

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 30, 2019  
 \*  
\* \* \* \* \*

STATUS CONFERENCE BEFORE  
THE HONORABLE ELDON E. FALLON  
UNITED STATES DISTRICT JUDGE

Appearances:

For the Plaintiffs: Levin Sedran & Berman  
BY: SANDRA L. DUGGAN, ESQ.  
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For the Knauf Defendants: Baker Donelson Bearman  
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For the Taishan, BNBM,  
and CNBM Defendants: Phelps Dunbar, LLP  
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Proceedings recorded by mechanical stenography using  
computer-aided transcription software.

PROCEEDINGS

(January 30, 2019)

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3 **THE COURT:** Be seated, please. Good morning, ladies  
4 and gentlemen.

5 Call the case, please.

6 **THE DEPUTY CLERK:** MDL 2047, *In re Chinese*  
7 *Manufactured Drywall Products Liability* Litigation.

8 **THE COURT:** Liaison counsel make their appearance for  
9 the record.

10 **MS. DUGGAN:** Good morning, Your Honor. Sandra Duggan  
11 for the plaintiffs.

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

15 **MR. DYSART:** Good morning, Judge Fallon. Danny  
16 Dysart on behalf of the Knauf defendants.

17 **THE COURT:** Fine. Before we begin, I know that  
18 Arnold Levin, who is one of the lead counsel, is not with us.  
19 I want to mention the fact that Arnold, as I understand it, was  
20 taking a deposition in Atlanta, had some problems, and needed  
21 some immediate medical attention. True to the way they are, he  
22 was assisted by Chrissie and Bernard. Chrissie brought him to  
23 the hospital and I understand Bernard, who is on the board of  
24 the hospital, called ahead and made some arrangements.

25 It's been my experience in these particular

09:02

1 cases that the way that the case proceeds and the way that it  
2 can be handled is really because in these cases it brings the  
3 best of the best of the bar to the Court. They are fierce  
4 advocates for their clients and do a terrific job for their  
5 clients, but they are consummate professionals. They are  
6 problem solvers. Given a problem, they are the first to step  
7 forward and solve it. I'm not surprised at the quality of  
8 Chrissie and Bernard. They wouldn't be here if they weren't up  
9 to that speed. Everybody appreciates it.

10 Let's go forward. Harry, are you going to lead  
11 us? What do we need to do?

12 **MR. ROSENBERG:** Your Honor, I don't know if I can  
13 replace Russ Herman as the representative for the parties, but  
14 there is a relatively brief docket before the Court this  
15 morning. There are no motions that I'm aware of.

16 Is that right, Sandy?

17 **THE COURT:** Sandy, do you want to bring us up to  
18 speed as to what's happening in the states? You'll recall that  
19 I sent back a number of cases to Florida and also to Virginia.

20 **MS. DUGGAN:** Your Honor remanded 1,732 *Amorin* cases  
21 to Florida. Judge Cooke, in November of last year, entered an  
22 order adopting Your Honor's findings as to the remediation  
23 damages formula, as to the defaults, as to liability, as to all  
24 of Your Honor's rulings.

25 She entered a trial plan order, and by that

09:04

1 order 20 priority plaintiffs were selected by the plaintiffs.  
2 We've been engaged in factual discovery. All of the  
3 plaintiffs' depositions have been taken, other fact witnesses  
4 have been taken, discovery has been exchanged, and fact  
5 discovery in Florida changed on January 14 of this year.  
6 Currently the parties are engaged in expert discovery with  
7 respect to those priority plaintiffs. That is on a priority  
8 plaintiff track. Those cases are scheduled to go to trial in  
9 Florida in July of this year.

10 On a parallel track in Florida are the  
11 remediation damages. Judge Cooke has appointed a special  
12 master, Tiffani Lee, in the Southern District of Florida, and  
13 the parties are proceeding with regard to verifications of  
14 square footage, of ownership, and product ID.

15 We have engaged in limited product ID discovery.  
16 The parties agreed to take the deposition of a 30(b)(6)  
17 witness, Che Gang, for Taishan. That took place in Atlanta  
18 last week on January 22 and 23.

19 All of the various product ID categories are in  
20 play in Florida except for two, Dun -- D-U-N -- brand and  
21 Crescent City. Those two products are not identified in any  
22 homes in Florida, but they are identified in homes in other  
23 jurisdictions, including Louisiana. So in order to not have to  
24 bring the witness back to this country for another deposition,  
25 the parties agreed to cover those product ID brands at the

09:05

1 deposition so that the transcript can be used in other  
2 jurisdictions.

3 The special master in Florida is scheduled to  
4 give a full report on the quantum of remediation damages for  
5 1,700 plaintiffs at the end of May of this year.

6 In Virginia, 175 plaintiffs' cases were remanded  
7 to the Eastern District of Virginia before Judge Davis. The  
8 parties had a hearing before Judge Davis in December, and we  
9 are currently briefing the issue of how to resolve those cases.  
10 The plaintiffs filed their brief, submitted a plan of  
11 resolution, and also addressed issues that Judge Davis  
12 requested: whether or not Your Honor's ruling should be adopted  
13 by Judge Davis as to liability, as to remediation damages, etc.  
14 The defendants are scheduled to file their responsive brief on  
15 all of those issues on February 8, and the plaintiffs will file  
16 a reply brief on February 19. After that we will await a  
17 ruling from the Court as to whether the judge wants oral  
18 argument or just to enter an order.

19 **THE COURT:** How about the cases here?

20 **MS. DUGGAN:** Now, there are approximately 732 *Amorin*  
21 cases in Louisiana. Your Honor entered a trial plan order that  
22 provided for the identification of 20 plaintiff-select cases  
23 and 20 defendant-select cases. Discovery in those cases, we  
24 exchanged documents earlier, and depositions began on  
25 January 17 of this year. They are proceeding three or four per

09:07

1 week.

2           The depositions of these 40 plaintiffs are  
3 scheduled to go through April. April 12 will be the end of  
4 fact discovery in Louisiana. There's a two-month period  
5 provided in Your Honor's order that covers expert discovery,  
6 but then that's where the order stops as far as dates are  
7 concerned.

8           The parties are in discussions as to what to do  
9 going forward; in other words, how are we going to resolve  
10 those cases as well as the other cases that are not the select  
11 cases. We've met and conferred, and our goal is to try to  
12 present some kind of joint proposal to the Court. I don't  
13 think we will agree on all of the issues, but as many as we can  
14 agree on, we would like to have that jointly stipulated to and  
15 then maybe ask for some kind of briefing on the issues that we  
16 don't agree to and get a ruling from Your Honor on those.

17           **THE COURT:** Okay.

18           **MR. ROSENBERG:** That's correct, Judge. In fact, we  
19 had our meet-and-confer with the PSC as recently as yesterday.

20           **THE COURT:** How about the other issue, Harry, with  
21 regard to the parties, the things that you-all agreed to?

22           **MR. ROSENBERG:** I'm sorry, Your Honor, the --

23           **MS. DUGGAN:** Are you referring to confidentiality,  
24 Your Honor?

25           **THE COURT:** Yes.

09:08

1           **MR. ROSENBERG:** The third party confidentiality.  
2 Your Honor, I'm sorry. I wanted to make sure I understood the  
3 question.

4           **THE COURT:** Yes.

5           **MR. ROSENBERG:** I believe the PSC and the defendants  
6 all have amicably resolved those differences. There are third  
7 parties that are still extant that have not responded yet. We  
8 have asked the Court just to make sure that we confirm that  
9 they have received the notice regarding confidentiality and  
10 allow us to report to the Court by the next status conference  
11 on February 21.

12           **THE COURT:** We will pass that issue, then, until  
13 February 21.

14           **MR. ROSENBERG:** That's correct, Your Honor. That was  
15 our request in chambers, and we renew that request this  
16 morning.

17           **THE COURT:** That's fine.

18           **MS. DUGGAN:** There's only one other item, Your Honor,  
19 that I wanted to mention. In Florida, the parties negotiated a  
20 stipulation with regard to the plaintiffs' records,  
21 out-of-pocket expenses, etc. The idea of that stipulation was  
22 to eliminate any hearsay objections and problems with  
23 authenticity and to save the parties time in having to bring in  
24 records custodians. We have proposed to the defendants in  
25 Louisiana the exact same stipulation. They are reviewing it

09:09

1 now. If they agree to it, we will also file that before  
2 Your Honor.

3 **THE COURT:** Let's keep an ear to the ground on how  
4 that works. You will see some areas that you like and that  
5 work well. Make me aware of them so that we can adopt those  
6 practices so that we don't have to reinvent the wheel over and  
7 over again.

8 **MR. ROSENBERG:** That's our goal, Your Honor.

9 **MS. DUGGAN:** Thank you.

10 **MR. ROSENBERG:** Thank you, Judge Fallon.

11 **THE COURT:** Thank you. Anything else that we need to  
12 cover today?

13 **MR. ROSENBERG:** Not that we are aware of, Your Honor.  
14 You did set the next status conference in March.

15 **THE COURT:** The next one is February 21 and the  
16 following one is March 26, 2019. Both are at 9:00.

17 Anything else from anyone?

18 **MR. ROSENBERG:** Not from us, Your Honor. Thank you.

19 **THE COURT:** All right, folks. Thank you very much.

20 **MR. ROSENBERG:** Thank you, Judge Fallon.

21 **THE COURT:** Court will stand in recess.

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

23 (Proceedings adjourned.)

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CERTIFICATE

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

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