

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

IN RE:	§	CASE NO: 00-CV-00005-DT
	§	(Settlement Facility Matters)
DOW CORNING CORPORATION	§	
	§	
Reorganized Debtor	§	
	§	
	§	Hon.Chief Judge Denise Page Hood

**KOREAN CLAIMANTS' MOTION TO STAY
THE COURT'S RULING REGARDING CLOSING ORER 5**

Yeon-Ho Kim, the attorney for the Korean Claimants, files this Motion to stay this Court's ruling regarding Closing Order 5, Notice that Certain Claims without a Confirmed Current Address Shall be Closed and Establishing Protocols for Addressing Payments for Claimants in Bankruptcy pending appeal to the United States Court of Appeals for the Sixth Circuit.

This Court issued Closing Order 5 on June 13, 2022. This Order was not served on the Korean Claimants. The Attorney of Record in the SF-DCT, Yeon-Ho Kim, found it out from the Newsletter of August 16, 2022 of the Claimants' Advisory Committee on August 19, 2022 so that the SF-DCT loaded the Order on its homepage with the list of the Claimants affected by the Order.

Pursuant to Fed.R.Civ.P.62(c), stay of proceedings to enforce a judgment or an order can be sought by a losing party. Pursuant to E.D.Mich.L.R.7.1(a)(1), the Korean Claimants must ascertain whether the contemplated Motion will be opposed by the Debtor, the Debtor's Representatives and the Claimants' Advisory Committee. It is obvious that they oppose it so

that the procedure for concurrence is not necessary.

I. Argument

Whether a stay is granted is required four factors: (1) the likelihood that the party seeking the stay will prevail on the merits of the appeal (2) the likelihood that the moving party will be irreparably harmed absent a stay (3) the prospect that others will be harmed if the court grants the stay and (4) the public interest in granting the stay. *See Grutter v. Bollinger* 247 F.3d 631, 633 (6th Cir. 2001) and *Michigan Coalition of Radioactive Material Users, Inc. v. Griepentrog* 945 F.2d 150, 151 (6th Cir. 1991)

A. Likelihood to Prevail

Because Closing Order 5 relates to the Appeal of the Korean Claimants (Case No. 21-2665) pending the United States Court of Appeals for the Sixth Circuit, it is premature that this Court ruled with Closing Order 5 regarding confirmed current address issue for which this Court ordered that the Claims without a confirmed current address shall be closed by the SF-DCT permanently.

Closing Order 5 was derived from Closing Order 2 with respect to a confirmed current address issue.

The Korean Claimants' appeal (Case No. 21-2665) argued that (1) Closing Order 2 is void (2) Closing Order 2 was to approve wrongdoings of the SF-DCT (3) Closing Order 2 has no founding under the Plan and violates Section 1129 (b) of the Bankruptcy Code (4) the Premise of Sentence of Paragraph 11 of Closing Order 2 was not met (5) the Korean Claimants should be exempted from Closing Order 2 (6) the SF-DCT eliminated the requirement of a valid, confirmed current address on its own. (*See Appendix*)

The reason that the United States Court of Appeals for the Sixth Circuit does not rule on the Korean Claimants' appeal so far is not clear but it is highly suggestive that the Korean Claimants prevail on the issue of a confirmed current address issue. The Korean Claimants will prevail on the merits of the appeal because the points made by the Korean Claimants are persuasive.

B. Likelihood to be Irreparably Harmed

Closing Order 5 permanently excluded the Claims of one thousand four hundred (1,400) Korean Claimants from processing of the SF-DCT permanently while all of them have been filing appeal with the Appellate Court. Closing Order 5 cut off any possibility that the Korean Claimants could receive a base payment as well as premium payments. The Korean Claimants will be completely denied any rights of compensation by the SF-DCT if Closing Order 5 is not stayed by September 17, 2022 which is the deadline for a confirmed current address set by the SF-DCT. The likelihood that the Korean Claimants will be irreparably harmed absent a stay is obvious.

C. Prospect that Other Claimants Will Be Harmed

The other Claimants will not be harmed. The SF-DCT is supposed to close in 2023. The SF-DCT declared that the Claims for all of Claimants have been filed and counted in full. Therefore, the other Claimants will not be harmed because they will be paid even if this Court grants the stay.

D. Public Interest for Stay

Public interest that the Korean Claimants should have been treated equally by the SF-DCT and this Court must execute a supervisory authority to implement the Plan as

originally agreed by the creditors and the debtor and consented by this Court should be served.

A confirmed current address requirement was not contemplated and was not on table during negotiations for the Proposed Plan. The Plan which has been agreed and consented must be implemented.

The Public interest will be served if this Court grants the stay because the equal treatment under the Bankruptcy Code will be carried out.

II. Conclusion

For the foregoing reasons, the Korean Claimants request that the Court stay the Order regarding Closing Order 5.

Date: August 30, 2022

Respectfully submitted,

(signed) Yeon-Ho Kim
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CERTIFICATE OF SERVICE

I hereby certify that on August 30, 2022, this Motion has been electronically filed with the Clerk of Court using ECF system, and the same has been notified to all of the relevant parties of record.

Dated: August 30, 2022

Signed by Yeon-Ho Kim