

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

IN RE: CHINESE-MANUFACTURED
DRYWALL PRODUCTS LIABILITY
LITIGATION

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Docket No. 09-MDL-2047

March 20, 2018

Relates to all cases

Section "L"

REPORTER'S OFFICIAL TRANSCRIPT OF THE
MONTHLY STATUS CONFERENCE

BEFORE THE HONORABLE ELDON E. FALLON,
UNITED STATES DISTRICT JUDGE.

REPORTED BY:

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APPEARANCES:

For the Plaintiffs:

Herman, Herman & Katz
BY: RUSS HERMAN
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New Orleans, LA 70113

For the Defendants:

Baker Donelson Bearman
Caldwell & Berkowitz
BY: DANIEL J. DYSART
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Ste. 3600
New Orleans, LA 70112

Phelps Dunbar
BY: HARRY ROSENBERG
365 Canal Boulevard
Ste. 2000
New Orleans, LA 70130

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

2 (Call to order of the court.)

3 THE COURT: Be seated, please.

4 Call the case, Dean.

03:04:22 5 THE CASE MANAGER: MDL No. 2047, *In Re:*

6 *Chinese-Manufactured Drywall Products Liability Litigation.*

7 THE COURT: Counsel, make your appearance for the
8 record, please.

9 MR. DYSART: Danny Dysart on behalf of the Knauf
03:04:39 10 defendants.

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

14 MR. HERMAN: May it please the Court:

03:04:54 15 Russ Herman for the plaintiff steering committee.

16 THE COURT: Okay. We're here today for a status
17 conference. We have 50 people on the line so please use the
18 microphones.

19 I met before with liaison counsel for the parties to
03:05:10 20 discuss with them the proposed agenda. We'll take it in the
21 order presented.

22 MR. HERMAN: May it please the Court:

23 Of course Status Conference Report 98 is filed of
24 record for those that would like to review it.

03:05:25 25 There are very few matters to report on, and I'm going

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1 to ask Jake, who is here from BrownGreer, to report first because
2 the other matters come, actually, later.

3 THE COURT: Okay.

4 MR. WOODY: Good morning, Your Honor. Jake Woody from
5 BrownGreer. I have a very brief update for you.

6 Before the last status conference I told you that we
7 issued holdback checks for the Global Banner Inex fund. About a
8 third of those checks have been cashed at this point. Those
9 checks do expire, I think, 90 days from the date of issuance so
10 people have two months left to get those distributed to their
11 clients and cashed. We can reissue them if we need to, but I
12 would encourage everyone to get those checks settled so we can
13 close those claims.

14 THE COURT: Yes. You know, we're going to get to a
15 point where we're going to have to capture those funds and put
16 them in the registry of the court, Russ, so that if we get people
17 who come afterwards, we'll at least have them file the
18 appropriate motion and get the money from it.

19 MR. WOODY: And the only other matter I wanted to
20 remind people on the phone of is if they're obligated to complete
21 a supplemental plaintiff profile form, we are hosting those on
22 our drywall portal. If anybody has any questions about how to
23 use the portal or submit those forms, they can e-mail us at
24 cdwquestions@browngreer.com.

25 THE COURT: That's very important. You have to get

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1 those forms in. If not, then I'll be having a motion and rule to
2 show cause why the case should not be dismissed.

3 So let's get those in. And if you have any questions,
4 get with liaison counsel and they'll put you in the right
5 direction.

6 MR. WOODY: Thank you, Your Honor.

7 THE COURT: Anything from Knauf?

8 MR. DYSART: Just briefly, Your Honor. Again,
9 Danny Dysart on behalf of Knauf.

10 As we stated in the pre-meeting, Moss has completed its
11 last Option 1 home for the Knauf remediation program. And there
12 are no more remediations scheduled and there are no current
13 ombudsman or special master issues with Moss now.

14 The Knauf settlement still has -- administration still
15 has self-remediated properties and already remediated properties
16 to deal with, and we're working to get those resolved.

17 But in terms of the Moss remediation program, that is
18 now completed.

19 THE COURT: Yeah. I think that Moss has done a
20 reasonably good job on it. We've had some structure in the case
21 so that we have an ombudsman that coordinated with Moss so that
22 the people didn't have to coordinate or call Moss directly, but
23 they could speak with the ombudsman so that person could work it
24 out with Moss.

25 But by and large, I received letters from people who

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1 complimented Moss on their job so I think it worked well.

2 MR. DYSART: Thank you, Your Honor.

3 THE COURT: You bet.

4 MR. HERMAN: May it please the Court:

03:08:20 5 I spoke with the ombudsman, Mr. Velez, last Wednesday,
6 and as of last Wednesday he had no active files in terms of the
7 Knauf program.

8 THE COURT: Okay.

03:08:38 9 MR. HERMAN: Your Honor, I'll take these, if Your Honor
10 will, with the page number and Roman numeral number on the
11 agenda -- proposed agenda.

12 At Page 28, VIII, the Venture/Porter Blaine motions for
13 preliminary approval of the settlement have been filed and
14 submitted, and I believe that now a date has been determined to
03:09:12 15 be March 28th.

16 THE COURT: Okay.

17 MR. HERMAN: At Page 29, IX, in the *Bennett* case, which
18 there are a series of actions against Knauf represented by
19 Jimmy Doyle, he has requested a Knauf trial package. I'm pleased
03:09:40 20 to report that that package is now complete, and we will be
21 filing some motions with the Court regarding confidentiality and
22 access to that material.

23 THE COURT: I met with Knauf's attorney and the
24 plaintiffs' attorney on this to work out some scheduling, and
03:10:02 25 that's in the works.

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1 MR. HERMAN: Your Honor, at Page 31, XI, there are
2 several issues, including a 1292 request, to split that order
3 under, alternatively, Rule 54(b), and the PSC has filed a
4 response.

03:10:37 5 The Krupnick firm has also filed a motion for interim
6 disbursements of attorney fees. It's been fully briefed by the
7 PSC, and primary counsel has filed a motion for disbursement of
8 all attorney contract fees regarding the Knauf matter.

9 The other matters are all in the status conference
03:11:13 10 report which will be filed, and apparently without controversy.

11 I've been advised by Harry Rosenberg that there are no
12 objections to a meeting with the Court regarding certain matters
13 limited to the PSC as discussed with the defendants and with the
14 Court.

03:11:43 15 The Knauf trial package, we understand that we're
16 permitted to show that to Your Honor under seal as there's no
17 objection to an *in camera* review by the Court of that trial
18 package.

19 In terms of meetings, Your Honor has suggested and
03:12:17 20 directed between the PSC and defense counsel, Harry Rosenberg as
21 liaison, on PT0 11-A as amended, to include certain additional
22 information on plaintiff profile forms, which are due March 22nd.

23 And we might add that we've had a number of inquiries.
24 Our firm as well as others have requested, for good cause, that
03:12:51 25 in certain cases the deadline be extended.

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1 In terms of the 11-A issue, Emma Kingsdorf Schwab of
2 the Barrios firm is our liaison and director on these issues to
3 confer with liaison Harry Rosenberg on those forms that have
4 already been submitted, those forms which may be submitted, and
03:13:28 5 those forms in which attorneys may request of the Court, subject
6 to the Court's supervision and order, additional time.

7 THE COURT: Yes, that's been my experience with these
8 matters, that we have to kind of police them so that they get
9 done. And it's better to have one person from the plaintiffs'
03:13:52 10 side and one person from the defendants' side to sort of police
11 that, and I'll get involved with it at the appropriate time.

12 One thing that you-all know, at this point in the
13 litigation, at least from the Taishan side, it seems to me that
14 I've done about as much as I can do for the parties. So in the
03:14:17 15 interest of moving the case on, I've made a suggestion of remand
16 to the MDL court.

17 The remand was in connection with the class action
18 complaint filed in the Southern District of Florida. It's
19 11-22408. That complaint consisted of some 1,734 claims.

03:14:48 20 So I sent the list of the claims to the MDL court
21 suggesting that they be remanded, and I'm going to supplement
22 that with the complaint, the class action complaint, and also the
23 order of the MDL panel transferring that complaint to me. It was
24 transferred to me in July of 2011.

03:15:20 25 The judge who will be handling that is Judge Marcia

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1 Cooke, C-o-o-k-e. She was the one in whose court it was filed
2 originally. The MDL court transferred it to me and so I'm
3 suggesting that those cases be remanded back to her for handling.

03:15:49 4 I suggest to the parties that for the plaintiffs' side
5 they convene a meeting with the local lawyers in Florida who are
6 going to be handling these trials. And the same from the
7 defendants' standpoint, either -- decide who it's going to be,
8 who is going to handle it.

03:16:11 9 In some of these matters, the one judge doesn't handle
10 them. They sort of shepherd them, and they parse them out so
11 it's important that the parties kind of get in on the process so
12 that you don't have four or five cases being tried at the same
13 time. Instead, they'll step them out for you so that you have
14 one after the other, but it won't be at the same time.

03:16:39 15 I'm doing that in another MDL, and it looks like it's
16 working. They have about five judges who are handling those
17 cases in that area, and each of them have been coordinating with
18 the others so that they don't have the same cases being tried the
19 same day.

03:16:58 20 But with regard to future remands, I really am going to
21 be looking to the lawyers from both sides of the case. I want to
22 make it as reasonable as possible for you. It's not going to
23 necessarily be easy, but with your input we can make it as easy
24 as it possibly can be done.

03:17:24 25 So I look to you-all for some suggestions on a

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1 reasonable way of sending them back. I've got, right now, 22,000
2 of these cases, and I'm trying not to send 22,000 back
3 immediately.

03:17:45 4 Also, when I send them back, then I'll be finished with
5 the case, and I'd like to do it in steps so that I can at least
6 keep a foot in the water in case you-all need me for something.

7 But we'll get to that.

8 MR. HERMAN: Your Honor, I'd like to check on one thing
9 with Mr. Rosenberg.

03:18:06 10 (A pause in the proceedings.)

11 MR. HERMAN: Arnold reminded me, and Harry has
12 confirmed it, that at such time as we file the Taishan trial
13 package, Taishan and the other defendants, which Harry
14 represents, will have no objection to a filing under seal.

03:18:39 15 I think the only other issue, Your Honor, is
16 Your Honor's designation --

17 THE COURT: Yeah. June 12th at 10:00. And May 1st at
18 10:00.

19 And I'll see the liaison lead at 9:30 those days.

03:19:11 20 Thank you very much. I appreciate your help.

21 Court will stand in recess.

22 (Proceedings adjourned.)

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CERTIFICATE

I hereby certify this 21st day of March, 2018, that the foregoing is, to the best of my ability and understanding, a true and correct transcript of the proceedings in the above-entitled matter.

/s/ Mary V. Thompson

Official Court Reporter

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