

MINUTE ENTRY
FALLON, J.
JANUARY 17, 2020

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

In re: CHINESE-MANUFACTURED	*	MDL Docket No. 2047
DRYWALL PRODUCTS	*	
LIABILITY LITIGATION	*	SECTION L
	*	
	*	JUDGE FALLON
This document relates to All Cases	*	
	*	MAG. JUDGE WILKINSON
	*	
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MINUTE ENTRY

The monthly status conference was held on this date in the Courtroom of District Judge Eldon E. Fallon. Prior to the conference, the Court met with liaison counsel and the chairs of the steering committees. Liaison counsel reported to the Court on the topics set out in Joint Report No. 118. R. Doc. 22475. The conference was transcribed by Ms. Jodi Simcox, Official Court Reporter. Counsel may contact Ms. Simcox at (504) 789-7780 to request a copy of the transcript.

I. PRE-TRIAL ORDERS

All Pre-Trial Orders are posted on the Court’s website located at www.laed.uscourts.gov, which has a tab that links directly to “Drywall MDL.” The Court’s website also includes other postings relevant to the litigation.

II. INEX, BANNER, KNAUF, L&W and GLOBAL SETTLEMENTS

On February 22, 2018, a Motion to Extinguish the Knauf Defendants' Settlement Obligations for Certain Remediation Claims was filed with the Court [Rec. Doc. 21190]. Certain Claimants listed in the Motion have filed a response [Rec. Docs. 21230, 21236, 21237, 21529, 21638]. Several other claimants have been in contact with the Knauf Defendants and have completed their Remediation Claims or expect to complete their Remediation Claims soon. The matter was heard on July 18, 2018 and the court issued an Order on July 18, 2018 [Rec. Doc. 21539], granting the motion in part and continuing certain claims. The motion was heard following the December 20, 2018 Status Conference and an Order was issued on December 21, 2018 [Rec. Doc. 21998].

On December 20, 2018, a Joint Motion to Deposit Funds Into the Registry of the Court and to Approve QSF Wind Down was filed with the Court [Rec. Doc. 21995]. On December 21, 2018, the Court issued an Order Regarding the Joint Motion to Approve QSF Wind Down and Deposit Funds in the Court Registry [Rec. Doc. 21999].

III. TAISHAN, CNBM AND BNBM DEFENDANTS

Following certification by this Court and acceptance by the Fifth Circuit Court of Appeals of an interlocutory appeal of the Court's April 21, 2017 personal jurisdiction order, the parties submitted briefs and the case is now scheduled for argument on February 3, 2020.

IV. TAISHAN SETTLEMENT

On August 20, 2019, Settlement Class Counsel's Unopposed Motion for an Order: (1) Preliminarily Approving the Class Settlement Agreement With Taishan; (2) Preliminarily Certifying a Settlement Class; (3) Directing the Dissemination of Class

Notice; (4) Scheduling a Fairness Hearing; and (5) Continuing the Stay of Litigation of Claims Against Taishan and the Additional Released Parties was filed with the Court [Rec. Doc. 22305]. The matter was heard on August 29, 2019 and on August 29, 2019 the Court entered an Order: (1) Preliminarily Approving the Class Settlement Agreement With Taishan; (2) Preliminarily Certifying a Settlement Class; (3) Directing the Dissemination of Class Notice; (4) Scheduling a Fairness Hearing to take place on December 11, 2019 at 9:00 a.m.; and (5) Continuing the Stay of Litigation of Claims Against Taishan and the Additional Released Parties [Rec. Doc. 22314].

On August 29, 2019, Class Counsel filed a Notice of Filing of the Master Spreadsheet of Known Settlement Class Member Claims [Rec. Doc. 22312]. On October 31, 2019, the Settlement Administrator filed a Notice of Filing of Revised Master Spreadsheet of Known Settlement Class Member Claims [Rec. Doc. 22355].

On September 5, 2019, Class Counsel filed a Notice of Filing Long Form Notice [Rec. Doc. 22316]. On September 12, 2019, the Court issued an Order transferring the initial payment deposited by Taishan into the Court's treasury to the Court's registry by the Court's Budget and Financial Administrator [Rec. Doc. 22320].

The Claims Administrator, BrownGreer, has mailed an individual Estimate to all known Settlement Class Members. More information and questions regarding the Settlement Program should be directed to BrownGreer by calling toll free 1-866-573-6691 or by visiting WWW.CHINESEDRYWALLSETTLEMENT.COM. The Claims Administrator, BrownGreer, received 109 challenges to information on the MSS and ruled on those challenges.

On September 26, 2019, the Court entered an Order stating Taishan deposited the remainder of the “Initial Payment” into the Court’s treasury and ordered that funds be transferred from the Court’s treasury to the Court’s registry by the Court’s Budget and Financial Administrator [Rec. Doc. 22330]. Additionally, the “Second Payment” was made by Taishan and deposited into the Court’s registry. The current total principal paid by Taishan into the Court’s registry is \$99,200,000.00.

On October 9, 2019, the Court issued an Order [Rec. Doc. 22340] regarding communications with the Court during the Class Notice Period.

On November 19, 2019, Settlement Class Counsel filed a Motion for Award of Attorneys’ Fees and Cost Reimbursements for Common Benefit Counsel and Individually Retainer Attorneys under a Motion for Leave to Exceed Page Limitation and to Set Briefing Schedule [Rec. Doc. 22363], along with a Request for Oral Argument on the motion to be set on December 11, 2019 [Rec. Doc. 22364]. An Order was issued on November 25, 2019 granting the 22363 Motion for Leave, setting deadlines for November 27, 2019, and setting the Motion for Award of Attorneys’ Fees and Cost Reimbursements for Common Benefit Counsel and Individually Retainer Attorneys for submission on December 11, 2019 [Rec. Doc. 22367]. On December 2, 2019, the Motion for Award of Attorneys’ Fees and Cost Reimbursements for Common Benefit Counsel and Individually Retainer Attorneys was filed by the Clerk at Rec. Doc. 22380. On December 16, 2019, a Notice of Erata was filed by Settlement Class Counsel [Rec. Doc. 22421] submitting a revised proposed order. On January 10, 2020, Settlement Class Counsel filed a Motion to Substitute Exhibit [Rec. Doc. 22459] with the Court, substituting a corrected Affidavit of Philip A. Garrett, C.P.A. On

January 10, 2020, the Court issued Order & Reasons [Rec. Doc. 22460]. On January 13, 2020, the Court issued a Judgment Pursuant to FRCP 54(b) Granting Final Approval to the Class Settlement with Taishan, Certifying the Settlement Class, and Establishing the Amount of Attorney Fees [Rec. Doc. 22466].

On December 4, 2019, Taishan filed the Declaration of Christina Hull Eikhoff [Rec. Doc. 22387].

On December 4, 2019, Settlement Class Counsel filed a Notice of Filing of Objections to the Class Settlement into the Record with all Objections received [Rec. Doc. 22389]. On December 17, 2019, a Notice of Withdrawal of Objection was filed by Class Member, Frederick Yorsch [Rec. Doc. 22422].

On December 6, 2019, Settlement Class Counsel filed a Motion for Entry of an Order and Judgment (1) Granting Final Approval of the Class Settlement With taishan and (2) Certifying the Settlement Class [Rec. Doc. 22397] and Defendants filed a Joinder in Class Counsel's Motion for Entry of an Order and Judgment (1) Granting Final Approval of the Class Settlement with Taishan and (2) Certifying the Settlement Class, and Supplemental Memorandum in Support Thereof [Rec. Doc. 22393]. On December 11, 2019, the Final Fairness Hearing was conducted and was taken under submission. On December 12, 2019, the Court issued a Minute Entry [Rec. Doc. 22414]. On December 13, 2019, Settlement Class Counsel filed a Notice of filing to Supplement Exhibit at Rec. Doc. 22397-16 (Approved by the Court) [Rec. Doc. 22417].

On January 10, 2020, the Court issued Order & Reasons [Rec. Doc. 22460]. On January 13, 2020, the Court issued a Judgment Pursuant to FRCP 54(b) Granting Final

Approval to the Class Settlement with Taishan, Certifying the Settlement Class, and Establishing the Amount of Attorney Fees [Rec. Doc. 22466].

On January 14, 2020, Settlement Class Counsel filed a Notice of Filing Opt-Out Request Post-Marked January 11, 2020 [Rec. Doc. 22469].

V. BENNETT CLASS ACTION

On November 4, 2019, an Amended Case Management Order was entered by the Court [Rec. Doc. 22359].

A telephone status conference was held on November 14, 2019, and a Minute Entry was entered [Rec. Doc. 22362] ordering that depositions of the Huntsville Plaintiffs will be held in Birmingham, Alabama, and the depositions of the Fort Myers Plaintiffs will be held in Fort Myers, Florida, and ordering a telephone status conference on December 10, 2019 at 9:00 a.m. On December 12, 2019, the Court issued a Minute Entry [Rec. Doc. 22409] relating to the December 10, 2019 status conference ordering that documents requested by Defendants following plaintiffs deposition must be produced to Defendants within 21 days of the deposition.

On November 25 and 26, 2019, the Knauf Defendants filed numerous Motions for Summary Judgments [Rec. Docs. 22368, 22369, 22370, 22371, 22372, 22373, 22374, 22376], as well a Motion to Dismiss Party Claims [Rec. Doc. 22375] with the Court. On December 12, 2019, the Court issued a Minute Entry [Rec. Doc. 22409] setting these motions for hearing with oral argument on January 8, 2020. On December 20, 2019, the Court issued a Minute Order resetting these motions for January 22, 2020 [Rec. Doc. 22427].

On December 2, 2019, a Motion to Remand was filed by Plaintiff [Rec. Doc. 22384]. On December 10, 2019, Knauf filed a Memorandum in Opposition to the 22384 motion [Rec. Doc. 22401]. On December 12, 2019, the Court issued a Minute Entry [Rec. Doc. 22409] setting this motion for hearing with oral argument on January 8, 2020. On January 2, 2020, the Court issued an Order [Rec. Doc. 22445] rescheduling the motion for hearing on January 8, 2020 at 2:00 p.m. On January 6, 2020, an Unopposed Motion to Continue Hearing was filed with the Court [Rec. Doc. 22448]. On January 7, 2020, the Court issued an Order [Rec. Doc. 22450] granting the 22448 motion, continuing and resetting hearing with oral argument for January 22, 2020 at 9:00 a.m.

On December 3, 2019, Plaintiff filed a Motion for Extension of Deadlines, Alternatively, Motion to Vacate Case Management Order [Rec. Doc. 22385]. On December 9, 2019, Knauf filed a Memorandum in Opposition to the 22385 motion [Rec. Doc. 22398]. On December 20, 2019, the Court issued a Minute Order denying the 22385 motion [Rec. Doc. 22427].

On December 9, 2019, Knauf filed a Motion to Deny Class Certification Pursuant to FRCP Rule 23 [Rec. Doc. 22399]. On December 12, 2019, the Court issued a Minute Entry [Rec. Doc. 22409] setting this motion for hearing with oral argument on January 8, 2020. On January 2, 2020, the Court issued an Order [Rec. Doc. 22445] rescheduling the motion for hearing on January 8, 2020 at 2:00 p.m. On January 6, 2020, an Unopposed Motion to Continue Hearing was filed with the Court [Rec. Doc. 22448]. On January 7, 2020, the Court issued an Order [Rec. Doc. 22450] granting the 22448 motion, continuing

and resetting hearing with oral argument for January 22, 2020 at 9:00 a.m. On January 14, 2020, Plaintiff filed an Opposition to the 22399 Motion [Rec. Doc. 22473].

On December 11 and 12, 2019, Knauf filed numerous Motions for Summary Judgment [Rec. Docs. 22407, 22408 and 22412], with the Court. On December 20, 2019, the Court issued a Minute Order setting these motions for January 22, 2020 [Rec. Doc. 22427].

On December 12, 2019, the Court issued a Minute Entry [Rec. Doc. 22409] ordering the parties to participate in a Telephone Status Conference on December 20, 2019 at 10:00 o'clock a.m.

On December 23, 2019, Knauf filed numerous Motions for Summary Judgment [Rec. Docs. 22428, 22430, 22431, 22432, 22433, 22435, 22436, 22437, 22438, 22439, 22440, 22441 and 22442] with the Court. On January 6 and January 7, 2020, Knauf filed numerous Motions for Summary Judgment [Rec. Docs. 22446, 22447, 22451, 22452 and 22453] with the Court.

On January 8, 13 and 14, 2020, Plaintiff filed numerous Oppositions to Motions for Summary Judgment [Rec. Docs. 22454, 22455, 22456, 22457, 22458, 22462, 22463, 22464, 22465, 22468, 22470, 22471 and 22472]. On January 14, 2020, Plaintiff filed a Motion for Extension of Time to File Response/Reply as to numerous Motions for Summary Judgment filed by Knauf [Rec. Doc. 22467].

The parties will be prepared to discuss these matters with the Court at the January 17, 2020 status conference.

VI. FREQUENTLY ASKED QUESTIONS

The “MDL FAQs” may be found at www.laed.uscourts.gov/Drywall/FAQ.htm. Liaison counsel reminds the parties to review the FAQs before contacting Liaison Counsel. The parties will be prepared to discuss this issue at the monthly status conference on January 17, 2020.

VII. MATTERS SET FOR HEARING FOLLOWING THE CURRENT STATUS CONFERENCE

NONE.

VIII. PHYSICAL EVIDENCE PRESERVATION ORDER

On October 9, 2009, the Court issued Pre-Trial Order 1(B) relating to the preservation of physical evidence from properties that may be repaired during the course of these MDL proceedings. Pre-Trial Order 1(I) was entered by the Court on January 24, 2012 [Rec. Doc. 12257] and on March 20, 2015 the Court entered Pre-Trial Order 1(J) [Rec. Doc. 18528].

IX. SUGGESTIONS OF REMAND AND SUBSEQUENT ACTIVITY

A. ACTIVITY IN THE SOUTHERN DISTRICT OF FLORIDA

1. Amarin v. Taishan Gypsum Co., et al., Civil Action No. 11-22408-CIV-COOKE/GOODMAN

On November 20, 2019, a Notice was filed regarding the MDL 2047 Settlement Class Counsel’s Motion for an Award of Attorney’s Fees and Cost Reimbursements for Common Benefit Counsel and Individually Retained Attorneys [FLSD Rec. Doc. 359].

On January 7, 2020 a Joint Motion to Continue Status Conference Scheduled for January 8, 2020 was filed with the Court [FLSD Rec. Doc. 363] and on January 7, 2020, the Court issued an Endorsed Order [FLSD Rec. Doc. 364] denying the Motion to

Continue. The Status Conference was held on January 8, 2020. On January 9, 2020, the Court issued a Paperless Minute Entry for proceedings held on January 8, 2020 [FLSD Rec. Doc. 366] and a Paperless Notice of Status Conference set for February 26, 2020 at 11:00 a.m. [FLSD Rec. Doc. 367].

On January 14, 2020, a Joint Status Report was filed with the Court [FLSD Rec. Doc. 368].

2. *Brooke v. The State-Owned Assets Supervision And Administration Commission Of the State Council, et al., Case No. 1:15-CV-24348-KMW*

On November 8, 2019, a Paperless Order was issued [FLSD Rec. Doc. 39] setting a status conference for January 8, 2020 at 10:00 a.m. in the Miami Division before Judge Kathleen M. Williams. On January 6, 2020, a Paperless Order was issued [no Rec. Doc. No.] indicating that the ongoing settlement process with Judge Fallon is not yet finalized and the January 8, 2020 status conference was Cancelled.

On January 14, 2020, a Joint Status Report was filed with the Court [FLSD Rec. Doc. 53].

B. ACTIVITY IN THE EASTERN DISTRICT OF VIRGINIA

On May 28, 2019, the Court entered an Order Granting Amended Motion for a Limited Stay to Finalize the Settlement Agreement & Request for a Joint Status Conference Regarding Coordination for Approval of the Settlement, which stayed the litigation through June 14, 2019 [EDVA Rec. Doc. 92]. The Court subsequently entered additional stay orders with an indefinite stay presently in place with the parties to report back to the Court

by January 6, 2020 [EDVA Rec. Doc. 101]. The Court in *Brooke* has done likewise [*Brooke* EDVA Rec. Doc. 14].

C. THE *MITCHELL* PROCEEDINGS

On August 23, 2019, the Court issued a Suggestion of Remand, Opinion and Order regarding *Michell Company, Inc. v. Knauf Gips KG, et al*, No. 09-4115 (EDLA) [Rec. Doc. 22308]. On September 4, 2019, the United States Judicial Panel on Multidistrict Litigation filed a Conditional Remand Order (FLN/3:09-cv-00089) [JPML Rec. Docs. 558 and 2]. On September 12, 2019, the United States Judicial Panel on Multidistrict Litigation finalized the Conditional Remand Order (FLN/3:09-cv-00089) [JPML Rec. Docs. 560 and 4], and on September 13, 2019, the United States District Court for the Eastern District of Louisiana issued a Remand Order [Rec. Doc. 22321].

X. NEXT STATUS CONFERENCE

The next monthly status conference will take place on February 7, 2020 at 9:00 a.m. The following status conference will take place on March 26, 2020 at 9:00 a.m.