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DETROIT

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

In Re:) Case No. 00-CV-00005-DT
)
Dow Corning Corporation) (Settlement Facility Matters)
)
) HON. DENISE PAGE HOOD

**PLAINTIFFS' MOTION AND MEMORANDUM IN SUPPORT OF
EXPEDITED CONSIDERATION OF TOLLING OF DEFICIENCIES
AND REQUEST FOR SIX MONTH EXTENSION FOR CURING PAST AND
FUTURE DEFICIENCIES**

Comes now, Cheryl Charvet, Rosemary Dahl, Betty Doucet, Betty Edwards, Clara Frisard, Joanne Guillot, Cynthia MacPherson, Debbie Wheelis, Debra Graham, Sherry Nelson, Margaret Page, Arlene Hohensee, Laura Bertucci, Patricia Parker and Juda Wilhite, by and through their undersigned counsel of record, and requests that the Court toll the six month deadline for curing deficiencies in their explant and rupture claims and the one year deadline for the disease claim. In support of their Motion, the claimants submit the following:

The law firm of Gauthier, Houghtaling & Williams, L.L.P. have recently retained the services of Special Counsel, Eric J. O'Bell to oversee the handling of their Dow Corning Breast Implant claims. On suggestion to the Court that Mr. O'Bell needs additional time to review and address outstanding deficiencies of the above referenced claimants, Plaintiffs' respectively request a tolling of the six month deadlines for curing the above referenced claimants' deficiencies.

In additional support of their Motion, the claimants submit the following:

1. In July, 1982, Ms. Cheryl Charvet received breast implants manufactured by Dow Corning Corporation.

In July, 1976, Ms. Rosemary Dahl received breast implants manufactured by Dow Corning Corporation.

In August, 1973, Ms. Betty Doucet received breast implants manufactured by Dow Corning Corporation.

In July, 1981, Ms. Betty Edwards received breast implants manufactured by Dow Corning Corporation.

In April, 1982, Ms. Clara Frisard received breast implants manufactured by Dow Corning Corporation.

In March, 1982, Ms. Joanne Guillot received breast implants manufactured by Dow Corning Corporation.

In April, 1985, Ms. Cynthia MacPherson received breast implants manufactured by Dow Corning Corporation.

In January, 1980, Ms. Debbie Wheelis received breast implants manufactured by Dow Corning Corporation.

In June, 1982, Ms. Debra Graham received breast implants manufactured by Dow Corning Corporation.

In March, 1981, Ms. Sherry Nelson received breast implants manufactured by Dow Corning Corporation.

In May, 1985, Ms. Margaret Page received breast implants manufactured by Dow Corning Corporation.

In January, 1976, Ms. Arlene Hohensee received breast implants manufactured by Dow Corning Corporation.

In August, 1983, Ms. Laura Bertucci received breast implants manufactured by Dow Corning Corporation.

In April, 1989 and February, 1992, Ms. Patricia Parker received breast implants manufactured by Dow Corning Corporation.

In August, 1972, Ms. Juda Wilhite received breast implants manufactured by Dow Corning Corporation.

2. Ms. Charvet had those implants in her body until they were removed in November, 1998.

Ms. Dahl had those implants in her body until they were removed in June, 2004.

Ms. Doucet had those implants in her body until they were removed in October, 1989.

Ms. Edwards had those implants in her body until they were removed in March, 1995.

Ms. Frisard had those implants in her body until they were removed in April, 2000.

Ms. Guillot had those implants in her body until they were removed in June, 1996.

Ms. MacPherson had those implants in her body until they were removed in November, 1992.

Ms. Wheelis had those implants in her body until they were removed in March, 1993.

Ms. Graham had those implants in her body until they were removed in June, 1992.

Ms. Nelson had those implants in her body until they were removed in June, 1993.

Ms. Page had those implants in her body until they were removed in October, 1998.

Ms. Hohensee had those implants in her body until they were removed in April, 1979.

Ms. Bertucci had those implants in her body until they were removed in July, 1987.

Ms. Parker had the 1989 implants in her body until they were removed in February, 1992.

Ms. Wilhite had those implants in her body until they were removed in June, 1992.

3. Ms. Charvet, Ms. Dahl, Ms. Doucet, Ms. Edwards, Ms. Frisard, Ms. Guillot, Ms. MacPherson, Ms. Wheelis, Ms. Graham, Ms. Nelson, The Estate of Ms. Page, Ms. Hohensee and Ms. Bertucci contend that at least one of her Dow Corning implants was “ruptured” as that term is used in the Amended Joint Plan of Reorganization.

Ms. Parker contends that at least one of her Dow Corning implants was “explanted” as that term is used in the Amended Joint Plan of Reorganization.

Ms. Wilhite contends that her "disease claim" is ACTD, Level A as that term is used in the Amended Joint Plan of Reorganization.

4. Ms. Charvet submitted her rupture claim on October 11, 2004.

Ms. Dahl submitted her rupture claim on July 29, 2004.

Ms. Doucet submitted her rupture claim on November 18, 2003.

Ms. Edwards submitted her rupture claim on September 23, 2003.

Ms. Frisard submitted her rupture claim on July 13, 2004.

Ms. Guillot submitted her rupture claim on June 16, 2004.

Ms. MacPherson submitted her rupture claim on June 9, 2004

Ms. Wheelis submitted her rupture claim on December 13, 2004.

Ms. Graham submitted her rupture claim on June 23, 2004.

Ms. Nelson submitted her rupture claim on August 27, 2004.

The Estate of Ms. Page submitted her rupture claim on January 10, 2005.

Ms. Hohensee submitted her rupture claim on January 19, 2005.

Ms. Bertucci submitted her rupture claim on May 11, 2004.

Ms. Parker submitted her explant claim on November 18, 2003.

Ms. Wilhite submitted her disease claim on April 9, 2003.

5. On February 4, 2005, the SF-DCT mailed Ms. Charvet a Notification of Status (NOS) letter on her rupture claim.

On February 4, 2005 and July 15, 2005, the SF-DCT mailed Ms. Dahl Notification of Status (NOS) letters on her rupture claim.

On February 4, 2005, the SF-DCT mailed Ms. Doucet a Notification of Status (NOS) letter on her rupture claim.

On February 4, 2005, the SF-DCT mailed Ms. Edwards a Notification of Status (NOS) letter on her rupture claim.

On February 4, 2005, the SF-DCT mailed Ms. Frisard a Notification of Status (NOS) letter on her rupture claim.

On February 4, 2005, the SF-DCT mailed Ms. Guillot a Notification of Status (NOS) letter on her rupture claim.

On February 4, 2005, the SF-DCT mailed Ms. MacPherson a Notification of Status (NOS) letter on her rupture claim.

On February 4, 2005, the SF-DCT mailed Ms. Wheelis a Notification of Status (NOS) letter on her rupture claim.

On February 9, 2005, the SF-DCT mailed Ms. Graham a Notification of Status (NOS) letter on her rupture claim.

On February 9, 2005, the SF-DCT mailed Ms. Nelson a Notification of Status (NOS) letter on her rupture claim.

On February 16, 2005 and July 5, 2005, the SF-DCT mailed The Estate of Ms. Page a Notification of Status (NOS) letters on her rupture claim.

On February 21, 2005, the SF-DCT mailed Ms. Hohensee a Notification of Status (NOS) letter on her rupture claim.

On June 16, 2005, the SF-DCT mailed Ms. Bertucci a Notification of Status (NOS) letter on her rupture claim.

On February 21, 2005, the SF-DCT mailed Ms. Parker a Notification of Status (NOS) letter on her explant claim.

On September 20, 2004 and February 17, 2005, the SF-DCT mailed Ms. Wilhite Notification of Status (NOS) letters on her disease claim.

6. That NOS letter said that Ms. Charvet's claim was deficient and the cure deficiency deadline is August 3, 2005.

That NOS letter said that Ms. Dahl's claim was deficient and the cure deficiency deadline is August 3, 2005.

That NOS letter said that Ms. Doucet's claim was deficient and the cure deficiency deadline is August 3, 2005.

That NOS letter said that Ms. Edwards's claim was deficient and the cure deficiency deadline is August 3, 2005.

That NOS letter said that Ms. Frisard's claim was deficient and the cure deficiency deadline is August 3, 2005.

That NOS letter said that Ms. Guillot's claim was deficient and the cure deficiency deadline is August 3, 2005.

That NOS letter said that Ms. MacPherson's claim was deficient and the cure deficiency deadline is August 3, 2005.

That NOS letter said that Ms. Wheelis' claim was deficient and the cure deficiency deadline is August 3, 2005.

That NOS letter said that Ms. Graham's claim was deficient and the cure deficiency deadline is August 8, 2005.

That NOS letter said that Ms. Nelson's claim was deficient and the cure deficiency deadline is August 8, 2005.

That NOS letter said that The Estate of Ms. Page's claim was deficient and the cure deficiency deadline is August 15, 2005.

That NOS letter said that Ms. Hohensee's claim was deficient and the cure deficiency deadline is August 20, 2005.

That NOS letter said that Ms. Bertucci's claim was deficient and the cure deficiency deadline is December 13, 2005.

That NOS letter said that Ms. Parker's claim was deficient and the cure deficiency deadline is August 20, 2005.

That NOS letter said that Ms. Wilhite's claim was deficient and the cure deficiency deadline is September 20, 2005.

7. We have made many attempts to locate Ms. Charvet's operative report for the November, 1998 surgery from her doctor and the hospital. We were finally informed by her doctor's office that there is no operative report in the doctor's records or the hospital's records. Ms. Charvet's doctor is in the process of writing a letter to that effect.

On June 17, 2005 and on July 28, 2005, in an effort to cure the perceived deficiencies, a Request for Review of Additional Rupture Information and letters from the explanting surgeon documenting the implant had indeed ruptured before surgery and her factual basis for her opinion was submitted to the SF-DCT on behalf of Ms. Dahl.

Ms. Doucet's doctor has retired and we are trying to locate her records.

On July 14, 2005, in an effort to cure the perceived deficiencies, a Request for Review of Additional Rupture Information with the pathology report documenting the implant had indeed ruptured was submitted to the SF-DCT on behalf of Ms. Edwards.

On June 17, 2005, in an effort to cure the perceived deficiencies, a Request for Review of Additional Rupture Information with the operative report, pathology report, admission sheet, hospital records and clinic notes documenting a ruptured implant of the right breast was submitted to the SF-DCT on behalf of Ms. Frisard.

On July 14, 2005, in an effort to cure the perceived deficiencies, a Request for Review of Additional Rupture Information with the pathology report documenting 'the left implant was noted to be broken' was submitted to the SF-DCT on behalf of Ms. Guillot.

On August 1, 2005, in an effort to cure the perceived deficiencies, a Request for Review of Additional Rupture Information with a letter stating there is no pathology report was submitted to the SF-DCT on behalf of Ms. MacPherson.

On July 7, 2005, in an effort to cure the perceived deficiencies, a Request for Review of Additional Rupture Information with a letter stating no pathology report is available was submitted to the SF-DCT on behalf of Ms. Wheelis.

On June 30, 2005, in an effort to cure the perceived deficiencies, a Request for Review of Additional Rupture Information with a letter stating no pathology report is available was submitted to the SF-DCT on behalf of Ms. Graham.

On July 28, 2005, in an effort to cure the perceived deficiencies, a Request for Review of Additional Rupture Information with a letter stating no pathology report is available and a letter from the surgeon confirming the rupture was prior to explant procedure was submitted to the SF-DCT on behalf of Ms. Nelson.

On March 16, 2005, in an effort to cure the perceived deficiencies, a Request for Review of Additional Rupture Information with the operative report and post-operative report was submitted to the SF-DCT on behalf of The Estate of Margaret Page.

On January 29, 2005, in an effort to cure the perceived deficiencies, a Request for Review of Additional Rupture Information with a letter from her doctor reporting "implant disintegrated" stating no pathology report is available was submitted to the SF-DCT on behalf of Ms. Hohensee.

We are in the process of reviewing the file and requesting medical records, in an effort to cure the perceived deficiencies on behalf of Ms. Laura Bertucci.

In July, 2005, we sent letters to the doctor and Ms. Parker requesting documents to determine claimant received a Dow implant in 1989.

On February 4, 2005 and June 30, 2005, in an effort to cure the perceived deficiencies, Supplemental Disease Forms with supporting documentation was submitted to the SF-DCT on behalf of Ms. Wilhite.

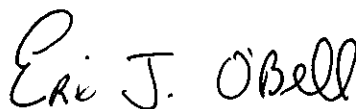
Ms. Charvet, Ms. Dahl, Ms. Doucet, Ms. Edwards, Ms. Frisard, Ms. Guillot, Ms. MacPherson, Ms. Wheelis, Ms. Graham, Ms. Nelson, The Estate of Ms. Page, Ms. Hohensee, Ms. Bertucci, Ms. Parker and Ms. Wilhite have followed the process set out in the Plan documents. Nevertheless, it appears that they will not receive a decision on their rupture claim, explant claim and/or disease claim prior to their cure deadlines. We understand that there may be a backlog of reviews due to the recent transition in the Claims Administrator position and the amount of claims to be processed.

WHEREFORE, Ms. Charvet, Ms. Dahl, Ms. Doucet, Ms. Edwards, Ms. Frisard, Ms. Guillot, Ms. MacPherson, Ms. Wheelis, Ms. Graham, Ms. Nelson, The Estate of Ms.

Page, Ms. Hohensee, Ms. Bertucci, Ms. Parker and Ms. Wilhite respectfully request that this Court direct that their rupture, explant and disease cure deadlines be tolled so that they are able to complete any appeals process and resolve any perceived deficiencies and/or in the alternative, claimants respectfully request an additional one hundred and twenty (120) days to cure the perceived deficiencies regarding the above referenced claimants.

This the 1st day of August, 2005.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that on August 1, 2005, I served a copy of the above and foregoing Motion and Memorandum for Expedited Consideration to each of the following individuals.

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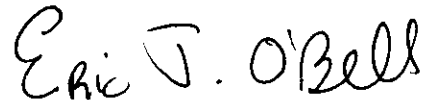
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