

UNITED STATES DISTRICT COURT
 FOR THE EASTERN DISTRICT OF LOUISIANA

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| IN RE: CHINESE-MANUFACTURED | * | MDL 2047 |
| DRYWALL PRODUCTS LIABILITY | * | |
| LITIGATION | * | SECTION: L |
| | * | |
| This document relates to: | * | JUDGE: FALLON |
| | * | |
| <i>Vickers, et al v. Knauf Gips KG, et al</i> | * | MAG. JUDGE WILKINSON |
| EDLA 09-04117 | * | |
| | * | |
| <i>Payton, et al v. Knauf Gips, KG, et al</i> | * | |
| EDLA 09-07628 | * | |
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| <i>Silva, et al v. Knauf Gips, KG, et al</i> | * | |
| EDLA 09-08034 | * | |
| ***** | | |

ORDER
(Scheduling Order re: Hearings for Class Certification)

On September 20, 2010, Plaintiffs filed a Motion for Class Certification of a Florida Homeowner Class for Claims against Banner Supply Co. in *Vickers* and *Payton* [Rec. Doc. 5611]

On September 21, 2010, Plaintiffs filed a Motion against Interior Exterior, Arch Insurance Company, RSUI, North River Insurance Company, Fireman’s Fund Insurance Company and Liberty Mutual Insurance Company for Class Certification of a Louisiana Homeowner Class for Damages and Declaratory Relief in *Silva* [Rec. Doc. 5567]. On September 21, 2010, Plaintiffs filed a Motion for Class Certification of a Florida Homeowner Class and a Louisiana Homeowner class for Property Damage Against Knauf in *Payton* [Rec. Doc. 5612]. On December 2, 2010, the Court issued a Minute Entry directing counsel to submit a joint discovery, briefing, and hearing schedule for these motions, as well as a list of all state court cases with conflicting class actions and the presiding

judges [Rec. Doc. 6516].

Pursuant to the authority granted in *In re: Chinese-Manufactured Drywall Products Liability Litigation*, MDL 2047, this Order establishes a schedule for the conduct of discovery related to the issue of class certification and the final briefing and hearing of Plaintiffs' Motions to Certify Class Action.

ACCORDINGLY, THE COURT ENTERS THE FOLLOWING ORDER:

1. **Interventions.** Any interested party, including assignees of home owner claims, who seeks to intervene in one of the above referenced Motions for Class Certifications shall be subject to the terms, conditions and deadlines set forth in this Order. Any such party seeking to intervene shall file appropriate pleadings with the Court prior to January 17, 2011.

2. **Discovery to Class Representatives and Fact Witnesses.** Commencing as of the date this Order is entered, Defendants shall be entitled to propound additional written discovery upon the designated class representatives. This discovery shall not be duplicative of information previously provided in the Plaintiff Profile Form provided by the class representative. Further, Defendants shall be entitled to take depositions of up to ten (10) class members, including class representatives, and any designated fact witnesses with respect to Class Certification issues. The depositions shall be limited to one day per deponent. Depositions of class representatives shall be completed by February 15, 2011 and any other designated witnesses by March 3, 2011. If additional fact witnesses are disclosed by either party, such disclosure shall be made in sufficient time prior to the class certification hearing so that a reasonable opportunity to take discovery is provided to the other side, without prejudice to any party

3. **Disclosure/Discovery of Plaintiffs' Experts.** To the extent Plaintiffs rely upon any experts, Plaintiffs shall furnish to Defendants expert reports in accordance with Fed.R.Civ.P.

26(a)(2)(B) or Affidavits (which may have already been provided in the original filed motions) and dates of availability of their experts for depositions by January 24, 2011. Defendants shall complete the depositions of Plaintiffs' experts by March 10, 2011.

4. **Designation of Fact Witnesses.** Plaintiffs, Defendants and Intervenors shall all designate fact witnesses who may be called to testify at the class certification hearing (whether live or by deposition) by February 3, 2011.

5. **Disclosure/Discovery of Defendants' Experts.** To the extent Defendants rely upon any experts, Defendants shall furnish to plaintiffs expert reports in accordance with F.R.C.P. 26(a)(2)(B) or Affidavits and dates of availability of their experts for depositions by February 18, 2011. The Plaintiffs shall complete the depositions of the Defendants experts by March 25, 2011.

6. **Opposition to Motion to Certify Class Action.** Defendants shall file their Memorandum in Opposition to each Motion to Certify Class Action together with exhibits, affidavits and depositions by April 4, 2011.

7. **Plaintiffs' Memorandum in Reply.** By April 25, 2011, plaintiffs shall file their Memorandum in Reply to each of the Defendants' Memorandum in Opposition to Motions to Certify Class Action. Supporting affidavits or depositions may be referenced and/or attached only if the affiants/deponents were timely designated in accordance with this Order.

8. **Daubert Challenges.** To the extent any party files a *Daubert* challenge to any experts, such motion shall be filed prior to March 25, 2011 so that briefing can take place and the Court can schedule a hearing, if necessary, in advance of the hearing date on the Motions to Certify Class Actions. The parties are encouraged to meet and confer in advance to avoid the filing of unnecessary motions relating to *Daubert* challenges.

9. **Agenda and Procedure for Class Certification Hearing.** By May 6, 2011 the

parties shall file with the court a joint agenda and proposed procedure for the class certification hearing. The agenda shall include a listing of all witnesses, an identification of all documents or things to be used at the hearing, an indication of any objections to evidence and the reason or basis for such objections, and any time limits for oral argument. The parties shall meet and confer in sufficient time prior to May 3, 2011 to confect the submission. A pre-hearing conference will be held by the Court on May 11, 2011 at 1:30 p.m. to finalize the agenda and the procedures to be followed at the class certification hearing.

10. **Hearing.** The hearing on each of the Motions to Certify Class Actions shall commence on June 1, 2011, at 9:00 a.m. and continue from day to day thereafter through June 3, 2011, as needed.

NEW ORLEANS, LOUISIANA, this 11th day of January, 2011.


UNITED STATES DISTRICT COURT JUDGE