

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In re:

**SETTLEMENT FACILITY DOW
CORNING TRUST**



**Case No. 00-CV-00005
(Settlement Facility Matters)**

Hon. Denise Page Hood

**JOINT STIPULATION AND AGREED ORDER FOR PROCEDURES FOR
ADDRESSING REQUESTS TO REISSUE PAYMENTS AND TO
ESTABLISH THE FINAL DISTRIBUTION DATE FOR SUCH CLAIMS**

Whereas, on May 15, 1995, Dow Corning Corporation filed a voluntary petition for relief under Chapter 11 of the U.S. Bankruptcy Code; and

Whereas, on June 1, 2004, the Amended Joint Plan of Reorganization of Dow Corning Corporation (“Plan”) became Effective;¹ and

Whereas, the Plan established the Settlement Facility–Dow Corning Trust (“Settlement Facility”) whose purpose is to process claims submitted for compensation under the Plan’s settlement program; and

Whereas, the Claims Administrator reports that there are approximately 958 uncashed checks that have expired and that approximately 516 of those checks were issued before June 3, 2019 and approximately 143 of those checks have already been

¹ Unless otherwise defined, capitalized terms used herein shall have the meaning provided in the Plan.

the subject of a prior reissuance, and currently there are approximately 299 expired checks that were issued after June 2019 and were not already a “reissued” check.

Whereas, the Court entered Closing Order 2 on March 19, 2019, addressing procedures for requesting new payment checks where the claimant failed to cash the check before it expired and further providing for the establishment in the future of the Final Distribution Deadline after which no further payments related to claims may be issued except by Court order; and

Whereas, Closing Order 2 provides specific criteria for reissuing settlement checks to claimants. Under paragraph 19 of Closing Order 2, a claimant may seek a reissued check under two circumstances: first, if the claimant passed away after the check was issued and the legally authorized representative of the claimant’s estate notifies the Settlement Facility and provides the appropriate documentation confirming the eligible heir or personal representative at least 30 days before the Final Distribution Deadline; and second, a check may be reissued if the claimant notifies the Settlement Facility at least 30 days before the Final Distribution Deadline and the Claims Administrator determines that “good cause” exists based on the claimant’s statement of the reason for requesting a replacement check. Closing Order 2, ECF No. 1482, PageID.24095. Under paragraph 20 of Closing Order 2, a claimant may seek a check if the claimant’s attorney of record was unable to locate the claimant and has returned all funds to the Settlement Facility. *Id.* at

PageID.24096. In that case, if the claimant notifies the Settlement Facility of her current address and requests a replacement check on or before 30 days before the Final Distribution Deadline, then the Settlement Facility may issue a replacement check net of attorney fees and expenses, if any, allowed by the Lien Judge; and

Whereas, the Settlement Facility has completed processing timely filed claims and is in the process of winding down its operations subject to certain remaining tasks; and

Whereas, claimants have been notified previously of the expiration dates of their claim payment checks and of the terms of Closing Order 2; and

Whereas, the Settlement Facility cannot terminate its operations until all claim payment checks are either cashed or expired and all bank accounts reconciled and closed; and

Whereas, the Debtor's Representatives, Dow Silicones Corporation and the Claimants' Advisory Committee (collectively, the "Parties") and the Finance Committee seek to close certain remaining claims of individuals whose payment checks have expired under the procedures set forth below; and

Whereas, closure of these claims will enable and facilitate the termination of the Settlement Facility;

Now therefore, the Parties and the Finance Committee agree and stipulate as follows:

1. Checks that expired before June 3, 2019 shall not be eligible for a request for reissuance. There is no basis to find “good cause” to reissue such payments. The claimants have had a minimum of four years and in some cases more than a decade to request reissuance. Given the passage of time, there is no basis for a claim of “good cause” that would justify a replacement check and, accordingly, claims for which checks were issued before June 3, 2019 but were not cashed shall be permanently closed.
2. Any claimant who has an expired uncashed check and who has previously requested a replacement (whether that request was denied or granted) shall not be eligible for another replacement check. There is no basis to find “good cause” to issue another replacement check for such claimants.
3. Any claimant who has an expired uncashed check that does not fall within the scope of paragraph 1 or 2 above, shall be permitted to seek a reissued payment under the bases authorized in Closing Order 2 until November 1, 2023.
4. December 1, 2023 shall be deemed the Final Distribution Deadline applicable to all expired uncashed checks. The Settlement Facility shall provide notice of the requirement to submit requests by November 1, 2023 – *i.e.*, the date that is 30 days before the Final Distribution Deadline – to claimants and attorneys by posting this Joint Stipulation and Agreed Order

on its website on the date that it is entered.

This Joint Stipulation and Agreed Order resolves the March 29, 2023 Motion to Establish Final Distribution Deadline for Replacement Checks for Settlement Claims in the Dow Corning Settlement Program, **(ECF 1701)**, including matters raised in the responses and reply to that Motion in ECF numbers 1705, 1707, and 1708.

SO STIPULATED AND AGREED:

Dated: October 3, 2023

/s/ Karima Maloney

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Approved and so Ordered:

DATED: October 4, 2023

S/Denise Page Hood
DENISE PAGE HOOD
United States District Judge