

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

_____)		CIVIL ACTION FILE NO. _____
_____,)		
Plaintiff,)		
)		
v.)		
)		
DCC LITIGATION FACILITY, INC.,)		
Defendant.)		
_____)		

COMPLAINT AND ADOPTION BY REFERENCE

1. Plaintiff, _____, a citizen and resident of _____, states her claims against the DCC Litigation Facility, Inc. ("Facility") as follows and incorporates by reference the relevant portions of the Master Complaint on file in the case styled *In Re: Dow Corning Litigation*, now pending in the United States District Court for the Eastern District of Michigan, Southern Division, before the Hon. Denise Page Hood, Civil Action File No. 00-CV-00001.

JURISDICTION ALLEGATIONS

2. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332. The amount in controversy for the plaintiff (or each plaintiff) exceeds \$75,000.00, exclusive of interest and costs. It is an action between citizens of different states. (Alternatively, this Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 in that it arises under the laws of the United States.) This Court also has subject matter jurisdiction over this action

pursuant to paragraph 1 of the Case Management Order NO. 1 entered in C.A. No. 00-CV-00001.

ALLEGATIONS AS TO INJURIES

3. The plaintiff has suffered injuries as a result of having been implanted with ~~breast~~ an implant(s) containing or consisting of silicone, silicone gel, and/or an elastomer made of silicone. The entities listed below in paragraph 7, or one or more of them, by their actions or inactions, proximately caused plaintiff's injuries.

4. The plaintiff has undergone the following implantation procedures:

<u>Date</u>	<u>State in which surgery performed</u>	<u>Manufacturer and Product and Lot Numbers (indicate if injection)</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

5. As a result of the injuries that plaintiff has sustained, plaintiff is entitled to recover compensatory and punitive damages, to the extent allowed by law, in an amount in excess of \$75,000.00, exclusive of interest and costs.

6. To the extent that this complaint includes a claim for loss of consortium, that plaintiff is entitled to recover compensatory and punitive damages, to the extent allowed by law, in an amount in excess of \$75,000, exclusive of interest and costs.

ALLEGATIONS AS TO THE ENTITIES

7. The allegations with regard to the following entities in the Master Complaint are herein adopted by reference: Corning Incorporated, Dow Corning Corporation, Dow Corning Wright Corporation, and The Dow Chemical Company (the "Entities").

8. The following claims asserted in the Master Complaint and the allegations with regard thereto in the Master Complaint are herein adopted by reference:

- _____ Count I: Strict Liability
- _____ Count II: Negligence
- _____ Count III: Failure to Warn
- _____ Count IV: Breach of Express and Implied Warranties
- _____ Count V: Breach of Warranty of Fitness for Particular Purpose
- _____ Count VI: Breach of Uniform Commercial Code or applicable law
- _____ Count VII: Breach of Uniform Commercial Code or applicable state law/Negligence Per Se
- _____ Count VIII: Food, Drug & Cosmetics Act/Negligence Per Se
- _____ Count IX: Misrepresentation/Fraud
- _____ Count X: Fraud by Concealment
- _____ Count XI: Violation of State Consumer Protection Statutes – Cite specific state consumer protection statutes violated:

- _____ Count XII: False Advertising
- _____ Count XIII: Violation of State Consumer Protection Statutes/Negligence Per Se – Cite specific state consumer protection statutes violated:

- _____ Count XIV: Res Ipsa Loquitur

- _____ Count XV: Common Plan to Prevent Public Awareness of ~~Breast~~ Implant Hazards and, More Generally, The Hazards of Silicone
- _____ Count XVI: Market Share Liability
- _____ Count XVII: Intentional Infliction of Emotional Distress
- _____ Count XVIII: Negligent Infliction of Emotional Distress
- _____ Count XIX: Fear of Future Product Failure
- _____ Count XX: Liability for Participation in Joint Ventures and/or Parent/Subsidiary Relationships
- _____ Count XXI: Negligent Supervision/Undertakings Concerning Joint Ventures and/or Parent/Subsidiary Relationships
- _____ Count XXII: Alter Ego Liability
- _____ Count XXIII: Application of Collateral Estoppel/Res Judicata
- _____ Count XXIV: Lanham Act Violations
- _____ Count XXV: Magnuson-Moss Act Violations
- _____ Count XXVI: Declaration That Compensatory Damages Limitations Violate Federal/State Constitutions

9. Plaintiff asserts the following additional theories of recovery against these defendants: _____

WHEREFORE, Plaintiff prays for recovery from the Defendant as follows:

- a) for general and compensatory damages in an amount in excess of \$75,000.00 exclusive of interest and costs;
- b) for attorney fees as allowed by law;

- c) for the costs of this litigation, interest; and
- d) for such other and further damages and relief as this Court may deem appropriate.

PLAINTIFF DEMANDS A TRIAL BY JURY

Plaintiff, _____,
By her attorneys

[please note that the Master Complaint and this Complaint has been prepared for the convenience of counsel. It is expected that each counsel will make an independent determination as to whether variations or additions are needed or appropriate in individual cases.]