

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

\* \* \* \* \*  
IN RE: CHINESE-MANUFACTURED \*  
DRYWALL PRODUCTS \*  
LIABILITY LITIGATION \*  
\*  
THIS DOCUMENT RELATES TO \*  
ALL CASES \*  
\* \* \* \* \*

\* Civil Docket No. 09-MD-2047 "L"  
\* New Orleans, Louisiana  
\* Monday, January 23, 2017

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

Appearances:

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6  
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8 Entities and CNBM Entities  
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10 ALSO PRESENT: Daniel Balhoff, Special Master  
11 Jake Woody, Settlement  
12 Administrator  
13 Patricia Harvey, Claimant

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21 Official Court Reporter: Tana J. Hess, CCR, FCRR  
22 500 Poydras Street, Room B-275  
23 New Orleans, Louisiana 70130  
(504) 589-7781

24 Proceedings recorded by mechanical stenography using  
25 computer-aided transcription software.

1 P-R-O-C-E-E-D-I-N-G-S

2 Monday, January 23, 2017

3 (COURT CALLED TO ORDER)

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4 THE COURT: Okay. Be seated, please. Call the case,  
5 Dean.

6 THE CLERK: MDL number 2047, In Re  
7 Chinese-Manufactured Drywall Products Liability Litigation.

8 THE COURT: Counsel, would liaison counsel make  
9 their --

10 MR. ROSENBERG: Good afternoon, Judge Fallon. Harry  
11 Rosenberg, liaison counsel on behalf of CNBM, BNBM and Taishan,  
12 Your Honor.

13 MR. DYSART: Good afternoon, Your Honor. Danny  
14 Dysart on behalf of the Knauf Defendants.

15 THE COURT: Okay.

16 MR. HERMAN: May it please the Court, good morning,  
17 Judge Fallon. Russ Herman on behalf of Plaintiffs' Steering  
18 Committee.

19 THE COURT: Okay. We're here today for our monthly  
20 status conference. I met a moment ago with lead and liaison  
21 counsel to discuss the agenda with them. I'll take it in the  
22 order presented. We don't have a great deal on the agenda at  
23 this time.

24 MR. HERMAN: Your Honor, looking at the --

25 THE COURT: I have a number of motions before me, and

1 I set the dates for hearing of the contempt order removing  
2 confidentiality designations and also the questions of  
3 jurisdiction that were raised and also some class certification  
4 issues. I gave dates for those, and I put those in the record.

5 There are some briefing dates that counsel are  
6 going to get together on and see whether or not they can agree  
7 on specific dates for the briefing of those matters.

8 **MR. HERMAN:** May it please the Court, those occur at  
9 Page 7, Page 10, Page 13 of the status conference report.

10 The only other issue is to advise the Court that  
11 depositions among Plaintiffs will continue tomorrow, Tuesday,  
12 Wednesday, and Thursday of this week. And, Your Honor, we will  
13 be filing today under seal a motion and brief regarding a  
14 contempt issue before the Court.

15 Lastly, Your Honor, we would be -- in the event  
16 that we can't work out the production schedule, we will be  
17 filing motions to stay the decertification and jurisdiction  
18 issues filed by defendants.

19 **THE COURT:** Okay. Also I have some matters that have  
20 already been briefed and already been argued that I'm working  
21 on now, particularly the question of damages and -- that the --  
22 the class action matters, that some interface with  
23 certification, but perhaps the -- I may issue the damages and  
24 then take the issue of whether or not it should be decertified.  
25 At least we'll see where we are at that point.

1 14:07 MR. HERMAN: Yes, Your Honor.

2 14:07 THE COURT: There are some other areas that I'm  
3 14:07 working on. The jurisdictional aspect, I'm almost finished  
4 14:07 with it. I'll be issuing that shortly, too.

5 14:07 MR. HERMAN: Your Honor set I believe April 6th, 2017  
6 14:07 for the status --

7 14:07 THE COURT: Yes. The next motion -- the next hearing  
8 14:07 date is April -- let's see. The next one is March the 2nd, and  
9 14:07 the third -- the one after that is April the 6th at 9:00.

10 14:07 I also received just a moment ago from -- from  
11 14:07 one of the claimants, Miss Harvey, who favored me with some  
12 14:07 pictures and also some material. This matter is being handled  
13 14:08 by Miss-- for Miss Harvey by Mr. Bruno's firm. I know Miss  
14 14:08 Harvey is present. Miss Harvey, are you there? Yes, ma'am.  
15 14:08 You want to step forward? You want to tell us what's --

16 14:08 PATRICIA HARVEY: Good afternoon, Your Honor. Good  
17 14:08 afternoon, everyone. That was just a little briefing for the  
18 14:08 Chinese Drywall, for the foreclosure.

19 14:08 THE COURT: Yes, ma'am.

20 14:08 PATRICIA HARVEY: And I was coming before the Court  
21 14:08 to ask the Court to consider another resolution offer than  
22 14:08 \$10,000. That home may have been into my home -- that home had  
23 14:08 been into our life decades.

24 14:08 THE COURT: Yes, ma'am. Uh-huh.

25 14:08 PATRICIA HARVEY: Since '88. I raised my kids in

14:08 1 that home.

14:08 2 THE COURT: Right.

14:08 3 PATRICIA HARVEY: And my son, when he got older  
14:08 4 and -- about 10 years old, he asked me one day, he said, "Mom,  
14:08 5 I'm going to be able to have this home?" And I told him,  
14:09 6 "Yeah." And in '99, this home was bought by a gift from one of  
14:09 7 my bosses that I had worked for 30 something years.

14:09 8 THE COURT: Yes, ma'am.

14:09 9 PATRICIA HARVEY: And in 2005, my son had finished  
14:09 10 school, and he asked, and I got together and gave him the house  
14:09 11 in March of 2005. He renovated the home. In 2005 of --  
14:09 12 August, here come Katrina, some more damage.

14:09 13 THE COURT: Yes.

14:09 14 PATRICIA HARVEY: So it's not like we just bought the  
14:09 15 home yesterday and --

14:09 16 THE COURT: Yes, ma'am.

14:09 17 PATRICIA HARVEY: You know, it's been in our  
14:09 18 livelihood, and I raised my kids, and it's a family  
14:09 19 neighborhood. My sister -- I have three sisters that lived on  
14:09 20 the block.

14:09 21 THE COURT: Yes, ma'am.

14:09 22 PATRICIA HARVEY: And I was just coming to ask the  
14:09 23 Court --

14:09 24 THE COURT: Sure. Okay.

14:09 25 PATRICIA HARVEY: -- to say it's not -- like I said,

1 it's not like we just purchased that home. It's been in our --

2 THE COURT: Yes, ma'am.

3 PATRICIA HARVEY: Now I have lost it due to my health  
4 and his health.

5 THE COURT: Yeah.

6 PATRICIA HARVEY: We couldn't go forward and rent and  
7 pay a mortgage at the time.

8 THE COURT: Jake, you've -- have you worked on this a  
9 little bit? You want to fill us in on this?

10 MR. WOODY: Yes, Your Honor. Miss Harvey, as you  
11 mentioned, is represented by the Bruno Law Firm.

12 THE COURT: Yeah.

13 MR. WOODY: They had a couple of late claims of which  
14 Mrs. Harvey had a foreclosure claim, which is one of them. The  
15 Court instructed us to review it, which we did, and found that  
16 it was eligible for the initial offer of \$10,000, which  
17 Miss Harvey mentioned at the beginning of the presentation. We  
18 haven't heard back from the Bruno firm. We communicated that  
19 offer. We're ready to issue payment on it.

20 It sounds like Miss Harvey wishes to appeal that  
21 award, although we haven't received anything from her attorneys  
22 on that.

23 THE COURT: Miss Harvey, have you talked to Mr. Bruno  
24 about the matter?

25 PATRICIA HARVEY: Yes, I met with him on the 16th,

1 and I asked him about the -- to talk to the Special Master.

2 THE COURT: Uh-huh.

3 PATRICIA HARVEY: And he said I was ineligible to  
4 speak with the Special Master for any other funds and how I got  
5 to be -- really the home belongs to my son, and he was ill, and  
6 they gave him air space money, only \$3,000, and then they told  
7 him that's all he can get, Bruno and Bruno office, Shaletha  
8 (phonetically) Johnson. So I had to step up, and I had Power  
9 of Attorney. So they did it -- they said it was too late to do  
10 the resolution, so they had to do it in my name, this filing,  
11 but the file was never late. It was on time, but it was in my  
12 son name, Lawrence Harvey, and they lost all the papers. They  
13 only awarded him \$3,000 for air space.

14 THE COURT: Uh-huh.

15 PATRICIA HARVEY: And they lost all the papers. But  
16 I had a claim in because of my son, so they just used my name  
17 as I was the property and since I had to do a Power of  
18 Attorney. But I was on time with every paper, you know, Your  
19 Honor.

20 THE COURT: All right.

21 PATRICIA HARVEY: Thank you.

22 THE COURT: Since she has -- since you have an  
23 attorney, I'd like to meet with the attorney and -- and  
24 opposing counsel and see what he has to say on it.

25 PATRICIA HARVEY: Yes, sir.

1 THE COURT: So let me do that, and I'll keep the  
2 documents that you've given to me.

3 PATRICIA HARVEY: Yes, sir. Thank you so much.

4 THE COURT: Okay.

5 PATRICIA HARVEY: Thank you so much.

6 THE COURT: Okay. Good. Thank you, Miss -- thanks  
7 for being here Miss Harvey. I appreciate it.

8 PATRICIA HARVEY: Thank you.

9 THE COURT: This is in the -- involved the Knauf  
10 settlement.

11 MR. ROSENBERG: Your Honor, if it please the Court, I  
12 may have misheard Mr. Herman, but I thought that he said that  
13 the P.S.C. was considering filing a Motion to Stay regarding  
14 jurisdiction, perhaps alter ego and other issues. My  
15 understanding from Your Honor as recently as this afternoon was  
16 that the Court had those issues fully briefed and would issue  
17 rulings on those. If the P.S.C. intends to file a Motion to  
18 Stay for any other matter, I assume we'll be able to meet and  
19 confer with Mr. Herman --

20 THE COURT: Yeah.

21 MR. ROSENBERG: -- and his colleagues so we can  
22 address that.

23 MR. HERMAN: May it please the Court, I apologize if  
24 I was inarticulate, but there had been recent motions filed by  
25 CNBM and joined by others both on jurisdiction and to

1 decertify, and as to those that are now set for hearing, we may  
2 ask that the hearings be deferred until the contempt issue  
3 regarding production of documents has been resolved. That's  
4 the issue that I raised.

5 **THE COURT:** Yeah, I didn't understand that to be  
6 the -- the motions on jurisdiction. I understood that to be  
7 the motions on decertification to which there might be some  
8 relevance for the documents that we're trying to deal with that  
9 are in Chinese, but not in English.

10 **MR. HERMAN:** Thank you, Your Honor.

11 **THE COURT:** Yeah.

12 **MR. ROSENBERG:** Well, in any event, Your Honor, just  
13 so --

14 **THE COURT:** I'll give you an opportunity to respond,  
15 sure.

16 **MR. ROSENBERG:** Thank you, Your Honor, and we'll have  
17 an opportunity to know in advance before the P.S.C. files the  
18 motion?

19 **THE COURT:** Yeah. We're trying to do -- it's what  
20 I've tried -- what I've tried to do with all of you-all is to  
21 get -- get you to talk about the motions that you intend to  
22 file before you file them so that -- I don't want a situation  
23 where you file and everybody does work on the briefs, and then  
24 the other side say, "We have no objection." That's a waste of  
25 time, so --

1           **MR. ROSENBERG:** And that's what I understood the  
2 Court's practice has been, Your Honor.

3           **THE COURT:** Yeah, right.

4           **MR. ROSENBERG:** Thank you.

5           **THE COURT:** Okay. Anything further?

6           **MR. EXNICIOS:** Your Honor, may I?

7           **THE COURT:** Sure.

8           **MR. EXNICIOS:** Thank you. Your Honor, just on behalf  
9 of my clients and also in my capacity as co-liaison for  
10 objectors, we just had a query for the Court.

11           Judge, I know that on January 11th you issued an  
12 order setting various motions that were pending before you for  
13 oral argument. We just wanted to query the Court, we --  
14 objectors as a whole, I think you have two outstanding motions  
15 pending before you. 20434 on the distribution of the  
16 quote-unquote undisputed fees, and I think even more relevant  
17 or certainly equally relevant, we have an objection pending  
18 before you relative to the Special Master's limitations on  
19 discovery. As Your Honor is aware, the depositions of  
20 Mr. Herman, Miss Duggan and Mr. Levin are scheduled to start  
21 tomorrow through Thursday. My individual clients have a motion  
22 relative to the Villa Lago settlement and award of attorney's  
23 fees. We just weren't aware as to whether or not Your Honor  
24 wanted or needed us to file any motion per se to set those for  
25 oral argument or whether Your Honor was just going to deal with

1 14:16 1 them in due course as the Court --

2 14:16 2 THE COURT: well, I didn't think that the fees were  
3 14:16 3 ripe at this time.

4 14:16 4 MR. LEVIN: They're not, Your Honor. The motions are  
5 14:16 5 -- have been filed. They haven't been set, because the  
6 14:16 6 proceedings haven't advanced to that point.

7 14:16 7 THE COURT: Yeah.

8 14:16 8 MR. LEVIN: Especially the motion where he wants his  
9 14:16 9 money, but nobody else is to get any.

10 14:16 10 THE COURT: Yeah. well, what it is, Val, is that  
11 14:16 11 what I try to do in these -- in this matter is to set up some  
12 14:16 12 kind of procedure. You-all have not finished your procedure  
13 14:16 13 yet, but when you do finish your procedure, then I think you  
14 14:16 14 need to file motions, whatever you think you need to file on  
15 14:16 15 it.

16 14:16 16 MR. EXNICIOS: All right. Good. And the only  
17 14:16 17 reason, Your Honor, I bring the Villa Lago motion to your  
18 14:16 18 attention is because I think there was some -- a query of  
19 14:17 19 Special Master Balhoff as to whether that was frankly before  
20 14:17 20 him or still before you. Your Honor had previously set for  
21 14:17 21 hearing Richard Taylor's motion as a standalone.

22 14:17 22 THE COURT: Yeah.

23 14:17 23 MR. EXNICIOS: My clients respectfully suggest we're  
24 14:17 24 in the same situation --

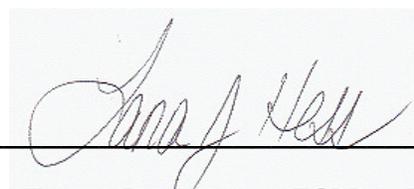
25 14:17 25 THE COURT: Sure.



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CERTIFICATE

I, Tana J. Hess, FCRR, RMR, Official Court Reporter, United States District Court, Eastern District of Louisiana, do hereby certify that the foregoing is a true and correct transcript, to the best of my ability and understanding, from the record of the proceedings in the above-entitled and numbered matter.



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Tana J. Hess, FCRR, RMR  
Official Court Reporter