to make a claim without establishing residence.

The address procedures were developed by the SF-DCT (and confirmed by the Class 7 Consent Order) to ensure that claimants meets basic administrative Plan criteria. The procedures are applied to all participants in the Plan in order to ensure consistency in processing claims. The Facility is also responsible to ensure that Claimants are assigned the appropriate Plan Class. Class assignment is predicated upon the establishment of residence. The Facility is also charged by the Plan with establishing procedures to assure accurate and consistent application of Claims processing rules, without a current address the claimant fails to meet basic administrative criteria for continued participation in the Settlement.

Claimants have an affirmative obligation to update their address with the Settlement Facility. Recent changes to the SF-DCT's Address Procedures will allow you, as the Attorney of Record, to complete the enclosed Address Form for your claimants.

No further processing will occur for those claims where you have failed to comply with SF-DCT's written requests for current address information for the claimants on the enclosed list.

Sincerely,

Ann Phillips  
Claims Administrator  
Settlement Facility – Dow Corning Trust

Enclosure:  
Address Update/Correction Form  
Claimant List

## **EXHIBIT D**

Dear Mrs. Ann Phillips,

I received your letter dated June 21, 2017 regarding address updates of the enclosed 132 Claimants.

First of all, I submitted their (original) addresses with the supporting Government's documents to the SF-DCT when I filed their claims of either the POM or the disease claims around 2004-2006. Therefore, the indication in your letter that they failed the establishment of residence is unsubstantiated and has no basis. They are entitled to making a claim because they established their residence at that time. I wonder if the SF-DCT lost the documents. Otherwise, please send me the copy of the Government's documents that I submitted for the reference.

Second, the enclosed 132 Claimants are not Class 7 Claimants so they have nothing to do with the Class 7 Consent Order that you are referring to. Their claims were assigned to the 6.2 Class. The change of residence of the 132 Claimants would not change the assignment of the Class that the SF-DCT had already assigned to. Can the SF-DCT change the Class of the Claimants on the basis for the address change or any other reason? Does the SF-DCT like to change them from the 6.2 Class to 6.1 Class for the enclosed Claimants?

Third, you said in your letter that the SF-DCT must maintain consistency in processing a claim. However, the SF-DCT did not maintain consistency in processing claims of the Korean Claimants. It is why I filed several Motions with the Court. You submitted supporting declarations to the Court for Dow Corning and the Claimants' Advisory Committee which abandoned advisory functions to the Korean Claimants by accusing me and the Korean Claimants before the Court. The members of the Advisory Committee were even laughing behind me. It is on the record of the Court that I submitted. They must have forgotten that they begged me to cast the votes to consent the Plan and I helped them to get what they wanted. Nonetheless, the SF-DCT asserts that the Korean Claimants must meet basic administrative Plan criteria. If the SF-DCT wants to establish consistency in processing claims of the Korean Claimants, it needs to withdraw the cancellation of the POM approvals that it made and further respect the agreement of settlement in mediation with me in 2012. You were there in the mediation conference. You must have read the written agreement signed by me. After over fourteen years passed by since they had submitted their proof of addresses with the Government-issued documents in 2004-2006, how the SF-DCT dare to declare that the enclosed Claimants failed to execute an affirmative obligation to update their addresses with the SF-DCT?

Fourth, I explained through the letter to Ellen Bearicks that the enclosed Claimants do not want to update their addresses and I am not allowed to do so without their permissions under the Korean



personal information protection laws. I must keep the laws of my jurisdiction here in Korea.

Fifth, whether further processing will occur for the enclosed Claimants is up to the SF-DCT. However, I will file the Motion to vacate the SF-DCT's decision to hold processing of claims of the enclosed Claimants with the Court. In that regard, I want to receive the final letter that the enclosed Claimants failed to comply with SF-DCT's written requests for current address and the SF-DCT determined to stop processing of the claims of the enclosed Claimants permanently.

Once again, I ask you and the AF-DCT to withdraw the cancellation of the POM approvals and respect the mediation result. If you want a meeting to share an opinion with me, I will be highly delighted by it.

Sincerely,



Yeon Ho Kim

Date: July 28, 2017

**EXHIBIT E**



P.O. Box 52429  
Houston, Texas 77052

Telephone 713.874.6099  
866.874.6099

KIM YEON-HO INTL LAW OFFICES  
STE 4105 KOREA WORLD TRADE CTR BLDG  
159-1 SAMSUNG-DONG KANGNAM-KU  
SEOUL  
REPUBLIC OF KOREA

**Re: Specific Notice of June 3, 2019 Deadline**

Dear Mr. Kim,

Claimants represented by you, have deficiencies that must be fixed on or before the **June 3, 2019 deadline**, or their claim(s) will be denied. Pursuant to the Notice of Termination of Settlement Program: “All claims, documents and submissions must be sent to the Settlement Facility on or before June 3, 2019”, Questions and Answers Regarding the Final Deadline: Q2(2) “If you previously filed a claim with the Settlement Facility and received a letter telling you that you must fix something about that claim before you can be paid, you must submit the documents that fix those problems on or before June 3, 2019...or the claim will be denied and you will not receive a payment on that claim”, and Closing Order #1, Paragraph 13: “To be considered by the SF-DCT, any previous requests to claimants by the SF-DCT for documentation must be submitted by June 3, 2019.” **There will be no exceptions or extension** of the June 3, 2019 deadline.

You have returned Expedited Release checks without providing additional instructions. The SF-DCT has sent you written notices acknowledging return of those checks (a sample copy of the letters previously sent is attached) You have the following options for each claimant; however, you must take action on or before June 3, 2019:

1. File an Error Correction request. However, you may not submit additional medical records or request a deadline extension with an Error Correction request.
2. Apply for a new disease or condition that manifested after the expiration of the ACTD cure deadline which has expired for each claimant.
3. Request the return of the original Expedited Release Payment

The SF-DCT previously sent you letters requesting an updated address for claimants with an eligible payment, whose mail was returned to the SF-DCT by the Postal Service(a sample copy of the letter previously sent is attached). Without an updated address (by June 3, 2019) these claims will not be issued any payments for which they may be eligible.

Based on mailing recommendations for Mailing to Korea, Republic of (South Korea), described by the US Postal Service, it appears likely, that certain addresses provided by you are insufficient to ensure mail delivery to the Claimants. As a result, and in order to be acceptable, you must provide addresses in the format as recommended by the US Postal Service, under Conditions for Mailing – Korea, Republic of (South Korea).



**EXHIBIT F**



P.O. Box 52429  
Houston, Texas 77052

Telephone 713.874.6099  
866.874.6099

April 4, 2019

Firm ID: 000209

KIM YEON-HO INTL LAW OFFICES  
STE 4105 KOREA WORLD TRADE CTR BLDG  
159-1 SAMSUNG-DONG KANGNAM-KU  
SEOUL  
KOREA, REPUBLIC OF

**RE: Second Priority Payments – Immediate Action Required**

Dear Claimant or Attorney of Record,

On December 13, 2018 the Sixth Circuit Court of Appeals affirmed the District Court’s decision to approve Second Priority Payments.

Before your payment can be issued you must confirm your current address with the Settlement Facility. You may contact Claims Assistance toll free at 866-874-6099 and speak with a representative to confirm your address or you may send confirmation via email to [info@sfdct.com](mailto:info@sfdct.com). If you wish to confirm your address in writing you may complete the bottom portion of this letter and return it to PO Box 52429, Houston, Texas 77052.

**If you do not confirm your address directly with the Settlement Facility your payment will not be issued.**

Claims Assistance representatives are available Monday-Thursday from 9:00 am – 4:00 pm and Friday from 9:00 am – 3:00 pm (central standard time) to assist you.

Sincerely,

Payment Department  
Settlement Facility - Dow Corning Trust

**ADDRESS CONFIRMATION – Please check one of the following:**

- The address listed at the top of this letter is my current address
- My current address is: \_\_\_\_\_  
\_\_\_\_\_

## **EXHIBIT G**

S F D C T  
SETTLEMENT FACILITY  
DOW CORNING TRUST

ANN M PHILLIPS  
CLAIMS ADMINISTRATOR  
3200 SW FREEWAY SUITE 1500  
HOUSTON, TEXAS 77027

TELEPHONE 713 874-6060  
P.O. BOX 52429  
HOUSTON, TEXAS 77052

March 3, 2020

KIM YEON-HO INTL LAW OFFICES  
STE 4105 KOREA WORLD TRADE CTR BLDG  
159-1 SAMSUNG-DONG KANGNAM-KU  
SEOUL  
REPUBLIC OF KOREA

**Re: CLOSING ORDER 2 Required Claimant Confirmation of Current Address**

Dear Mr. Kim,


Pursuant to Closing Order #2 issued by the Court on March 19, 2019 (copy attached), the SF-DCT shall not issue payments without a confirmed current address for the Claimant. A confirmed current address means an address that has been verified by the Claimant as a current mailing address where the Claimant is receiving mail.

Attached is a current list of the claimants you represent with pending or future payments and no confirmed address. In order for these pending or future payments to be issued, the Claimant must contact the SF-DCT to confirm their current address. Claimants can confirm their addresses by:

- Sending an electronic mail message to info@sfdct.com
- Sending written notice to: P.O. Box 52429 Houston, Texas 77052
- telephone 001 + 1 + 866-874-6099

Payments will be sent to your office for distribution to the Claimant after the Claimant directly confirms that they currently reside at the address you have provided.

Regards,

  
Ann M. Phillips  
Claims Administrator  
Settlement Facility-Dow Corning Trust

Attachments  
Closing Order 2  
Claimant List

cc:  
Karima Maloney ESQ  
Smyser Kaplan & Veselka, L.L.P.

Judge Pamela Harwood