

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

In re:	§	VARIOUS CASES LISTED ON
	§	APPENDICES 1, 2, and 3
DOW CORNING CORPORATION,	§	Master File: CV-00005-DPH
	§	(Settlement Facility Matters)
REORGANIZED DEBTOR	§	Honorable Denise Page Hood

**AGREED ORDER ALLOWING CERTAIN LATE CLAIMANTS  
LIMITED RIGHTS TO PARTICIPATE IN THE PLAN'S SETTLEMENT FACILITY**

Now pending before the Court are numerous late claim requests. This Agreed Order allows certain late claimants, referred to as the "Eligible Late Claimants," limited rights to participate in the settlement options under the Amended Joint Plan of Reorganization (the "Plan") provided they satisfy the eligibility criteria in the Plan. **The Eligible Late Claimants are listed on Appendices 1-3 attached to this Agreed Order and are described in Paragraph 1 below. Individuals whose names are listed on Appendix 1, 2, or 3 are Eligible Late Claimants and may file claim forms to participate in the late claim settlement described in this Agreed Order.** The late claim requests of Eligible Late Claimants are referred to in this Agreed Order as the "Late Claim Requests."

Pursuant to the "Procedures for Determining Status of Late Claimants and Late Claim Requests" previously approved by the Court (the "Procedures"), the Claimants' Advisory Committee (the "CAC"), Dow Corning Corporation ("DCC"), and the Debtor's Representatives ("DRs") have reviewed and considered the Late Claim Requests and hereby stipulate and agree, and the Court finds and concludes, as follows:

A. Numerous persons who did not timely file a Proof of Claim ("POC") or a Notice of Intent ("NOI") in the DCC bankruptcy case have submitted written requests to the Court seeking authority to participate as timely claimants in the settlement options under the Plan, as

administered by the Settlement Facility-Dow Corning Trust (the "SF-DCT"). The Court continues to receive additional late claim requests on an ongoing basis. All late claimants bear the burden of proving that their failure to timely file a POC or an NOI was the result of excusable neglect.

B. DCC has filed objections to the Late Claim Requests, arguing that late claimants had sufficient notice of the claim-filing deadlines and that the late claimants cannot satisfy the excusable neglect standard. The CAC filed pleadings urging the Court to consider favorably the Late Claim Requests of certain Eligible Late Claimants.

C. The CAC and DCC agree that the costs, time and resources involved in the oversight and litigation of late claim requests are significant and that continued litigation will consume Settlement Fund assets and create uncertainty and potentially prejudice the rights of timely filed claimants. Accordingly, pursuant to the Procedures, the CAC and DCC have agreed to the allowance of Eligible Late Claimants on the terms and conditions set forth in this Agreed Order.

D. Because the CAC supports the allowance of Eligible Late Claimants under the terms of the settlement provided in this Agreed Order as fair, reasonable and appropriate, the CAC and its counsel will not assist or file pleadings supporting the allowance of any Eligible Late Claimant who rejects this settlement, and the CAC has requested that this Court withdraw and seal all pleadings the CAC filed regarding late claims, which request the Court GRANTS.

E. This Agreed Order does not constitute or imply any assertion or stipulation by the CAC or DCC, nor any finding, conclusion, or determination by the Court, that any late claimants, including the Eligible Late Claimants, have established excusable neglect. Further, this Agreed Order is limited to the consensual allowance of the Late Claim Requests and will

have no favorable effect or bearing on the late claim request of any other late claimant or group of late claimants.

WHEREFORE, based on the foregoing stipulations, findings, and conclusions, it is hereby ADJUDGED, ORDERED and DECREED as follows:

1. The terms and conditions set forth in this Agreed Order shall apply to all Eligible Late Claimants identified on Appendices 1-3 attached hereto. The term "Eligible Late Claimants" is defined as any person who (a) did not timely file a POC or an NOI in the DCC bankruptcy case; (b) submitted a late claim request that was dated on or before June 1, 2007 and received by the Court on or before June 5, 2007, seeking authority to participate in the Plan's settlement options; and (c) either (i) has a breast implant manufactured by DCC and whose claim is now being placed in Class 5, 6.1, or 6.2 (a "DCC Eligible Late Claimant"), *or* (ii) has a silicone gel breast implant manufactured by a company other than DCC as set forth in Section 6.04(b) of Annex A to the Settlement Facility and Fund Distribution Agreement ("Annex A") and whose claim is now being placed in Class 7 (Silicone Gel Claimants' Fund) and is deemed under the Plan to have marshaled all recoveries (a "Class 7 Eligible Late Claimant"), *or* (iii) has a Covered Other Product manufactured by Dow Corning as set forth in Section 6.03(a) of Annex A and whose claim is now being placed in Class 9, 10.1, or 10.2 (a "DCC Eligible Other Products Late Claimant").<sup>1</sup>

2. Settling Late Claimants, as defined in Paragraph 12 below, shall be deemed to have filed an Implant Proof of Claim Form and do not need to file anything further with the Court to accept the terms of this settlement. Settling Late Claimants may pursue the settlement

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<sup>1</sup> The initial classification of Eligible Late Claimants into the three categories, as reflected on Appendices 1-3, is based on the information provided by the Eligible Late Claimants. Upon review of claim submissions by Eligible Late Claimants, the SF-DCT shall determine the appropriate classification of the Eligible Late Claimants.

options available to them under this Agreed Order. However, **Settling Late Claimants must timely submit all applicable claim forms and supporting documents to the SF-DCT by the deadlines stated in this Agreed Order to apply for compensation and must satisfy all eligibility requirements provided in the Plan and the Plan Documents to qualify for payment.** All payments to Settling Late Claimants shall be made in U.S. Dollars.

**A. Settlement Option for DCC Eligible Late Claimants (Classes 5, 6.1, and 6.2).**

3. The DCC Eligible Late Claimants are listed on Appendix 1 attached hereto. To be eligible for payment, all DCC Eligible Late Claimants must meet the threshold eligibility criteria set forth in Section 5.01 of Annex A and must meet the criteria applicable to Settling Personal Injury Claimants (as defined in the Plan) as set forth in the Plan Documents. The criteria and requirements set forth in the Plan and Plan Documents apply to DCC Eligible Late Claimants except as modified by this Order. DCC Eligible Late Claimants shall not be eligible for Premium Payments.

4. Each DCC Eligible Late Claimant who accepts or is deemed to accept this settlement shall be permitted to elect one of three settlement options. After a DCC Eligible Late Claimant elects one of these settlement options, that election is final and cannot be changed. The DCC Eligible Late Claimant shall indicate the election on the claim forms provided by the SF-DCT. The three settlement options are as follows:

(a) **“Quick-Pay Option.”** Under the Quick-Pay Option, DCC Eligible Late Claimants may apply for and, if approved, shall receive a one-time payment as set forth below in exchange for a release of all claims for Explant, Rupture, Disease, and Expedited Release.

	Class 5	Class 6.1	Class 6.2
QUICK-PAY OPTION	\$1,750	\$1,050	\$612

**OR**

(b) **“Discounted Payment Option.”** Under the Discounted Payment Option, DCC Eligible Late Claimants may apply for and, if approved, shall receive a maximum payment of 40% of the Explant Payment, 40% of the Base Payment for Rupture, and/or 40% of the Expedited Release Payment as follows:

DISCOUNTED PAYMENT OPTION	Class 5	Class 6.1	Class 6.2
Explant	\$2,000	\$1,200	\$700
Rupture	\$8,000	\$4,800	\$2,800
Expedited Release	\$800	\$480	\$280

**OR**

(c) **“Full Payment Long-Term Option.”** Under the Full Payment Long-Term Option, DCC Eligible Late Claimants may apply for and, if approved, shall receive 100% of the Explant Payment, 100% of the Base Payment for Rupture, and/or 100% of either the Expedited Release Payment or the Disease Option 1 Payment, as applicable to that claimant’s Plan Class, but only if the total amount of all such payments (i) will not have any effect on the payment of Base Payments to timely filed claimants, including timely NOI claimants, and (ii) will not have a materially adverse effect on the payment of Premium Payments to timely filed claimants, including (if applicable) timely NOI claimants, as specified in more detail below. DCC Eligible Late Claimants are not eligible for Disease Option 2 benefits. **DCC Eligible Late Claimants**

**should carefully read Paragraph 7 below before selecting the Full Payment Long-Term Option because payment will not be made for several years.**

5. To qualify for the Quick-Pay Option, a DCC Eligible Late Claimant must submit a Proof of Manufacturer Form with acceptable proof of a Dow Corning breast implant as required by the Plan. Such Proof of Manufacturer Form and acceptable proof must be postmarked or received by the SF-DCT on or before one (1) year after the date the SF-DCT mails claim form packages to DCC Eligible Late Claimants. The SF-DCT shall promptly process the Quick-Pay Option claims in FIFO (first in, first out) order along with claims for Expedited Release filed by timely claimants and shall promptly pay all approved Quick-Pay Option claims. Eligible Late Claimants who elect the Quick-Pay Option shall not be eligible for any other claim for payment under the Plan.

6. To qualify for the Discounted Payment Option, DCC Eligible Late Claimants must submit (a) a Proof of Manufacturer Form with acceptable proof of a Dow Corning breast implant as required by the Plan, and (b) claim forms with supporting documents for an Expedited Release, Explant, and/or Rupture claim, as applicable. All claim forms and supporting documents must be postmarked or received by the SF-DCT on or before one (1) year after the date the SF-DCT mails claim form packages to DCC Eligible Late Claimants. To be eligible for a Rupture payment, a DCC Eligible Late Claimant must submit documents as specified in the Plan that demonstrate through acceptable proof that the DCC silicone gel breast implant that is allegedly ruptured was removed on or before June 1, 2006 or that the DCC Eligible Late Claimant satisfied the requirements for the Medically Contraindicated Rupture Option as of June 1, 2006. To be eligible for an Explant payment, a DCC Eligible Claimant must submit documents as specified in the Plan that demonstrate through acceptable proof that her DCC silicone gel breast implants were removed on or before one (1) year from the date the SF-DCT

mails claim form packages to DCC Eligible Late Claimants. The SF-DCT shall process claims submitted under this Discounted Payment Option after the SF-DCT substantially completes the review of timely NOI claims. The SF-DCT Claims Administrator (“Claims Administrator”) shall ensure that the processing of such DCC Eligible Late Claims will not impede the processing and payment of timely NOI claims. Eligible Late Claimants who elect the Discounted Payment Option shall not be eligible for any other claim for payment under the Plan.

7. To qualify for the Full Payment Long-Term Option, DCC Eligible Late Claimants must submit (a) a Proof of Manufacturer Form with acceptable proof of a Dow Corning breast implant as required by the Plan, and (b) claim forms and supporting documents for Explant, Rupture, and/or Disease Option 1 or Expedited Release, as applicable. All claim forms must be postmarked or received by the SF-DCT on or before one (1) year after the date the SF-DCT mails claim form packages to DCC Eligible Late Claimants. To be eligible for a Rupture payment, a DCC Eligible Late Claimant must submit documents as specified in the Plan that demonstrate through acceptable proof as specified in the Plan that the DCC silicone gel breast implant that is allegedly ruptured was removed on or before June 1, 2006 or that the DCC Eligible Late Claimant satisfied the requirements for the Medically Contraindicated Rupture Option as of June 1, 2006. To be eligible for an Explant payment, a DCC Eligible Late Claimant must submit documents as specified in the Plan that demonstrate through acceptable proof that her DCC silicone gel breast implant(s) was/were removed on or before one (1) year from the date the SF-DCT mails claim form packages to DCC Eligible Late Claimants. The SF-DCT shall process claims submitted under this Full Payment Long-Term Option only after the Claims Administrator determines that the SF-DCT has substantially completed processing the claims of timely NOI claims and timely Class 7 claims and that processing of such DCC Eligible Late Claimants will not impair or impede the processing of timely claims in general. DCC Eligible

Late Claimants who elect the Full Payment Long-Term Option shall be eligible to receive payment only if and after the Court determines that payment of such claims (a) will not have any effect on the payment of Base Payments to timely filed claimants, including timely NOI claimants, and (b) will not have a materially adverse effect on the payment of Premium Payments to timely filed claimants, including (if applicable) timely NOI claimants. The CAC and DCC may agree that the Court may make such determination on an expedited basis upon the joint submission of the CAC, DCC, and the Claims Administrator that includes the number of DCC Eligible Late Claimants who elect the Full Payment Long-Term Option, the number of such individuals who qualify for payment under such option, the aggregate cost of paying such qualified claims, the most recent analysis of the Independent Assessor estimating the funds required to pay pending and anticipated timely claims and NOI claims and showing that payment of the DCC Eligible Late Claimants who elect this option will not affect such payments. If the CAC and DCC do not so agree, then the Claims Administrator shall require the Independent Assessor to conduct a review and analysis of the DCC Eligible Late Claimants who elect this option in connection with the Independent Assessor's preparation of the regular quarterly report. Once the Claims Administrator makes a determination of the effect of payments to DCC Eligible Late Claimants under this option on the payment to timely filed claimants, then the Claims Administrator shall so notify the CAC and the DRs and shall further submit a motion to the Court stating his recommendation regarding payment under this option. The Claims Administrator shall also submit the Independent Assessor's findings to the Court. The DRs and the CAC will have the right to obtain, at their own expense, additional information concerning the analysis in the Independent Assessor's report and respond to the motion by the Claims Administrator. If, before filing such motion, the Claims Administrator determines that full payment to the DCC Eligible Late Claimants who elect this option will have an effect on Base or

Premium Payments to timely claimants, then, before filing the motion, the Claims Administrator shall confer with the CAC and the DRs to determine whether the parties can agree on a reduction in the payment to the late claimants. If the Court determines after notice and opportunity for hearing that the payments to DCC Eligible Late Claimants under this option (a) will not have any effect on the payment of Base Payments to timely filed claimants, including timely NOI claimants, and (b) will not have a materially adverse effect on the payment of Premium Payments to timely filed claimants, including (if applicable) timely NOI claimants, and such determination has become final (meaning that it has not been appealed or that all appeals have been concluded and affirm the determination of the Court), then the Claims Administrator shall be authorized to issue payments. If the Court determines that the payments to DCC Eligible Late Claimants who elected the Full Payment Long-Term Option either (a) will have an effect on the payment of Base Payments to timely filed claimants including timely NOI claimants, or (b) will have a materially adverse effect on the payment of Premium Payments to timely filed claimants, including (if applicable) timely NOI claimants, then the Claims Administrator shall determine, in consultation with the CAC and the DRs, whether and to what extent the payment to these DCC Eligible Late Claimants who elected the Full Payment Long-Term Option can be reduced to eliminate the adverse effect on timely filed claimants. The Claims Administrator shall file a motion with the Court seeking approval of the reduced payment to DCC Eligible Late Claimants who elect this option. The CAC and the DRs shall have the right to respond to such motion and seek information from the Claims Administrator regarding the basis for the proposed reduction.

**B. Settlement Option for Class 7 Eligible Late Claimants.**

8. The Class 7 Eligible Late Claimants are listed on Appendix 2 attached hereto. Class 7 claimants who filed timely claims and Class 7 Eligible Late Claimants are not eligible for Rupture, Explant, or Premium Payments.

9. Each Class 7 Eligible Late Claimant may elect between two payment options. After a Class 7 Eligible Late Claimant elects one of these payment options, that election is final and cannot be changed. The two payment options are as follows: the Class 7 Expedited Release Payment of \$600 (U.S.) or the Class 7 Disease Base Payment Option 1.<sup>2</sup> Class 7 Eligible Late Claimants who elect the Disease Base Payment Option 1 can receive payment for Disease only if there are sufficient funds remaining in the Silicone Gel Claimants' Fund after payment of the maximum amount allowed under the Plan to qualified claims of all timely filed Class 7 claims. To qualify for an Expedited Release Payment or a Disease Base Payment Option 1, a Class 7 Eligible Late Claimant must submit a Class 7 claim form with supporting documentation that meets the product identification and other applicable eligibility criteria for these settlement options under the Plan. The Class 7 claim form and all supporting documentation must be postmarked or received by the SF-DCT on or before six (6) months after the date the SF-DCT mails claim form packages to the Class 7 Eligible Late Claimants. The SF-DCT shall process the documentation submitted by Class 7 Eligible Late Claimants according to the SF-DCT's standard operating guidelines, including, without limitation, the processing of claims in the order in which the claim forms and supporting materials are received.

**C. Settlement Option for DCC Eligible Other Products Late Claimants – Classes 9, 10.1, and 10.2.**

10. DCC Eligible Other Products Late Claimants may elect to apply for either an Expedited Release Payment or a Medical Condition Payment as defined in Section 6.03(d) of Annex A. After a DCC Eligible Other Products Late Claimant elects one of these payment options, that election is final and cannot be changed. Approved claims shall be paid 40% of the Base Payment for that claimant's Class as set forth in the Plan. To qualify for an Expedited

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<sup>2</sup> The Plan does not provide any settlement benefits for Rupture or Explant claims for Class 7 claimants.

Release Payment or a Medical Condition Payment, a DCC Eligible Other Products Late Claimant must submit a claim form with supporting documentation that meets the product identification and other applicable eligibility criteria for these settlement options under the Plan. The claim forms and all supporting documents must be postmarked or received by the SF-DCT on or before six (6) months after the date the SF-DCT mails claim form packages to DCC Eligible Other Products Late Claimants. DCC Eligible Other Products Late Claimants shall not be eligible for Premium Payments or Enhanced Payments or for any distribution of any excess funds in the Covered Other Products Fund after payment of all eligible claims under the compensation schedule in the Plan.

**D. Procedure for Acceptance or Rejection of Settlement Option by Eligible Late Claimants.**

11. The CAC shall serve a copy of this Agreed Order on the Eligible Late Claimants and, if known, their counsel within ten (10) days after entry of this Agreed Order. Service of this Agreed Order shall be accompanied by (a) a written recommendation from the CAC advocating acceptance of the settlement set forth in this Agreed Order and outlining the consequences of non-acceptance, including the costs, burdens, risk and delay associated with litigating a late claim request and that because the CAC is supporting this settlement, the CAC will not assist or file any pleadings supporting any late claimant who rejects this settlement, and (b) a form that Eligible Late Claimants may use to notify the Court of their acceptance of this settlement offer.

12. Eligible Late Claimants who affirmatively accept the terms of this Agreed Order or fail to timely reject the terms of this Agreed Order by filing with the Court a written notice of rejection no later than thirty (30) days after the date this Agreed Order is sent to Eligible Late Claimants (see Paragraph 14 below) shall be deemed "Settling Late Claimants." Settling Late Claimants are bound by the terms of this Agreed Order, are limited to the rights specified in this

Agreed Order, and are barred from seeking any other distribution under the Plan and from further litigating their Late Claim Requests.

13. Eligible Late Claimants may affirmatively accept the terms of this Agreed Order by sending a written notice to the Court,<sup>3</sup> within thirty (30) days after the date this Agreed Order is sent to Eligible Late Claimants, that they accept the settlement terms of this Agreed Order. A form the Eligible Late Claimants may use for such written notice to the Court shall be enclosed with the service copy of this Agreed Order. However, an Eligible Late Claimant who wishes to accept the settlement option in this Agreed Order is not required to take any action to accept the settlement, and upon the expiration of thirty (30) days after the date that this Agreed Order is sent to Eligible Late Claimants, any Eligible Late Claimant who has not timely filed a notice rejecting this Agreed Order pursuant to Paragraph 14 below will be deemed to have accepted the terms of this Agreed Order and to have withdrawn his or her Late Claim Request with prejudice (that is, permanently). Acceptance (including deemed acceptance) of this Agreed Order is final and binding and may not be revoked and such case will be DISMISSED with prejudice.

14. An Eligible Late Claimant who wants to reject the settlement set forth in this Agreed Order and continue litigating his or her Late Claim Request must (a) send a written notice to the Court, which must be received by the Court on or before thirty (30) days after the date this Agreed Order is entered, stating that the Eligible Late Claimant rejects the Agreed Order and elects to litigate his or her late claim request, and (b) send a copy of that notice to both the CAC and DCC.<sup>4</sup> The notice served with this Agreed Order shall specify the date by which the rejection notice must be received by the Court. **If you are an Eligible Late Claimant and**

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<sup>3</sup> The address for the Court is: U.S. District Court, Dow Corning Litigation Unit, 231 W. Lafayette, Detroit, MI 48226.

<sup>4</sup> The address for the CAC is: P.O. Box 665, St. Marys, OH 45885. The address for DCC is: P.O. Box 7500, Midland, MI 48686-7500.

**you reject the settlement in this Agreed Order, your only option will be to continue litigating your Late Claim Request before the Court, without any assistance from the CAC, and you will be required to prove that you satisfy the stringent excusable neglect standard that applies to your Late Claim Request.** Any Eligible Late Claimant who does not timely reject the settlement option in this Agreed Order by complying with the above requirement shall be deemed a Settling Late Claimant.

15. The CAC and DCC agree, and the Court finds, that late claim requests dated after June 1, 2007 or received by the Court after June 5, 2007 are presumptively without merit and that the allowance of these late claim requests other than through an agreement by DCC and the CAC and an order of this Court would unfairly prejudice the interests of timely filed claimants, increase the administrative burdens and costs of the SF-DCT, undermine the SF-DCT's need for certainty in formulating accurate projections and administering the Settlement Fund, and threaten the important rule of finality inherent in the confirmation of the Plan under the Bankruptcy Code. Further, notice of the relevant claim-filing deadlines was provided in the DCC bankruptcy case (including notice of the distribution of claim packages in 2003 along with Claimant Information Guides) and over ten years have lapsed since the deadline for filing POCs (the "Bar Date"); over eight years have lapsed since the solicitation of votes on the Plan; over four years have lapsed since the SF-DCT mailed claim packages containing claim deadline information; and over three years have lapsed since the Effective Date of the Plan (June 1, 2004). Further, the Court takes judicial notice that DCC conducted an international notice campaign in 1996 to notify known and unknown claimants of the Bar Date. That notice campaign was approved by the bankruptcy court, which found that it satisfied all due process requirements. The Court also takes judicial notice that the Plan Documents, the Amended Joint Disclosure Statement, and other materials used to solicit acceptances of the Plan informed implant recipients that they could file an NOI on or

before ninety (90) days after the Effective Date of the Plan (the “NOI deadline”) and have all the rights specified in the POC filed on their behalf under Bankruptcy Rule 3005. In addition, notice of the NOI deadline was provided in the claim form packages that the SF-DCT mailed in 2003. Thus, for the foregoing reasons, DCC and the CAC agree, and the Court finds, that a showing of excusable neglect by late claimants whose late claim requests were dated after June 1, 2007 or filed after June 5, 2007 is highly unlikely except in rare, unique and extraordinary circumstances, absent which the Court will strictly enforce the deadlines for filing a POC or NOI in the DCC bankruptcy case. DCC and the CAC will oppose the allowance of all late claim requests that do not present such rare, unique and extraordinary circumstances.

16. Eligible Late Claimants who reject the settlement in this Agreed Order by timely filing a rejection notice pursuant to Paragraph 14 are required to litigate their Late Claim Requests individually and at their own expense and without the assistance or support of the CAC. The CAC supports this settlement and will not assist or file any pleading supporting any Eligible Late Claimant who timely rejects this settlement.

**E. Settling Late Claimants Must File Settlement Claim Forms with the SF-DCT; Related Deadlines.**

17. DCC and the CAC shall send the Claims Administrator a list of all Settling Late Claimants promptly after the deadline in Paragraph 14 for Eligible Late Claimants to reject this settlement. Within ten (10) business days after the Claims Administrator receives the list from DCC and the CAC, the SF-DCT shall send each Settling Late Claimant a claim form package applicable to his or her Plan Class along with a form that will allow a Settling Late Claimant in Class 5 or 6 to choose between the Quick-Pay Option, the Discounted Pay Option, and the Full Payment Long-Term Payment Option. Settling Late Claimants in Class 7 will also be sent a form to indicate their choice between an Expedited Release Payment or Disease claim. Settling

Late Claimants in Classes 9, 10.2, or 10.2 will be sent a form to indicate their choice between an Expedited Release Payment or a Medical Condition Payment. The Claims Administrator shall send notice, including the date of service, of such mailing to the CAC and DRs and shall provide monthly reports concerning these claims.

**F. Miscellaneous.**

18. As part of this settlement, the CAC has requested that all briefs and responses on late claim matters that it filed in the Master Docket Case Number CV-00005-DPH and in the individually docketed cases of the Eligible Late Claimants shall be withdrawn and sealed or removed from the public docket, and this Court GRANTS this request.<sup>5</sup> *The Motion (1) to Strike the Omnibus Reply of Claimants' Advisory Committee Regarding Disputed Late Claims (Group 1) and Response to Certificate of Non-Response Filed by Dow Corning with Regard to Certain Disputed Late Claims and (2) to Disqualify the Claimants' Advisory Committee from Representing Late Claimants* shall be deemed moot and shall be withdrawn by DCC.

19. The CAC and DCC are directed and authorized to prepare appropriate forms of notice and scripts to be used by the SF-DCT to inform late claimants of this Agreed Order, and the SF-DCT is authorized and directed to provide a copy of this Agreed Order to any person who inquires about filing a late claim request.

20. The CAC and DCC are directed to prepare appropriate scheduling orders for the litigation of Late Claim Requests by Eligible Late Claimants who reject this settlement. Litigation of such Late Claim Requests and other late claim requests that are not subject to this settlement shall commence after the conclusion of the one (1)-year deadline set forth in this Agreed Order for DCC Eligible Late Claimants to file claim forms and supporting

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<sup>5</sup> The parties shall identify the documents which they seek to be sealed by docket number in Master Case No. 00-00005 and in the individual case numbers.

documentation with the SF-DCT. In any such litigation, Eligible Late Claimants or other late claimants must prove that they meet the stringent standard of excusable neglect. Neither DCC nor the CAC will support the allowance of any such late claim request absent rare, unique and extraordinary circumstances.

Dated: 12/12/2007

/s/ Denise Page Hood  
Denise Page Hood  
United States District Judge

**AGREED:**

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