

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In Re:

DOW CORNING LITIGATION

Civil Action No. 00-CV-00001

MASTER DOCKET

HONORABLE DENISE PAGE HOOD

CASE MANAGEMENT ORDER NO. 6

This Case Management Order (“CMO”) No. 6 is entered pursuant to the Amended Joint Plan of Reorganization, as updated June 1, 2004 (the “Plan”), the Litigation Facility Agreement (“LFA”), and this Court’s continuing jurisdiction over claims asserted against the DCC Litigation Facility, Inc. (“Facility”), which is predicated, *inter alia*, on Article III of the United States Constitution, the Bankruptcy Code, Proofs of Claim that were previously filed, and various provisions of the Plan and LFA.

The Facility and Opt-Out Claimants, with the assistance of the Special Master, have been attempting to resolve Opt-Out Cases through Pre-Trial Settlement Procedures. However, some of the Opt-Out Cases may not be able to be resolved by Pre-Trial Settlement Procedures. Sections 7 and 12 of CMO No. 1 state that cases not resolved by Pre-Trial Settlement Procedures will be certified for trial. This CMO No. 6 supplements prior CMOs issued by the Court and establishes the procedures available to the Facility and Opt-Out Claimants to have Opt-Out Cases certified for trial. This Order may be supplemented to provide more specific procedures (consistent with the terms of this Order, prior CMOs, the Plan, and the LFA) as the contours of the litigation involving cases reaching the trial certification stage become better known and more fully developed.

The Court orders as follows:

1. Procedures for Certifying Cases for Trial

(a) If an Opt-Out Case is not resolved following reasonable efforts to complete Pre-Trial Settlement Procedures (direct negotiations and/or mediation or a settlement conference), either the Facility or the Opt-Out Claimant may file a motion asking the Court to certify the case for trial (“Motion for Certification”). The Motion for Certification will describe the status and results of Pre-Trial Settlement Procedures that have been undertaken in the case.

(b) The movant, in addition to filing the Motion for Certification with the Court, will also serve a copy on the Special Master, and the non-moving party will likewise serve a copy of any response on the Special Master. The Special Master will submit to the Court a recommendation stating whether he believes that certification for trial is warranted.

(c) Unless specifically ordered by the Court, Motions for Certification shall be decided by the Court without oral argument or hearing.

(d) If the Court grants the Motion for Certification, the Court will include in the order the following:

- (i) The deadline by which the Opt-Out Claimant must file a Complaint and Civil Cover Sheet;
- (ii) The deadline by which any motion(s) requesting transfer of the Opt-Out Case must be filed;
- (iii) A date certain for a Rule 16 Scheduling and Case Management Conference with the Court and all parties. At the Conference, case scheduling and discovery deadlines (consistent with ¶ 11 of CMO No. 1) will be set, including a deadline for Rule 26(a) initial disclosures as well as the need for, and timing of, a Rule 26(f) Conference between the parties.
- (iv) For foreign Opt-Out Claimants, a preliminary telephone status conference on a date to precede other pretrial deadlines.

ORDERED this 12th day of December 2007.

/s/ DENISE PAGE HOOD
DENISE PAGE HOOD
United States District Judge