

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

IN RE: CHINESE-MANUFACTURED * 09-MD-2047
DRYWALL PRODUCTS *
LIABILITY LITIGATION * Section L
 *
Relates to: All Cases * January 14, 2016
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STATUS CONFERENCE BEFORE THE
HONORABLE ELDON E. FALLON
UNITED STATES DISTRICT JUDGE

Appearances:

For the PSC: Herman Herman & Katz, LLC
BY: RUSS M. HERMAN, ESQ.
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For the DSC and the Knauf Defendants: Baker Donelson Bearman
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Proceedings recorded by mechanical stenography using
computer-aided transcription software.

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1 says that her attorney hasn't given her any information on the
2 matter.

3 I will be sending this to the attorney, but I
4 call her attention to the fact that the Court does have a
5 website. We put everything on the website, including the
6 transcripts of these meetings, so please look at the website.
7 It can be accessed by simply either calling the Court or using
8 the Court's website and then scrolling down to get into the
9 specific website for this proceeding. Everything is on the
10 website. We try to keep everyone up to date on what's
11 happening whether or not they are able to attend these
12 conferences.

13 The first thing on the agenda is pretrial
14 orders. Anything?

15 **MR. HERMAN:** May it please the Court. Good morning,
16 Judge Fallon.

17 Roman numeral I, pretrial orders, nothing new.

18 Roman numeral II, state court trial settings,
19 Ms. Barrios is here. Nothing new.

20 Roman numeral III, state/federal coordination,
21 nothing new.

22 Roman numeral IV, omnibus class action
23 complaints, nothing new.

24 Roman numeral V, plaintiffs' motions, nothing
25 new.

09:17
1 Roman numeral VI, Knauf remediation program,
2 Kerry Miller will address that.

3 **MR. MILLER:** Good morning again, Your Honor.
4 Kerry Miller on the Knauf remediation program, Roman numeral VI
5 to your agenda.

6 The remediation program enters its last legs.
7 Phil Adams from Moss is here. There are only a handful of
8 homes left to be remediated and/or under remediation.

9 **THE COURT:** How many homes, approximately, were
10 remediated thus far?

11 **MR. MILLER:** I think 2,800.

12 **THE COURT:** We do have a motion following this
13 hearing on an issue involving the remediation program, but I
14 will take that up after this hearing.

15 Anything on InEx, Banner, Knauf settlements, the
16 next item on the agenda?

17 **MR. HERMAN:** May it please the Court. Jake Woody is
18 here from BrownGreer, and I understand he has a report. This
19 might be an appropriate time, if Your Honor would entertain it.

20 **MR. WOODY:** Good morning, Your Honor. My name is
21 Jake Woody from BrownGreer. I'm here to give our monthly
22 status report. I have just a few things to mention today.

23 First, our payment status for our claim payments
24 has exceeded the \$82 million mark. We are at \$82,019,408. Of
25 that total, \$61.1 million is for Global, Banner, InEx repair

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1 and relocation payments, and \$20.8 million is for other loss
2 claims, which are a variety of claims that cover other types of
3 damages. That's a total increase of \$316,450 since our last
4 status conference.

5 In addition to those claim payments, we have
6 also begun issuing what we call stipend payments to attorneys
7 and law firms. PT0 29 authorizes us to disburse money from the
8 various attorney fee funds in the amount of \$1,000 per Knauf
9 property and \$150 per non-Knauf property. Last fall we
10 circulated lists to each law firm of their eligible claims and
11 the statement amount we calculated and received responses.

12 You issued PT0 29, I believe, on November 23,
13 2015. We waited 30 days for any appeals to the Fifth Circuit.
14 None were made, and we began issuing stipend payments on
15 December 28, 2015. So far we have issued over \$4 million,
16 \$4,014,150, in just a couple weeks there. We have \$984,000
17 left to distribute.

18 We need from each firm a couple of forms before
19 we can issue payment. One is the stipend verification form
20 which is attached to your PT0, two is a W-9 form, and the third
21 is wire instructions if we don't have those already. Those
22 forms are attached as exhibits to your PT0, and I believe they
23 are also on our website as well. We will reach out to firms
24 who haven't returned those forms and ask for them. That's all
25 we need to issue the stipend payment.

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1 There are a number of properties that were the
2 subject of objections for various reasons, and we are working
3 with the PSC and the Court to resolve those. In the meantime,
4 we can issue stipends for the properties that are not subject
5 to any objection, and that's what we have done here.

6 **THE COURT:** This is to reimburse the attorneys for
7 costs they incurred in connection with the inspection aspect of
8 the cases.

9 **MR. WOODY:** That's correct, Your Honor. These are
10 not fees. These are just a cost reimbursement that come out of
11 the fee fund.

12 **MR. LEVIN:** Your Honor, it's inspections and other
13 incidental costs.

14 **THE COURT:** Yes.

15 **MR. WOODY:** So we will continue to issue payments as
16 we receive responses and the forms we need.

17 Finally, I just wanted to talk about the only
18 claims we have left to deal with, and those are some other loss
19 claims. You may recall that PT0 28 authorized us to issue
20 eligibility notices to claimants with other loss claims. We
21 issued about 5,000 eligibility notices and received acceptances
22 of those awards from about 4,300 claimants.

23 727 requested that the special master review
24 their claim for a second time. The special master did that,
25 and we issued to each firm or claimant a decision in early

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1 December. 401 of the 727 accepted that decision. 326
2 requested what we call reconsideration, which is just simply
3 asking us and the special master to take another look at the
4 claim.

5 Those 326 are the only claims we really have
6 left to deal with. We have been through each claim now a
7 number of times. I don't expect our review of these 326 to
8 take very long at all, and we will issue determinations
9 hopefully in the next few weeks, maybe in early February. Once
10 we do that, the only alternative left is to appeal directly to
11 the Court.

12 I do want to mention that the other loss fund is
13 a fixed fund. The amount of the special master awards exceeds
14 the amount that we have left to disburse, so there will be a
15 pro rata reduction of the special master awards. I can't
16 calculate that total percentage until all the claims are
17 resolved. So it's important to note that even if you have
18 accepted the special master award, I have to wait until we
19 resolve these 326 before I can issue payment. I expect that to
20 take a few weeks or months as these work through the system and
21 appeal to you and beyond that. So I know it's been a long time
22 for a lot of people, and we are doing the best we can to get
23 these payments out quickly. We will expedite the review of
24 these and hopefully be done with these shortly.

25 So just a quick summary of what we have done

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1 since our last conference: We have paid \$316,000 in claim
2 payments, over \$4 million in stipend payments. We have
3 received 400 acceptances of our special master awards and have
4 326 claims left out of -- I think our initial population was
5 approximately 20,000 claims. So we are down to 326, which I
6 think is a good sign for the program.

7 **THE COURT:** As we say often, this is in addition to
8 the remediation program, which is separate from this. This is
9 additional claims, and that's the way that these additional
10 claims have been dealt with. The remediation program looks
11 like it will be about a billion or a billion one, somewhere in
12 that category.

13 **MR. WOODY:** That's correct, Your Honor. Thank you.

14 **THE COURT:** Anything on Taishan, BNBM, Harry?

15 **MR. ROSENBERG:** No, Your Honor. There's nothing new
16 to report for any of those entities. Thank you, Judge.

17 **MR. HERMAN:** May it please the Court. From the PSC
18 perspective, the Foreign Sovereign Immunities Act jurisdiction
19 issue has now been fully briefed by both sides. The PSC on
20 January 22 has a due date on briefing for the BNBM/CNBM
21 jurisdiction issues. We have continued since the last status
22 conference to receive BNBM documents, but it should not delay
23 the filing of our briefs.

24 I'll call on Jerry Meunier of the PSC for a
25 brief report on discovery.

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1 **MR. MEUNIER:** May it please the Court. Jerry Meunier
2 for the PSC.

3 Your Honor, just to complete that report by
4 Mr. Herman, the PSC will be taking a deposition tomorrow in
5 New York City of Professor Jeff Gordon, who has been offered by
6 BNBK as an expert in support of its position on the lack of
7 jurisdiction. Professor Gordon addresses alter ego and
8 corporate governance issues. So he will be deposed tomorrow in
9 preparation for the opposition brief that the PSC will file
10 this month and, of course, the hearing on this issue in
11 February.

12 **THE COURT:** When the deposition is transcribed, I
13 would like a copy of it.

14 **MR. ROSENBERG:** We will work on that with the PSC,
15 Your Honor.

16 **MR. MEUNIER:** Thank you, Judge.

17 **THE COURT:** Anything further on Venture Supply?

18 **MR. HERMAN:** No, Your Honor.

19 Nothing on plaintiff and defendant profile
20 forms, Roman numeral X.

21 Roman numeral XI, nothing new on frequently
22 asked questions.

23 Roman numeral XII, Your Honor has addressed
24 already that you will hear a matter set for hearing after this
25 conference.

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1 Roman numeral XIII, physical evidence
2 preservation order, there's nothing new on that.

3 Roman numeral XIV, the entry of preliminary
4 default, nothing new on that.

5 Roman numeral XV, already remediated homes,
6 Your Honor has received a report on that.

7 The next status conference --

8 **THE COURT:** February 17, that one is at 2:00 p.m.,
9 and the following is March 22. That's at 9:00, our usual
10 meeting here, and I will meet with lead liaison at 8:30, as
11 usual.

12 Anything else other than the motion?

13 **MR. HERMAN:** Not from the PSC, Your Honor.

14 There is one thing. We will be submitting a
15 motion for Your Honor's approval. Our colleague and brother,
16 Robert Becnel, will be substituted, with Your Honor's
17 permission, temporarily for Danny Becnel, who is a member of
18 the PSC. Of course, we all extend our best wishes and prayers
19 for his speedy recovery.

20 **THE COURT:** Robert, how is he doing at this time?

21 **MR. BECNEL:** He is making slow but continued
22 progress. He can speak. He moves his arms, his legs. He is
23 cognizant of who is there. He is in a rehab facility at
24 East Jefferson. It's just family members, and we are on a
25 rotational basis because the speech and physical therapy is

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1 very exhausting, so he needs to sleep a lot. I thank
2 Your Honor for visiting him at the hospital also.

3 **THE COURT:** Well, give him our regards.

4 I will take a five-minute break at this time and
5 come back.

6 **THE DEPUTY CLERK:** All rise.

7 * * *

8 **CERTIFICATE**

9 I, Toni Doyle Tusa, CCR, FCRR, Official Court
10 Reporter for the United States District Court, Eastern District
11 of Louisiana, certify that the foregoing is a true and correct
12 transcript, to the best of my ability and understanding, from
13 the record of proceedings in the above-entitled matter.

14

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s/ Toni Doyle Tusa
Toni Doyle Tusa, CCR, FCRR
Official Court Reporter

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<p>\$</p> <p>\$1,000 [1] 5/8</p> <p>\$150 [1] 5/9</p> <p>\$20.8 [1] 5/1</p> <p>\$20.8 million [1] 5/1</p> <p>\$316,000 [1] 8/1</p> <p>\$316,450 [1] 5/3</p> <p>\$4 [2] 5/15 8/2</p> <p>\$4 million [2] 5/15 8/2</p> <p>\$4,014,150 [1] 5/16</p> <p>\$61.1 [1] 4/25</p> <p>\$82 [1] 4/24</p> <p>\$82 million [1] 4/24</p> <p>\$82,019,408 [1] 4/24</p> <p>\$984,000 [1] 5/16</p>	<p>above [1] 11/13</p> <p>above entitled [1] 11/13</p> <p>acceptances [2] 6/21 8/3</p> <p>accepted [2] 7/1 7/18</p> <p>accessed [1] 3/7</p> <p>Act [1] 8/18</p> <p>action [1] 3/22</p> <p>Adams [1] 4/7</p> <p>addition [2] 5/5 8/7</p> <p>additional [2] 8/9 8/9</p> <p>address [1] 4/2</p> <p>addressed [1] 9/23</p> <p>addresses [1] 9/7</p> <p>after [2] 4/14 9/24</p> <p>again [1] 4/3</p> <p>agenda [5] 2/22 2/23 3/13 4/5 4/16</p> <p>aided [1] 1/25</p> <p>all [7] 1/6 2/18 5/24 7/8 7/16 10/18 11/6</p> <p>already [3] 5/21 9/24 10/5</p> <p>also [3] 5/6 5/23 11/2</p> <p>alter [1] 9/7</p> <p>alternative [1] 7/10</p> <p>amount [4] 5/8 5/11 7/13 7/14</p> <p>and/or [1] 4/8</p> <p>another [1] 7/3</p> <p>any [4] 3/1 5/13 6/5 8/16</p> <p>Anything [5] 3/14 4/15 8/14 9/17 10/12</p> <p>apologize [1] 2/16</p> <p>apparently [1] 2/25</p> <p>appeal [2] 7/10 7/21</p> <p>appeals [1] 5/13</p> <p>appearance [1] 2/8</p> <p>Appearances [1] 1/11</p> <p>appropriate [1] 4/19</p> <p>approval [1] 10/15</p> <p>approximately [2] 4/9 8/5</p> <p>are [18]</p> <p>arms [1] 10/22</p> <p>as [7] 5/22 5/23 6/15 7/20 8/7 9/6 10/10</p> <p>ask [1] 5/24</p> <p>asked [1] 9/22</p> <p>asking [1] 7/3</p> <p>aspect [2] 2/17 6/7</p> <p>at [11] 3/6 4/24 7/3 7/8 10/8 10/9 10/10</p> <p>10/20 10/23 11/2 11/4</p> <p>attached [2] 5/20 5/22</p> <p>attend [1] 3/11</p> <p>attention [3] 2/23 2/24 3/4</p> <p>attorney [3] 3/1 3/3 5/8</p> <p>attorneys [2] 5/6 6/6</p> <p>authorized [1] 6/19</p> <p>authorizes [1] 5/7</p> <p>Avenue [2] 1/14 1/17</p> <p>award [1] 7/18</p> <p>awards [4] 6/22 7/13 7/15 8/3</p>	<p>best [3] 7/22 10/18 11/12</p> <p>beyond [1] 7/21</p> <p>billion [2] 8/11 8/11</p> <p>BNBM [6] 1/19 2/15 8/14 8/20 8/22 9/6</p> <p>BNBM/CNBM [1] 8/20</p> <p>both [1] 8/19</p> <p>break [1] 11/4</p> <p>brief [2] 8/25 9/9</p> <p>briefed [1] 8/19</p> <p>briefing [1] 8/20</p> <p>briefs [1] 8/23</p> <p>bring [1] 2/23</p> <p>brother [1] 10/15</p> <p>BrownGreer [2] 4/18 4/21</p> <p>but [5] 2/18 3/3 4/13 8/22 10/21</p>
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