

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

IN RE: CHINESE MANUFACTURED DRYWALL PRODUCTS LIABILITY LITIGATION	:	MDL NO. 2047
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	:	SECTION: L
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	:	JUDGE FALLON
	:	MAG. JUDGE WILKINSON

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**THIS DOCUMENT RELATES TO ALL CASES.**

**ORDER PRELIMINARILY APPROVING THE L&W CLASS SETTLEMENT,  
CONDITIONALLY CERTIFYING AN L&W SETTLEMENT CLASS, AND  
APPROVING AND ISSUING CLASS NOTICE**

WHEREAS, on March 27, 2012, the PSC, L&W and USG and the Knauf Defendants filed a Joint Motion for an Order: (1) Preliminarily Approving the L&W Class Settlement; (2) Conditionally Certifying an L&W Class; (3) Issuing Class Notice; and (4) Scheduling a Joint Fairness Hearing; and Staying Claims Against L&W, USG and the Knauf Defendants (“Joint Motion”) [Rec. Doc. 13375];

WHEREAS, on April 26, 2012, the Court granted the Joint Motion [Rec. Doc. 14033];

WHEREAS, at that time, the Court deferred entry of a detailed order so that the Court could coordinate the schedule and deadlines for the L&W Settlement with the schedules for the Knauf, Banner and InEx Settlements and the Prospective Insurance Agreement, which had not yet been finalized;

WHEREAS, on May 31, 2012, the Court issued the Order & Reasons Preliminarily Approving the Settlement Agreement Regarding Claims Involving Builders, Installers, Suppliers, and Participating Insurers (the “Global Settlement”), Conditionally Certifying a Settlement Class, Approving the Form Notice to Class Members, and Staying Claims Against Builders, Installers, Suppliers, and Participating Insurers [Rec. Doc. 14562];

WHEREAS, on June 4, 2012, the Court issued the Order (1) Setting Consolidated Fairness Hearing, (2) Establishing Coordinated Opt Out, Objection and Briefing Deadlines, and (3) Entering Litigation Stay in Favor of Settling Parties [Rec. Doc. 14566];

THEREFORE, IT IS HEREBY, ORDERED, ADJUDGED AND DECREED that:

1. Capitalized terms used in this Order have the same meaning as those defined in the Class Action Settlement Agreement Regarding KPT Drywall Claims Against USG and L&W in MDL No. 2047 (the "L&W Settlement"), attached as Exhibit A to the Memorandum of Law in Support of the Joint Motion.
2. The L&W Settlement, including all exhibits attached thereto, is preliminarily approved by the Court as fair, reasonable and adequate, as negotiated and entered into at arm's length, in good faith, and free of collusion to the detriment of the L&W Class, and as being within the range of possible judicial approval at the Joint Fairness Hearing scheduled to commence on November 13, 2012.

The following nationwide L&W Class is conditionally certified and shall consist of:

All persons or entities who are Participating Class Members in the Knauf Class Settlement and who (a) as of December 9, 2011, is a named plaintiff in the Litigation (*i.e.*, not an absent class member) asserting claims arising from, or otherwise related to L&W Supplied KPT Chinese Drywall, whether or not L&W and/or USG are named parties to the lawsuit, and (b) own Affected Property.

4. Paul and Therese Pitkin are appointed as Representatives for the L&W Class.
5. Russ Herman and Arnold Levin are appointed as L&W Class Counsel, and the Plaintiffs' Steering Committee ("PSC") are appointed as Of-Counsel.
6. The opt-out procedure set forth in Section 8 of the L&W Settlement is approved.
7. The procedure for lodging objections to the L&W Settlement as set forth in Section 9 of the L&W Settlement is approved.

8. The Notice attached to the Memorandum of Law is approved.

9. The protocol for dissemination of Notice to L&W Class Members as set forth in Section 7 of the L&W Settlement is approved.

10. On or before July 2, 2012, L&W Class Counsel shall cause the Notice attached as Exhibit C to the Memorandum of Law to be sent via first-class mail, postage prepaid to: (i) all plaintiffs in the Litigation who, as of December 9, 2011, asserted claims arising from, or otherwise related to L&W Supplied KPT Chinese Drywall, (ii) all named plaintiffs in the Omni complaints in MDL No. 2047 who, as of December 9, 2011, asserted claims arising from, or otherwise related to L&W Supplied KPT Chinese Drywall, (iii) all named plaintiffs in all Related Actions who, as of December 9, 2011 asserted claims arising from, or otherwise related to L&W Supplied KPT Chinese Drywall, and (iv) the counsel of all the foregoing. Where an attorney represents more than one Plaintiff or claimant with claims against L&W and/or USG, it shall be sufficient to provide that attorney with a single copy of the Notice. Notice to an L&W Class Member's counsel of record shall constitute Notice to the L&W Class Member even if the L&W Class Member does not receive independent notice.

11. The cost of Notice shall be paid by the Knauf Defendants.

12. The Notice shall be posted on the Court's Chinese Drywall MDL website so as to commence the Notice period.

13. Any L&W Class Member wishing to opt out of the L&W Settlement must notify L&W Class Counsel, Arnold Levin (Levin, Fishbein, Sedran & Berman, 510 Walnut Street, Suite 500, Philadelphia, PA 19106) and Russ M. Herman (Herman, Herman, Katz & Cotlar, LLP, 820 O'Keefe Avenue, New Orleans, LA 70113), counsel for USG and L&W, W. David Conner (Haynsworth Sinkler Boyd, P.A., P.O. Box 2048, Greenville, SC 29602), and counsel for

the Knauf Defendants, Kerry J. Miller (Frilot LLC, 1100 Poydras Street, Suite 3700, New Orleans, LA 70163) in writing, postmarked no later than September 28, 2012, which is the last day of the Opt-Out/Objection Period, of their intention to opt out of the L&W Settlement. Consistent with the Court's order entered on June 4, 2012 [Rec. Doc. No. 14566], in order to assure that L&W Class Members have adequate time to consider the L&W Settlement, the Knauf Class Settlement and the Global Settlement together, no opt-out will be effective if filed earlier than August 29, 2012. To be effective, the opt-out notice must set forth the full name and current address of the person electing to opt out and a sentence stating: "The undersigned hereby opts out of the L&W Class in the Chinese Drywall Action and acknowledges that by opting out, the undersigned may not receive any benefits under the L&W Settlement or the Knauf Class Settlement." The opt-out notice must be signed by the individual L&W Class Member.

14. L&W Class Members who opt out of this L&W Settlement will not be entitled to receive any benefits under the Knauf Class Settlement.

15. Any opt-out from this L&W Settlement will be null and void if the L&W Class Member does not also timely opt out of the Knauf Class Settlement.

16. All objections to the proposed L&W Settlement shall be filed and served in compliance with Section 9 of the L&W Settlement, postmarked no later than September 28, 2012, or they will be deemed waived. All objections must be signed by the individual L&W Class Member and by his or her counsel, if any.

17. The Settling Parties shall file any response to the objections or other papers in support of final approval of the L&W Settlement consistent with the provisions of the order entered by the Court on June 4, 2012 [Rec. Doc. 14566].

18. A formal joint fairness hearing shall take place on November 13, 2012. beginning

at 9 o'clock in the a.m., and continuing to November 14, 2012, if necessary, in order to consider comments on and objections to the proposed Knauf Class Settlement, the L&W Settlement and the Global Settlement to consider whether (a) to approve thereafter the class settlements as fair, reasonable and adequate pursuant to Rule 23 of the Federal Rules of Civil Procedure, (b) to finally certify the Knauf Class, the L&W Class and the Global Class, and (c) to enter the Order and Judgment provided in paragraph 1.43 of the Knauf Class Settlement, the Order and Judgment provided in paragraph 1.24 of the L&W Settlement and the Order and Judgment provided in paragraph 1.14 of the Global Settlement.

19. Prosecution of all claims arising out of L&W Supplied KPT Chinese Drywall, which have been asserted against any settling defendant shall be stayed and enjoined pending the L&W Settlement, Knauf Class Settlement and Global Settlement proceedings consistent with the provisions of paragraphs 6 through 8 of the Court's order entered on June 4, 2012 [Rec. Doc. No. 14566].

20. The Settling Parties have reserved all claims and defenses in the Litigation should the proposed L&W Settlement not become final for whatever reason.

21. L&W, USG, and the Knauf Defendants have reserved all defenses, including the right to contest certification of the L&W Class *de novo* should the proposed L&W Settlement not become final for whatever reason. If the proposed L&W Settlement does not become final, the conditional certification of the L&W Class will be null and void, and the Litigation will proceed as if there had been no L&W Settlement, conditional certification of an L&W Class or Notice.

New Orleans, Louisiana this 8th day of June, 2012

  
ELDON E. FALLON

United States District Judge