

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

In Re:

DOW CORNING CORPORATION,

Debtor.

HON. DENISE PAGE HOOD

Case Nos.	
	99-CV-75799-DT
	99-CV-75922-DT
	99-CV-75923-DT
	99-CV-75924-DT
	99-CV-75925-DT
	99-CV-75927-DT
	99-CV-75929-DT
	99-CV-75930-DT
	99-CV-75958-DT
	99-CV-75959-DT
	99-CV-75960-DT
	99-CV-76007-DT
	99-CV-76008-DT
	99-CV-76009-DT
	99-CV-76010-DT
	99-CV-76063-DT
	99-CV-76214-DT
	99-CV-76215-DT
	00-CV-70029-DT
	00-CV-70076-DT
	00-CV-70176-DT
	00-CV-70177-DT
	00-CV-70178-DT
	00-CV-70179-DT

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**SCHEDULING ORDER RE**  
**ABOVE-CAPTIONED APPEALS AND VARIOUS MOTIONS**

**Introduction**

A hearing was held on the Joint Motion by the Debtor Dow Corning Corporation and the Official Committee of Tort Claimants to Consolidate Pending Appeals, Set Briefing Schedule and

Convene Status Conference and various parties' motions to extend time to file appellate briefs. Written responses were filed and various parties presented their positions on procedures relating to setting briefing schedules and hearings on the issues presented on appeal.

Appeals have been filed from the Bankruptcy Court's November 30, 1999 Confirmation Order and the Bankruptcy Court's December 21, 1999 Opinion on Best-Interests-Of-Creditors Test, Feasibility, and Whether Plan and the Proponents Comply with the Applicable Provision of Title 11. Various motions relating to the appeals have also been filed, including, a Motion to Vacate the December 21, 1999 Opinion, a Motion for Withdrawal of the Reference, and a Motion to Dismiss the appeals filed from the December 21, 1999 Opinion.

The Court is mindful of the importance to the Debtor, the Tort Claimants' Committee, numerous individual claimants, the various creditors, and the Shareholders of an expeditious, concise, and straightforward resolution of the issues currently before the Court. To expeditiously resolve the matters before the Court and in the interest of judicial economy, the Court will hear the matters at the same time. For purposes of having a uniform briefing schedule and hearing oral arguments on the matters at the same time only, the Proponents' Motion to Consolidate the Pending Appeals, Set Briefing Schedule and Convene Status Conference, and, otherwise, DENIED without prejudice. Various parties' motions to extend the appeal briefing schedule are GRANTED.

A review of this Court's docket and the Bankruptcy Court's docket, indicates that given the latest notices of appeals (filed on January 10, 2000), the designation and cross-designation of records should be completed by January 31, 2000, with transmittal dates to the District Court and entry on the District Court docket estimated to occur between February 1 and February 4, 2000. Based on these dates, the Court issues the following briefing schedule:

## **Appeal Briefs**

The Appellants of the November 30, 1999 Confirmation Order must file and serve an appellant's brief by **Friday, February 18, 2000**.

The Appellees of the November 30, 1999 Confirmation Order and the Appellants of the December 21, 1999 Opinion must file and serve an appellee's and/or appellant's brief by **Monday, March 13, 2000**.

The Appellees of the December 21, 1999 Opinion must file and serve an appellee's brief by **Tuesday, March 28, 2000**. The Appellants of the November 30, 1999 Confirmation Order must also file and serve a reply brief by **Tuesday, March 28, 2000**.

The Appellants of the December 21, 1999 Opinion must file and serve a reply brief by **Tuesday, April 4, 2000**.

## **Form of Briefs**

If any party is both an appellant and appellee on appeal, that party may file a consolidated appellant and appellee brief in response and/or in reply, so long as the parties expressly so note on their briefs.<sup>1</sup> The parties may consolidate and/or incorporate arguments from other briefs, so long as the parties expressly so note on their briefs.

## **Prior Appeals**

The Court is aware that prior to the entry of the Confirmation Order, several appeals were filed. The parties to those appeals should determine whether they will pursue those appeals, and, if so, should abide by the briefing schedule set forth in this Order. Any appeals and motions filed in those appeals will be considered along with the matters subject to this Order if timely filed. The

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<sup>1</sup> For example: the Appellants of the December 21, 1999 opinion who are Appellees on the November 30, 1999 order appeal may file a consolidated Appellant/Appellee brief and the Appellants of the November 30, 1999 order may file a consolidated response to the December 21, 1999 opinion appeal brief and reply to the November 30, 1999 order appeal brief; **or**, as Proponents requested at oral arguments, they may file four (4) consolidated briefs in response to the November 30, 1999 order appellants' briefs, which may also be labeled Proponents' appellant brief.

appeals filed prior to the November 30, 1999 Confirmation Order are case numbers: **99-CV-73574-DT, 99-CV-73657-DT, 99-CV-73658-DT, 99-CV-73659-DT, 99-CV-73941-DT, 99-CV-74218-DT, and 99-CV-75380-DT.**

**Notice re Dismissals for Failure to Prosecute an Appeal**

If any Appellant does not file an Appellant's brief according to this schedule, or does not otherwise follow any of the procedural rules on appeal according to the Bankruptcy Rules, their appeal is subject to dismissal pursuant to Bankruptcy Rule 8001(a) and E.D. Mich. LR 41.2 for failure to prosecute an appeal.

**Motion Briefs**

Any response to any motion filed to date must be filed and served by **Friday, January 28, 2000.**

Any reply to any response must be filed and served by **Tuesday, February 8, 2000.**

Any motion to dismiss any pending appeal, which has not been filed to date, must be filed by **Friday, February 11, 2000.** The briefing schedule set forth in E.D. Mich. LR 7.1 will govern those motions.

**Case Management Order**

In connection with the implementation of the Plan entered by the Bankruptcy Court, the Proponents have submitted a proposed Case Management Order ("CMO") to be entered by this Court. The CMO will govern the procedures of the claims which will come before this Court. Any comments on the proposed CMO must be filed and served by **Tuesday, February 18, 2000.**

**Case Numbers and other Filing Requirements**

The parties must use the case number(s) assigned to their case or to the case they are responding to. Any documents must be delivered and filed with:

United States District Court  
Eastern District of Michigan  
Dow Litigation Unit, Room 128  
231 West Lafayette  
Detroit, MI 48226  
(313) 234-5090

**Hearing Dates**

A hearing on all of the appeals, motions and the proposed Case Management Order will **begin on Wednesday, April 12, 2000, 10:00 a.m.** The hearing will continue on April 13, 2000, if needed.

IT IS SO ORDERED.

DATED: \_\_\_\_\_

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/s/  
DENISE PAGE HOOD  
United States District Judge