

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
FRIDAY, APRIL 17, 2015, 9:00 A.M.

THIS DOCUMENT RELATES TO
ALL CASES

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

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

FRIDAY, APRIL 17, 2015

M O R N I N G S E S S I O N

(COURT CALLED TO ORDER)

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09:03:27 6

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THE DEPUTY CLERK: All rise.

09:10:51 8

THE COURT: Be seated, please. Good morning, ladies

09:10:51 9

and gentlemen.

09:10:51 10

VOICES: Good morning, Your Honor.

09:10:52 11

THE COURT: Call the case, please.

09:10:54 12

THE DEPUTY CLERK: MDL 2047, *Chinese-Manufactured*

09:10:59 13

Drywall Products Liability Litigation.

09:11:01 14

THE COURT: Counsel, make your appearance for the

09:11:03 15

record, liaison.

09:11:06 16

MR. HERMAN: May it please the Court. Good morning,

09:11:09 17

Judge Fallon. Russ Herman for plaintiffs.

09:11:13 18

MR. MILLER: Good morning, Russ.

09:11:14 19

Good morning, Judge Fallon. Kerry Miller, on

09:11:18 20

behalf of the Defense Steering Committee and Knauf.

09:11:18 21

THE COURT: Somebody from -- Bernard, you want to make

09:11:21 22

your appearance?

09:11:21 23

MR. TAYLOR: Good morning, Your Honor. Bernard Taylor

09:11:23 24

and Christy Eikhoff on behalf of Taishan.

09:11:29 25

MR. FENTON: Good morning, Your Honor. Rick Fenton on

09:11:32 1 behalf of BNBK Group and BNBK PLC.

09:11:41 2 THE COURT: Okay. Welcome, BNBK, to this litigation.

09:11:43 3 I met with counsel a moment ago, lead and
09:11:49 4 liaison, just to discuss some of the issues. After hearing
09:11:54 5 from them, I moved the hearing from 10 days from now until
09:12:02 6 June the 9th, to give the parties an opportunity to discover
09:12:08 7 the matter and exchange documents.

09:12:11 8 Now, I did that, but I need counsel to meet and
09:12:17 9 confer on getting together a scheduling order, so that we don't
09:12:22 10 have any misunderstandings. I do expect good faith from both
09:12:26 11 sides to deliver the documents that you need to deliver without
09:12:32 12 any making people jump through hoops that are not necessary.
09:12:36 13 So I look to the good faith of the parties, and because of the
09:12:41 14 quality of counsel, I know I will receive that.

09:12:44 15 I also mentioned to them that I see that we're
09:12:50 16 presently on two tracks in this aspect of the case. The first
09:12:54 17 track is the contempt of court track, and the second track is
09:13:00 18 the damage track.

09:13:01 19 Now, with contempt of court, as we all know, I
09:13:07 20 held Taishan in contempt of court on July 17th of 2014, after
09:13:16 21 trying, on a number of occasions, to get them to participate.
09:13:21 22 They didn't, and so I had no alternative but to hold them in
09:13:26 23 contempt of court.

09:13:26 24 In my contempt order, I provided three things:
09:13:30 25 One, I ordered them to pay \$15,000 attorneys' fees; I ordered

09:13:35 1 them to pay \$40,000 penalty; and, I also enjoined Taishan and
09:13:43 2 any of its affiliates or subsidiaries from doing business in
09:13:47 3 the United States during the period of time that they were in
09:13:51 4 contempt.

09:13:52 5 On March 9th, Taishan paid the \$40,000 penalty,
09:14:01 6 and around that same time, they paid \$15,000 attorneys' fees.
09:14:07 7 Shortly thereafter, a week or two later, they paid the entire
09:14:12 8 judgment, court costs and interest, some \$3 million, or
09:14:17 9 thereabouts. But the third aspect was not dealt with, namely,
09:14:26 10 whether or not they were doing business, either they, their
09:14:31 11 subsidiaries or affiliates, in the United States, and, if so,
09:14:33 12 how much did they earn.

09:14:35 13 So it seemed to me that, with that aspect of the
09:14:38 14 contempt order, it was fair to allow the plaintiffs to discover
09:14:41 15 that. I'm not interested in whether Taishan has any money --
09:14:48 16 they've paid their money at this point, their judgment -- but
09:14:51 17 I'm interested in knowing whether either they or their
09:14:54 18 affiliates did business in the United States during that period
09:14:57 19 of time, namely between July 17, 2014, and at least March 9th
09:15:05 20 of 2015. So that's the focus and needs to be the focus of the
09:15:12 21 discovery on the contempt order.

09:15:17 22 The other aspects of the discovery, we're not
09:15:21 23 there yet. What I assume would happen, if neither Taishan nor
09:15:26 24 any of its affiliates did business in the United States, then
09:15:30 25 that ends it.

09:15:30 1 If they did do business in the United States,
09:15:33 2 then it's a question of who they are and how much did they earn
09:15:40 3 during that period of time.

09:15:42 4 At that point, I would issue a judgment against
09:15:44 5 those individuals to pay the amount. Then, I assume that the
09:15:53 6 plaintiffs will either execute on that judgment or have a
09:15:58 7 judgment debtor rule to find out what these affiliates have and
09:16:02 8 where they have it, and then followed by some seizure. That's
09:16:06 9 generally the way it works. So I assume that would be the
09:16:11 10 course of the day.

09:16:14 11 But, at the same time that we're dealing with
09:16:18 12 that, we're also dealing with a damage trial. From the damage
09:16:23 13 trial standpoint, I would assume that, for the most part, the
09:16:29 14 defendants will have interest in obtaining discovery.

09:16:35 15 I assume they may have an expert. If they have
09:16:37 16 an expert, then I would assume the plaintiffs will have an
09:16:41 17 interest in finding out what that expert says before the
09:16:45 18 hearing, before the trial.

09:16:46 19 So that's the discovery relating to the damage
09:16:52 20 case, but it's separate and distinct from the other part of it;
09:17:00 21 but, because of that, it just seemed to me that that could not
09:17:03 22 be done within 10 days.

09:17:05 23 I also am looking to Taishan and its affiliates
09:17:09 24 to voluntarily participate, because if they don't voluntarily
09:17:15 25 participate, then I'm going to have a hard time allowing them

09:17:18 1 to participate in the damage case.

09:17:21 2 You can't pick and choose. You either have to
09:17:23 3 participate in litigation or not participate in litigation.
09:17:26 4 You can't participate in the part of the litigation that you're
09:17:30 5 interested in and not participate in the other litigation.

09:17:35 6 So that's why I think carrying these two things
09:17:38 7 together makes a lot of sense to me. So on July 9th, we'll
09:17:46 8 deal with both of those issues -- June, I'm sorry, June 9th,
09:17:51 9 excuse me.

09:17:51 10 Let me then take the proposed agenda. Any
09:17:59 11 pretrial orders?

09:18:00 12 MR. HERMAN: Yes, Your Honor. As a matter of
09:18:02 13 professional courtesy, we note that the attorneys for CNBM and
09:18:07 14 its group is in the courtroom and have not yet been introduced
09:18:11 15 in these proceedings today. They may want to step up and at
09:18:15 16 least identify themselves.

09:18:17 17 I have this morning served on CNBM, BNBM, and
09:18:24 18 Taishan, in English, all of the CNBM reports and public
09:18:29 19 offerings since 2006 through date. So, counsel may want to
09:18:32 20 step up and identify himself.

09:18:37 21 MR. STENGEL: Good morning, Your Honor. Jim Stengel,
09:18:39 22 from Orrick, Herrington, for CNBM Group and Ltd.

09:18:39 23 THE COURT REPORTER: Please speak into the microphone.
09:18:39 24 There are people on the phone.

09:18:45 25 MR. STENGEL: Jim Stengel, from Orrick, Herrington, for

09:18:51 1 the CNBM Group and Limited. With me today is Chris Vejnaska,
09:18:51 2 my partner, also at Orrick, Herrington.

09:18:54 3 Good morning.

09:18:54 4 THE COURT: Welcome to both of you all. We're
09:18:56 5 delighted to have you.

09:18:57 6 The reason for speaking into the microphone, we
09:18:59 7 have 250 people listening, so it's helpful if we keep them
09:19:02 8 advised. Thank you very much.

09:19:06 9 MR. HERMAN: May it please the Court.

09:19:09 10 Judge Fallon, with respect to the schedule for
09:19:13 11 today, there are no additional pretrial orders.

09:19:17 12 Again, we invite all folks in the courtroom and
09:19:22 13 on the phone to the Court's website, which lists the various
09:19:27 14 status reports and transcripts of status reports, as well as
09:19:32 15 these pretrial orders.

09:19:32 16 State court settings, Ms. Barrios is here. I
09:19:38 17 understand that there are none, but you may want to have a
09:19:41 18 report on the state/federal coordination.

09:19:44 19 THE COURT: Okay.

09:19:47 20 MS. BARRIOS: Thank you, Mr. Herman.

09:19:50 21 Judge, as the joint report indicates, there are
09:19:53 22 no more trial settings.

09:19:55 23 I did want to state for the record that Virginia
09:19:58 24 is officially finished.

09:19:58 25 THE COURT: Right.

09:20:00 1 MS. BARRIOS: The only thing that is left to do is just
09:20:02 2 cleaning up the docket.

09:20:03 3 Mr. Bower, from Garretson Resolution Group, is
09:20:07 4 here to make his report on the settlement status, but that's
09:20:11 5 Roman numeral XI.

09:20:12 6 Thank you, Your Honor.

09:20:13 7 THE COURT: All right. Fine. Thanks very much.

09:20:14 8 The state court judge in that case did a great
09:20:17 9 job, and I enjoyed working with her on it. I'm glad that that
09:20:22 10 aspect of the case has been resolved.

09:20:23 11 Anything on omnibus class actions?

09:20:26 12 MR. HERMAN: Nothing, new, Your Honor. It's Item
09:20:29 13 Roman numeral IV on the status report. We'll bring folks on
09:20:35 14 the phone and in the courtroom up to date as to where they are.

09:20:42 15 With respect to Item Number V, class action
09:20:44 16 complaints, there is nothing new.

09:20:47 17 With respect to plaintiffs' motions to establish
09:20:50 18 a plaintiffs' litigation fee and expense fund, there are
09:20:54 19 additional deposits which are being made, as appropriate.

09:21:01 20 With respect to remediation, Number VII,
09:21:02 21 Kerry Miller is here and will speak to that issue.

09:21:10 22 MR. MILLER: Good morning again, Judge. Kerry Miller.

09:21:16 23 Real briefly, on Item Number VII, remediation, as
09:21:19 24 I reported in the prior conferences this year, the program is
09:21:23 25 in the wind-down phase.

09:21:26 1 Phil Adams from Moss is here, as he has been at
09:21:27 2 the monthly status conferences. Phil was informing me
09:21:30 3 yesterday, Your Honor, in fact, there are only 32 homes under
09:21:33 4 construction right now. We now have moved into the last group,
09:21:38 5 the *pro se* group, that Bob Johnston had been maintaining. They
09:21:42 6 are now moving into remediation. So it looks like the
09:21:45 7 remediation program will wrap up in 2015.

09:21:49 8 THE COURT: That's great. As mentioned all the time,
09:21:52 9 we have a Moss representative here, so that if any litigants
09:21:58 10 who happen to be in the courtroom or the attorneys for
09:22:01 11 litigants have a problem with the remediation program, they can
09:22:05 12 speak with Moss in person. So I appreciate Phil Adams being
09:22:12 13 with us throughout this period.

09:22:14 14 MR. HERMAN: I might indicate that Moss, Phil and the
09:22:20 15 ombudsmen -- have been working very, very hard these last four
09:22:24 16 or five weeks, and what they have left are some recurrent
09:22:28 17 issues that they are actively resolving.

09:22:33 18 At this point, Your Honor, it may be appropriate
09:22:38 19 to hear from BrownGreer, through Mr. Jacob Woody, as to his
09:22:44 20 usual report and also as to the updated plaintiff profile
09:22:50 21 forms.

09:22:50 22 THE COURT: Okay.

09:22:51 23 MR. WOODY: Good morning, Your Honor. My name is Jake
09:23:04 24 Woody.

09:23:04 25 THE COURT: Good morning, Jake.

09:23:06 1 MR. WOODY: I'm here from BrownGreer, in Richmond,
09:23:08 2 Virginia, to give the monthly status report for the settlement
09:23:11 3 program.

09:23:11 4 Over the last few months, we've transitioned from
09:23:14 5 processing and reviewing claims to largely paying claims. To
09:23:18 6 date, we've paid \$72,235,059. Eighty percent of that amount
09:23:26 7 has gone to Global, Banner, InEx repair and relocation claims.
09:23:31 8 Those are pro rata claims for portions of three separate
09:23:36 9 settlement funds, the Global fund, the Banner fund and the InEx
09:23:41 10 fund. Distributions are based on the amount of square footage
09:23:44 11 in each property. That was, by far, our largest claim type,
09:23:48 12 and it makes up the bulk of our distribution so far.

09:23:51 13 The other payments we've made are for other loss
09:23:54 14 claims. Those are a variety of claims. We've paid \$14,126,825
09:24:00 15 for those claims, which is 20 percent of the total we've paid.
09:24:04 16 I'll go through each claim in just a minute and discuss what
09:24:08 17 those are for.

09:24:10 18 As far as our progress, in concluding the Global,
09:24:14 19 Banner, InEx payment process, we've paid 92 percent of all the
09:24:18 20 eligible claims, 8,975.

09:24:21 21 We have not paid 824 eligible claims, which is
09:24:25 22 8 percent of the total. The reason we haven't paid those is
09:24:27 23 either the claimant has not submitted required documentation, a
09:24:32 24 W-9 and a verification of claims form, or that the claims are
09:24:37 25 duplicative, where we received a claim for the same property

09:24:41 1 from two separate claimants, and we're working on reconciling
09:24:43 2 those. This number is dwindling as we work through those.

09:24:49 3 This slide shows the amount we've paid from each
09:24:52 4 fund and how much is left. The total is down at the bottom.
09:24:56 5 As I mentioned, we've paid 58 million from all these funds. We
09:25:00 6 have just over \$18 million left to disburse.

09:25:04 7 The bulk of that money will go to the 824 claims
09:25:07 8 that I mentioned previously, once they submit those documents
09:25:12 9 or we reconcile the claims.

09:25:14 10 There will be some money remaining, and we will
09:25:16 11 talk about how to disburse that once we have a better idea of
09:25:20 12 how much it is. I expect to know that within the next several
09:25:23 13 weeks or months.

09:25:23 14 The other loss claims I've mentioned -- well,
09:25:30 15 there are five separate other loss claims: Foreclosure and
09:25:33 16 short sales claims; lost rent, use and sales claims;
09:25:38 17 miscellaneous claims; pre-remediation alternative living
09:25:41 18 expenses, which we abbreviate as PRALE here; and, bodily injury
09:25:45 19 claims.

09:25:46 20 The bulk of the money we've paid has gone to
09:25:48 21 three of those claims, foreclosure, lost rent, and PRALE
09:25:53 22 claims; 31 percent to foreclosure, 32 percent to lost rent, use
09:25:56 23 and sales; and, 35 to PRALE.

09:25:59 24 Then, the new addition to this chart since the
09:26:00 25 last conference are the miscellaneous payments. So far, we've

09:26:04 1 paid \$255,000 to those claims. They're capped at \$2,500 each.
09:26:08 2 We make that offer. Many claimants have accepted it, and we've
09:26:13 3 issued payment for those. That's about two percent of the
09:26:15 4 total.

09:26:16 5 Then the smallest claim type is bodily injury
09:26:18 6 claims. We've paid \$80,000 for all those claims, which is
09:26:24 7 .57 percent of the total we've issued.

09:26:29 8 This slide just shows the payments we've made for
09:26:31 9 each claim type in each fund. There is nothing new on this
09:26:35 10 slide other than the number of payments we've made. We've
09:26:38 11 issued 16,390 checks to eligible claimants to cover all of
09:26:43 12 those, all the claims I've mentioned before.

09:26:45 13 We are still reviewing miscellaneous claims. We
09:26:51 14 have completed review on all the other loss claims other than
09:26:55 15 miscellaneous. So far -- miscellaneous is listed in row four,
09:26:59 16 and so far we've reviewed 3,432 of those claims out of roughly
09:27:04 17 4,000. I expect to complete those reviews next week.

09:27:08 18 Of those, 1,772 are eligible -- generally,
09:27:13 19 miscellaneous -- eligible miscellaneous claims are for HVAC
09:27:18 20 repair, appliances, TV's, things of that nature, and those are
09:27:24 21 the eligible claims -- 1,271 are incomplete, and 389 are
09:27:31 22 denied.

09:27:31 23 At this point, the denials we've made are for
09:27:34 24 claims submitted for things that are excluded or contemplated
09:27:38 25 by another claim type. The incompletes are claims where they

09:27:42 1 haven't -- the claimant has not provided us with some key piece
09:27:45 2 of evidence that we need, and we can't make a determination
09:27:48 3 until we receive it.

09:27:49 4 Finally, the other loss offers we're making, the
09:27:57 5 Court entered PTO 29 in January of this year. PTO 29
09:28:01 6 authorizes us to make offers on the other loss claims. We do
09:28:05 7 that by issuing an eligibility notice to the claimant. The
09:28:09 8 claimant can either accept the offer and receive payment, or,
09:28:12 9 if a claimant is unhappy with the offer, can request that the
09:28:15 10 Special Master review the claim and determine the amount of
09:28:18 11 damages available.

09:28:20 12 So far, we've issued 2,889 eligibility notices.
09:28:25 13 Of those, 175 remain open, which means the claimant still has
09:28:30 14 time to respond to us, either by accepting or making a request
09:28:33 15 to the Special Master. Of those 175, 166 are miscellaneous.
09:28:38 16 So the other four claim types are largely complete.

09:28:41 17 There are a few stragglers who still have some
09:28:44 18 time to respond. I expect that those deadlines will run before
09:28:47 19 the next status conference, and we'll be able to close those
09:28:50 20 claim types.

09:28:50 21 THE COURT: How does all of this interface with the
09:28:54 22 Knauf settlement?

09:28:56 23 MR. WOODY: The claimants who have received remediation
09:28:59 24 from Knauf generally sign a release, and that assigns their
09:29:05 25 Global, Banner, InEx claims to Knauf, but it reserves, largely

09:29:08 1 reserves the other loss claims.

09:29:11 2 So claimants who have received Knauf remediation
09:29:15 3 generally are eligible to make claims against the other loss
09:29:18 4 fund and, in many cases, have.

09:29:20 5 There are some Knauf remediation claims where the
09:29:23 6 entire claims are assigned; but, in large part, claimants still
09:29:27 7 have the chance to make these other loss claims, and many have.

09:29:32 8 THE COURT: With Knauf remediation, of course, the
09:29:33 9 claimant was entitled to receive their entire home -- whatever
09:29:38 10 the remediation is, they got their home remediated according to
09:29:43 11 a program that was devised or developed from the various cases
09:29:47 12 that I tried that assisted me in developing the protocol; so
09:29:53 13 that they got their homes taken care of, they also had their
09:29:57 14 attorneys' fees paid, and then they had the opportunity to
09:30:02 15 participate in these settlements.

09:30:05 16 MR. WOODY: That's correct, Your Honor.

09:30:06 17 THE COURT: The total amount looks to be maybe about a
09:30:10 18 billion or thereabouts.

09:30:11 19 MR. WOODY: Yes.

09:30:12 20 The last thing I want to mention is the
09:30:14 21 acceptance rate on our other loss claims. We have an
09:30:17 22 82 percent acceptance rate. Most people are taking the offers
09:30:20 23 we're making. 12 percent, or 350, have requested that the
09:30:24 24 Special Master review their claims.

09:30:27 25 Finally, Your Honor, I'll just give out our

09:30:30 1 contact information for anyone that doesn't have it at this
09:30:32 2 point. Our website is at www3.BrownGreer.com/drywall. You can
09:30:43 3 e-mail us at CDWquestions@BrownGreer.com. If you need to call
09:30:44 4 us, our number is 866-866-1729.

09:30:48 5 Mr. Herman asked me to comment briefly on the
09:30:50 6 supplemental profile forms that we have been collecting. Last
09:30:54 7 week, we made available on our portal an online form for
09:30:59 8 claimants to fill out a supplemental form if they have Taishan
09:31:05 9 drywall. We did that. The form asks for a variety of
09:31:08 10 information, including square footage.

09:31:11 11 We've collected to date 3,201 of those forms.
09:31:14 12 The total square footage listed by all the claimants is just
09:31:17 13 over 5 million. Mr. Herman has asked me to produce that data
09:31:22 14 to all of the defendants here today, and I will do that as soon
09:31:27 15 as I can, probably today, or Monday at the latest.

09:31:31 16 Thank you, Your Honor.

09:31:31 17 THE COURT: Thank you very much.

09:31:36 18 Who's next?

09:31:36 19 MR. HERMAN: Judge Fallon, there is no more material on
09:31:39 20 shared costs, but I do want to thank the members of the PSC for
09:31:44 21 expediting these profile forms.

09:31:47 22 The claimants and the plaintiffs' lawyers have
09:31:51 23 been notifying on a daily basis, and we appreciate, as usual,
09:31:57 24 BrownGreer's administration.

09:31:59 25 With respect to the other issues, from the

09:32:08 1 plaintiffs' point of view, from my point of vantage,
09:32:14 2 Your Honor, we can deal with that with the argument that will
09:32:17 3 be made afterwards.

09:32:19 4 You've directed us as to a new hearing date,
09:32:25 5 June --

09:32:25 6 THE COURT: 9.

09:32:26 7 MR. HERMAN: -- 9. We'll be meeting as soon as this
09:32:31 8 conference is over and arguments are over to attempt to resolve
09:32:34 9 issues in a meet and confer.

09:32:38 10 As I understand it, not only will Taishan and
09:32:43 11 BNBM participate, but also CNBM.

09:32:48 12 You've also directed us, Your Honor, with respect
09:32:53 13 to the contempt issues that are outstanding, and plaintiffs and
09:32:58 14 defendants will proceed to discuss this afternoon dates for the
09:33:08 15 additional discovery.

09:33:10 16 At page 20 of the status conference report, for
09:33:18 17 those on the phone who wish to access our Court's website, they
09:33:27 18 list a number of individuals and issues related to potential
09:33:36 19 third parties and business done in the United States by alleged
09:33:39 20 affiliates. It continues at page 21. There are 42 listed so
09:33:47 21 far.

09:33:49 22 The remainder of that section, Your Honor, deals
09:33:53 23 with various activities.

09:33:58 24 There is nothing new on the next issue, which is
09:34:02 25 Venture Supply and Porter Blaine defendants, except we have

09:34:09 1 endeavored, with respect to Taishan materials delivered to
09:34:14 2 Venture Supply and Porter Blaine, to already provide the
09:34:19 3 defendants with those materials. If there are any additional
09:34:24 4 materials which they need, we certainly will provide.

09:34:31 5 Item Number XII, plaintiff and defendant profile
09:34:33 6 forms, although we find and will not make an issue today of the
09:34:38 7 profile forms we have been provided by defendants, based upon
09:34:44 8 materials which we've able to access, we'll be asking for
09:34:48 9 supplements.

09:34:48 10 In terms of plaintiff profile forms, Mr. Woody,
09:34:53 11 of BrownGreer, has already reported, and the defendants will be
09:34:56 12 receiving all Taishan updated profile forms.

09:35:03 13 There are no frequently asked questions at
09:35:07 14 Item XIII.

09:35:08 15 Matters set for hearing after the conference
09:35:11 16 today are a couple of matters, one of which is lifting the
09:35:18 17 highly confidential nature of privileged documents, which we
09:35:25 18 generically refer to as *Hogan Lovells' documents*.

09:35:30 19 *Pro se* claimants, I don't believe I've seen
09:35:38 20 anybody from Bob Johnston's office, but we are endeavoring now
09:35:46 21 to handle those *pro se* claims and questions as they come
09:35:50 22 through, and referring them to attorneys in their own venue, in
09:35:54 23 their own jurisdiction, who are familiar with Chinese drywall
09:36:02 24 issues.

09:36:02 25 Your Honor issued a physical evidence

09:36:05 1 preservation order recently. We haven't had any further
09:36:14 2 questions regarding that for today.

09:36:21 3 With respect to the entry of preliminary default,
09:36:32 4 Arnold, do you want to discuss that? It's page 33, Item XVII.

09:36:39 5 MR. LEVIN: Good morning, Your Honor.

09:36:43 6 We've given the Court charts over and over again
09:36:47 7 as to the defaults. There is no reason to go over it again.

09:36:50 8 We did file a paper with the Court indicating
09:36:54 9 what we believe to be the effects of the default, and we're
09:36:59 10 proceeding in the damage trial under that jurisprudence.

09:37:05 11 THE COURT: Next, Louisiana Attorney General. Does the
09:37:09 12 Attorney General have any comments?

09:37:12 13 UNIDENTIFIED SPEAKER: No, Your Honor.

09:37:13 14 THE COURT: Thank you.

09:37:14 15 I'll be back in a moment to discuss the motions,
09:37:16 16 but there are a couple of motions that I do not need oral
09:37:19 17 argument on. Lennar Corporation's motion to enforce --

09:37:23 18 Yes.

09:37:26 19 MR. TAYLOR: Your Honor, I'm sorry to interrupt, but
09:37:28 20 counsel for PSC went through the various issues on the agenda
09:37:32 21 fairly quickly, and there are a couple of those issues that we
09:37:35 22 would like to be heard on.

09:37:35 23 THE COURT: Sure.

09:37:38 24 MR. TAYLOR: In regards to X, the empirical claimant
09:37:41 25 and remediation data, we would like to discuss that with the

09:37:44 1 Court; and, in regards to Number XII, the profile form issues,
09:37:50 2 we'd want to discuss that with the Court.

09:37:51 3 My colleague, Christy Eikhoff, is prepared to
09:37:54 4 have that discussion, Your Honor.

09:37:57 5 THE COURT: No, I was going to take that at the end of
09:37:59 6 this matter, so that those who are not interested in it don't
09:38:02 7 have to remain.

09:38:04 8 MR. LEVIN: Mr. Herman designated June 9th for the
09:38:08 9 damage trial.

09:38:08 10 THE COURT: Right.

09:38:08 11 MR. LEVIN: Your Honor, the liaison committee gave us a
09:38:12 12 new status conference in June, and you may want to put that on.
09:38:15 13 It's June 23rd.

09:38:17 14 THE COURT: The next meeting is May 20th, and the
09:38:25 15 following one is June 23rd.

09:38:29 16 I'll be back with the motions that are pending,
09:38:32 17 but the ones that are unopposed, Lennar Corporation's motion to
09:38:37 18 enforce the bar order, that's unopposed, I'm going to grant
09:38:41 19 that motion.

09:38:41 20 Knauf's motion to dismiss the settlement
09:38:43 21 obligations, I understand that you're going to give me another
09:38:48 22 order on that, proposed order, and I will grant that. It's
09:38:53 23 unopposed.

09:38:53 24 We have several motions, the plaintiffs' motion
09:38:59 25 to strike highly confidential issues, the motion to reconsider

09:39:03 1 alternate service, we have some motions to compel.

09:39:08 2 I understand the T. Rowe Price motion to quash is
09:39:14 3 moot; is that --

09:39:14 4 MR. LEVIN: I guess it should be deferred because the
09:39:18 5 depositions were deferred.

09:39:20 6 THE COURT: Deferred, yes. Right.

09:39:20 7 Okay. I'll be back in a moment on those motions.

09:39:24 8 THE DEPUTY CLERK: All rise.

09:39:26 9 THE COURT: The Court will stand in recess.

09:46:13 10 (WHEREUPON, at 9:46 a.m., the status conference
11 proceedings were concluded.)

12 * * *

13

14 REPORTER'S CERTIFICATE

15

16 I, Cathy Pepper, Certified Realtime Reporter, Registered
17 Merit Reporter, Certified Court Reporter in and for the State
18 of Louisiana, Official Court Reporter for the United States
19 District Court, Eastern District of Louisiana, do hereby
20 certify that the foregoing is a true and correct transcript to
21 the best of my ability and understanding from the record of the
22 proceedings in the above-entitled and numbered matter.

19

20

s/Cathy Pepper
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\$	<p>233 [1] - 2:13 23rd [2] - 22:13, 22:15 250 [1] - 10:7 29 [2] - 16:5</p> <p style="text-align: center;">3</p> <p>3 [1] - 7:8 3,201 [1] - 18:11 3,432 [1] - 15:16 30309 [1] - 2:10 31 [1] - 14:22 32 [2] - 12:3, 14:22 33 [1] - 21:4 35 [1] - 14:23 350 [1] - 17:23 3600 [1] - 2:4 3650 [1] - 1:24 389 [1] - 15:21</p> <p style="text-align: center;">4</p> <p>4,000 [1] - 15:17 42 [1] - 19:20</p> <p style="text-align: center;">5</p> <p>5 [1] - 18:13 500 [2] - 1:21, 2:20 504 [1] - 2:21 510 [1] - 1:21 57 [1] - 15:7 58 [1] - 14:5 589-7779 [1] - 2:21</p> <p style="text-align: center;">6</p> <p>60606 [1] - 2:13</p> <p style="text-align: center;">7</p> <p>701 [1] - 1:24 70113 [1] - 1:18 70130 [1] - 2:21 70139 [1] - 1:25 70170 [1] - 2:5 7800 [1] - 2:13</p> <p style="text-align: center;">8</p> <p>8 [1] - 13:22 8,975 [1] - 13:20 82 [1] - 17:22 820 [1] - 1:17 824 [2] - 13:21, 14:7 866-866-1729 [1] -</p>	<p>18:4</p> <p style="text-align: center;">9</p> <p>9 [3] - 3:5, 19:6, 19:7 92 [1] - 13:19 9:00 [1] - 1:7 9:46 [1] - 23:10 9th [6] - 6:6, 7:5, 7:19, 9:7, 9:8, 22:8 9TH [1] - 4:2</p> <p style="text-align: center;">A</p> <p>A.M [1] - 1:7 a.m [1] - 23:10 abbreviate [1] - 14:18 ability [1] - 23:18 able [2] - 16:19, 20:8 above-entitled [1] - 23:18 accept [1] - 16:8 acceptance [2] - 17:21, 17:22 accepted [1] - 15:2 accepting [1] - 16:14 access [2] - 19:17, 20:8 according [1] - 17:10 action [1] - 11:15 ACTION [1] - 3:10 actions [1] - 11:11 ACTIONS..... [1] - 3:9 actively [1] - 12:17 activities [1] - 19:23 Adams [2] - 12:1, 12:12 addition [1] - 14:24 additional [4] - 10:11, 11:19, 19:15, 20:3 ADDITIONAL [1] - 3:6 administration [1] - 18:24 advised [1] - 10:8 affiliates [7] - 7:2, 7:11, 7:18, 7:24, 8:7, 8:23, 19:20 AFTER [1] - 3:20 afternoon [1] - 19:14 afterwards [1] - 19:3 AGENDA [1] - 3:3 agenda [2] - 9:10, 21:20 ago [1] - 6:3 ALL [1] - 1:8 alleged [1] - 19:19 allow [1] - 7:14</p>	<p>allowing [1] - 8:25 ALSO [1] - 2:15 ALSTON [1] - 2:7 alternate [1] - 23:1 alternative [2] - 6:22, 14:17 amount [6] - 8:5, 13:6, 13:10, 14:3, 16:10, 17:17 AND [6] - 2:11, 3:12, 3:13, 3:17, 3:18, 3:25 appearance [2] - 5:14, 5:22 APPEARANCES [2] - 1:13, 2:1 appliances [1] - 15:20 appreciate [2] - 12:12, 18:23 appropriate [2] - 11:19, 12:18 APRIL [2] - 1:7, 5:2 argument [2] - 19:2, 21:17 arguments [1] - 19:8 ARNOLD [1] - 1:20 Arnold [1] - 21:4 ASKED [1] - 3:19 aspect [4] - 6:16, 7:9, 7:13, 11:10 aspects [1] - 7:22 assigned [1] - 17:6 assigns [1] - 16:24 assisted [1] - 17:12 assume [6] - 7:23, 8:5, 8:9, 8:13, 8:15, 8:16 ATLANTA [1] - 2:10 ATLANTIC [1] - 2:9 attempt [1] - 19:8 Attorney [2] - 21:11, 21:12 ATTORNEY [1] - 3:24 attorneys [3] - 9:13, 12:10, 20:22 attorneys' [3] - 6:25, 7:6, 17:14 authorizes [1] - 16:6 available [2] - 16:11, 18:7 AVENUE [2] - 1:17, 2:4</p> <p style="text-align: center;">B</p> <p>B406 [1] - 2:20 BAKER [1] - 2:3 BALHOFF [1] - 2:15 Banner [4] - 13:7, 13:9, 13:19, 16:25</p>	<p>BAR [1] - 4:5 bar [1] - 22:18 Barrios [1] - 10:16 BARRIOS [4] - 1:23, 1:24, 10:20, 11:1 based [2] - 13:10, 20:7 basis [1] - 18:23 BEFORE [1] - 1:11 behalf [3] - 5:20, 5:24, 6:1 BERMAN [1] - 1:19 Bernard [2] - 5:21, 5:23 BERNARD [1] - 2:8 best [1] - 23:18 better [1] - 14:11 between [1] - 7:19 billion [1] - 17:18 BIRD [1] - 2:7 BLAINE [1] - 3:17 Blaine [2] - 19:25, 20:2 BNBM [7] - 2:11, 2:12, 6:1, 6:2, 9:17, 19:11 Bob [2] - 12:5, 20:20 bodily [2] - 14:18, 15:5 bottom [1] - 14:4 Bower [1] - 11:3 briefly [2] - 11:23, 18:5 bring [1] - 11:13 BrownGreer [3] - 12:19, 13:1, 20:11 BrownGreer's [1] - 18:24 bulk [3] - 13:12, 14:7, 14:20 business [6] - 7:2, 7:10, 7:18, 7:24, 8:1, 19:19 BY [7] - 1:16, 1:20, 1:24, 2:4, 2:8, 2:23, 2:24</p> <p style="text-align: center;">C</p> <p>CALLED [1] - 5:4 capped [1] - 15:1 care [1] - 17:13 carrying [1] - 9:6 case [6] - 5:11, 6:16, 8:20, 9:1, 11:8, 11:10 CASES [1] - 1:8 cases [2] - 17:4, 17:11 CASTEIX [1] - 1:23 CATHY [1] - 2:19 Cathy [2] - 23:15, 23:20</p>
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