

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 TAMARA VANLANDINGHAM  
TO TOLL THE SIX MONTH DEADLINE  
FOR CURING RUPTURE DEFICIENCIES

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Comes now Tamara Vanlandingham, by and through her undersigned counsel of record and requests that the Court toll the six month deadline for curing deficiencies in rupture claims. In support of her Motion, Ms.

Vanlandingham shows the following:

1. On October 16, 1978 Ms. Vanlandingham received breast implants manufactured by Dow Corning Corporation. (Exhibit A).
2. Those implants remained in her body until they were explanted on May 17, 1991. (Exhibit B).
3. Ms. Vanlandingham 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 C).

4. Ms. Vanlandingham submitted her rupture claim on November 24, 2003. (Exhibit C).
5. On August 31, 2004, the SF-DCT sent Ms. Vanlandingham a Notification of Status letter on her rupture claim finding the claim deficient. (Exhibit D).
6. On November 5, 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. (Exhibit E).
7. On or about January 31, 2005 we received a notice from the SF-DCT which unilaterally moved her cure deadline back to March 25, 2005. (Exhibit F).
8. In March of 2005 with the deadline approaching, and having heard nothing further from the SF-DCT regarding the request for re-review, my offices contacted the settlement facility. During that contact we were advised for the first time that a further deficiency notice was allegedly sent to us back in January of 2005.
9. On March 8, 2005 we received via facsimile the said second notice of deficiency. (Exhibit G). This was the first time we ever saw that deficiency notice.

10. On March 10, 2005 we submitted an affirmation by Pierre Blais, Ph.D. in further support of Ms. Vanlandingham's request for re-review of her rupture claim. (Exhibit H).
11. While we believe that any alleged deficiency has now been cured we are concerned that the SF-DCT may still issue a further deficiency notice.
12. Had we received the NOS letter (Exhibit G) in January or even early February, we would have had additional time to cure any potential future perceived defect in a timely fashion. However, since it was not received until March 8, 2005, Ms. Vanlandingham is now in a position where despite her best efforts, there is insufficient time before the cure deadline to remedy any further potential alleged defect.
13. While Ms. Vanlandingham recognizes that the SF-DCT has thousands of claims to review and process and while Ms. Vanlandingham recognizes that all of the personnel in the facility are working hard, it is nonetheless unfair for Ms. Vanlandingham to be prejudiced by this delay.

Wherefore, Ms. Vanlandingham 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 and in transmitting the NOS in a timely and proper way.

This the 16<sup>th</sup> day of March, 2005.

\_\_\_\_\_/s/\_\_\_\_\_  
Robert D. Steinhaus, Esq.  
[RSteinhaus@skklaw.com](mailto:RSteinhaus@skklaw.com)  
Siegel, Kelleher & Kahn  
Attorneys for Tamara Vanlandingham  
426 Franklin Street  
Buffalo, New York 14202  
(800) 888-5288

## CERTIFICATE OF SERVICE

I hereby certify that on March 16, 2005, I electronically filed the foregoing MOTION OF TAMARA VANLANDINGHAM TO TOLL THE SIX MONTH DEADLINE FOR CURING RUPTURE DEFICIENCIES AND MEMORANDUM IN SUPPORT (REDACTED) with the Clerk fo 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](mailto:Fal@swbell.net)  
4315 W. Lovers Lane  
Dallas, TX 75209

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

E. Wendy Tachte-Huber  
[ewhuber@sfdct.com](mailto: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  
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Suite 1710  
Houston, TX 77002

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256 South Linden Drive  
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Clinton Square  
Suite 1300  
Rochester, New York 14604

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

[SERVICES LIST CONT. NEXT PAGE]

Shareholder Counsel:

Laurie Strauch Weiss  
[lstrauchweiss@orrick.com](mailto: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 C01116  
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 16th day of March, 2005

\_\_\_\_\_/S/\_\_\_\_\_  
Robert D. Steinhaus  
[Rsteinhaus@skklaw.com](mailto:Rsteinhaus@skklaw.com)  
Siegel, Kelleher & Kahn  
426 Franklin Street  
Buffalo, New York 14202  
800-888-5288



## **INDEX TO EXHIBITS**

<b>Exhibit No.</b>	<b>Description</b>
A	Notice of Status – Acceptable Proof of Manufacture Review – Class 5
B	Operative report dated 5/17/1991 from Mount Sinai Medical Center
C	\$25,000 Rupture Payment Claim Form
D	Notification of Status – Rupture Payment Claim – Deficiency – Class 5
E	Request for Review of Additional Information re: Rupture Claim Deficiency, dated 11/5/2004 (not included with redacted copies)
F	Notice from SF-DCT moving cure deadline
G	Second Notification of Status – Rupture Payment Claim – Deficiency – Class 5
H	Request for Review of Additional Information re: Rupture Claim Deficiency, dated March 10, 2005 (not Included with redacted copies)

# EXHIBIT A

P.O. Box 52429  
Houston, Texas 77052

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

Telephone 713.874.6099  
866.874.6099

June 26, 2003



SID: 0270801

SIEGEL KELLEHER & KAHN  
426 FRANKLIN STREET  
BUFFALO, NY 14202  
UNITED STATES OF AMERICA

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

We have completed a review of your Proof of Manufacturer. A summary of the results of our review is recorded in the table below.

**You submitted documents that reflect you were implanted with the following breast implants:**

Date of Implantation	Manufacturer	Proof Evaluation
10/16/1978	Dow Corning	ACCEPTABLE
10/16/1978	Dow Corning	ACCEPTABLE

**EXPLANATION OF PROOF EVALUATION**

**If our evaluation shows that you have “Acceptable” proof of a Dow Corning breast implant:**

This means that you have “acceptable” Proof of Manufacturer for your Dow Corning breast implant and are eligible to participate in the Dow Corning Settlement Program in Class 5, i.e. Explant, Rupture, and either Expedited Release or Disease. Prior to the Effective Date of the Settlement Plan, your claim for benefits will be reviewed only if you first check Box 2A on the enclosed “Waiver of Opt-Out Right Form.” By checking Box 2A, you are agreeing to settle your claim in the Settlement Option, and are permanently waiving your right to opt out of the Settlement Option to file a lawsuit in court. Your decision to settle is final and cannot be changed. Prior to the Effective Date, the Settlement Facility will process your claim for settlement benefits only if you check Box 2A and sign the “Waiver of Opt-Out Right Form.”

**If our evaluation shows that you have “Acceptable” proof of a Dow Corning breast implant with a minor deficiency:**

This means that your Proof of Manufacturer submission has a “minor deficiency” as defined in Q5-12 in the Class 5 Claimant Information Guide. For more information about the minor deficiency and how to cure it, contact the Claims Assistance Program toll free at 1-866-874-6099. Once you submit the information or documents to fix the minor deficiency, then your Proof of Manufacturer will be re-evaluated.

If you cannot cure the minor deficiency and want to submit your Proof of Manufacturer to Dow Corning for review and possible acceptance under the procedure described below for “unacceptable” proof, you

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

Pre-effective Date POM NOS (Enclosure: Waiver of Opt –Out Form)

may be able to participate, you must first conditionally agree to resolve your claim in the Settlement Facility and conditionally waive your right to opt out to file a lawsuit. To do this, check Box 2B on the enclosed "Waiver of Opt-Out Right Form" and return it to the Settlement Facility.

**If our evaluation shows that you have "Unacceptable" proof of a Dow Corning breast implant:**

This means that a preliminary review of your Proof of Manufacturer submission indicates that you will need to submit additional information or documents before we can determine if you have an eligible breast implant. If you have additional information or documents – even though it may be "unacceptable proof" as defined in Q5-5 and Q5-11 of your Claimant Information Guide – we urge you to submit that material to us now. Please write your full name, Social Security Number and "SID" number on a separate page and write a note indicating that the documents are being submitted for another Proof of Manufacturer review. If you do not have any additional information or documents, write a letter to the Settlement Facility stating that fact.

Under the Settlement Plan, Dow Corning has agreed to cooperate with implant claimants and the Settlement Facility to provide assistance for and acceptance of manufacturer identification of Dow Corning breast implants. This includes reviewing, at the request of the implant claimant, Proof of Manufacturer submissions that do not meet the standard for acceptable proof.

To participate, you must first conditionally agree to resolve your claim in the Settlement Facility and conditionally waive your right to opt out to file a lawsuit. To do this, check Box 2B on the enclosed "Waiver of Opt-Out Right Form" and submit additional information or documents, if any, that you have regarding Proof of Manufacturer. You may also submit a concise, one-page letter summarizing any facts or information you believe supports your claim that the implant is a Dow Corning breast implant and the reasons why. If you have your breast implants removed and want to submit them to Dow Corning to be included in your review, please indicate this on the Waiver Form. Do not send your implants to the Settlement Facility until you are notified to do so.

The Settlement Facility will re-review any new information or documents and if your proof is still unacceptable, it will be submitted to Dow Corning. Dow Corning will review your submission and will respond to the Settlement Facility stating whether they will accept your product identification. We will notify you of the results of the review by Dow Corning. If either the Settlement Facility or Dow Corning accepts your product identification, then you will be permanently in the Settlement Option and will be eligible to have your claim for settlement benefits reviewed. If Dow Corning does not agree to accept your product identification, then you will have an opportunity to decide to either remain in the Settlement Facility or opt out to litigate your case in court.

You may not apply for Settlement benefits concerning this implant until you provide additional information concerning the implant that meets the guidelines of "Acceptable Proof" as outlined in Question 3 of the Class 5 Proof of Manufacturer Claim Form Instructions or your submission is accepted by Dow Corning as "Acceptable Proof".

**If our evaluation shows that you have "No Proof Submitted" of a Dow Corning breast implant:**

This means that we are unable to determine the manufacturer of your implant because you did not submit any documents or information with your Proof of Manufacturer Form. The Settlement Facility is unable to do anything more on your claim for this implant without further documentation from you.

**If our evaluation shows that you have "No Proof" of a Dow Corning breast implant:**

This means that the information you submitted with your Proof of Manufacturer Form does not specify a Dow Corning implant. In order for the Settlement Facility to evaluate your implant's proof identification, you must submit further documentation of a Dow Corning implant. Please review the guidelines for "Acceptable Proof" as outlined in Question 3 of the Class 5 Proof of Manufacturer Claim Form Instructions. If you are unable to provide further documentation concerning your Proof of Manufacturer and want to submit your Proof of Manufacturer to Dow Corning for review and possible acceptance under the procedure described above for "unacceptable" proof, you may do so. To participate, you must first conditionally agree to resolve your claim in the Settlement Facility and conditionally waive your right

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

**If our evaluation shows that you have “Acceptable” proof of a silicone gel breast implant from Bristol, Baxter, or 3M:**

This means that the information you submitted with your Proof of Manufacturer Form or through the MDL-926 Claims Office indicates that you have or had at least one silicone gel breast implant from Bristol, Baxter, or 3M. As a result, you may be subject to the Multiple Manufacturer Reduction that will reduce some of your settlement payment(s) by 50%. Please read Q7-6 in the Class 5 Claimant Information Guide, and also Q1-14 of the Class 5 Disease Claimant Information Guide for additional information concerning the Multiple Manufacturer Reduction. The Settlement Facility will receive your Proof of Manufacturer evaluation from the MDL-926 Claims Office and this also will be used to determine whether the Multiple Manufacturer Reduction applies.

**If our evaluation shows that you have or had a Cox-Uphoff, Mentor, and/or Bioplasty breast implant:**

These implants, while part of your implant history, are not implants which impact your Class 5 Settlement benefits, therefore the Settlement Facility did not perform a proof evaluation for these implants.

**Summary:**

If you have or had more than one set of breast implants, and the evaluation of your Proof of Manufacturer shows a different conclusion for each implant, follow the steps outlined above for each implant. For example, if you have or had two sets of Dow Corning breast implants and one set is “Acceptable” and the other is “Unacceptable,” then read the above explanation for each proof evaluation. 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).

**Per the Plan Documents (Annex A, Section 7.06(d)), a copy of this letter is sent to the Breast Implant Claimant and her counsel (if she is represented). If you are represented by counsel, you will not receive a copy of the Waiver of Opt-Out Right form.**

This letter is designated as a 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

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.dcsettlement.com](http://www.dcsettlement.com) on the Internet

Pre-effective Date POM NOS (Enclosure: Waiver of Opt –Out Form)

## EXHIBIT B



THE MT. SINAI MEDICAL CENTER  
One Mt. Sinai Drive  
Cleveland, Ohio 44106-4198  
216-421-4000

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PATIENT NAME: \*:DEVORE, TAMMY  
MED. REC. #: 74 13=84  
AGE:  
DATE SURGERY: 5-17-91

OPERATIVE REPORT

SURGEON: ::FENG, LU-JEAN, M.D.

PREOPERATIVE DIAGNOSIS: COMPLICATION OF MECHANICAL BILATERAL BREAST PROSTHESIS.

INDICATIONS FOR SURGERY: The patient is a 44-year-old white female who had implants over ten years ago. She noted in the last several years the burning pain in the right breast and right anterior axillary fold area with exercise and movement of the right shoulder. In addition, the patient also has episodic bilateral knee arthralgias and iliac and hip arthralgias. Due to the severity of the pain in the right breasts the patient desires to have both implants removed.

POSTOPERATIVE DIAGNOSIS: COMPLICATION OF MECHANICAL BILATERAL BREAST PROSTHESIS.

OPERATION: BILATERAL PERIPROSTHETIC CAPSULECTOMY AND REMOVAL OF BREAST IMPLANTS.

ASSISTANT SURGEON: ANDREW FRIEDMAN, M.D.  
HOWARD LUFF, M.D.

ANESTHESIA:

PROCEDURE: The patient was placed in a supine position. Following the induction of general anesthesia, the neck, shoulders, breast, and upper abdomen were prepared with Hibiclens and draped in a sterile manner. The previous scar was excised and was extended to approximately 7 centimeters. The implant was removed with its entire surgical capsule intact. Dissection took place between the muscle fibers and the implant scar fibers. Both the implants were placed underneath the pectoralis major muscle. Care was taken not to take any muscle, and using sharp dissection both implants were delivered. Electrocautery provided hemostasis. The wound was then irrigated with antibiotic solution. A 10 millimeter Jackson-Pratt drain was then placed. The wound was then closed with #4-0 Vicryl suture in the dermis interrupted, followed by #5-0 plain gut. The dressing then consisted of Steri-Strips, 4 x 4s, and Tegaderm. The entire surgical capsule was removed intact on both sides. A similar technique was also used on the left side. This surgical capsule was then later on opened in the pathology lab. There was a very hard and thin capsule. The implant inside had a very sticky

CONTINUED:

OPERATIVE REPORT

THE MT. SINAI MEDICAL CENTER  
One Mt. Sinai Drive  
Cleveland, Ohio 44106-4198  
216-421-4000

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PATIENT NAME: \*:DEVORE, TAMMY  
MED. REC. #: 74 13=84  
AGE:  
DATE SURGERY: 5-17-91

OPERATIVE REPORT

SURGEON: ::FENG, LU-JEAN, M.D.

PAGE 2

surface, the silicone gel appeared to have diffused outside of the rubberized silicone wall. The type of implant marking was shown to be Dow-Corning 165 cc. The patient tolerated the procedure well. The patient was taken to the recovery room in good condition.

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LU-JEAN FENG, M.D.

LJF:MRC30  
D: 5-17-91  
T: 5-20-91  
CASS #: 3186-01  
DISC #: MSMC70-053

OPERATIVE REPORT



## EXHIBIT C

## \$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.



\*0270801\*

TAMARA VANLANDINGHAM

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

DCN # 135791 POC#0261068-00

#### PROVIDE UPDATES OR CORRECTIONS BELOW:

1. Social Security Number: \_\_\_\_\_
2. Date of Birth: \_\_\_\_\_  
Mon /Date/Year
3. \_\_\_\_\_  
New Last Name
4. \_\_\_\_\_  
City State Zip Code
5. Daytime Phone: (\_\_\_\_) \_\_\_\_\_
6. Evening Phone: \_\_\_\_\_
7. Attorney's Name/Address/Phone/Fax:  
Siegel, Kelleher & Kahn, Dennis Alan Kahn, Esq.,  
426 Franklin Street, Buffalo, NY 14202;  
(716) 881-5800; (716) 885-3369
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.)

#### ■ \$25,000 RUPTURE PAYMENT CLAIM FORM ■

For assistance or questions call the Claims Assistance Program Toll Free at 1-866-874-6099  
or go to [www.dcsettlement.com](http://www.dcsettlement.com) on the internet

page 1 of 2 COMPLETE BOTH SIDES

■ \$25,000 RUPTURE PAYMENT CLAIM FORM ■

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:

Pierre Blais, M.D.

B2. Address:

Innoval, 496 Westminister Ave.

Ottawa, Ontario K2A 2V1 Canada

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.

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Signature of Claimant, Executor/Administrator, or Guardian

■ \$25,000 RUPTURE PAYMENT CLAIM FORM ■

For assistance or questions call the Claims Assistance Program Toll Free at 1-866-874-6099  
or go to [www.dcssettlement.com](http://www.dcssettlement.com) on the internet

# EXHIBIT D

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

P.O. Box 52429  
Houston, Texas 77052

Telephone 713.874.6099  
866.874.6099

August 31, 2004



SID: 0270801

SIEGEL KELLEHER & KAHN  
426 FRANKLIN STREET  
BUFFALO, NY 14202  
UNITED STATES OF AMERICA

**RE: TAMARA VANLANDINGHAM**

**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: **02/26/05.**

**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. Proof that reveals no rupture as defined (including proof that shows only gel bleed) is unacceptable as proof of rupture.

**UNACCEPTABLE RUPTURE PROOF DEFICIENCY:** The medical records you submitted reflect only "gel bleed" as opposed to proof of rupture as defined by the Settlement Program's criteria.

**ACTION:** To cure this deficiency you must submit contemporaneous medical records (records written at the time of the explantation surgery) documenting failure of the elastomer envelope surrounding a silicone gel implant.

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

\_\_\_\_\_  
\_\_\_\_\_  
  
\_\_\_\_\_  
\_\_\_\_\_

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



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.

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 E



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.

<p>PLACE YOUR LABEL HERE or WRITE IN YOUR INFORMATION</p>  <p>*0270801*</p> <p>TAMARA VANLANDINGHAM</p> <p>Remove this label and apply to each claim form you submit.</p> <p>DCN # 135791 POC#0261068-00</p> <p>7. Attorney's Name/Address/Phone/Fax: Dennis A. Kahn, Esq. Siegel, Kelleher &amp; Kahn, 426 Franklin St., Buffalo NY 14202 (716) 881-5800 (716) 885-3369</p>	<p><u>CKET</u></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.

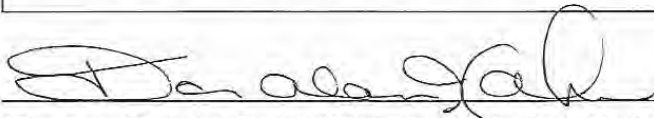
☐ 3. I want to participate in the Individual Review Program (IRP). I have medical documentation that meets the following criteria:

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.

 11/8/04

\*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)

**INNOVAL****Failure Analysis**

496 Westminister Ave  
Ottawa, Ontario  
K2A 2V1, Canada

TELEPHONE: (613) 728-8688  
FACSIMILE : (613) 728-0687

November 5, 2004

Ms. Amy Shattuck  
Siegel, Kelleher & Kahn, Attorneys and Counselors at Law  
426 Franklin Street  
Buffalo  
N.Y. 14202

FAX: 716-885-3369

Re: Tamara (DeVore) Vanlandingham

Dear Ms. Shattuck:

Thank you for the records provided with your letter of November 4, 2004. An updated ID Report is provided. It includes a detailed description of the rupture status.

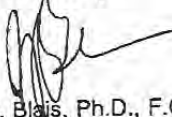
As indicated in my previous report, the implants are Dow Corning (Wright) 900 Series products made in the late seventies, of round, high profile, nominally rated at 165 cc. Both derive from shell mandrel "2" and incorporate multi-character shell markings typical of the era. The identification by inspection is consistent with a Product Identification label included with Ms. Vanlandingham's implantation records. The implants comply with the MDL 926 Unique Identifiers for Dow Corning.

The right implant has multiple ruptures along a major equatorial craze line, visible to the eye unaided. Ruptures range from 0.1 to 1 mm and leak oil and gel profusely. Rupture sites are fragmented and show rounding from a prolonged dwell time within the capsular environment. No part of these ruptures is creditable to impact, trauma or surgical mishandling. Shell failure, secondary to material fatigue and deterioration of the shell, is almost universal amongst implants of this kind, as demonstrated by Innoval's database. The problem was so common that Dow Corning felt compelled to include a procedure for removing ruptured prostheses (page 18).

The left implant is not ruptured. It shows an advanced degree of crazing. There is damage in coincidence with pleat lines but the damages had not yet progressed to frank rupture at the time of explantation. Both implants show fluid invasive gels which support the opinion that processing conditions were inappropriate or formulations were faulty.

Capsular tissue was not provided. Given the condition of the implants and the comparatively short dwell time, the capsular spaces would not have been grossly calcified. Granulomata would most

Yours truly



P. Blais, Ph.D., F.C.I.C.

cc:

# EXHIBIT F

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

P.O. Box 52429  
Houston, Texas 77052

Telephone 713.874.6  
866.874.6

January 31, 2005

SID: 0270801

Seigal Kelleher and Kahn  
426 Franklin Street  
Buffalo, NY 14202  
United States of America

**Re: Change in Rupture Deadline**

**Claimant: TAMARA VANLANDINGHAM**

\_\_\_\_\_ You have recently received a notification of status letter regarding deficiencies in your Rupture  
\_\_\_\_\_ Claim. As the Settlement Facility is currently experiencing a large volume of correspondence  
\_\_\_\_\_ and there is a substantial back-log of Requests for Review of Additional Rupture Information, we  
\_\_\_\_\_ experienced a delay in processing your additional information. We have therefore  
\_\_\_\_\_ administratively amended the Rupture Cure Deadline for your claim.  
\_\_\_\_\_

\_\_\_\_\_ The Rupture Cure Deadline was amended to **3/25/2005**  
\_\_\_\_\_  
\_\_\_\_\_

Sincerely,

Claims Operations  
Settlement Facility - Dow Corning Trust

# EXHIBIT G



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

P.O. Box 52429  
Houston, Texas 77052

Telephone 713.874.6099  
866.874.6099

January 06, 2005

SID: 0270801

SIEGEL KELLEHER & KAHN  
426 FRANKLIN STREET  
BUFFALO, NY 14202  
UNITED STATES OF AMERICA

**RE: TAMARA  
VANLANDINGHAM**

**Notification of Status**

**Rupture Payment Claim – Deficiency – Class 5**

\_\_\_\_\_ We have reviewed the additional information you submitted for 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 your original  
\_\_\_\_\_ 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: **02/26/05.**

**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. Proof that reveals no rupture as defined (including proof that shows only gel bleed) is  
unacceptable as proof of rupture.

UNACCEPTABLE RUPTURE PROOF DEFICIENCY: The medical records you submitted reflect only "gel  
bleed" as opposed to proof of rupture as defined by the Settlement Program's criteria.

ACTION: To cure this deficiency you must submit contemporaneous medical records (records written at  
the time of the explantation surgery) documenting failure of the elastomer envelope surrounding a silicone  
gel implant.

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.

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

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 4701

The Settlement Facility-Dow Corning Trust  
P.O. Box 52429  
Houston, Texas 77052

Sincerely,

Claims Operations  
Settlement Facility - Dow Corning Trust

CC:

End: Request for Review of Additional Rupture Information Form  
Error Correction and Appeal Procedure

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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  <u>USE THE PEEL-OFF LABEL PROVIDED IN YOUR PACKET</u>	<u>PROVIDE UPDATES OR CORRECTIONS BELOW:</u>
1. SID #: _____	1. SID #: _____
2. Date of Birth: _____	2. Date of Birth: _____
3. Claimant's Name: _____	3. New Last Name: _____
4. Claimant's Address: _____ _____ _____	4. New Address: _____ _____ _____
5. Daytime Phone: (____) ____-____	5. New Daytime Phone: (____) ____-____
6. Evening Phone: (____) ____-____	6. New Evening Phone: (____) ____-____
7. Attorney's Name/Address/Phone/Fax: _____ _____ _____	7. New Attorney's Name/Address/Phone/Fax: _____ _____ _____

- ☐ 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.

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.

\_\_\_\_\_  
\*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.dcssettlement.com](http://www.dcssettlement.com) on the Internet



# EXHIBIT H

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



\*0270801\*

TAMARA VANLANDINGHAM

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

DCN# 135791 POC#0261068-00

...domesticrepresentedclass5english 47952

7. Attorney's Name/Address/Phone/Fax: Dennis A. Kahn  
Siegel, Kelleher & Kahn, 426 Franklin St.  
Buffalo, NY 14202, (716) 881-5800, (716) 881-  
3367

PROVIDE UPDATES OR CORRECTIONS BELOW:

1. SID #: \_\_\_\_\_
2. Date of Birth: \_\_\_\_\_
3. New Last Name: \_\_\_\_\_
4. New Address: \_\_\_\_\_
5. New Daytime Phone: ( ) \_\_\_\_\_
6. New Evening Phone: \_\_\_\_\_
7. New Attorney's Name/Address/Phone/Fax: \_\_\_\_\_

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.

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.

Siegel, Kelleher & Kahn, BY: Dennis Alan Kahn, Esq.

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

3/10/05  
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.dcssettlement.com](http://www.dcssettlement.com) on the Internet

RU 4701

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 TAMARA VANLANDINGHAM  
TO TOLL THE SIX MONTH DEADLINE  
FOR CURING RUPTURE DEFICIENCIES

---

Tamara Vanlandingham, has moved the Court to extend the deadline for her to cure any 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 and Fund Distribution Agreement, § 7.09©(ii)].* That language has been interpreted to mean an absolute six (6) months thus, for Ms. Vanlandingham whose NOS letter was dated August

---

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

31, 2004, the listed cure deadline was February 26, 2005 (And subsequently voluntarily amended by the SF-DCT to March 25, 2005).

As set out in the accompanying motion, Ms. Vanlandingham submitted additional documentation on November 5, 2004 and did not receive the second NOS letter until March 8, 2005. While additional documentation was submitted on March 10, 2005, it is quite possible that the SF-DCT may issue a further deficiency notice. Accordingly, through no fault of her own she would have insufficient time in which to attempt to cure any additional perceived deficiency.

The language is clear that a claimant is to have six (6) months – not approximately two (2) weeks – in which to attempt to resolve a perceived deficiency in a rupture claim. Clearly, the purpose underlying the 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 and/or the failure to properly forward NOS letters to the claimant in a timely fashion.

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

This 16th            day of March, 2005

\_\_\_\_\_/s/\_\_\_\_\_  
Robert D. Steinhaus, Esq.  
[RSteinhaus@skklaw.com](mailto:RSteinhaus@skklaw.com)  
Siegel, Kelleher & Kahn  
Attorneys for Tamara Vanlandingham  
426 Franklin Street  
Buffalo, New York 14202  
(800) 888-5288

## CERTIFICATE OF SERVICE

I hereby certify that on March 16, 2005, I electronically filed the foregoing MOTION OF TAMARA VANLANDINGHAM TO TOLL THE SIX MONTH DEADLINE FOR CURING RUPTURE DEFICIENCIES AND MEMORANDUM IN SUPPORT (REDACTED) with the Clerk fo 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](mailto:Fal@swbell.net)  
4315 W. Lovers Lane  
Dallas, TX 75209

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

E. Wendy Tachte-Huber  
[ewhuber@sfdct.com](mailto: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](mailto:dpendleton@blizzardlaw.com)  
Blizzard, McCarthy & Nabors, LLP  
440 Louisiana Street  
Suite 1710  
Houston, TX 77002

Ernest H. Hornsby  
[ehornsby@fphw-law.com](mailto:ehornsby@fphw-law.com)  
Farmer Price Hornsby & Weatherford  
100 Adris Place  
Dothan, AL 36303

Sybil Niden Goldrich  
[Sybilg58@aol.com](mailto:Sybilg58@aol.com)  
256 South Linden Drive  
Beverly Hills, CA 90212

Debtor's Representatives:

Jill K. Schultz  
[jschultz@nixonpeabody.com](mailto:jschultz@nixonpeabody.com)  
Nixon Peabody, LLP  
Clinton Square  
Suite 1300  
Rochester, New York 14604

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

[SERVICES LIST CONT. NEXT PAGE]

Shareholder Counsel:

Laurie Strauch Weiss  
[lstrauchweiss@orrick.com](mailto: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 C01116  
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 16<sup>th</sup> day of March, 2005

\_\_\_\_\_/S/\_\_\_\_\_  
Robert D. Steinhaus  
[Rsteinhaus@skklaw.com](mailto:Rsteinhaus@skklaw.com)  
Siegel, Kelleher & Kahn  
426 Franklin Street  
Buffalo, New York 14202  
800-888-5288