

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
(DETROIT DIVISION)

In Re: ) Case No. 00-CV-00005  
) (Settlement Facility  
Dow Corning Corporation ) Matters)

**REDACTED TO REMOVE  
CLAIMANT INFORMATION**

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MOTION OF  
TO TOLL THE SIX MONTH DEADLINE  
FOR CURING RUPTURE DEFICIENCIES

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Comes now \_\_\_\_\_, by and through her  
undersigned counsel of record and requests that the Court toll the six month  
deadline for curing deficiencies in rupture claims.<sup>1</sup> In support of her  
Motion, Ms. \_\_\_\_\_ shows the following:

1. In April, 1982, Ms. \_\_\_\_\_ received breast implants  
manufactured by Dow Corning Corporation. (Exhibit 1)

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<sup>1</sup> Counsel also represent at least four other similarly situated rupture claimants: (1)  
– Claim submitted 3/31/03; NOS 9/7/2004; error  
correction letter 9/24/04; cure deadline 3/6/05 (2)  
– Claim submitted 3/18/03; NOS 9/14/04; SDRF submitted 9/24/04; cure  
deadline 3/13/05 (3) – Claim submitted 5/23/03; NOS  
11/10/04; error correction and IRP request 11/22/04; cure deadline 5/9/05 (4)  
– Claim submitted 5/23/04; NOS 11/10/04; SDRF and IRP  
request 11/22/04; cure deadline 5/9/05. Counsel recognize that several of these cure  
deadlines are several months away but nonetheless call them to the Court's attention to  
demonstrate the likelihood of Ms. \_\_\_\_\_'s predicament continuing.

2. Ms.            had those implants in her body until they were removed in 1987. (Exhibit 2).
3. Ms.            contends that at least one of her Dow Corning implants was “ruptured” as that term is used in the Amended Joint Plan of Reorganization. (Exhibit 3).
4. Ms.            submitted her rupture claim on March 20, 2003. (Exhibit 3).
5. On August 6, 2004, the SF-DCT mailed Ms.            a Notification of Status letter on her rupture claim. (Exhibit 4)
6. That NOS letter said the claim was deficient. (Id.).
7. On August 12, 2004, in an effort to cure the perceived deficiency, additional documents, a request for review of additional rupture documentation and a letter were submitted to the SF-DCT.<sup>2</sup> (Exhibit 5).
8. To date, Ms.            has not heard anything further concerning her rupture claim.

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<sup>2</sup> When hearing nothing after several months, and out of a concern that the wrong form had been used, Ms.            requested clarification from the SF-DCT and was assured that her claim was in line for review. (Exhibit 6). In addition, having heard nothing on the re-review of her rupture claim and out of an abundance of caution with a deadline running, Ms.            indicated, in November 2004, that she wanted to participate in the Individual Review Program. (Exhibit 7).

9. The “cure deadline” for Ms.           ’s claim is February 2, 2005 (Exhibit 3).
10. Despite the fact that Ms.            acted promptly (within 2 days) upon receipt of her NOS letter, the SF-DCT has yet to re-review her claim. Indeed, if she received an NOS today, she would only have ten days in which to respond before her “cure deadline” expired. Were that to occur, Ms.            would have had less than two weeks – and not the promised six months – in which to cure the deficiency.
11. While Ms.            recognizes that the SF-DCT has thousands of claims to review and process and while Ms.            recognizes that all of the personnel in the facility are working hard, it is nonetheless unfair for Ms.            to be prejudiced by this delay.

Wherefore, Ms. \_\_\_\_\_ respectfully requests that this Court direct that the time in which she is permitted to cure any perceived deficiency in her claim be extended to account for the delay in re-reviewing her submission.

This the 21<sup>st</sup> day of January, 2005.

\_\_\_\_\_/s/\_\_\_\_\_  
Leslie J. Bryan  
[lbryan@dskcd.com](mailto:lbryan@dskcd.com)

DOFFERMYRE SHIELDS CANFIELD  
KNOWLES & DEVINE  
1355 Peachtree Street  
Suite 1600  
Atlanta, GA 30309  
404-881-8900

Counsel for Ms.

## CERTIFICATE OF SERVICE

I hereby certify that on January 21, 2005, I electronically filed the foregoing MOTION OF TO TOLL THE SIX MONTH DEADLINE FOR CURING RUPTURE DEFICIENCIES AND MEMORANDUM IN SUPPORT [REDACTED] with the Clerk of the Court using the ECF system. I further certify that I have emailed the foregoing to each of the following individuals. I further certify that I have provided an unredacted version to the Court and to the Claims Administrator.

---

### Members of the Finance Committee:

Hon. Frank Andrews  
Fa1@swbell.net  
4315 W. Lovers Lane  
Dallas, TX 75209

Prof. Francis E. McGovern  
mcgovern@faculty.law.duke.edu  
Duke University School of Law  
Room 4029  
Durham, NC 27708-0360

E. Wendy Trachte-Huber  
ewhuber@sfdct.com  
Claims Administrator  
Settlement Facility – Dow Corning Trust  
3100 Main Street, Suite 700  
Houston, TX 77002

[SERVICE LIST CONT. NEXT PAGE]

Claimants' Advisory Committee:

Dianna Pendleton  
dpendleton@blizzardlaw.com  
Blizzard McCarthy & Nabors, LLP  
440 Louisiana Street  
Suite 1710  
Houston, TX 77002

Ernest H. Hornsby  
ehornsby@fphw-law.com  
Farmer Price Hornsby & Weatherford  
100 Adris Place  
Dothan, AL 36303

Sybil Niden Goldrich  
Sybilg58@aol.com  
256 South Linden Drive  
Beverly Hills, CA 90212

Debtor's Representatives:

Jill K. Schultz  
jschultz@nixonpeabody.com  
Nixon Peabody, LLP  
Clinton Square  
Suite 1300  
Rochester, NY 14604

Deborah E. Greenspan  
dgreenspan@thefeinberggroup.com  
The Feinberg Group LLP  
1120 20<sup>th</sup> Street NW  
Suite 740 South  
Washington, DC 20036

[SERVICE LIST CONT. NEXT PAGE]

Shareholder Counsel:

Laurie Strauch Weiss  
lstrauchweiss@orrick.com  
Orrick Herrington & Sutcliffe LLP  
666 Fifth Avenue  
New York, NY 10103-0001

I further certify that I sent the foregoing by regular mail, postage prepaid, addressed as follows:

Debtors' Representatives:

Jeanne D. Dodd  
Dow Corning Corporation  
2200 W. Salzburg Road  
Auburn, MI 48611

Edward W. Rich  
The Dow Chemical Company  
2020 Dow Center  
B1 South/Office 115  
Midland, MI 48674

Marcus Worsley  
Dow Corning Corporation  
Corporate Treasury CO1116  
2200 W. Salzburg Road  
Auburn, MI 48611

Shareholder Counsel:

Richard F. Broude  
400 East 84<sup>th</sup> Street  
Suite 22A  
New York, NY 10028

This the 21st day of January, 2005.

    /S/      
Leslie J. Bryan  
lbryan@dsckd.com

DOFFERMYRE SHIELDS CANFIELD  
KNOWLES & DEVINE  
1355 Peachtree Street  
Suite 1600  
Atlanta, GA 30309  
404-881-8900



## INDEX TO EXHIBITS

<b>Exhibit No.</b>	<b>Description</b>
1	Notice of Status - Acceptable Proof of Manufacturer Review - Class 5
2	Letter from Dr. William F. Hogan to Government Employees, Hospital Association, dated 4/18/88
3	\$25,000 Rupture Payment Claim Form
4	Notification of Status - Rupture Payment Claim - Deficiency - Class 5
5	Request for Review of Additional Information re: Rupture Claim Deficiency, dated 8/11/04 (not included with redacted copies)
6	E-mail from Cheryl Bradley to the SF-DCT re: follow-up to request for review of additional information re: rupture claim deficiency and response from SF-DCT
7	Form indicating participation in the Individual Review Program (IRP), dated 11/22/04

# **EXHIBIT 1**

S F D C T

received  
4-14-03

SETTLEMENT FACILITY  
DOW CORNING TRUST

P O Box 52429  
Houston, Texas 77052

Telephone 713 874 6099  
866 874 6099

April 8, 2003



SID:

DOFFERMYRE SHIELDS CANFIELD KNOWLES  
1355 PEACHTREE STREET STE 1600  
ATLANTA, GA 30309  
UNITED STATES OF AMERICA

**Re:**  
**Notice of Status - Acceptable Proof of Manufacturer Review –  
Class 5**

We have completed a review of your Proof of Manufacturer. You have "acceptable" Proof of Manufacturer of at least one Dow Corning implant and are eligible to participate in the Dow Corning Settlement program in your Class, and apply for benefits in the areas of Explant, Rupture and either Disease or Expedited Release.

Prior to the Effective Date of the Settlement Plan, you must first complete and return the enclosed "Waiver of Opt-Out Right Form," before the Settlement Facility is authorized to process your claim for settlement benefits. If you sign this form, it means that you are deciding to settle your claim under the terms of the Settlement Plan and are permanently waiving your right to opt-out to litigate a case in court against the Litigation Facility. Prior to the Effective Date, the Settlement Facility will only process your claim for settlement benefits when you sign the Waiver of Opt-Out Right Form.

If you have any questions regarding Proof of Manufacturer, please refer to Section 5 in the Claimant Information Guide (CIG) or call Claims Assistance (toll free) at 1-866-874-6099 or send an email inquiry to: [info@sfdct.com](mailto:info@sfdct.com).

This letter is designated as confidential communication from the Settlement Facility and the District Court. You are requested to maintain confidentiality of the information provided in this letter by discussing the contents of this letter, or any submission of Settlement Options, only with your attorney, physician(s), the Claims Assistance Program, and/or the Tort Claimants Committee. If you would like to contact a member of the Tort Claimants Committee, you can do so by sending an email to: [info@tortcomm.org](mailto:info@tortcomm.org).

Sincerely,

Claims Operations  
Settlement Facility - Dow Corning Trust

CC:

Enclosure: Waiver of Opt Out Form

For assistance or questions call the Claims Assistance Program at 1.866.874.6099 (toll free)  
Or go to [www.dcssettlement.com](http://www.dcssettlement.com) on the Internet

# **EXHIBIT 2**

HOURS BY APPOINTMENT  
226 3874

DIPLMATE AMERICAN BOARD OF PLASTIC SURGERY  
FELLOW AMERICAN COLLEGE OF SURGEONS

WILLIAM F. HOGAN, M. D.  
PLASTIC AND RECONSTRUCTIVE SURGERY  
805 S HANSELL STREET  
THOMASVILLE, GEORGIA 31792

4-18-88

Government Employees  
~~Hospital Association~~  
P.O. Box 10304  
Kansas City, Missouri 64111-0304  
Attention: Claims Department

RE:

ID#  
CL#

Dear Sirs:

On July 23, 1987, [redacted] had excision of the left breast mass. After removal of, what the patient thought to be a saline implant, turned out to be a ruptured silicone<sup>implant</sup>. The area that had been suspicious on the mammagram, turned out to be a siliconoma, which was silicone ~~excreted~~<sup>extruded</sup> into the tissue, and represented tissue reaction or scarring around the silicone. This was perfectly benign, and an inflatable implant was replaced. On December 9, 1987, the patient returned for replacement of the right implant because she was concerned that this gel implant might rupture and cause her diagnostic problems and health problems in the future. I concur with this and this implant was removed and found to be entirely intact. No more masses were palpated after the removal of the implant. The implant was replaced by a saline filled implant, which I feel will be much safer for her. Still she should continue with annual mammagrams ~~for~~<sup>for</sup> a time, to get a baseline on what her breast will look like after the surgery.

Sincerely,

William F. Hogan, M.D.

# **EXHIBIT 3**

# \$25,000 RUPTURE PAYMENT CLAIM FORM

## DOW CORNING BREAST IMPLANT CLAIMANTS (CLASS 5)

Use this form to apply for the \$25,000 Rupture Payment if your ruptured Dow Corning silicone gel breast implant(s) are removed and at least one is ruptured.

1. Use the peel-off label provided in your packet.



Remove this label and apply to each claim form you submit.

DCN #  
Date of Birth  
Telephone Number  
Social Security Number

### PROVIDE UPDATES OR CORRECTIONS BELOW:

- 1. Social Security Number: \_\_\_\_\_
- 2. Date of Birth: \_\_\_\_\_  
Mon /Date/Year
- 3. \_\_\_\_\_  
New Last Name
- 4. \_\_\_\_\_  
New Address
- \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip Code
- 5. Daytime Phone: (\_\_\_\_) \_\_\_\_\_
- 6. Evening Phone: (\_\_\_\_) \_\_\_\_\_
- 7. Attorney's Name/Address/Phone/Fax:  
\_\_\_\_\_  
\_\_\_\_\_
- 8. If you want to receive newsletters or information about your claim by e-mail, provide your e-mail address:  
\_\_\_\_\_

2. Check either Box 2A or 2B below to apply for the \$25,000 Rupture Payment. Read the Instructions and Section 7 in the Claimant Information Guide for more information.

- 2A.  I am making a claim for the \$25,000 Rupture Payment. My Dow Corning silicone gel breast implant(s) have been removed and at least one (1) was ruptured. Please check any of the following that apply to you:
  - A1.  My medical records for the ruptured Dow Corning silicone gel breast implant(s) are attached. (Please keep a copy for your file.)
  - A2.  I have already submitted my medical records for the ruptured silicone gel breast implant(s), and I do not have any additional records to submit.

**OR**
- 2B.  I have a serious, chronic medical condition that prevents me from having my breast implant(s) removed. Please review my claim using the criteria for the "Medically Contraindicated Exception" defined in Section 7 of the Claimant Information Guide. (Attach your medical records to this form. Please keep a copy for your file.)

3. Check either Box 3A or 3B below to inform the Settlement Facility whether you have possession of the Dow Corning breast implant(s) that were removed. If your breast implant(s) were removed after January 1, 1992, failure to answer this question may result in a deficiency in your claim.

3A.  I no longer have the ruptured Dow Corning silicone gel breast implant(s) that were removed and do not know where they are.

3B.  My ruptured Dow Corning silicone gel breast implant(s) were removed, and the person listed below has them (if they are in your possession, write your name below):

B1. Name:

\_\_\_\_\_

B2. Address:

\_\_\_\_\_

\_\_\_\_\_

4. Sign the Rupture Payment Claim Form below and return it and your medical records on or before two (2) years after the Effective Date. If your ruptured Dow Corning silicone gel breast implant(s) were removed within ninety (90) days immediately before the second (2nd) anniversary of the Effective Date, then your Rupture Payment Claim Form and medical records must be returned on or before thirty (30) days after the second (2nd) anniversary of the Effective Date.

I declare under penalty of perjury that the information for this claim is true, correct and complete to the best of my knowledge, information and belief.

3/19/03  
Date Signed

Leslie J. Bzga  
Signature of Claimant, Executor/Administrator, or Guardian

As Attorney of Record \_\_\_\_\_



# **EXHIBIT 4**

S F D C T

received  
8-10-04

SETTLEMENT FACILITY  
DOW CORNING TRUST

P O Box 52429  
Houston, Texas 77052

Telephone 713 874 6099  
866 874 6099

August 06, 2004



SID:

DOFFERMYRE SHIELDS CANFIELD KNOWLES & DEVINE  
LLP  
1355 PEACHTREE STREET NE  
STE 1600  
ATLANTA, GA 30309  
UNITED STATES OF AMERICA

RE:

**Notification of Status**  
**Rupture Payment Claim – Deficiency – Class 5**

We have reviewed your Rupture Payment Claim; however, we are unable to compensate you at this time.

Listed below are the Settlement Program's requirement(s) and the deficiencies found in your Claim. You have six (6) months from the date of this Notification of Status Letter to cure your deficiency or your Rupture Claim will be permanently denied. In order to receive payment you must cure all of the rupture deficiencies noted in this letter by the Cure Deadline Date.

Your deadline to cure your deficiencies is: **02/02/05.**

**DOCUMENT DEFICIENCIES:**

You have submitted all the required documents; however there are deficiencies in your Claim. See the "Review Finding Deficiencies" section for additional information about your Rupture Claim Review.

**REVIEW FINDING DEFICIENCIES:**

REQUIREMENT: Rupture is defined as the failure of the elastomer envelope surrounding a silicone gel implant to contain the gel ( resulting in contact of the gel with the body), not solely the result of "gel bleed", but due to a tear or other opening in the envelope after implantation and prior to the explant procedure.

UNACCEPTABLE RUPTURE PROOF DEFICIENCY: The medical records you submitted do not contain documentation of rupture as defined above.

ACTION: To cure your deficiency you must submit additional information further documenting rupture.

**SPECIFIC PROBLEMS WITH YOUR DEFICIENCY:**

There is no Operative Report submitted. The Anesthesia record states "removed ruptured breast implant". Pathology report does not document Rupture. Need further evidence of rupture in either an operative report or statement from explanting surgeon. If neither is available, send certified copy of medical records.

In order for us to perform another review, please complete the "Request for Review of Additional Rupture Information Form," attach any additional information and return it to the Settlement Facility-Dow Corning Trust (SF-DCT). Please write your name and SID on any documents you submit.

For assistance or questions call the Claims Assistance Program at 1.866.874.6099 (toll free)  
Or go to [www.dcssettlement.com](http://www.dcssettlement.com) on the Internet

RU 4661

If you need assistance in understanding the deficiencies in your Claim, the Settlement Facility-Dow Corning Trust will be glad to assist you. Contact the Claims Assistance Program toll free at 1-866-874-6099.

Please submit all documents to:  
Rupture and Explant Department  
The Settlement Facility-Dow Corning Trust  
P.O. Box 52429  
Houston, Texas 77052

Sincerely,

Claims Operations  
Settlement Facility - Dow Corning Trust

CC:

Encl: Request for Review of Additional Rupture Information Form  
Individual Review Program Guidelines

## ***Rupture Individual Review Process (IRP)***

The IRP allows Claimants whose rupture proof has been classified as **unacceptable** to have the proof evaluated by the Reorganized Dow Corning.

In order to participate in this process, Claimants must meet the following criteria:

- Medical documentation created before the explantation surgery or within a reasonable time after the explantation of the Dow Corning single or double-lumen silicone gel breast implant, demonstrating visual confirmation of a breach (rupture) in the elastomer envelope found upon or prior to removal of the Dow Corning silicone gel breast implant.
- Medical documentation demonstrating migration along tissue planes distant from the site of breast implantation of a substantial mass of material, confirmed by biopsy to be silicone from a ruptured Dow Corning silicone gel breast implant.

To participate in the IRP, you must complete and select IRP, by checking Box 3, on the enclosed REQUEST FOR REVIEW OF ADDITIONAL RUPTURE INFORMATION FORM and return it to the SF-DCT within **sixty (60) days of receipt of this Notification of Status Letter**.

\_\_\_\_\_ The Settlement Facility will forward your name to the Reorganized Dow Corning with the understanding  
\_\_\_\_\_ that the company will hold all information about you and your Rupture Claim in strictest confidence.

**EXHIBIT 5**  
**(Not Included)**

# **EXHIBIT 6**

**Cheryl A Bradley**

---

**From:** Info [info@sfdct.com]  
**Sent:** Thursday, November 04, 2004 4:11 PM  
**To:** Cheryl A Bradley  
**Subject:** RE: Follow up / request for information - various claimants

Dear Ms. Bradley:

Thank you for your inquiry.

RE: SID -

We have received your form to accept the payment but the award letter was not sent yet.

RE: SID -

We received your additional information. The rupture claim is in line to be re-reviewed.

RE: SID -

We received your additional information. The rupture claim is in line to be re-reviewed.

RE: SID -

We received your additional information. The rupture claim is in line to be re-reviewed.

If you have further questions, please advise us and we will be happy to assist you.

Sincerely,  
Claims Assistance Program  
Info@sfdct.com  
1-866-874-6099

-----Original Message-----

**From:** Cheryl A Bradley [mailto:cbradley@dsckd.com]  
**Sent:** Tuesday, November 02, 2004 11:44 AM  
**To:** Info  
**Cc:** Leslie J Bryan; Debbie Vickery  
**Subject:** Follow up / request for information - various claimants

I am writing to follow up on specific issues regarding the claimants listed below who are all represented by our firm. Please advise regarding the status of each. Thanks in advance for your assistance -

Cheryl Bradley  
Paralegal  
Doffermyre, Shields, et al.  
404-881-8900

(1) SSN Disease claim for ACTD A approved at B. We filed SDRF on 9/24/04 to accept the approved payment. In the 10/27 batch of award letters, we received award letters for similar SDRFs filed after Ms. 's but have not yet received an award letter for

Ms. . Thus, I am writing to follow up.

(2) \_\_\_\_\_, SID \_\_\_\_\_ - We received a deficiency notice on her rupture claim and then filed an error correction letter on 9/24/04. For two of our other clients (\_\_\_\_\_, SID \_\_\_\_\_ and \_\_\_\_\_, SID \_\_\_\_\_) we had the same rupture problem and filed error correction letters on 10/1/04. For \_\_\_\_\_ and \_\_\_\_\_, we received letters from your office dated 10/7/04 acknowledging receipt of our error correction letters, and today we received award letters for their rupture claims. However, we have not heard anything on Ms. \_\_\_\_\_'s rupture claim, and that error correction letter was filed before those for \_\_\_\_\_ and \_\_\_\_\_. Thus, I am writing to follow up.

(3) \_\_\_\_\_, SID \_\_\_\_\_ - Re rupture claim, it was deficient and we filed request for re-review 8/12/04. This was filed with a letter entitled "Rupture claim deficiency - request for review of additional information." We have subsequently learned to put an SDRF form on top instead. Because it has been over two months and we have not heard anything, I am writing to follow up and make sure it is being processed.

(4) \_\_\_\_\_, SID \_\_\_\_\_ - Request for re-review of rupture claim filed 9/24/04 (with SDRF on top). Since no word yet, just want to make sure it is being processed.

Thank you.

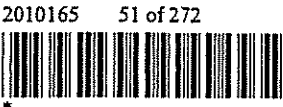


# **EXHIBIT 7**

11-22-04

REQUEST FOR REVIEW OF ADDITIONAL RUPTURE INFORMATION

You must complete this form and return if you have additional information that you want the Settlement Facility – Dow Corning Trust to consider for your Rupture claim.

1. Complete and update claimant information.	
PLACE YOUR LABEL HERE or WRITE IN YOUR INFORMATION	
<p>1. SI  2010165 51 of 272</p> <p>2. Di _____</p> <p>3. Ci _____</p> <p>4. Ci _____</p> <p>Remove this label and apply to each claim form you submit.</p> <p>DCN # _____ POR# _____</p> <p>5. Di _____</p> <p>6. E _____</p> <p>7. A _____</p>	<p><u>PROVIDE UPDATES OR CORRECTIONS BELOW:</u></p> <p>1. SID #: _____</p> <p>2. Date of Birth: _____</p> <p>3. New Last Name: _____</p> <p>4. New Address: _____</p> <p>5. New Daytime Phone: (____) ____-_____</p> <p>6. New Evening Phone: (____) ____-_____</p> <p>7. New Attorney's Name/Address/Phone/Fax: _____</p>

2. I have additional medical information that I want the Facility to consider and I have attached it to this form. (Please keep a copy of all records for your file and write your name and ID on all medical records in red ink). The additional information concerns my Rupture Payment claim.

3. I want to participate in the Individual Review Program (IRP). I have medical documentation that meets the following criteria:

Medical documentation, created before explantation surgery or within a reasonable time after explantation of the Dow Corning single or double-lumen silicone gel Breast Implant, demonstrating visual confirmation of a breach in the elastomer envelope found upon or prior to removal of the Dow Corning silicone gel Breast Implant,

or

Medical documentation demonstrating migration along tissue planes distant from the site of breast implantation of a substantial mass of material confirmed by biopsy to be silicone from a ruptured Dow Corning single or double-lumen silicone gel Breast Implant.

Please remember you have six (6) months from the date of your first Notification of Status letter to cure your deficiency or your Rupture Claim will be permanently denied.

*Walter J. Zupa*

11/18/04

\*Signature of Claimant, Executor/Administrator/Guardian or Attorney (Please circle one) Date Signed

\*Forms with invalid signatures will be returned unprocessed.

For assistance or questions call the Claims Assistance Program at 1.866.874.6099 (toll free) Or go to [www.dcsettlement.com](http://www.dcsettlement.com) on the Internet

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
(DETROIT DIVISION)

In Re: ) Case No. 00-CV-00005  
) (Settlement Facility  
Dow Corning Corporation ) Matters)

**REDACTED TO REMOVE  
CLAIMANT INFORMATION**

---

MEMORANDUM IN SUPPORT OF  
MOTION OF  
TO TOLL THE SIX MONTH DEADLINE  
FOR CURING RUPTURE DEFICIENCIES

---

has moved the Court to extend the deadline for her to cure the perceived deficiency in her rupture claim to account for the backlog in the SF-DCT that is not allowing for the prompt review and evaluation of re-submitted claims.<sup>1</sup> Specifically, the Plan documents provide that “[i]n the event that the Rupture Payment Option Form or supporting documentation is deficient, the Claimant shall have six (6) months from the date of the Notification of Status letter identifying the deficiency to submit additional documentation to cure the deficiency.” [*Annex A to the Settlement Facility*

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<sup>1</sup> Counsel understand that the SF-DCT may have an internal procedure that allows for tolling the cure deadlines in the event of a backlog of claims. Since that internal procedure is not publicly available, counsel believe they have no choice but to file this motion to protect their client’s interests.

*and Fund Distribution Agreement, §7.09(c)(ii)*] That language has been interpreted to mean an absolute six months thus, for Ms. [redacted] whose NOS letter was dated August 6, 2004, the listed cure deadline is February 2, 2005.

As set out in the accompanying motion, Ms. [redacted] submitted additional documentation within two days of receipt of the NOS letter. Her claim has been in-line for review since August and the deadline runs in less than two weeks. In the event that her claim remains “deficient” after re-review, Ms. [redacted] is entitled to additional time in which to attempt to “cure” her claim.

The language is clear that a claimant is to have six months – not two weeks – in which to attempt to resolve a perceived deficiency in a rupture claim. Clearly, the purpose underlying this language was to provide certainty to the Court and the Finance Committee that the extent of exposure for rupture claims was known or knowable shortly after the expiration of the time for submitting rupture claims which is, generally, two years from the Effective Date. [*Annex A, §7.09(c)(i)*]. It is simply unfair to force claimants to forego their opportunity to cure a deficiency simply because the volume of claims has led to a reviewing backlog in the claims office.

Therefore, Ms.            requests that this Court allow her additional time, from the ultimate date of the NOS letter, in which to attempt to cure any remaining deficiency.

This the 21<sup>st</sup> day of January, 2005.

\_\_\_\_\_/s/  
Leslie J. Bryan  
lbryan@dskcd.com

DOFFERMYRE SHIELDS CANFIELD  
KNOWLES & DEVINE  
1355 Peachtree Street  
Suite 1600  
Atlanta, GA 30309  
404-881-8900

Counsel for Ms.

## CERTIFICATE OF SERVICE

I hereby certify that on January 21, 2005, I electronically filed the foregoing MOTION OF TO TOLL THE SIX MONTH DEADLINE FOR CURING RUPTURE DEFICIENCIES AND MEMORANDUM IN SUPPORT [REDACTED] with the Clerk of the Court using the ECF system. I further certify that I have emailed the foregoing to each of the following individuals. I further certify that I have provided an unredacted version to the Court and to the Claims Administrator.

---

### Members of the Finance Committee:

Hon. Frank Andrews  
Fal@swbell.net  
4315 W. Lovers Lane  
Dallas, TX 75209

Prof. Francis E. McGovern  
mcgovern@faculty.law.duke.edu  
Duke University School of Law  
Room 4029  
Durham, NC 27708-0360

E. Wendy Trachte-Huber  
ewhuber@sfdct.com  
Claims Administrator  
Settlement Facility – Dow Corning Trust  
3100 Main Street, Suite 700  
Houston, TX 77002

[SERVICE LIST CONT. NEXT PAGE]

Claimants' Advisory Committee:

Dianna Pendleton  
dpendleton@blizzardlaw.com  
Blizzard McCarthy & Nabors, LLP  
440 Louisiana Street  
Suite 1710  
Houston, TX 77002

Ernest H. Hornsby  
ehornsby@fphw-law.com  
Farmer Price Hornsby & Weatherford  
100 Adris Place  
Dothan, AL 36303

Sybil Niden Goldrich  
Sybilg58@aol.com  
256 South Linden Drive  
Beverly Hills, CA 90212

Debtor's Representatives:

Jill K. Schultz  
jschultz@nixonpeabody.com  
Nixon Peabody, LLP  
Clinton Square  
Suite 1300  
Rochester, NY 14604

Deborah E. Greenspan  
dgreenspan@thefeinberggroup.com  
The Feinberg Group LLP  
1120 20<sup>th</sup> Street NW  
Suite 740 South  
Washington, DC 20036

[SERVICE LIST CONT. NEXT PAGE]

Shareholder Counsel:

Laurie Strauch Weiss  
lstrauchweiss@orrick.com  
Orrick Herrington & Sutcliffe LLP  
666 Fifth Avenue  
New York, NY 10103-0001

I further certify that I sent the foregoing by regular mail, postage  
prepaid, addressed as follows:

Debtors' Representatives:

Jeanne D. Dodd  
Dow Corning Corporation  
2200 W. Salzburg Road  
Auburn, MI 48611

Edward W. Rich  
The Dow Chemical Company  
2020 Dow Center  
B1 South/Office 115  
Midland, MI 48674

Marcus Worsley  
Dow Corning Corporation  
Corporate Treasury CO1116  
2200 W. Salzburg Road  
Auburn, MI 48611

Shareholder Counsel:

Richard F. Broude  
400 East 84<sup>th</sup> Street  
Suite 22A  
New York, NY 10028



This the 21st day of January, 2005.

\_\_\_\_\_/S/\_\_\_\_\_  
Leslie J. Bryan  
lbryan@dsckd.com

DOFFERMYRE SHIELDS CANFIELD  
KNOWLES & DEVINE  
1355 Peachtree Street  
Suite 1600  
Atlanta, GA 30309  
404-881-8900