

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)

MOTION AND MEMORANDUM IN SUPPORT
OF
TO TOLL THE ONE YEAR DEADLINE
FOR CURING DISEASE CLAIM DEFICIENCIES
[REDACTED]

Comes now (SID), by and through her undersigned counsel of record, and requests that the Court toll the one year deadline for curing deficiencies in her disease claim. Further, she joins the motion submitted by the Motley Rice firm filed May 27, 2005. In support of her Motion, Ms. shows the following:

1. Ms. submitted her disease claim for ACTD, disability level A, on March 18, 2003.

2. On June 9, 2004, the SF-DCT mailed Ms. a Notification of Status (NOS) letter on her disease claim.

3. That NOS letter stated that her claim was deficient. The symptoms comprising the disease portion (ACTD) of the claim were approved but no

compensation (disability) level was approved. The NOS letter also stated that the deadline to cure the deficiency in her claim is June 9, 2005.

4. On October 22, 2004, in an effort to cure the deficiency in Ms. _____'s disease claim, her counsel submitted a Supplemental Disease Review Form (SDRF) with additional medical records attached, requesting that the SF-DCT re-review the claim.

5. On November 18, 2004, the SF-DCT sent a second NOS letter stating that the re-review did not change the status of the claim, which remained not eligible for payment.

6. On January 20, 2005, Ms. _____'s counsel filed an error correction letter stating that we believe it is an error that her claim has not been approved at some compensation level (A, B or C) based on the documents submitted.

7. On February 4, 2005, the SF-DCT sent a letter denying our request for error correction and stating that no error was made.

8. On March 4, 2005, Ms. _____'s counsel filed an appeal to the Claims Administrator regarding Ms. _____'s disease claim.

9. On April 11, 2005, the SF-DCT sent a letter denying our appeal to the Claims Administrator.

10. On April 29, 2005, Ms. _____'s counsel filed an appeal to the appeals judge regarding the subject claim. No response has been received to date.

11. Ms. [REDACTED] has an approaching cure deadline of June 9, 2005. Her appeal to the appeals judge has been pending for over one month with no response.

12. We understand that appeals to Judge Andrews from decisions of the prior Claims Administrator, Wendy Trachte-Huber, may be re-reviewed by the new Claims Administrator, David Austern, before they are reviewed by Judge Andrews. We also understand that there may be a backlog of appeals due to the recent transition in the Claims Administrator position. It appears that Ms.

[REDACTED] will not receive a decision on her final appeal to the appeals judge prior to her upcoming cure deadline.

13. In addition, we believe that the SF-DCT has been overly harsh in their evaluation of all disease claims in general and of Ms. [REDACTED]'s claim in particular. We understand that there is an audit underway to determine whether the SF-DCT has been properly applying the Plan criteria in their review of disease claims. There are also several motions pending asking that the SF-DCT disclose all substantive, non-published criteria that they are applying in their review of disease claims.

WHEREFORE, Ms. [REDACTED] respectfully requests that this Court direct that her disease claim cure deadline be tolled until she is able to complete the appeals process and receive a final ruling from the appeals judge, until the audit is completed to determine whether the SF-DCT has applying the proper criteria in

reviewing disease claims, and until all substantive, non-published criteria are made publicly available to all claimants by the SF-DCT .

This the 6th day of June, 2005.

/s/Leslie J. Bryan
Leslie J. Bryan

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CERTIFICATE OF SERVICE

I hereby certify that on June 6, 2005, I electronically filed the foregoing MOTION AND MEMORANDUM IN SUPPORT OF TO TOLL THE ONE YEAR DEADLINE FOR CURING DISEASE CLAIM DEFICIENCIES [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.

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