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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

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IN RE: CHINESE-MANUFACTURED  
DRYWALL PRODUCTS  
LIABILITY LITIGATION

CIVIL DOCKET NO. 09-MD-2047 "L"  
NEW ORLEANS, LOUISIANA  
WEDNESDAY, JUNE 19, 2019, 9:00 A.M.

THIS DOCUMENT RELATES TO  
ALL CASES

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

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9 PRODUCED BY COMPUTER.

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

WEDNESDAY, JUNE 19, 2019

M O R N I N G   S E S S I O N

(COURT CALLED TO ORDER)

THE COURT: Okay. Dean, let's call the case, please.

THE DEPUTY CLERK: MDL No. 2047, In re: Chinese  
Manufactured Drywall Products Liability Litigation.

THE COURT: Would Counsel make their appearance for the  
record, please.

MR. ROSENBERG: Good morning, Judge Fallon.  
Harry Rosenberg, liaison counsel for Taishan, BNBM and CNBM,  
Your Honor.

MR. RUSS HERMAN: May it please the Court. Good  
morning, Judge Fallon. I'm Russ Herman. I'm here for the PSC  
as liaison counsel.

MR. MILLER: Kerry Miller is also here, Your Honor,  
liaison counsel.

MR. RUSS HERMAN: Yes, you are. Glad to see you.

MR. MILLER: Good to see you, too, Russ.

MR. RUSS HERMAN: I just have very few reports to the  
Court. Joint Report No. 112 in MDL Docket 2047 has been  
distributed and filed of record, should anyone want to access  
it.

1 Jake Woody is here for BrownGreer. He has a  
2 statement for the record. Jake.

3 MR. WOODY: Good morning, Judge Fallon.

4 THE COURT: Good morning, Jake.

5 MR. WOODY: Jake Woody from BrownGreer.

6 I wanted to say just a quick word about attorneys' fees  
7 and the administrative steps that we're taking to move forward  
8 with that disbursement.

9 THE COURT: This is on the Knauf portion of the case.

10 MR. WOODY: Yes, Your Honor.

11 If you recall, in 2016, we sent a list of  
12 properties and settlement payment amounts to every firm and  
13 asked them to confirm that we had the right list.

14 We've refreshed that list to reflect payments  
15 that we've made since then. We're going to send it back out to  
16 every firm, ask that they review it carefully and make sure  
17 that we have captured all the properties that they represent  
18 and have the correct settlement amounts. Those amounts will be  
19 used to calculate the individual fees on those properties.

20 We expect to send that out early next week, and  
21 would ask that people -- we'll probably give a deadline of  
22 about ten days to review it and get back to us on that. That  
23 will give us the numbers that we need and the confirmation that  
24 we need to make those disbursements on the individual retained  
25 attorneys.

1 THE COURT: Okay. By way of background, in this  
2 particular case, the Knauf case proceeded. After several  
3 trials, we were able to work out a protocol. The protocol was  
4 utilized in dealing with the damages.

5 The case was settled. The settlement included a  
6 certain amount of taking care of the protocol; then, in  
7 addition to that, it included attorneys' fees. The attorneys'  
8 fees encompassed both the contract lawyers, as well as the  
9 common benefit lawyers.

10 So, after the litigants had gotten paid, after  
11 all of the property had been remediated and paid for, I then  
12 focused on the attorneys' fees. The attorneys' fees were a  
13 certain amount that was put in the registry of the Court by  
14 Knauf.

15 I had to first write an opinion deciding the  
16 appropriate split between the contract lawyers and the common  
17 benefit lawyers.

18 After that was done, then I wrote another opinion  
19 dealing with the disbursement of the fees for the common benefit  
20 lawyers. We're talking now about the contract lawyers.

21 The contract lawyers have a certain portion of  
22 the fee, and it is to be divided in accordance with the square  
23 footage of the properties involved. That was long time  
24 determined.

25 So, at this point, what Jake is doing is figuring

1 out the appropriate attorneys' fees for those attorneys who had  
2 contracts with the owners of those particular properties.  
3 Their fee will be determined by the square footage of the  
4 property. That's what we're doing at this point.

5 MR. WOODY: That's correct, Your Honor.

6 THE COURT: Thank you very much.

7 MR. WOODY: Thank you, sir.

8 MR. RUSS HERMAN: Your Honor, may it please the Court.  
9 Sandy Duggan for the plaintiffs, Christy for Taishan, have a  
10 report to the Court. Should be very brief.

11 MS. DUGGAN: Good morning, Your Honor. There is a stay  
12 in place from the District Court proceedings in this Court, as  
13 well as in the remand courts in Virginia and in Florida,  
14 through July 1st.

15 The parties have been working diligently to  
16 finalize a settlement agreement. We have been working around  
17 the clock. We have had several meetings in person, numerous  
18 telephones calls and exchange of e-mails. We believe that we  
19 are on target to complete the settlement by July 1st with  
20 regard to all of the principal terms.

21 The only thing that will probably be outstanding  
22 at that point is the official signatures, chops, from the  
23 Chinese defendants, which will take probably an additional  
24 several weeks to complete.

25 MS. EIKHOFF: That is likely, Your Honor. It is a

1 comprehensive, lengthy settlement agreement, as you can  
2 imagine, for a class settlement of this magnitude.

3           Once we reached the terms -- or were nearly  
4 complete on terms -- also, the whole thing had to be translated  
5 by a law firm in China. That translation is supposed to be  
6 done by the episode of this week. Then, once we have been  
7 satisfied, among the lawyers, that we have agreement on terms,  
8 then it will be need to go through the regulatory layers of  
9 approval in China.

10           THE COURT: Now, we're talking at this point about the  
11 Taishan cases. You will recall that the group of manufacturers  
12 in this particular litigation were a German-owned, wholly-owned  
13 subsidiary of a Chinese corporation. That was the Knauf side  
14 of the case.

15           In addition to the Knauf side of the case, there  
16 was a Taishan side of the case, which included a number of  
17 manufacturers, Chinese manufacturers. We have been discovering  
18 that case and trying that case. We got to a point where it was  
19 appropriate to begin remanding the case.

20           So I remanded several thousand of them to Florida  
21 and then also several thousand to Virginia. With the good work  
22 of the Florida judges, Judge Cooke and her colleague there, and  
23 also the federal judge in Virginia, they were able to get the  
24 cases moving. The parties have now gotten together and have  
25 reached an agreement in principle to resolve the Taishan cases.

1                   It's because of the good work of the lawyers  
2 before me that it was able to be perfected, and I appreciate  
3 all of their good work.

4                   We're in the process now of papering it and  
5 putting some final touches on it.

6                   MS. EIKHOFF: Your Honor, we have scheduled with your  
7 law clerk an update call with you next week -- in about a  
8 week's time, so that we can give you an update and have a  
9 better sense then, in terms of extending the stay, the amount  
10 of time that we may be needing to request.

11                  THE COURT: I'm in contact with my colleagues in  
12 Florida, as well as in Virginia, and all of us are anxious to  
13 keep this case moving so that we can get it finished.

14                  We have been here now for nine years in this  
15 particular aspect of the case, and it's time to resolve it one  
16 way or the other. So it's important that we keep in touch and  
17 moving it.

18                  MS. EIKHOFF: Yes, Your Honor.

19                  THE COURT: Thank you very much.

20                  MS. DUGGAN: We appreciate the Court's patience. Thank  
21 you.

22                  MR. RUSS HERMAN: Your Honor, I want to represent to  
23 the Court that Richard Serpe, who is the plaintiff lawyer  
24 master of the Virginia litigation, is present in court. I also  
25 want to acknowledge that your court-appointed facilitator,

1 Special Master Cal Mayo, is here, who has been involved in  
2 resolution of all issues.

3 THE COURT: He has. He has been very helpful,  
4 particularly in the early part of this litigation. I know  
5 he'll do a good job in the final part of it. I appreciate his  
6 work.

7 MR. RUSS HERMAN: I note that a number of attorneys are  
8 present who have not yet had opportunity to sign the sign-in  
9 sheet. It's here, and I'll ask them, after this, and  
10 Your Honor goes into recess, to sign the sheet.

11 I know that you have a matter afterwards. I  
12 don't know if Kerry Miller has a report?

13 MR. MILLER: (Witness shakes head negatively.)

14 THE COURT: No. Okay.

15 MR. RUSS HERMAN: I understand that Mr. Faircloth is in  
16 the courtroom and may want to address the Court.

17 MR. FAIRCLOTH: I have nothing to add, Your Honor.

18 THE COURT: Okay. Fine. Thank you very much.

19 MR. RUSS HERMAN: That, may it please the Court --

20 THE COURT: The next status conference, then, is  
21 July 25th, and the following one is August 21st. At 8:30, I'll  
22 meet with the parties.

23 I'm not trying to keep anybody from my meetings.  
24 The meetings early on, I try to have a brief meeting with  
25 liaison and lead counsel before the general meeting.

1           At that meeting, I just go over with them the  
2 agenda and insert some matters that I would like them to deal  
3 with in the agenda when it's taken up. I repeat everything  
4 that I've said in that meeting.

5           It's just a meeting that facilitates the general  
6 meeting. It's not intended to impart any information. It's  
7 simply facilitating it.

8           So I try to keep that as small as I can to make  
9 it more efficient. If I have everybody in that first meeting,  
10 then there is no reason to have a second meeting. I don't keep  
11 anything from anyone from the first meeting. It's just a  
12 facilitating meeting. That's the reason I try to limit it to  
13 small amounts.

14           Okay. We'll take a break here then for five  
15 minutes. Then I'll come back, and we'll deal with the class  
16 certification motion. The Court will stand in recess.

17           THE DEPUTY CLERK: All rise.

18           (WHEREUPON, at 9:18 a.m., the proceedings were  
19 concluded.)

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## REPORTER'S CERTIFICATE

I, Cathy Pepper, Certified Realtime Reporter, Registered Merit Reporter, Certified Court Reporter in and for the State of Louisiana, Official Court Reporter for the 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.

s/Cathy Pepper

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