No. 25-1160

IN THE

Supreme Court of the United States

KOREAN CLAIMANTS,

Petitioners,

v.

DOW SILICONES CORPORATION;
DEBTOR'S REPRESENTATIVES; FINANCE COMMITTEE,

Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit

RESPONDENT DOW SILICONES CORPORATION'S BRIEF IN OPPOSITION TO PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

The Dow Corning Amended Joint Plan of Reorganization ("Plan") established a settlement program for the resolution of certain personal injury claims asserted against the Respondent (the Reorganized Debtor.) The district court was charged with supervising the implementation of that settlement program and the personnel appointed to administer that program. After 20 years of operations, the settlement program was terminated by the district court based on the criteria set forth in the Plan. Petitioners objected to termination, alleging in part that their claims had not been fully or properly decided and therefore termination was not appropriate under the terms of the Plan. The district court and the Sixth Circuit rejected that argument and affirmed the termination. This Court denied certiorari. After the district court ordered termination of the program and before this Court denied certiorari, Petitioners filed a motion requesting an audit of the Claims Administrator. Petitioners claimed that the Claims Administrator was biased and, therefore, the decisions on their claims were potentially incorrect. The district court denied the motion and the Sixth Circuit affirmed. The district court also entered an order terminating the various administrative positions – including that of the Claims Administrator – as part of the termination process ("Order Terminating Positions"). Petitioners appealed and the Sixth Circuit affirmed the district court's Order Terminating Positions. Petitioners now seek review of these two decisions in this Court.

1. Whether the Sixth Circuit correctly applied settled law and the terms of the governing Plan in determining that Petitioners were not deprived of due process of law when a federal district court issued an

order denying a motion to audit the Claims Administrator responsible for managing a claims administration process under the settlement program because the Plan does not afford claimants an independent right to audit the Claims Administrator and such an audit would violate the Plan's terms regarding appeals of Claims Administrator's decisions and because the court had previously supervised an independent audit that concluded that the administration process accords with the requirements of the Plan.

2. Whether the Petitioners' claim that their due process rights were violated because the alleged 2600 individuals were not served directly with the Order Terminating Positions was properly rejected on the basis that the Order Terminating Positions simply implemented the prior Termination Order which was entered after a full hearing on the merits.

3. Whether the Petitioners' claim that their due process rights were violated because the individual Petitioners were not provided through any means with a copy of the Order Terminating Positions translated into Korean is waived because Petitioners did not raise this issue in the proceedings below and, moreover, due process rights were not violated because the Order Terminating Positions was filed on the ECF system which was readily available to counsel who had the ability and obligation to inform Petitioners and translate if necessary.

4. Whether the Petitioners' argument that the district court failed to discharge certain affirmative supervisory obligations by failing to independently verify the claims data pertinent to Petitioners' motions is waived because it was not raised in these terms in the proceedings below and whether the Sixth Circuit

properly rejected the Petitioners allegations that the Claims Administrator was biased and the declarations (on which the district court relied in part) – were false and the result of bias as unsupported by the record.

PARTIES TO THE PROCEEDING

Petitioners are a group of individuals who filed claims in the Trust established to administer a voluntary settlement process established under the Dow Corning Chapter 11 Plan of Reorganization. Petitioners were the appellants in the court below. Petitioners, self-designated as "Korean Claimants," are a group of Korean nationals represented by the same counsel. Petitioners do not include every Korean national who submitted a claim to the Trust. The Petitioners list Respondents as Dow Silicones Corporation, Debtor's Representatives, and Finance Committee. The Debtor's Representatives and the Finance Committee – which were positions and entities established in the Dow Corning Amended Joint Plan of Reorganization – no longer exist. Those positions were terminated and the entities dissolved by order of the district court on May 5, 2025, before this Petition for a Writ of Certiorari was filed. The Petitioners list the Claimants' Advisory Committee as a Respondent, but the Claimants' Advisory Committee was not a party to the proceedings below and is also an entity that has been dissolved. Accordingly, Dow Silicones Corporation (formerly Dow Corning Corporation) is the only Respondent.

CORPORATE DISCLOSURE STATEMENT

Pursuant to this Court's Rule 29.6, undersigned counsel states that Dow Silicones Corporation is owned by The Dow Chemical Company, a wholly-owned subsidiary of Dow Inc., which is a publicly traded company with no parent corporation. No publicly held corporation owns 10% or more of Dow Inc.'s stock.

ADDITIONAL RELATED PROCEEDINGS

In Re: Settlement Facility-Dow Corning Tr., Case Nos. 21-2665/22-1750/22-1753/22-1771 (6th Cir. Feb. 22, 2023).

In re: Settlement Facility Dow Corning Trust, No. 24-1653, 2025 WL 488635 (6th Cir. Feb. 13, 2025).

Claimants v. Dow Silicones Corp., 146 S. Ct. 321 (2025).

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INTRODUCTION

The Petition arises out of a dispute over the eligibility determinations regarding Petitioners' claims submitted to an administrative claims process established by the Dow Corning Amended Joint Plan of Reorganization (the "Plan") in the Dow Corning Chapter 11 case. The Plan became effective on June 1, 2004. Plan, District Court ECF 1796-1, PageID.42242.[1] The Plan provided Personal Injury Claimants[2] with the option to settle their claims through an administrative settlement program or to litigate. *Id*. §§ 5.4-5.4.2, PageID.42289-92. The Plan established the Settlement Facility-Dow Corning Trust (the "Settlement Facility" or "SF-DCT") with responsibility for resolving Personal Injury Claims asserted by individuals who had filed a Proof of Claim in the Chapter 11 case and who elected to participate in the settlement process to resolve their claims.[3] *Id*. §§ 1.131, 5.3, PageID.42288-89; Settlement Facility

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[1] Unless otherwise defined, capitalized terms used herein shall have the meaning provided in the Plan defined in Article 1 thereof. *See* Plan, PageID.42252-42281.

[2] Defined as a "Person who asserts a Breast Implant Claim, an Other Products Claim, a Silicone Material Claim, a Raw Material Breast Implant Claim, a Miscellaneous Raw Material Claim or an LTCI Claim as or on behalf of a Breast Implant User, an Other Products User, a Non-Dow Corning Breast Implant User, a Non-Dow Corning Implant User or an LTCI User, or as or on behalf of a child, husband, wife or other individual related to or claiming some other personal relationship with a Breast Implant User, an Other Products User, a Non-Dow Corning Breast Implant User or an LTCI User." Plan § 1.125, PageID.42274.

[3] The Settlement Facility was organized as a trust pursuant to the Depository Trust Agreement. *See* Second Amended and Restated Depository Trust Agreement § 2.03, District Court ECF 1796-6, PageID.42585.

and Fund Distribution Agreement ("SFA") § 2.05, District Court ECF 1796-3, PageID.42419. The Plan Documents prescribed specific and detailed criteria and procedures for determining eligibility for payment in the settlement process. SFA, Article V, PageID.42432-36; Dow Corning Settlement Program and Claims Resolution Procedures, Annex A to SFA ("Annex A"), Article V-VII, District Court ECF 1796-5, PageID.42476-42523. The prescribed criteria required claimants to submit proof of use of Dow Corning products, proof of injury meeting the definitions in the Plan, and further required claimants to follow procedures and deadlines prescribed by the Plan, the Claims Administrator and the court.

The district court retained supervisory jurisdiction over the Plan and its implementation. Plan § 8.7, PageID.42324-25; SFA § 10.08, PageID.42450. The district court appointed the Claims Administrator whose role was to manage the administrative settlement process – subject to the supervision of the district court. Plan § 1.29, PageID.42258; *see also* SFA §§ 4.02, 5.01, 5.04, PageID.42421-22, 42432, 42434-35. The Plan provided an administrative appeal process for dissatisfied claimants. Annex A, Article VIII, PageID.42523-24. The Plan barred those who elected the settlement option from disputing the result of the administrative claim process beyond that administrative appeal process. *Id*.

The settlement process operated for 20 years. The final deadline for filing claims was June 3, 2019. The Plan provided for terminating the Trust and the settlement operations once certain defined conditions were met – specifically, as relevant here, that all timely submitted claims were paid or otherwise finally resolved. Funding Payment Agreement ("FPA")

§ 2.01(c), District Court ECF 1796-2, PageID.42360. On December 30, 2024, the district court issued an order finding that the conditions for termination had been met, directing that the funding obligations were to cease and requiring the Settlement Facility to conclude its processes. Order Granting Motion to Terminate Funding Pursuant to Section 2.01(c) of the Funding Payment Agreement and to Terminate the Settlement Facility Pursuant to Section 10.03 of the Settlement Facility and Fund Distribution Agreement ("Termination Order"), District Court ECF 1827, PageID.43072-95. The United States Court of Appeals for the Sixth Circuit ("Sixth Circuit") affirmed the district court's determination and this Court denied certiorari. *In re Settlement Facility Dow Corning Tr.*, No. 25-1004, 2025 WL 1081772 (6th Cir. Apr. 10, 2025), *cert. denied sub nom. Claimants v. Dow Silicones Corp.*, 146 S. Ct. 321 (2025).

The Petitioners are individuals who submitted claims to the Settlement Facility seeking payment under the terms of the Plan. This Petition arises from challenges raised by Petitioners after the district court entered an order terminating the Plan processes and ordering the Settlement Facility to conclude its operations. Notice and Order Terminating and Dissolving Positions Assigned ("Order Terminating Positions"), District Court ECF 1864, PageID.43567. Petitioners opposed the termination on the ground that their claims were still pending because they disagreed with the Claims Administrator's determinations on their claims even though they had already exhausted all the remedies for appeal available under the Plan. Petitioners filed a motion to audit the Claims Administrator alleging that the Claims Administrator was biased and that the decisions on their claims were therefore incorrect. Motion for Order to Audit the Neutrality and

Independence of the Claims Administrator ("Motion to Audit"), District Court ECF 1852, PageID.43402-06. The district court denied that motion, Petitioners appealed, and the Sixth Circuit affirmed the district court's decision. Petitioners then appealed the Order Terminating Positions and the Sixth Circuit affirmed the Order. (Petitioners did not obtain a stay of the Order Terminating Positions) The Petition seeks review of these two Sixth Circuit decisions.

The Petition does not raise any compelling issue of federal law. It does not involve a split among the Circuits or between decisions of State courts and it does not involve an unsettled interpretation of a federal statute or the United States Constitution. This is an issue of contract interpretation, the application of district court orders unique to the Plan, and the evaluation of individual claims submitted through the administrative claim review process established in that Plan. There is no issue that warrants review by this Court.

The Petition should be denied.

STATEMENT OF THE CASE

A. Factual Background

Dow Corning filed its petition for reorganization under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Eastern District of Michigan on May 15, 1995. SFA, Recitals, PageID42417. The Plan was confirmed in 1999 and became Effective on June 1, 2004. *See In re Settlement Facility Dow Corning Trust*, 628 F.3d 769, 771 (6th Cir. 2010). The Petitioners are Settling Personal Injury

Claimants.[4] The Settlement Facility was established to process claims and distribute payments to Settling Personal Injury Claimants who submitted timely claims and met the eligibility criteria and requirements for payment. Plan § 1.154, PageID.42279. The final deadline for the submission of claims in the settlement process was June 3, 2019, 15 years after the Effective Date.

The claims of Settling Personal Injury Claimants – including those of the Petitioners – were reviewed, evaluated, and, if eligible, paid by the Settlement Facility. The Plan Documents prescribed rules defining eligibility and the procedures for evaluating claims. SFA, Article V, PageID.42432-36; Annex A, Article V-VII, PageID.42476-42523.

To qualify for a compensation category, a Settling Personal Injury Claimant was required to submit a timely signed claim form, supporting proof, acceptable proof of the use of an eligible product, documentation establishing the elements of the benefit option, and provide and update their address and contact information. *Id.*; *See also* Declaration of Ellen Bearicks Regarding the Motion for Vacating Decision of Settlement Facility Regarding Address Update/ Verification ("Bearicks Declaration"), District Court ECF 1595-6, PageID.28165-93 (discussing that the Settlement Facility guidelines (set forth in Claimant Information Guides and made available to all claimants and attorneys) made it clear that claimants

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[4] Settling Personal Injury Claimants are those Personal Injury Claimants who elect to settle their Claims under the terms of the Settlement Facility Agreement, together with those Personal Injury Claimants who do not timely return an Election Form. Plan § 1.159, PageID.42280.

and attorneys were under an obligation to maintain current address information with the Settlement Facility.)

Annex A required the Settlement Facility to issue a notification of status letter advising claimants of the determination on their claims, including a detailed explanation of any deficiencies. Annex A § 7.06, PageID.42516-21. Claimants had the right to cure deficiencies within specified time periods. *Id*. at § 7.09(b)(ii), PageID.42522-23.

Claimants had the right to appeal an adverse decision to the Claims Administrator and, thereafter, to the Appeals Judge – who was a neutral individual appointed by the district court. *Id*. at § 8.05, PageID.42524. This administrative process was the exclusive means for the resolution of Settling Personal Injury Claims. *Id*. There was no right to appeal to the district court of any determination made by the Settlement Facility. *Id*. ("The decision of the Appeals Judge will be final and binding on the Claimant").

The Claims Administrator, appointed by the district court under the terms of the SFA, was responsible for overseeing the processing and payment of Settling Personal Injury Claims. Plan § 1.29, PageID.42258; SFA §§ 4.02, 5.01, PageID.42421-22, 42432, 42434-35. The district court appointed five different individuals to serve as the Claims Administrator during the operation of the Settlement Facility. The last such Claims Administrator – who is the subject of this Petition – was appointed in 2021. Order Approving Appointment of Nancy M. Blount as Special Master for Closing and Kimberly D. Smith-Mair as the Successor Claims Administrator for the Settlement Facility-Dow Corning Trust, District Court ECF 1590, PageID.27377-79. The Settlement Facility and the Claims Administrator were supervised by the district court. SFA §§ 4.01, 4.02(a), PageID.42421-22. The district court retained jurisdiction over the Plan and was expressly authorized to resolve disputes regarding interpretation and implementation of the Plan and to enter orders in aid of the Plan and Plan Documents. Plan §§ 8.7, 8.7.3, 8.7.5, PageID.42324-25; SFA §§ 4.01, 10.08, PageID.42421, 42450.

The Settlement Facility was required to ensure that the supporting documentation for claims was reliable, and funds were distributed only to eligible claimants. Plan § 1.29, PageID.42258. To ensure that the Settlement Fund assets were distributed appropriately, the Claims Administrator was required to institute procedures to deter and identify fraud or any abuse of the claims process. SFA at Article V, § 5.04(a), PageID.42432-36.

Independent audits of the claims processing operations confirmed that the Settlement Facility complied with the Plan. Declaration of John Wills, Court Appointed Independent Assessor in Support of the Motion to Terminate Funding Pursuant to Section 2.01(c) of the Funding Payment Agreement and to Terminate the Settlement Facility Pursuant to Section 10.03 of the Settlement Facility and Fund Distribution Agreement ("Wills Declaration"), District Court ECF 1796-8, PageID.42633. ("I found that the SF-DCT was in compliance with the terms of the Plan and had instituted and employed appropriate controls and oversight. I found that the claims records were orderly and complete and that the staff had received appropriate training and was subjected to appropriate supervision").

The Plan established the Claimants' Advisory Committee ("CAC")[5] and the Debtor's Representatives ("DRs")[6] with authority to take action to enforce the terms of the Plan. *See* SFA § 4.09, PageID.42430. The SFA provided for the appointment of the Finance Committee[7] — which was responsible for oversight of financial matters of the Settlement Fund and had specific responsibilities regarding the verification and Allowance of claim payments. *Id.* § 4.08.

In 2017, in preparation for the impending conclusion of the settlement process, the district court approved a notice which was sent to all claimants advising of the final deadline for submitting claims and various other information designed to help claimants finalize claims and submit the documentation necessary to receive payment. Stipulation and Order Approving Notice of Closing and Final Deadline for Claims, District Court ("Stipulation") ECF 1342, PageID.21544-51. The notice was issued and mailed to 143,000 individual claimants, including the Petitioners, and stated that translation was available upon request (including translation into Korean.) *Id.* at PageID.21548.

In preparation for the final deadline and in anticipation of termination of the Settlement Facility,

[5] The Plan defined the CAC to mean "those persons selected pursuant to the terms of the [SFA] to represent the interests of Personal Injury Claimants after the Effective Date." *See* Plan § 1.28, PageID.42257.

[6] The Debtor's Representatives were individuals selected by the Debtor to represent its interests in the implementation of the Plan. SFA § 4.09(a), PageID.42430.

[7] The Finance Committee was a three-person committee that served an oversight and managerial function. The Finance Committee was comprised of the Claims Administrator, the Appeals Judge, and the Special Master. Plan § 1.67, PageID.42264.

the district court issued five "Closing Orders" to facilitate completion of claims processing and enable orderly closure of the Settlement Facility. The Closing Orders, which were applicable to all claimants, provided notice to all Settling Personal Injury Claimants of the impending termination of the Plan and the final claim filing deadlines, streamlined the procedures for processing claims, defined deadlines for administrative appeals and for curing certain deficiencies, and provided additional guidance governing payment. The Closing Orders reiterated the requirement that claimants keep the Settlement Facility informed of their current addresses and contact information to ensure that claim payments were protected and sent only to validated locations. *See, e.g.*, Closing Order 2 (Regarding Additional Procedures For Incomplete And Late Claims; Protocols For Issuing Payments; Audits Of Attorney Distributions Of Payments; Protocols For Return Of Undistributed Claimant Payment Funds; Guidelines For Uncashed Checks And For Reissuance Of Checks; Restrictions On Attorney Withdrawals) ("Closing Order 2"), District Court ECF 1482, PageID.24088-91 ("Claimants and attorneys are required to keep their address and contact information current with the SF-DCT. This enables the SF-DCT to correspond with the claimant and attorney, if a claimant is represented, in a timely manner and to send claimant payments to a current address.") The Closing Orders prohibited the Settlement Facility from issuing payments to any claimant unless the claimant provided a current confirmed address. *Id*.

B. History of Proceedings Below

During the 20-year period of the settlement program's operation, the Petitioners filed numerous motions and appeals challenging adverse decisions of the

Settlement Facility regarding their claims. Specifically, as relevant here, the Petitioners contended in several motions and appeals that the address requirements set forth in the original claim guidelines and the district court's Closing Orders discriminated against them.

In one such appeal, the Sixth Circuit found:

> The address verification procedures applied equally to all claimants, and the Settlement Facility has distributed address verification letters to every claimant with an unconfirmed address. The Settlement Facility, we note, did exercise its discretion under Closing Order 2 to require the Korean Claimants to confirm their addresses directly, even though other claimants could confirm their addresses through the submissions of their counsel. But the Settlement Facility imposed that mandate only after (1) hundreds of letters to the Korean Claimants had been returned as undeliverable, and (2) their counsel repeatedly refused to cooperate with attempts to confirm his clients' address information. *The Settlement Facility, it bears noting, uniformly applied that same mandate to other claimants whenever "more than a negligible percentage of mail sent to addresses provided by counsel ha[d] been returned as undeliverable." R. 1595-6, PageID#28168. In the end, the Korean Claimants received the same treatment as any other similarly positioned claimant.*

In re: Settlement Facility Dow Corning Trust, No. 24-1653, 2025 WL 488635, at *3 (6th Cir. Feb. 13, 2025) *(*emphasis added*)*.

C. Termination of the Plan and Settlement Process – Proceedings Regarding the Motion and Orders at Issue in this Petition

On November 15, 2024, the Respondent (along with the Finance Committee, and the Debtor's Representatives) filed the Motion to Terminate Funding Pursuant to Section 2.01(c) of the Funding Payment Agreement and to Terminate the Settlement Facility Pursuant to Section 10.03 of the Settlement Facility and Fund Distribution Agreement ("Motion to Terminate"). District Court ECF 1796, PageID.42200-39. Petitioner's counsel opposed the Motion to Terminate in the form of a cross-motion and participated in the hearing on December 11, 2024. Cross-Motion to Deny Motion to Terminate Funding Pursuant to Section 2.01(c) of the Funding Payment Agreement and to Terminate the Settlement Facility Pursuant to Section 10.03 of the Settlement Facility and Fund Distribution Agreement and For Order to Make Payments in Default to Korean Claimants ("Cross-Motion"), District Court ECF 1802, PageID.42641-717. On December 30, 2024, the district court issued the Termination Order finding that "the conditions for the termination of funding required by the Plan and the Funding Payment Agreement have been met". Termination Order, PageID.43091. The district court concluded, based on an interpretation of the Plan and related documents, that "[t]he express language of the FPA does not support the Korean Claimants' position that because they have not been paid, the FPA cannot be terminated." *Id*. at PageID.43082. The district court found that the Petitioners' claims were "otherwise finally resolved" within the meaning of the FPA, and "that the FPA can be terminated even if certain Claims were not paid because they were denied by the Claims Administrator and thereby 'otherwise finally resolved.'" *Id*.

The Petitioners appealed the Termination Order to the Sixth Circuit arguing that (1) the phrases "Allowed Claims" and "otherwise finally resolved" were ambiguous, (2) because their claims were not paid, the conditions for termination were not met, and (3) the district court's Closing Orders requiring claimants to keep the Settlement Facility informed of their current addresses and contact information were discriminatory toward the Petitioners. On April 10, 2025, the Sixth Circuit affirmed the Termination Order, finding that each of the conditions for termination had been met. *In re Settlement Facility Dow Corning Trust*, 2025 WL 1081772 at *1. The Sixth Circuit rejected the Petitioners other arguments, including the claims of discrimination, stating they "merit little response" and "lack any record support" and that final decisions have been reached "for all the Korean Claimants, none of which can be further appealed." *Id*. at *3. On July 9, 2025, the Petitioners filed a Petition for a writ of certiorari in Docket 25-128. On October 14, 2025, this Court denied the Petition.

While the appeal of the Termination Order was pending, the Petitioners filed the Motion to Audit. Motion to Audit, PageID.43402-06. On April 1, 2025, the district court issued an Order Denying Motions to Stay Pending Appeal and Motion for an Audit, finding that no response was required because (1) the Plan does not provide for such an audit and (2) the Petitioners were not authorized to appeal the decisions of the Claims Administrator. District Court ECF 1853, PageID.43407-13. On January 13, 2026, the Sixth Circuit affirmed the district court's order holding that the Plan did not provide claimants with a right of appeal to the court and did not "afford claimants an independent right to audit the Claims Administrator… [and] such an implied right would necessarily permit claimants to collaterally attack adverse decisions from the Claims Administrator – something the bankruptcy plan expressly prohibits." *Korean Claimants v. Dow Silicones Corp.*, No. 25-1373, 2026 WL 522958, at *1 (6th Cir. Jan. 13, 2026). The Sixth Court again rejected the Petitioners' accusations of bias finding that they were "equally unsupported" as they have been in previous appeals. *Id*. at *2.

The Termination Order included a directive to wind down the Settlement Facility and terminate the Plan-created positions. The Settlement Facility completed its wind down activities by March 31, 2025, as requested by the district court. On June 4, 2025, the district court issued the Order Terminating Positions, which dissolved the positions of the Claims Administrator, the Finance Committee, and the Independent Assessor. District Court ECF 1864, PageID.43567-70. On June 4, 2025, Petitioners appealed the Order Terminating Positions. On January 13, 2026, the Sixth Circuit affirmed the Order Terminating Positions and rejected the Petitioners' arguments that their claims remain pending before the Settlement Facility stating that "this argument is barred by the law-of-the-case doctrine… [because the Sixth Circuit has previously] explained that all claims, including the Korean Claimants' claims, have been 'fully resolved.'" *Korean Claimants v. Dow Silicones Corp.*, No. 25-1616, 2026 WL 523137, at *1 (6th Cir. Jan. 13, 2026). The Sixth Circuit also rejected Petitioners' argument that their due process rights were violated because the Order Terminating Positions was not served on each individual claimant. *Id*. at *2. The Sixth Circuit concluded that because the Order Terminating Positions implemented the Termination Order "there was no need for any additional notice to the claimants, let alone individual notice." *Id*. The Sixth Circuit rejected Petitioners' argument that the district court was biased against them, finding that the Petitioners presented no evidence in support of this allegation "except the court's adverse rulings," which was not a valid basis for a bias. *Id*.

On March 13, 2026, the Petitioners filed the Petition seeking review of both Sixth Circuit orders.

REASONS FOR DENYING THE PETITION

The Petitioners set forth three questions for consideration by this Court. Two of the questions rely on factual assertions that are contradicted by the plain record as a basis for claiming statutory or constitutional violations. We address first the two questions set forth in the section entitled "Questions Presented" and then address the third question that appears in the text of the Petition.

Petitioners' statement of the first question in the "Questions Presented" section phrases the issue broadly as whether the district court discharges its supervisory duty when it extinguishes approved claims of 2600 foreign nationals based solely on declarations of an administrator whose neutrality is disputed and does not examine independently the process that resulted in denial of 100% of the claims of the identifiable national group.

In the text of the Petition, the Petitioners restate this question alleging a violation of due process and the equal treatment terms of 11 U.S.C. § 1123(a)(4) based on the assertion (which is unsupported in the record) that the requirement to confirm the validity of their addresses was applied solely to Petitioners and resulted in 100% denial of claims for an "identifiable national group". Pet. at ii, 8.

As explained below, the uncontroverted record, as explicated by the Sixth Circuit, shows that the address requirements were applied equally to all claimants who demonstrated a similar rate of undelivered mail. *In re: Settlement Facility Dow Corning Trust,* 2025 WL 488635, at *3 ("The Settlement Facility…uniformly applied that same mandate to other claimants whenever 'more than a negligible percentage of mail sent to addresses provided by counsel ha[d] been returned as undeliverable.'") The record further shows that the address requirement did not result in 100% denial of the claims of an "identifiable national group." Petitioners themselves admit that over half of the allegedly denied claims were in fact paid their base payments and, as the record shows, the claims included in Petitioners' assertion included hundreds of claims filed after the deadline and claims found deficient. The alleged due process violations are based on a misstatement of the clear factual record.

Petitioners' second question as stated in the Questions Presented section asks whether due process requires that notice of a proceeding that will permanently extinguish foreign nationals' approved claims must be achieved in a language and through channels reasonably accessible to the claimants rather than through the English language electronic filing system.

Although not stated precisely this question presumably relates to the Motion to Terminate and the ensuing Order Terminating Positions. There is no dispute that counsel was served with both via the ECF system and actively participated in the termination proceedings. As Petitioners admit, counsel had the ability to notify the clients. Petitioners cite no requirement in the Plan or in applicable rules that each individual claimant in an administrative settlement process must be served with documents (including orders) related to termination of all Plan operations under the procedures and terms provided by the Plan itself.

Petitioners' assertion that due process requires translation of motions and orders filed in the United States district court was not raised in the proceedings below and should be considered waived. Further, Petitioners cite no authority for any such requirement and admit, and actually propose, that counsel – who has an obligation to inform clients of developments in the case – could have provided such translated notice.

Petitioners' third contention (raised in the text of the Petition) is that their due process rights were violated based on the unsupported assertion that the determinations of the district court, and the Sixth Circuit, are incorrect because the courts relied solely on declarations of the Claims Administrator, which, in the view of Petitioners, were false and discriminatory. Petitioners contend that the courts had an obligation to independently verify the underlying facts set forth in the declarations of the Claims Administrator. Petitioners' characterization of the decisions issued by the courts is not supported by the record.

The Petitioners fail to identify any issue of compelling legal importance applicable to other cases or other courts or involving a circuit split that would warrant this Court's review. Their issues involve factual disagreements peculiar to the operation of this specific Plan and do not present any issue that is likely to recur again.

This Court should deny review.

I. The Court Should Deny Certiorari on Petitioners' First Question: Petitioners' Factual Premise is Contradicted by the Record.

Petitioners assert that the address verification requirements were applied only to Petitioners as a "national class of approved claimants" and resulted in a "categorical payment bar" and therefore violated their due process rights and further violated the Bankruptcy Code's equal treatment provision – 1123(a)(4). Pet. at 15, 16. 11 U.S.C. 1123(a)(4) states that a plan must "provide the same treatment for each claim or interest of a particular class, unless the holder of a particular claim or interest agrees to a less favorable treatment of such particular claim or interest…". *Id.* They claim that alleged discriminatory application of the address verification procedures to international claimants could impact future mass tort settlements. Pet. at 16-17.

The Petitioners' legal arguments rely on two factual premises: first, that the address requirement applied solely to the Petitioners and second, that the claims at issue had been approved for payment yet not paid solely because of the "address requirements." Neither of these factual premises is correct and both are contradicted by the uncontroverted record and factual findings made by the lower courts.

The address requirement was memorialized in three Closing Orders that applied to all claimants regardless of geographic location, classification, or claim type. The first relevant order provides:

> Claimants and attorneys are required to keep their address and contact information current with the SF-DCT. This enables the SF-DCT

> to correspond with the claimant and attorney, if a claimant is represented, in a timely manner and to send claimant payments to a current address… Therefore, the SF-DCT shall not issue payments to or for claimants or an authorized payee unless the SF-DCT has a confirmed, current address for such claimant or authorized payee… This requirement applies both to claimants who are unrepresented and claimants who are represented and whose payment check might be mailed to the claimant's attorney.

Closing Order 2, PageID.24088-89. Closing Orders 3 and 5 reiterated these requirements with respect to specific claims at issue in those orders. Closing Order 3 Notice That Certain Claims Will Be Permanently Barred And Denied Payment Unless A "Confirmed Current Address" Is Provided To The SF-DCT On Or Before June 30, 2021 This Order Applies Only To Certain Claims Submitted On Or By June 3, 2019 That Have Not Been Reviewed Because The Claimant's Address Is Not Current And The Claimant Cannot Be Located. If The SF-DCT Has Already Issued A Notice Of Status Letter Or Approved The Claim For Payment, This Order Does Not Apply ("Closing Order 3"), District Court ECF 1598, PageID.28284-28288; Closing Order 5. Notice that Certain Claims without a Confirmed Current Address shall be Closed and Establishing Protocols for Addressing Payments for Claimants in Bankruptcy ("Closing Order 5"), District Court ECF 1642, PageID.28800-28805. These Closing Orders provided a time period for claimants to cure the address deficiency and stated that the claims of any claimants who did not timely confirm their addresses would be permanently closed. *See, e.g.,* Closing Order 5 at PageID.28803-04.

The declaration testimony of two different Claims Administrators and the Settlement Facility quality control manager all confirm that the address requirements were applied uniformly to all claimants. *See* Declaration of Kimberly Smith-Mair in Support of the Response to the Korean Claimants' Motion for Order for the SF-DCT Lift Off the Address Update and Confirmation Requirement Regarding the Korean Claimants, District Court ECF 1764-12, PageID.40867-68 ("The Settlement Facility has distributed the same address verification letters to all claimants who do not have a confirmed current address received by the Settlement Facility. The process applies uniformly to all law firms and claimants, domestic and foreign."); Declaration of Ann M. Phillips Regarding the Motion for Premium Payments to Korean Claimants ("Phillips Premium Payments Declaration"), District Court ECF 1546-8, PageID.24816-38 ("[A]fter Closing Order 2 was entered, the SF-DCT sent a mailing to all claimants eligible at that time to receive a Premium Payment requesting confirmation of the claimant's current address… Where applicable, the attorneys of record for those claimants were also sent a separate mailing."); Bearicks Declaration, PageID.28165-93 ("Thousands of claimants and hundreds of attorneys of record have complied with SF-DCT's address update requests."). The requirement that the address confirmation be provided directly by claimants was applied in any situation where mail was returned undeliverable. *See* Bearicks Declaration, PageID.28168 ("the SF-DCT does not accept address information from counsel where previous address submissions from counsel have proved to be invalid and more than a negligible percentage of mail sent to addresses provided by counsel has been returned as undeliverable.");

See also Phillips Premium Payments Declaration (noting that a letter was sent to Petitioners' counsel that, due to the high rate of undeliverable mail to Petitioners, the claimants would be required to verify their addresses directly).

The Petitioners claim there is "unrebutted evidence in the record… that no other foreign group was subjected to comparable mandate." Pet. at 16. They do not – and cannot – cite anything in the record to support this allegation because such evidence does not exist. The Sixth Circuit rejected this argument in an appeal that is not the subject of this Petition. 2025 WL 488635, at *3 ("[t]he address verification procedures applied equally to all claimants… [and i]n the end, the Korean Claimants received the same treatment as any other similarly positioned claimant.").

The Petitioners allege that no court has directly addressed whether the "court supervised settlement administrator" may impose an address requirement and whether it was administered in compliance with due process and federal statutory equal treatment requirements. Pet. at 15. In fact, the address requirement was not imposed by the Claims Administrator: it was imbedded in the initial guidelines implementing the settlement process and in the district court orders.

Petitioners allege that the address requirement and the inadequate guidance from the Sixth Circuit creates a negative implication for any international claimants in future mass tort settlement litigations. Pet. at 26-28. Petitioners cite no evidence or law to support this allegation.

With respect to the second factual premise, the record shows that, in fact, the dollar amount Petitioners allege is owed, does not derive from approved claims. That fact undermines the entire premise of the argument – which is that the Petitioners have been deprived of payment for approved claims because of the discriminatory application of the "address requirement".

Petitioners allege that over 2,600 South Korean nationals "timely, properly documented claims to the SF-DCT" that received "formal approval" and that the address requirement was the only reason for the denial of these claims. Pet. at 6-8. This assertion is incorrect and misstates the facts.

Petitioners acknowledge that over half of the 2600 alleged claims were paid base payments. Pet. at 6. Petitioners do not identify the specific claims here but in their Cross-Motion to the Motion to Terminate submitted lists of 1884 claims they alleged were still pending and unpaid (although counsel's declaration stated that there were 2600 such claims.). Counsel's declaration asserted that 1,266 claims had not received a premium payment and 82 of the 1,266 claims had not received a base payment, 212 claims[8] allegedly submitted on the final deadline date had not received a base payment, and 405 claims had not been processed. Declaration of Yeon-Ho Kim Regarding Non-Payment of Korean Claimants, District Court ECF 1802-3, PageID.42671-717. The Settlement Facility records submitted in response documented the status of those claims: the 405 claims were filed after the claim filing deadline and were not eligible for consideration; 109 of the identified claims were found deficient for disease and were sent expedited release payments which were returned by Petitioner's counsel

[8] The declaration listed 213 claims but 1 claim was listed as having received base payment.

an additional 43 were never processed because they failed to comply with Closing Order 3, 8 received base and premium payments but 6 failed to cash the payments; 38 were denied as fraudulent, and the remaining claims were (1) deemed ineligible for payment under the Closing Orders, or (2) closed for a failure to provide information necessary for payment. *See* Declaration of Kimberly Smith-Mair in Support of the Reply and Response to the Korean Claimants' Cross-Motion ("Smith-Mair Reply Declaration"), District Court ECF 1807-1, PageID.42770-73); *See also In re: Settlement Facility Dow Corning Trust*, 2025 WL 488635 at *2 (affirming denial of the Motion… finding that the 109 Korean Claimants had 1 year to cure deficiencies yet failed to do so and returned expedited release payments uncashed). The record and Petitioners' own admissions demonstrate that Petitioners' assertion that there are 2600 approved claims that were denied payment based on address deficiencies is unsupportable and incorrect.

Further, Petitioners' computation of the amount allegedly owed is not, as they assert, an amount that reflects approved claims. Rather, this computation is based in large part on projected payments for claims that were untimely, deficient, or ineligible for processing. In fact, nearly half of the alleged $6 million owed is a projected value for the 405 claims that were filed late and therefore ineligible. Smith-Mair Reply Declaration. PageID.42773. The record demonstrates that Petitioners' assertions that they were denied due process and deprived of over $6 million in approved claim payments because of the address requirement misstates the facts.

Petitioners' contention that an entire identifiable group was denied payment omits another pertinent fact: Korean claimants, represented by Petitioners' counsel, have received substantial payments from the Settlement Facility. As of the end of 2016, well before the final payment distributions, Korean claimants had received a total of $7,363,400. *See* Declaration of Ann M. Phillips Regarding Korean Claimants' Motion for Recognition and Enforcement of Mediation, District Court ECF 1275-3, PageID.19485. The record also shows that Korean claimants were able to comply with the address requirement. *See* Phillips Premium Payments Declaration, PageID.24820 (confirming that as of the date of the declaration, 28 claimants represented by Petitioners' counsel had returned their address information and were issued payment).

Petitioners' assertion of a violation of section 1123(a)(4) of the Bankruptcy Code is unsupportable. That provision requires that claims in the *same* plan class must receive equal treatment. *See* 11 U.S.C. § 1123(a)(4). This argument fails for precisely the same reasons: The factual record demonstrates Petitioners received the same treatment as every other claimant – which means, a fortiori, that there can be no argument that other claimants in the same Plan class received different treatment. The Closing Orders outlining the address requirement did not differentiate among claimants in any way and, therefore, cannot be construed as mandating or allowing disparate treatment among members of the same Plan class in violation of 11 U.S.C. § 1123(a)(4).

The underlying premise of Petitioners' first question – that the federal court permanently extinguished formally approved claims of a single identifiable national group by disparate application of the address requirement – is untrue. This case arises because Petitioners disagree with the outcome of their claims.

It does not raise any issue that warrants this Court's review. Petitioners have set forth no compelling issue or argument that requires clarification by this Court or provides a basis to challenge the Sixth Circuit's affirmance of the district court orders. The dispute here is confined to the terms of this specific Plan and is not appropriate for this Court's review. *See* Sup. Ct. R. 10 ("A petition for a writ of certiorari is rarely granted when the asserted error consists of erroneous factual findings"). Their issues are limited to the terms of the Plan and the particular administrative process established thereunder to resolve claims.

II. The Second Question Asserting that Due Process Notice Requires Service on Each Individual Claimant (Rather than Counsel) and Translation of Documents is Unsupported and Does Not Warrant Review by This Court.

Petitioners assert the notice provided for termination of the Plan and Settlement Facility operations violated Petitioners' due process rights. The question is phrased as a challenge to an action permanently extinguishing "approved claims," and appears to relate to the Motion to Terminate and the proceedings related thereto including the Order Terminating Positions which is one of the subjects of this Petition. The Petitioners contend that notice of the termination proceedings does not satisfy constitutional due process requirements for two reasons: first, because all documents, including the Order Terminating Positions, were served via the ECF system which is not generally accessible by the actual claimants, and second, because the documents are in English and not in the language of the underlying Petitioners. Pet. at 22-23. Petitioners assert confusingly that the Settlement Facility should have taken "additional reasonable steps" to achieve notice. *Id*. at 21-22. But, the Motion to Terminate was filed by the Reorganized Debtor and the Finance Committee, not the Settlement Facility. The Settlement Facility was not a party to the motion and was not responsible for providing notice. And, the Order Terminating Positions was issued directly by the district court – not the Settlement Facility.

Petitioners did not assert this lack of notice argument in the proceedings related to the Motion to Terminate, and to the extent that this argument relates to that Motion and the termination proceedings, this argument is waived. Further, Petitioners did not assert a requirement for translation in any prior proceedings and, accordingly, any argument regarding the failure to translate the filed documents is also waived. *See, e.g. Sprietsma v. Mercury Marine*, 537 U.S. 51, 56 n.4 (2002) ("Because [the] argument was not raised below, it is waived"); *Terrence Byrd v. United States*, 584 U.S. 395, 404 (2018)(internal quotations omitted) (Petitioner "did not raise [a particular] argument before the District Court or Court of Appeals, and those courts did not have occasion to address [the issue]… Because [this Court] is a court of review, not of first view… it is generally unwise to consider arguments in the first instance"); *United States v. Jones*, 565 U.S. 400, 413 (2012) (this Court has "no occasion to consider [an] argument"… [because the Petitioner] did not raise it below, and the [Court of Appeals] therefore did not address it… [This Court] consider[s] the argument forfeited").

If the argument is not deemed waived, it fails to present a question worthy of this Court's review.

Petitioners acknowledge that notice of the Motion to Terminate and the Order Terminating Positions, was provided by the ECF system (which is the appropriate form of notice under the rules) but also by means other than the ECF system. Documents were routinely posted on the Settlement Facility website and provided directly to Petitioner's counsel. Pet. at 23. Oddly, the Petitioners argue that an appropriate form of notice would have been to provide the documents to Petitioners' counsel who could then have provided the information to the individuals. *Id*. But this of course is precisely what was done: the attorney was served via the ECF system and motions filed by the Respondent were emailed to counsel. It is incumbent on counsel to inform his or her clients of developments in the case. Counsel had all the information necessary to provide the notice that he asserts would have been reasonable. The Petitioners cannot argue that appropriate lawful notice to their attorney is inadequate.

Petitioners' argument of inadequate that they did not receive notice of the termination proceedings is unfathomable when they timely objected to the Motion to Terminate, participated in briefing in the district court and exhausted their appellate options. Similarly, Petitioners promptly objected to the Order Terminating Positions. That Order was issued on June 4, 2025 and the Petitioners filed a Motion to Stay this Order on June 11, 2025 and timely filed an appeal to the Sixth Circuit. These actions evidence adequate notice to the Petitioners.

In addition to the logical flaws in their arguments of inadequate notice of the termination proceedings, Petitioners were notified of the termination provisions of the Plan and the Settlement Facility at the time of

Plan confirmation. The process, timing, and conditions precedent for terminating the Settlement Facility were set forth in the Plan Documents. *See* SFA § 10.03, PageID.42448-42449; FPA § 2.01(c), PageID.42360. If Petitioners had an issue with the Plan terms governing termination of the Settlement Facility, the opportunity to object to those terms was at the time of Confirmation.

Moreover, the district court undertook to provide individual notice of the impending termination of the Settlement Facility well before the Motion to Terminate was filed. In 2017, the district court authorized a mailing to all 143,000 claimants advising of the final deadline for filing claims and procedures for finalizing claims. Stipulation and Order Approving Notice of Closing and Final Deadline for Claims, District Court ECF 1342, PageID.21544-51. The notices were mailed to the best available address for each claimant. *Id*. PageID.21550. This notice was translated into several languages including Korean on request. *Id*. PageID.21548. Every claimant who cared to follow the developments in the case was aware either directly or through counsel or through newsletters posted online of the timeline for termination of the Settlement Facility. *See, e.g.* Declaration of Dianna Pendleton-Dominguez Regarding the Motion for Extension of Deadline for Filing Claim, District Court ECF 1592-10, PageID.27731-32 (verifying that the CAC and Petitioners' counsel subscribed to, regular published, electronic newsletters with Settlement Facility updates since 2004 which included frequent notices of deadlines).

Petitioners cite *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950) in support of their argument that the use of the ECF system to file a motion does not provide adequate notice. *Mullane* is inapposite. *Mullane* provides that notice must be reasonably calculated to inform interested parties of an action potentially affecting their rights. Counsel received notice of the motion as required by the rules and had not only the right but the obligation to inform his clients of the process to formally terminate the Settlement Facility. Petitioners in fact participated in the proceedings actively. They fully availed themselves of the United States judicial system. There can be no credible argument that Petitioners did not receive notice.

The additional cases cited by Petitioners, *Jones v. Flowers*, 547 U.S. 220 (2006) and *Phillips Petroleum Co. v. Shutts*, 472 U.S. 797 (1985), are equally irrelevant. In *Flowers*, the court clearly states that "reasonable steps" must be taken to provide notice when notice is returned undelivered. 547 U.S. at 225. That is not the situation here. *Shutts* holds that a court has jurisdiction over absent class members even without minimum contacts if notice was adequate. Petitioners are not "absent class members". To the contrary, they are individuals represented by counsel who affirmatively availed themselves of the Plan's settlement procedures and have been active participants in the implementation of the Plan for 20 years. They have received notice in the form required by the Federal Rules and otherwise. They have received all the notice that is due.

Petitioners' second question alleging inadequate notice of the termination proceedings and, by extension, the Order Terminating Positions does not raise any issue that warrants this Court's review. Petitioners have set forth no compelling legal reason or argument to challenge the Sixth Circuit's decision or that requires clarification by this Court.

III. This Court Should Deny Certiorari on Petitioners Third Question: The Argument Regarding the District Court's Supervisory Role was Not Raised in the Lower Courts and is Waived and The Argument that the Claims Administrator is Biased is a Factual Dispute Not Warranting Review.

Petitioners assert that the district court failed to exercise proper supervision by crediting various declarations of the Claims Administrator in addressing challenges asserted by Petitioners to the resolution of their claims. Petitioners contend that the district court's acceptance of the Claims Administrator's declarations resulted in the extinguishment of an alleged 2600 approved claims by administrative action. Pet. at 18. Petitioners complain that the district court's denial of their Motion to Audit, which asserted that the Claims Administrator was biased and had submitted erroneous declarations, without briefing was error.

Petitioners admit that they do not challenge the independence of the Claims Administrator and they admit that the Plan does not provide for the relief they requested. Pet. at 19.

Again, this question arises because the Petitioners disagree with the Settlement Facility's claim determinations. Petitioners' assertions raise an inherently factual question – one that arises solely in the context of this specific Plan – and does not present a compelling legal issue requiring interpretation by this Court. Petitioners' position rests on the assertion that the declaration testimony of the Claims Administrator (which was corroborated by other neutrals) is not accurate or truthful. Petitioners assert that they demonstrated that the declarations of the Claims

Administrator were false. But, there is no such evidence in the record. The Petitioners assert that their Attorney of Record "identified specific, documented misrepresentations" in the Claims Administrator's declarations. Pet. at 18. Petitioners cite as evidence of these alleged misrepresentations an assertion that the Claims Administrator's declarations referenced 38 fraudulent claims – while Petitioners claim that they had removed those claims. Pet. at 9-10. Disagreement does not equal bias. This alleged discrepancy is hardly evidence of bias. The Petitioners base their allegations of bias on the fact that ten declarations of the Claims Administrator included statements that were contrary to the position of Petitioners. Pet. at 8-9. Disagreement does not equal bias. This assertion is akin to concluding that a court is biased if it ruled against the complaining party. It has no merit. Petitioners further assert that 100% denial of their claims supports their argument of bias. As previously addressed, the assertion that 100% of their claims were denied is incorrect.

The allegations of discrimination against the Claims Administrator have been raised in multiple motions and appeals, have been fully litigated, and were rejected based on the factual record by the district court and the Sixth Circuit. *See, e.g., Dow Silicones Corp.,* 2026 WL 522958, at *2 ("Their accusations of bias in this appeal are equally unsupported."); *In re Settlement Facility Dow Corning Trust*, 2025 WL 1081772, at *3 ("[The Korean Claimants] ... allege that the Claims Administrator has habitually lied, discriminated against the Korean Claimants, and concealed key documents. Those accusations lack any record support. And ... we have already rejected the crux of their reasoning elsewhere.") (citations omitted); *In re Settlement Facility Dow Corning Tr.*, 2025 WL 488635, at *3 ("Nor does the record support the Korean Claimants' allegations of discrimination."). The Sixth Circuit in the proceedings below also held that the Petitioners' arguments that the district court was biased against them was unsupported stating "they present no evidence to support this allegation except the court's adverse rulings, and 'judicial rulings alone almost never constitute a valid basis for a bias or partiality motion.'" *Dow Silicones Corp.*, 2026 WL 523137, at *2 (quoting *Liteky v. United States*, 510 U.S. 540, 555 (1994)).

As noted, an independent auditor confirmed the accuracy of the Settlement Facility's records, procedures and claim determinations. The Claro Group LLC, an independent expert, was engaged to audit the Settlement Facility operations over a period of years. The Claro Group found that the Settlement Facility was in compliance with the Plan guidelines and confirmed the independence of the Claims Administrator. Wills Declaration, PageID.42632. The Claro Group consistently found that claims were processed in compliance with the terms of the Plan and that the Claims Administrator had instituted and employed appropriate controls and oversight. *Id*. Petitioners attempt to undermine the finding that the Claims Administrator complied with the Plan by alleging, without any indicia of evidence, that the Claro Group "was equally compromised". This assertion of bias is apparently based on the fact that the principal auditor became acquainted with the Claims Administrator in connection with conducting the audit. Pet. at 11-12. Interaction with the subject of an audit cannot be equated with bias. There is, in short, no support for the claim of bias and no basis to conclude that the Settlement Facility records are inaccurate and, therefore, no support for the proposition that the district court failed to implement appropriate supervision.

Petitioners cite *Proctor v. Vishay Intertechnology Inc.*, 584 F.3d 1208 (9th Cir. 2009), to support their argument that "a supervising court retains the inherent authority… to intervene when there is evidence of an abuse of discretion or structural misconduct that undermines the settlement integrity." Pet. at 19-20. *Proctor* does not address these issues at all: the case does not involve district court supervision over a mass settlement and does not support the argument that the district court should have undertaken an independent examination of the claims records to assess the claims of Petitioners. Rather, *Proctor* involves, in part, certain legal issues pertinent to proper removal and remand under the Securities Litigation Uniform Standards Act of 1998 and addressed, among other issues, the procedures for joinder in a notice of removal. 584 F.3d at 1213. This case has no relevance and certainly does not, as Petitioners contend, create a circuit split on the issues pertinent here.

Petitioners cite *Amchem Products, Inc. v. Windsor,* 521 U.S. 591, 620 (1997) and *Devlin v. Scardelletti*, 536 U.S. 1, 10 (2002) in support of their argument that the district court failed to adequately supervise the operation of the Settlement Facility and the Claims Administrator. As an initial matter, the Petitioners' definition of the district court's supervisory obligations was not raised below and this argument is therefore waived. Substantively, the Petitioners appear to contend that the requirements for approval of a class settlement under Federal Rule of Civil Procedure 23 somehow apply to a district court's supervisory authority under a Plan of Reorganization. There is no basis for such an argument but in fact, as the record shows, there is no support for an argument that the district court failed to exercise supervision over the Settlement Facility. In fact, the district court remained actively involved in the implementation of the Plan and the settlement process for over 20 years.

Petitioners raise additional complaints about the actions of the district court and court of appeals – none of which warrant review by this Court as explained below.

Petitioners take issue with the fact that the Sixth Circuit "disposed of Petitioners' appeal in an unpublished, unreported order of three pages that addresses none of the constitutional dimensions of the case." Pet. at 26. The Sixth Circuit, just as any other court, is responsible for issuing opinions that address the arguments raised and providing support for its decisions. The length of the decision has no bearing on its force or merit. The Petitioners state that the Sixth Circuit's order does not "address[] whether the documented misrepresentations in the administrator's declarations warranted independent judicial examination, and without engaging the due process and equal treatment claims Petitioners raise." Pet. at 26. To the contrary, the Sixth Circuit's order does just that. The Sixth Circuit stated that the Petitioners' accusations of bias and discrimination against the Claims Administrator were unsupported. *Dow Silicones Corp.*, 2026 WL 522958, at *1-2. The fact that the Sixth Circuit did not agree with the Petitioners' arguments does not mean that its opinion was unsubstantiated.

Petitioners argue that the Sixth Circuit erred in applying the law of the case doctrine to dismiss their argument that the Order Terminating Positions was premature because Petitioners' claims remain pending before the Settlement Facility. Pet. at 18-19. They also argue that the Sixth Circuit erred in applying this doctrine because the "supervising court relied exclusively on the declarations of the administrator whose conduct was at issue." *Id*. at 27. These arguments raise no issue suggesting that review by this Court is warranted. As the Sixth Circuit noted in properly applying the law of the case doctrine, Petitioners have not provided any evidence that they meet an exception to the law of the case doctrine including that "there is (1) an intervening change of controlling law; (2) new evidence available; or (3) a need to correct a clear error or prevent manifest injustice.'" *Dow Silicones Corp.*, 2026 WL 523137, at *2 (quoting *Ent. Prods., Inc. v. Shelby County*, 721 F.3d 729, 742 (6th Cir. 2013) (quoting *Louisville/Jefferson Cnty. Metro Gov't v. Hotels.com, L.P.*, 590 F.3d 381, 389 (6th Cir. 2009)).

Petitioners' third question – alleging a lack of adequate supervision by the district court and discrimination in their treatment in the settlement process – does not raise any issue that warrants this Court's review. Petitioners have set forth no compelling legal reason or argument that requires clarification by this Court. Petitioners simply disagree with the outcome of the claims submitted to the settlement process and the application of the terms of the Plan and court orders. Their issues are specific to the terms of the Plan.

IV. This Case Does Not Present Any Issue Worthy of this Court's Review.

This Court "rarely grant[s] review where the thrust of the claim is that a lower court simply erred in applying a settled rule of law to the facts of a particular case." *Salazar-Limon v. City of Houston*, 137 S. Ct. 1277, 1278 (2017) (Alito, J., concurring in the denial of certiorari). *See* Sup. Ct. R. 10. The Petitioners' claims consist of disagreements about the application of settled rules of law and factual disputes. The case and fact specific interpretation and implementation of a particular Plan, which is the basis for the Petition, is not a matter that warrants this Court's review. *Id*.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be denied.

Respectfully submitted,

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