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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

IN RE: CHINESE-MANUFACTURED)
DRYWALL PRODUCTS LIABILITY)
LITIGATION)
) MDL 2047 "L"
) NEW ORLEANS, LOUISIANA
) THURSDAY, JANUARY 22, 2015
) 9:00 A.M.

THIS DOCUMENT RELATES TO:)
)
ALL CASES)
)
)

TRANSCRIPT OF STATUS CONFERENCE PROCEEDINGS
HEARD BEFORE THE HONORABLE ELDON E. FALLON
UNITED STATES DISTRICT JUDGE

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PRODUCED BY COMPUTER AIDED TRANSCRIPTION.

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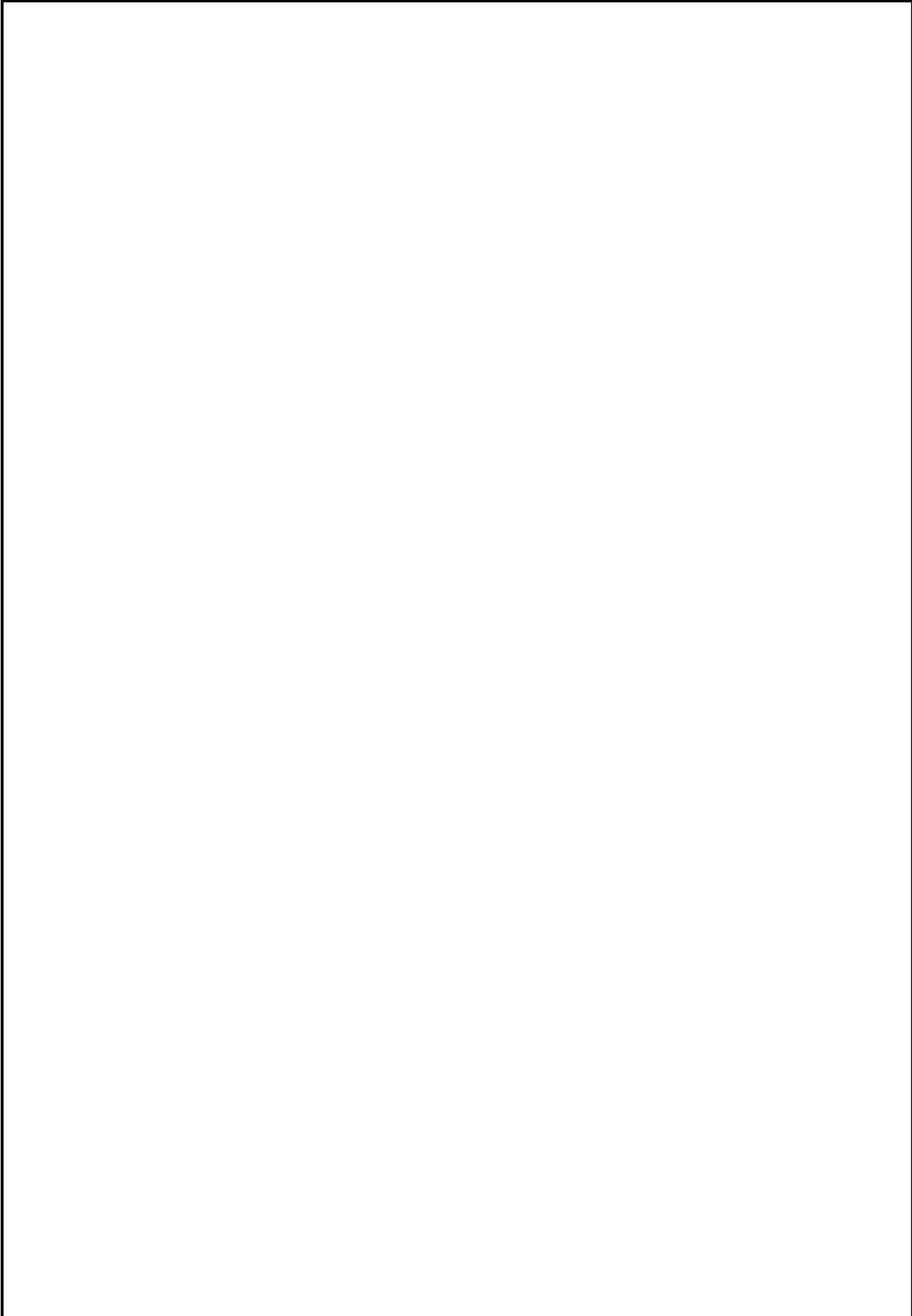
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1 NEW ORLEANS, LOUISIANA; THURSDAY, JANUARY 22, 2015 08:55AM

2 9:00 A.M. 08:55AM

3 THE COURT: Be seated, please. Good morning, call the 08:59AM
4 case. 09:00AM

5 CASE MANAGER: In re: 2047 in re: Chinese 09:00AM
6 Manufactured Drywall Products Liability litigation. 09:00AM

7 THE COURT: This is our monthly status conference in 09:00AM
8 this matter. I'm hear from liaison counsel. 09:01AM

9 MR. LEVIN: Good morning, Your Honor. Arnold Levin, 09:01AM
10 substituting for Russ Herman, who is the plaintiff's liaison. 09:01AM

11 MR. MILLER: Good morning, Your Honor. Kerry Miller on 09:01AM
12 behalf of Knauf and the defense steering committee. 09:01AM

13 THE COURT: I met with lead and liaison counsel moment 09:01AM
14 ago to discuss the agenda. 09:01AM

15 We don't have any motions necessarily on the 09:01AM
16 agenda but I'll take it on the order. 09:01AM

17 Do we have anything on Pretrial Orders? 09:01AM

18 MR. LEVIN: No, sir. But BrownGreer will issue a 09:01AM
19 report to the Court today that speaks to the money that's 09:01AM
20 flowing to the clients. 09:01AM

21 THE COURT: Anything on State Court Trial Settings? 09:01AM

22 MS. BARRIOS: Your Honor, the three cases that are 09:01AM
23 listed in the joint report on page five are pending now in 09:01AM
24 Virginia, and we have hopes that they'll be able to be resolved 09:01AM
25 by Mr. Serpe. 09:01AM

1 But I'd like to just jump head and talk about the 09:01AM
2 Virginia class action settlements. Garretson Group did not come 09:02AM
3 today. They asked me to make a very simple report. 09:02AM

4 The other loss fund deadline is over. They are 09:02AM
5 now reviewing all the claim forms. They are in the process of 09:02AM
6 preparing the deficiency notices, which should go out by the end 09:02AM
7 of the month. They've been in very close contact with Jake 09:02AM
8 Woody at BrownGreer, particularly with regard to your last order 09:02AM
9 on the other loss funds and the payouts. And they're talking 09:02AM
10 about all issues with regard to it, particularly the 09:02AM
11 Medicare-Medicaid injury with regard to the bodily injury 09:02AM
12 payments. 09:02AM

13 Thank you. 09:02AM

14 MR. LEVIN: That's a segue for one thing on the 09:02AM
15 Virginia settlements. Not necessarily the Virginia settlement, 09:02AM
16 but Mr. Serpe is explaining to the Taishan plaintiffs on a 09:02AM
17 one-to-one basis, answering calls and effectively steering them 09:02AM
18 to make decisions with regard to the class certification order 09:02AM
19 of this Court with regard to Taishan and the assessment of 09:03AM
20 damages hearing which will take place during the February 09:03AM
21 pretrial conference, sir. 09:03AM

22 THE COURT: All right. That case seems to be going 09:03AM
23 well. I appreciate the help that the judge is giving to it. 09:03AM
24 She and I have worked closely on this matter and she's been a 09:03AM
25 great help to us in this proceeding. 09:03AM

1 While we are on that, Jake, give me a report on 09:03AM
2 what's happening with regard to the money. 09:03AM

3 MR. WOODY: Good morning, Your Honor. My name is Jake 09:03AM
4 Woody, from BrownGreer. I'm here to give the monthly status 09:03AM
5 report for the Chinese Drywall settlement program. 09:03AM

6 I'll start very briefly, just as I always do, with 09:03AM
7 our total number of claims to set the stage. 09:03AM

8 Total submitted claims is 22,491. Of those, we 09:04AM
9 reviewed 19,726. We're complete with all claim types other than 09:04AM
10 miscellaneous claims. We're actively reviewing those claims and 09:04AM
11 should be done with those in short order. 09:04AM

12 Our largest claim type, as you know, is our Global 09:04AM
13 Banner IN/EX repair and relocation claims. Those are 09:04AM
14 settlements for a pro rata share of three different settlements, 09:04AM
15 the Global settlement, the Banner settlement and the IN/EX 09:04AM
16 settlement. We had just under 10,000 eligible claims in this 09:04AM
17 category, 9,983. We've denied 1,674 largely for insufficient 09:04AM
18 documentation or because the claimants submitted a claim that 09:04AM
19 they had previously assigned to another claim. 09:04AM

20 THE COURT: So the denied doesn't mean that they're not 09:04AM
21 going to get some money but they're going to get it from another 09:04AM
22 fund? 09:04AM

23 MR. WOODY: They are denied for this claim type, but 09:04AM
24 they could potentially receive claim from other loss fund or for 09:04AM
25 other loss claim. 09:05AM

1 These numbers change month to month largely 09:05AM
2 because we have claimants withdrawing claims. 09:05AM

3 We're at the stage in this claim type where we are 09:05AM
4 essentially reconciling duplicate claims. We're only authorized 09:05AM
5 to make payment per property. The claims that haven't been paid 09:05AM
6 are largely claims where we have that issue. As we work through 09:05AM
7 them, claimants generally withdraw them. We see duplicate 09:05AM
8 claims in many cases for spouses who submitted two claims out an 09:05AM
9 abundance of caution and also where we have competing claims 09:05AM
10 where one claimant has received an assignment and the other 09:05AM
11 assigned the claim. We're reconciling those, and largely are 09:05AM
12 able to do that on our own. 09:05AM

13 We began issuing payments on GBI claims on 09:05AM
14 September 12th of last year. So far, we've issued 11,770 09:05AM
15 checks. The number of checks is larger than the number of 09:05AM
16 claimants because many claimants are eligible for payment from 09:05AM
17 multiple settlements. So they would receive two checks for one 09:06AM
18 claim. So far, we have distributed just over \$54.8 million. 09:06AM
19 That's an increase of 1.7 million from the last status 09:06AM
20 conference. 09:06AM

21 We make payments every day. The number fluctuates 09:06AM
22 as we're able to reconcile these duplicate claimant issues. We 09:06AM
23 also require a W-9 and a verification of claims from claimants 09:06AM
24 before we make payment. As we receive those, we put them in 09:06AM
25 line for payment and issue checks. 09:06AM

1 Both of those forms are available on our website. 09:06AM
2 I'll give the address at the end of this presentation. 09:06AM
3 We have \$21.3 million left to distribute. As I 09:06AM
4 mentioned, we continue to make payments every day and this 09:06AM
5 process is largely stable and we're not seeing any problems with 09:06AM
6 it. 09:06AM
7 The claims that are not Global, Banner, IN-EX 09:06AM
8 claims, we refer to as Other Loss Claims, and these fit in a 09:06AM
9 variety of categories. Our four main Other Loss claims 09:07AM
10 are bodily injury; foreclosure and short sale; lost rent, use 09:07AM
11 and sales; and pre-remediation alternative living expenses, 09:07AM
12 which we abbreviate as PRALE here. 09:07AM
13 We have just over 4,000 claims in these four claim 09:07AM
14 types; 428, to be exactly. Of those 2,527 are eligible. 44 are 09:07AM
15 incomplete. As I always mention, the incompleteness number 09:07AM
16 changes every month. Last month, it was 100. The month before, 09:07AM
17 I think it was 200. So you can see the progress we're making in 09:07AM
18 reconciling those and moving them from either incomplete to 09:07AM
19 eligible if they satisfy the document requirements or denying 09:07AM
20 them for failure to submit those documents. 09:07AM
21 Because of the low number of incomplete claims, 09:07AM
22 we're able to work with the parties and the Court to draft and 09:07AM
23 submit PTO-29, which allow us to begin making payments on 09:07AM
24 eligible Other Loss claims. 09:07AM
25 The Court entered this order on December 23rd. 09:07AM

1 We've received a lot of questions, and I'd like to just go 09:08AM
2 through some of the high points of PTO-29. 09:08AM

3 PTO-29 allow us to make what we call resolution 09:08AM
4 offers on eligible Other Loss claims of varying amounts. For 09:08AM
5 bodily injury, it's up to \$1,000. For closure short sale 09:08AM
6 claims, it's up to \$10,000. For loss use or sales, it's up to 09:08AM
7 \$10,000. For lost rent, it's three times the verified monthly 09:08AM
8 rent for rental property. For PRALE claims, it's \$14,400. It's 09:08AM
9 up to \$14,400. And miscellaneous tenant losses are up to 09:08AM
10 \$2,500. 09:08AM

11 These amounts are essentially modified pro rata 09:08AM
12 share of the amount available for Other Loss claims, which is 09:08AM
13 \$37.7 millin. It's not a straight pro rata or distribution 09:08AM
14 because each claim has a different value. But within each claim 09:08AM
15 type, it is a pro rata number. That's where we got those 09:08AM
16 numbers from and that's how we're proceeding. 09:09AM

17 We will issue eligibility notices and have begun 09:09AM
18 issuing eligibility notices on Other Loss claims that list the 09:09AM
19 resolution offer. 09:09AM

20 I should also mention, before I move on, that the 09:09AM
21 up to -- this is an up to number. So, if we review the claim 09:09AM
22 and determine that the verified losses are less than the numbers 09:09AM
23 that I mentioned, we make the lower offer. 09:09AM

24 And whatever the offer is will be in the 09:09AM
25 eligibility notice. We'll issue these through our standard 09:09AM

1 notice process. 09:09AM

2 The notices contain instructions on how to 09:09AM
3 proceed. Claimants have two options after receiving an 09:09AM
4 eligibility notice. They can accept offer and receive payment. 09:09AM
5 Or they can, if they feel the offer is insufficient, request 09:09AM
6 what we call a special master award. Those claims, if you 09:09AM
7 request that Special Master Award, those claims would be routed 09:09AM
8 to the special master who will review them independently of us 09:09AM
9 and make a determination. 09:09AM

10 Claimants who do not take any action within thirty 09:10AM
11 days will be deemed to have accepted the offer; and, if all 09:10AM
12 payment documents are present, we'll make payment to them. So, 09:10AM
13 if you take no action, you will lose the chance to request the 09:10AM
14 Special Master Award but you will receive the resolution offer. 09:10AM

15 If the claimant requests a Special Master Award, 09:10AM
16 the offer can change. It can go up, it can go down or it can 09:10AM
17 stay the same. 09:10AM

18 What happens when a claimant requests this is yet 09:10AM
19 to be determined. There's a number of variables at issue. The 09:10AM
20 special master, as I mentioned, will do a review independent of 09:10AM
21 ours and come up with a determination. 09:10AM

22 If a claimant accepts the resolution offer, we 09:10AM
23 will make payment rapidly. Generally, within seven days of the 09:10AM
24 acceptance. Assuming, of course, that the W-9 verification of 09:10AM
25 the claims form are present. 09:10AM

1 If you already submitted those documents in 09:10AM
2 support of another claim, of a GBI claim, you do not need to 09:10AM
3 submit them again. We only need these documents once per claim. 09:10AM

4 If a claimant wishes to request a Special Master 09:11AM
5 Award, you cannot submit an additional documents. The time to 09:11AM
6 submit supporting documents has passed, along with the claims 09:11AM
7 deadline. You can, however -- and we prefer that you submit 09:11AM
8 something that tells us where in your claim what we should look 09:11AM
9 at: A list of itemized expenses that you think support your 09:11AM
10 request and you can refer to documents you've already admitted 09:11AM
11 to us. That will help streamline the special master review and 09:11AM
12 speed up the process. 09:11AM

13 Finally, we have received a lot of questions about 09:11AM
14 the timeline associated with that special master. We anticipate 09:11AM
15 having the vast majority of all eligibility notices on Other 09:11AM
16 Loss claims issued by the first week of February. That will 09:11AM
17 start the thirty-day clock on all the claims. We will not be 09:11AM
18 able to grant deadline extensions for those claims. 09:11AM

19 So the deadline for almost all the Other Loss 09:11AM
20 claims should expire some time in the first week of March. Once 09:11AM
21 we have a good idea of how many people want a special master 09:12AM
22 review and how many want to be paid, we'll be able to make a 09:12AM
23 better evaluation of how long it will take. However, because 09:12AM
24 all of the claim documents are already in because we've reviewed 09:12AM
25 all the claims, it will not take as long as the claim process. 09:12AM

1 It will be a shorter process. 09:12AM

2 THE COURT: All right. We'll have some indication by 09:12AM
3 next meeting, I would think. 09:12AM

4 MR. WOODY: I think so. 09:12AM

5 As I mentioned, have begun issuing eligible 09:12AM
6 notices on these claims. So far, we've issued just over a 09:12AM
7 thousand on three different claim types. We've issued all the 09:12AM
8 eligibility notices for bodily injury and foreclosure and short 09:12AM
9 sale claims and we've issued 200 notices on PRALE claims. And 09:12AM
10 we'll continue to issue notices, as I mentioned, on all of the 09:12AM
11 remaining PRALE claims as well as the lost rent, use and sales 09:12AM
12 claims. 09:12AM

13 So we've issued just over 1,000. We've received 09:12AM
14 responses on 176 claims. 159 offers have been accepted. 09:12AM
15 Seventeen have requested the special master review, which puts 09:13AM
16 our acceptance rate at ninety percent. 09:13AM

17 And we've also begun issuing payment on Other Loss 09:13AM
18 claims. We began earlier this week. We've paid forty-three 09:13AM
19 claims and disbursed \$393,800. We'll continue make payments on 09:13AM
20 accepted claims, and should have payment out pretty quickly 09:13AM
21 within the date of acceptance and resolve as many of these 09:13AM
22 claims as we can. 09:13AM

23 Finally, our contact information, the best place 09:13AM
24 to obtain the W-9 verification form I mentioned are on our 09:13AM
25 website at www3.BrownGreer.com/drywall. If you need to email 09:13AM

1 us, you can do it at CDWquestions@BrownGreer. And you can call 09:13AM
2 us at 866-866-1729. 09:13AM

3 THE COURT: Thank you. 09:13AM

4 The next item is Omnibus Class Actions. Anything 09:13AM
5 on that? 09:14AM

6 MR. LEVIN: Just one personal thing. 09:14AM

7 The PSC has listened to the BrownGreer report each 09:14AM
8 and every month, and I just want BrownGreer to know how 09:14AM
9 appreciative we have of the work they are doing and the manner 09:14AM
10 in which they're doing the work. 09:14AM

11 THE COURT: Yes. They've done a good job, and I 09:14AM
12 appreciate that also. 09:14AM

13 MR. LEVIN: With regard to the Class Action Complaints, 09:14AM
14 the Omnibus, there's just one aspect of the complaints that's 09:14AM
15 outstanding. We have a complaint against SASAC in China right 09:14AM
16 now. And, if SASAC behaves as CMBM behaved and BMBM behaved in 09:14AM
17 the past and doesn't enter an appearance and come in here, for 09:14AM
18 whatever reasons, but appear in these proceedings, at that 09:14AM
19 point, in about six weeks, we're prepared to take a default 09:14AM
20 judgment against SASAC. And then we will pursue assessment of a 09:15AM
21 class action as we pursued against CMBM and BMBM an assessment 09:15AM
22 of damages against SASAC, which is the umbrella corporation that 09:15AM
23 has a lot of interests in the United States. 09:15AM

24 THE COURT: How about Class Action, the last item? 09:15AM

25 MR. LEVIN: That would be it, sir. 09:15AM

1 THE COURT: The next item is Fee Expense. 09:15AM

2 MR. LEVIN: There's nothing new on that. 09:15AM

3 THE COURT: In connection with that, I have received 09:15AM

4 from Danny Becnel letters showing copies to you and to Arnold. 09:15AM

5 Danny, you want to flesh that out for me, the 09:15AM

6 issue here on Sean Payton. 09:15AM

7 MR. BECNEL: Judge, as you know, Sean was living across 09:15AM

8 the lake in the Super Bowl year, in Mandeville, in a rather 09:16AM

9 expensive home. He and his wife, the minute it was finished, 09:16AM

10 had to move out. He then had to live in the Saint's training 09:16AM

11 camp for the whole season, and his wife wound up having to get 09:16AM

12 another house. So she moved. The Chinese drywall case really 09:16AM

13 resulted in the dissolution of their marriage. 09:16AM

14 And he approached me. As you know, I represent 09:16AM

15 many of the Saints: Mickey Loomis, the general manager, Drew 09:16AM

16 Brees and many of the team members. 09:16AM

17 And so I handled that case by myself. I 09:16AM

18 negotiated the settlement by myself. And I don't mind if all 09:16AM

19 the other cases I have with the plaintiff's committee gets a 09:16AM

20 fee. But this case was purely me. And I could have settled it 09:16AM

21 probably a week after they were notified that I had Sean Payton. 09:17AM

22 In any event, I'd like to get paid on it. And 09:17AM

23 it's been, I think I said -- I only got in at 1 o'clock so I 09:17AM

24 didn't even have time to get my file this morning from Kansas 09:17AM

25 City. But I'd like to get paid on it. 09:17AM

1 THE COURT: All right. 09:17AM

2 MR. BECNEL: And I don't think the PSC has a claim 09:17AM
3 against those funds. 09:17AM

4 I did the inspections myself. In fact, it was 09:17AM
5 inspected five different times. Because it was kind of the 09:17AM
6 poster child of how do you find what's wrong with the Chinese 09:17AM
7 drywall case. 09:17AM

8 THE COURT: Well, you know, in this case, I guess the 09:17AM
9 beauty of it is so forth, from the standpoint of the litigants 09:17AM
10 themselves, is that the defendant, the settlements call for the 09:17AM
11 defendant paying the attorney fees. 09:17AM

12 Let me hear from Arnold. 09:18AM

13 MR. LEVIN: I will not hold it against Danny Becnel and 09:18AM
14 Sean Payton that they've had their way with the Philadelphia 09:18AM
15 Eagles for some time now. 09:18AM

16 Getting to the merits of Mr. Becnel's request. 09:18AM
17 The fee committee has conducted extensive interviews with every 09:18AM
18 plaintiff's counsel that is seeking a common benefit fee, and 09:18AM
19 the fee committee has taken all of that under advisement. And I 09:18AM
20 can assure Mr. Becnel that those issues are being discussed by 09:18AM
21 the fee committee. 09:18AM

22 There will be a report, and he will be able to 09:18AM
23 review that report and take whatever action. 09:18AM

24 I might add that, at the interview, the situation 09:18AM
25 with Sean Payton was not mentioned by Mr. Becnel. However, the 09:18AM

1 fee committee is available -- is aware of his representation of 09:18AM
2 the lead plaintiff in the omnibus complaint, and we will treat 09:19AM
3 him the way we treat everybody as to when a common benefit fee, 09:19AM
4 how it advanced the litigation. And also there's a segment of 09:19AM
5 the fee for the individual attorneys on their retainer 09:19AM
6 agreements. And that is being actively pursued and is a very 09:19AM
7 prolix and complex process, and Mr. Becnel will be treated as 09:19AM
8 everybody else is. And he will have -- there will be a report, 09:19AM
9 the Court will see the report. Danny Becnel could object to the 09:19AM
10 report, he could deal with it afterwards if he doesn't like what 09:19AM
11 the fee committee has done with regard to his particular claim. 09:19AM

12 But I can assure Danny that: We know who he is, 09:19AM
13 we know who Sean Payton is, we know what this litigation is and 09:19AM
14 we will afford him due process. 09:19AM

15 THE COURT: Okay. 09:20AM

16 MR. BECNEL: Your Honor, let me just reply to that. 09:20AM

17 As you know, I got Sean Payton and the Saints to 09:20AM
18 do a commercial. I paid the fee for sending to the advertising 09:20AM
19 counsel with the bar association, and it had all kinds of 09:20AM
20 commotion with it. And we got a lot of cases as a result of the 09:20AM
21 public service announcement he made on Chinese Drywall. 09:20AM

22 The case was -- he and my first client, 09:20AM
23 Dr. Parent, the dentist, that's the first two cases. She's a 09:20AM
24 Taishan case, he was a Knauf case. 09:20AM

25 And, you know, I just don't think I should have to 09:20AM

1 wait, especially with my health situation periodically. I don't
2 want to be here with my estate having to deal with something
3 that I should have been paid on and could have been paid on
4 directly, right off the bat.

5 THE COURT: The interesting thing in this particular
6 case is that usually, as everybody knows, the fee comes from the
7 litigants. The litigants work out some arrangement with their
8 attorney. They hire the attorney, they agree to pay the
9 attorney a fee. Then the case comes to MDL. The MDL sets an
10 amount for common benefit fee. That common benefit generally
11 comes from the attorney's fee portion, not in addition to the
12 claimant.

13 But, in this particular case, the interesting
14 thing was that the concept of the settlement was that the
15 claimants got their homes fixed, 100 percent of their homes
16 fixed; and, in addition to that, the defendants paid a fee. So
17 the claimants didn't have to pay anything. They got everything
18 done for them and plus their attorney fees. So it's a little
19 different in this situation.

20 But I hear your comments, and nobody's going to
21 get any fee until I approve the fees. So I'm going to give
22 everybody an opportunity express themselves, and I certainly
23 will take all of that into consideration. Including a
24 fast-track type situation. There are some people who may have
25 some issues, health and otherwise, that need to be dealt with,

1 and I'm conscious of that. Thanks for bringing it to my 09:22AM
2 attention. 09:22AM

3 How about the Remediation Program, anything, 09:22AM
4 Kerry? 09:22AM

5 MR. MILLER: Good morning, again, Your Honor. Kerry 09:22AM
6 Miller. 09:22AM

7 Nothing really new to report, Your Honor. The 09:22AM
8 remediation program is into I think the last inning of the game. 09:22AM
9 Moss is complete with ninety-plus percent of the homes. They're 09:23AM
10 trying to do their last shift, including the last group of pro 09:23AM
11 se homes we talked about last time, get those started this 09:23AM
12 spring, so that everything's done this year, Your Honor. 09:23AM

13 THE COURT: Yes. 09:23AM

14 As everyone knows, with the Remediation Program, 09:23AM
15 as I mentioned several times, in this particular case, rather 09:23AM
16 than wait for the case to get over the defendants have 09:23AM
17 undertaken the remediation program which even predated the 09:23AM
18 settlement of the case. And, so far, they've been able to 09:23AM
19 remediate several thousand homes, which has worked out well. 09:23AM

20 How about the IN\EX, Banner, Knauf settlement? 09:23AM

21 MR. LEVIN: Nothing with regard to that. 09:23AM

22 THE COURT: Anything on Shared Costs? 09:23AM

23 MR. LEVIN: Nothing, sir. 09:23AM

24 THE COURT: What about Taishan defendants? 09:23AM

25 MR. LEVIN: Well, if we're in the ninth inning with 09:23AM

1 regard to the Knauf remediation program, we're in the first 09:24AM
2 inning or perhaps just batting practice with regard to Taishan. 09:24AM

3 We are pursuing assets. We are pursuing 09:24AM
4 litigation in Portland, Oregon. We have determined that Taishan 09:24AM
5 affiliates have brought suit in Portland, Oregon and have 09:24AM
6 utilized our court system, our federal court system, to pursue 09:24AM
7 their commercial needs, where they have ignored us in the 09:24AM
8 Eastern District of Louisiana and created another great wall 09:24AM
9 between us and China. 09:24AM

10 THE COURT: Is there any money in that? 09:24AM

11 MR. LEVIN: There's \$50,000 for attorneys fees in the 09:24AM
12 case that was settled. We're not interested in hurting the 09:24AM
13 attorneys that have handled the case there for the \$50,000. 09:24AM

14 But what we are interested in is finding out what 09:24AM
15 their ongoing business is. It seems that they are purchasing 09:24AM
16 timber in the Northwest because of this a shortage of timber in 09:24AM
17 China. Just like we had a shortage of drywall and purchased 09:25AM
18 from China drywall. 09:25AM

19 We have not seen the settlement agreement. We've 09:25AM
20 been precluded so far from seeing the settlement agreement. But 09:25AM
21 we think the settlement agreement contains clauses with ongoing 09:25AM
22 activities between the parties to the settlement. That's just 09:25AM
23 one aspect of it. 09:25AM

24 Once we perfect service on SASAC, and either they 09:25AM
25 come in and defend or we get a default judgment against SASAC, 09:25AM

1 that umbrella corporation has petroleum, banking and other 09:25AM
2 interests around the world, including in the United States. 09:25AM

3 And we just want to assure those poor unfortunates 09:25AM
4 that didn't have Knauf board, so that their homes could be 09:25AM
5 remediated, and had Taishan board, that eventually we are going 09:25AM
6 to make them whole. But, unfortunately, in the process, many of 09:26AM
7 them have had foreclosures and gone bankrupt. 09:26AM

8 THE COURT: As we know, the board that we're talking 09:26AM
9 about was manufactured by basically two entities, one Knauf and 09:26AM
10 the other Taishan entities. 09:26AM

11 After discovery in trial, the Knauf entities 09:26AM
12 settled the case. The Taishan entities did not. They resisted 09:26AM
13 service, and then they resisted appearance. And, eventually, 09:26AM
14 they showed up in court participating in an appeal. They lost 09:26AM
15 the appeal, and then they decided that they were going to walk 09:26AM
16 away from the court because they didn't get their way. They're 09:26AM
17 going to take their ball and go home, so to speak. 09:26AM

18 And, as a result, I gave them an opportunity to 09:26AM
19 explain why they did that. They refused to participate in the 09:27AM
20 proceedings, so I found them in contempt of court. And, in 09:27AM
21 addition to fining them, I provided that a percentage of any 09:27AM
22 fees or profits that they earned in this country, by either them 09:27AM
23 or any of their affiliates, would be seized by the Court. 09:27AM

24 So I would direct counsel to determine whether or 09:27AM
25 not there's any assets of that company, and I'll issue a seizure 09:27AM

1 order wherever they happen to be in the United States. Because 09:27AM
2 I do sit, as an MDL judge, I sit as a district judge in every 09:27AM
3 district in the United States. So let me know if there's any 09:27AM
4 assets, and I will seize them. 09:27AM

5 MR. BECNEL: May it please the Court, I want to give 09:27AM
6 the Court some additional information on Chinese assets. 09:27AM

7 About five weeks ago, six weeks, Cargill and then 09:28AM
8 ADM filed suit in St. John Parish in our court system for money 09:28AM
9 against Syngenta, which produced genetically engineered corn. 09:28AM
10 There is a separate MDL which we had a hearing on yesterday in 09:28AM
11 Kansas. 09:28AM

12 But they, Chinese, refused to accept it. 09:28AM
13 Although, they already paid those companies. And so the corn is 09:28AM
14 all coming back, which has been paid for by China. 09:28AM

15 And I think we would have the ability -- -as the 09:28AM
16 Court knows, the major grain exports come from Reserve, 09:28AM
17 Louisiana, with all of the grain elevators there. And we may be 09:28AM
18 able to seize those grain. You know, it could be sold here in 09:29AM
19 the US for cattle feed and other things. But it's something 09:29AM
20 else that the Chinese sent back, that we may have an ability to 09:29AM
21 get those assets. 09:29AM

22 THE COURT: Okay. Well, if there's some assets, any 09:29AM
23 kind of assets from those companies or the affiliates of those 09:29AM
24 companies, I will act on it. Because I do owe the system the 09:29AM
25 duty to effect my orders, and I ordered them to do that. They 09:29AM

1 violated it. I held them in contempt. So I'll stand behind
2 that.

3 MR. DAVIS: Your Honor, we'll prepare the appropriate
4 papers for the Court.

5 But we'll ask Mr. Becnel or anyone else that has
6 information, if they could get it to us and they could provide
7 us the links to CMDM or BMDM or whoever it is so that we can
8 make those links.

9 THE COURT: Let's make sure it's an affiliate or the
10 company itself. Because I don't want to wrongfully seize
11 anything. But I will seize matters or material.

12 MR. LEVIN: Your Honor, we would request that madam
13 court reporter give us on an expedited basis, which we'll pay
14 for obviously, the transcript of these proceedings. Because I
15 think this becomes very relevant for the judiciary in Portland,
16 Oregon to see.

17 MR. BECNEL: In addition to that, Judge, there's an MDL
18 judge on that very case. And, yesterday, at the hearing, both
19 ADM and Cargill says they didn't want to be in the MDL; they
20 want it to come back. Because almost all of the grain that goes
21 to China is shipped through Reserve.

22 MR. DAVIS: If you'll got us that link, Danny, so we
23 can make the connection, that that will be helpful. Thank you.

24 THE COURT: Venture Supply, anything on Venture Supply?

25 MR. LEVIN: No, sir. Just that the Virginia settlement

1 is just between Your Honor, Judge Wall, Mr. Serpe and Dewan and
2 others that have been working with them, is being run very
3 effectively.

4 THE COURT: Okay. *

5 Plaintiff and Defendant Profile, Fact Forms,
6 anything?

7 MR. LEVIN: Nothing, sir.

8 THE COURT: Nothing on Frequently Asked Questions.

9 No pro se claimants?

10 MR. LEVIN: Mr. Johnston has informed me that he
11 needn't come here --

12 THE COURT: He is here.

13 MR. JOHNSTON: It's been so interesting that I decided
14 to stay.

15 Let me make a brief comment for the Court.

16 Since the November 25th status conference, I have
17 worked certainly very, very well with counsel for Knauf and
18 staff. My office has provided every document, every piece of
19 paper for every one of the group that I've called the late Knauf
20 claimants, which we're all aware of, that we ended up being
21 informed by Kerry Miller at the last status that remediation was
22 going to be accomplished. And I think it is going very, very
23 well. And I just want to notify the Court that we've had
24 back-and-forth, but there's never been a negative moment since
25 the last status conference. And we'll continue try to help

1 these last group of people to get what they want, which is of 09:32AM
2 course to have the remediation of their properties. 09:32AM

3 THE COURT: Okay. I appreciate your work on it. 09:32AM

4 As you all know, we had a number of pro se 09:32AM
5 claimants. They haven't hired attorneys. They don't wish to 09:32AM
6 hire an attorney. And so I appointed Bob Johnston to help them 09:32AM
7 navigate through this system. He's been talking to them. As a 09:32AM
8 result of his efforts and efforts of Knauf, these individuals 09:32AM
9 have been taken care of. So I appreciate your work. 09:32AM

10 MR. LEVIN: Your Honor, I apologize to Bob. Because he 09:33AM
11 had told me before this hearing that he couldn't be here for the 09:33AM
12 complete hearing; he had a personal situation. And I didn't 09:33AM
13 think he was in the courtroom when I started off. 09:33AM

14 THE COURT: All right. 09:33AM

15 Anything on -- 09:33AM

16 MR. JOHNSTON: Did you hear what I said? It was so 09:33AM
17 interesting that I just had to stay. 09:33AM

18 THE COURT: Okay. 09:33AM

19 Physical Evidence. 09:33AM

20 MR. LEVIN: Mr. Davis will respond to that. 09:33AM

21 MR. DAVIS: Yes, Your Honor. 09:33AM

22 In light of your comments earlier, prior status 09:33AM
23 conferences, we've met -- 09:33AM

24 THE COURT: This is the issue in the Physical Evidence. 09:33AM
25 In this some type situation, the exposure to the board has 09:33AM

1 created physical problems with a lot of appliances, particularly 09:33AM
2 with the copper-fit appliances. It has some negative effect 09:33AM
3 object those appliances. Well, those appliances and a lot of 09:33AM
4 other board had to be stored. And you can imagine, there may be 09:33AM
5 hundreds or thousands of refrigerators and things of that sort. 09:34AM
6 The issue now is what do we do with it? It's not really fair 09:34AM
7 for the defendants to be required to continue to pay rent for 09:34AM
8 these warehouses that I required them to keep the material in. 09:34AM

9 So we have to recognize, however, the case is not 09:34AM
10 over and some proof may be needed. 09:34AM

11 So it seems to me that it's legitimate and 09:34AM
12 appropriate for the defendants or liaison counsel and defendants 09:34AM
13 to file a motion with the Court to find some other way. And 09:34AM
14 what we would do is take pictures of it, take samples of it, 09:34AM
15 take video of it and have individuals look at it so that they 09:34AM
16 can be able to testify. 09:34AM

17 The reason I suggest the motion is that so there's 09:34AM
18 no spoliation issue that's raised by a defendant later on saying 09:34AM
19 that you intentionally and maliciously destroyed this material 09:35AM
20 so that evidence should be used against you. I don't see it 09:35AM
21 that way. It's a practicality. 09:35AM

22 So file the motion and I'll authorize another way 09:35AM
23 of preserving that evidence. 09:35AM

24 MR. DAVIS: Thank you, Your Honor. 09:35AM

25 And, in light of that, we've also had discussions 09:35AM

1 with Ms. Bass and Ms. Wimberly of the Home Builders committee to 09:35AM
2 try to reach some type of proposal that we will present to the 09:35AM
3 Court. 09:35AM

4 We appreciate that, Your Honor. 09:35AM

5 THE COURT: Okay. 09:35AM

6 Anything from BASS? From the builder, Moss? Any 09:35AM
7 problems? 09:35AM

8 I always ask the Moss representative to be here. 09:35AM
9 In case any litigants or lawyers have any issues, they can take 09:35AM
10 it up directly with the remediation program manager, who is in 09:35AM
11 charge of all of this. 09:36AM

12 MR. MILLER: Your Honor, Kerry Miller again. 09:36AM

13 Phil Adams from Moss is here, as he has been for 09:36AM
14 the last twenty or so status conferences. Maybe more, I can 09:36AM
15 remember. And, if there are any issues, this presents a nice 09:36AM
16 forum form discussion. 09:36AM

17 But what we've seen, Your Honor, is the 09:36AM
18 remediation program has certainly peaked and is on the down 09:36AM
19 swing. We don't have nearly the issues we used to. 09:36AM

20 But, to the extent they do exist, Mr. Adams is 09:36AM
21 here and certainly available to address them while in New 09:36AM
22 Orleans. 09:36AM

23 THE COURT: Yes. The people who are interested in 09:36AM
24 remediating their homes have access to professional 09:36AM
25 well-thought-of, well documented national group that's been 09:36AM

1 doing this. 09:36AM

2 And, because of the numbers that they've worked 09:36AM
3 on, they're able to have not only the quality but also some 09:37AM
4 break for the numbers of cases that they're handling, and 09:37AM
5 they're able to do it and do it efficiently. While this has 09:37AM
6 been going on. So individuals have applied for this program. 09:37AM
7 And, as in all remediation or as in all building programs, 09:37AM
8 sometimes things don't work out. And so Moss has been able to 09:37AM
9 be at these meetings; and, any problems that people have had, 09:37AM
10 they've been able to bring them up at these meetings and they've 09:37AM
11 been able to get attention immediately for it. 09:37AM

12 So I think the program has worked very well, and I 09:37AM
13 appreciate the cooperation of the parties in doing it. 09:37AM

14 MR. LEVIN: Your Honor, lead and liaison counsel have 09:37AM
15 monitored what's going on with the remediation. There's emails 09:37AM
16 every day confirming various problems and the resolution of 09:37AM
17 various problems. And we can say that, with the undertaking 09:38AM
18 that Knauf has made through Kerry and what Moss has done, that 09:38AM
19 we only wish that the Taishan defendants behaved in the manner 09:38AM
20 in which Knauf, their counsel and Moss have behaved to the 09:38AM
21 clients that we represent. 09:38AM

22 THE COURT: All right. 09:38AM

23 Any other items on the agenda? 09:38AM

24 The Louisiana Attorney General, anything from the 09:38AM
25 attorney general? 09:38AM

1 The representative says no. 09:38AM

2 The next meeting is February the 12th; and, 09:38AM
3 following that, it's March the 26th. March 26th. 09:38AM

4 MR. MILLER: Your Honor, one thing before we break. 09:38AM

5 On the issue of Already Remediated Homes, that was 09:38AM
6 right before the Louisiana Attorney General. 09:38AM

7 Your Honor, Sean Payton was the actually first ARA 09:38AM
8 that settled this part of that component of the class action 09:38AM
9 settlement. That was a protocol I had worked out with Mr. Davis 09:38AM
10 in terms of documentation and putting books together and so on 09:39AM
11 and so forth. 09:39AM

12 On that, Your Honor, we've settled about 260 of 09:39AM
13 those. We have about 150 left. The 260 we've settled were the 09:39AM
14 cases that had the best documentation, such as Mr. Payton's home 09:39AM
15 and others like that, where the attorneys kept and the clients 09:39AM
16 kept very good records of what went on. 09:39AM

17 For the 150 that are left, maybe some fall in that 09:39AM
18 category. But the others, at least to us, appear to have some 09:39AM
19 evidentiary issues and so are more difficult to resolve. 09:39AM

20 What we want to do, Your Honor is perhaps set up 09:39AM
21 mediations, perhaps set up face-to-face meetings with counsel 09:39AM
22 and their clients on these issues to try and wrap these up this 09:39AM
23 year while we wrap up the other aspects of the program. 09:39AM

24 THE COURT: That's a good idea. 09:39AM

25 What's the total number? Some thousands? 09:39AM

1 MR. MILLER: No. Already remediated homes? About 410. 09:39AM

2 So we've gotten about 260 done with about 150 left to go. 09:39AM

3 THE COURT: All right. 09:40AM

4 MR. MILLER: Your Honor, on that score, I've recently 09:40AM

5 switched firms. I know that they were looking for some contact 09:40AM

6 information in terms of getting additional information in on 09:40AM

7 these already remediated homes that are unsettled or setting 09:40AM

8 mediation, things of that nature. I provided Duncan, your law 09:40AM

9 clerk, with my new email address. That will be available on the 09:40AM

10 Court's website. And certainly me and the staff that I have at 09:40AM

11 my new firm will be very attentive to this issue moving forward 09:40AM

12 at this point. 09:40AM

13 THE COURT: Good luck to you at the new firm. I know 09:40AM

14 you'll do a good job for them. 09:40AM

15 Court will stand in recess. Thank you. 09:40AM

16 (9:38 a.m., proceedings recessed.) 09:40AM

17 09:41AM

18

19 CERTIFICATE

20

21

22 I, Susan A. Zielie, Official Court Reporter, do hereby
23 certify that the foregoing transcript is correct.

23

24

/S/ SUSAN A. ZIELIE, FCRR

25

Susan A. Zielie, FCRR

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