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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  
WEDNESDAY, JULY 18, 2018

THIS DOCUMENT RELATES TO  
ALL CASES

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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**

WEDNESDAY, JULY 18, 2018

M O R N I N G   S E S S I O N

(COURT CALLED TO ORDER)

09:00:52 7           THE DEPUTY CLERK: All rise.

09:00:53 8           THE COURT: Be seated, please.

09:01:10 9           Good morning, ladies and gentlemen.

09:01:10 10          VOICES: Good morning, Your Honor.

09:01:11 11          THE COURT: Call the case, please.

09:01:11 12          THE DEPUTY CLERK: MDL 2047, In re:

09:01:15 13 Chinese-Manufactured Drywall Products Liability Litigation.

09:01:19 14           THE COURT: Liaison counsel, make your appearance for  
09:01:21 15 the record, please.

09:01:25 16           MR. DYSART: Good morning, Judge Fallon. Danny Dysart  
09:01:31 17 on behalf of the Knauf defendants.

09:01:33 18           MR. ROSENBERG: Good morning, Judge Fallon.  
09:01:34 19 Harry Rosenberg, as liaison counsel for Taishan, CNBM and BNBM.

09:01:43 20           MR. HERMAN: May it please the Court. Good morning,  
09:01:46 21 Judge Fallon. Russ Herman for plaintiffs.

09:01:48 22           THE COURT: We're here today on our monthly status  
09:01:50 23 conference. I've had an opportunity to meet with lead and  
09:01:55 24 liaison counsel a moment ago and go over the material with  
09:01:58 25 them.

09:01:58 1                   There has been some change in the effect of the  
09:02:01 2 motions of Taishan to dismiss. Those motions will be converted  
09:02:05 3 into a rule to show cause why the cases should not be  
09:02:12 4 dismissed, and that will be set for August the 14th of 2018.

09:02:20 5                   I call to the attention of the parties that this  
09:02:22 6 is a serious situation. If they cannot prove certain things or  
09:02:27 7 cannot fill out the forms that have been given to them, the  
09:02:34 8 Court will be dismissing the cases with prejudice. These forms  
09:02:40 9 are important in the litigation.

09:02:44 10                   We don't do interrogatories in this type of  
09:02:48 11 litigation. Instead, the parties have what we call *fact*  
09:02:51 12 *sheets*. Each side provides the other with fact sheets. Those  
09:02:58 13 fact sheets need to be filled out because it determines the  
09:03:00 14 course of the litigation. I take them seriously.

09:03:07 15                   So I'll give you an opportunity to fill them out.  
09:03:09 16 I'll listen to any excuses that you have and make some decision  
09:03:13 17 on it. But if they are not forthcoming, the Court will be  
09:03:17 18 dismissing the cases with prejudice.

09:03:21 19                   Okay. Anything on the Pretrial Orders?

09:03:26 20                   MR. HERMAN: Nothing, Your Honor.

09:03:30 21                   THE COURT: Omnibus Class Action Complaints?

09:03:33 22                   MR. HERMAN: Your Honor, given the Court's schedule,  
09:03:37 23 I'm going to move through this.

09:03:41 24                   I also state for the record, for those listening  
09:03:45 25 in, that everything is listed on the status report. This is

09:03:52 1 Status Report Number 101. I'll give both the page and the  
09:03:58 2 section of the status report.

09:03:59 3 Your Honor has already addressed Page 2,  
09:04:07 4 Section IV, the Motion to Dismiss relating to profile forms.

09:04:16 5 The Louisiana Trial Plan issue is now assigned  
09:04:24 6 for argument.

09:04:24 7 On August 15th, we have a Florida status  
09:04:32 8 conference scheduled, Your Honor. There was one status  
09:04:40 9 conference in Florida with Judge Cook, and the PSC attended.

09:04:48 10 The Allen fairness hearing scheduled after the  
09:04:52 11 status conference, I believe Mr. Breit is in the judge's court,  
09:05:04 12 and Richard Serpe will be presenting on behalf of plaintiffs.  
09:05:12 13 That's at Page 11, Section V.

09:05:18 14 There is the Bennett case at Page 12, Section VI,  
09:05:28 15 from Knauf's office. I don't know if Mr. Doyle is appearing in  
09:05:36 16 person or if he is by phone.

09:05:45 17 Page 13, Section VIII, the Parker matter has now  
09:05:55 18 been scheduled with a briefing schedule. If I didn't state,  
09:06:07 19 it's at Page 13, Section VIII.

09:06:09 20 Those are the matters, Your Honor. I don't see  
09:06:17 21 any other particular matters, unless liaison counsel or other  
09:06:24 22 counsel for the various what I'll call Taishan defendants or  
09:06:31 23 Kerry Miller's office has something to address.

09:06:34 24 THE COURT: Anything from the --

09:06:36 25 MR. DYSART: Yes, Your Honor. Again, Danny Dysart on

09:06:42 1 behalf of Knauf defendants.

09:06:43 2 On Page 15, we had a motion that was reset today  
09:06:46 3 on our motion to extinguish certain Option 2 claims. I just  
09:06:49 4 want to provide the Court with a status on the record for that.

09:06:51 5 With respect to those, two of those claims, the  
09:06:54 6 Maria Salinas and Graham & Russel, both will be extinguished  
09:07:00 7 without opposition.

09:07:01 8 As to the remaining claims, all of them will  
09:07:05 9 either switch to Option 3 or complete their Option 2  
09:07:08 10 remediations.

09:07:09 11 From my understanding in talking with plaintiffs'  
09:07:12 12 counsel, it's expected they will complete those by August 1 or  
09:07:14 13 shortly thereafter, so we would like to reset those for a  
09:07:17 14 status update at the next status conference.

09:07:19 15 There are three claims that are potential issues  
09:07:23 16 that we're kind of stuck in holding with. One is the Randolph  
09:07:29 17 Vincent claim. Mr. Vincent was originally an Option 2 claimant  
09:07:33 18 that did not submit the milestones; instead, just remediated  
09:07:37 19 the property and closed up his walls.

09:07:39 20 It's my understanding from speaking with  
09:07:41 21 plaintiffs' counsel that he's seeking an environmental  
09:07:44 22 certificate; but, as the Court is well aware, once the walls  
09:07:47 23 are closed up, it's difficult for an inspector to go in and  
09:07:50 24 confirm all Chinese drywall and dust has been removed.

09:07:53 25 So, I've spoken with Ms. Emma Schwab about this



09:07:58 1 issue. She'll discuss with her client some potential  
09:08:04 2 solutions, but I'm not sure what else we can do for Mr. Vincent  
09:08:07 3 at this point.

09:08:08 4 The other two are represented by Mike Ryan, who  
09:08:10 5 I'm not sure if he's on the phone. Those are Glickman and  
09:08:13 6 Rodriguez. It's my understanding that those two claims have  
09:08:17 7 contractor issues, and that, basically, the Milestone 4  
09:08:23 8 paperwork can't be submitted because of issues between the  
09:08:26 9 contractor and the homeowner.

09:08:27 10 THE COURT: Those are motions that are supposed to be  
09:08:29 11 heard at 9:30. Is that it, Dean?

09:08:33 12 THE DEPUTY CLERK: Yes, sir.

09:08:33 13 THE COURT: So those individuals are not on the phone;  
09:08:36 14 but, at 9:30, we'll have to try to get them on the phone.

09:08:38 15 The Option 1 -- the case was settled. We're  
09:08:44 16 talking about the Knauf aspect of the case. As you know, it  
09:08:51 17 boiled down to two areas of manufacturers. One is a German  
09:08:57 18 manufacturer, wholly-owned subsidiary of a Chinese company.  
09:09:02 19 Knauf and its wholly-owned subsidiary is one aspect.

09:09:07 20 The other is Taishan and what has been referred  
09:09:12 21 to as the *alphabet*, the Chinese individual corporate entities.

09:09:22 22 The Knauf case has been resolved. The settlement  
09:09:26 23 really is a bit complex, but basically there are three options.

09:09:33 24 One option a person can take is remediation. If  
09:09:38 25 they select the Option 1, they get their home remediated, they

09:09:43 1 get an inspection done during the course of the remediation,  
09:09:48 2 and they have their attorney's fees and costs paid. So they  
09:09:53 3 get a hundred percent remediation costs, and they get all of  
09:09:58 4 their attorney's fees paid and the costs.

09:10:02 5 If they select Option 2, these are individuals  
09:10:05 6 who have already remediated their home. Those individuals in  
09:10:11 7 Option 2 are able to be reimbursed for their remediation, the  
09:10:18 8 cost. There are certain areas that the decisions made are the  
09:10:25 9 remediation costs.

09:10:26 10 The third option is for those individuals who are  
09:10:29 11 not sure they want to remediate, they are not sure whether they  
09:10:34 12 are going to do it themselves, or they are not sure exactly  
09:10:36 13 what they are going to do.

09:10:38 14 They are able to get an Option 3, which is  
09:10:41 15 essentially money, at some discount, and they can either decide  
09:10:48 16 to remediate or not remediate, whatever they want, but they get  
09:10:52 17 to keep the money.

09:10:54 18 There are certain requirements and certain  
09:11:00 19 procedures to go through; but, basically, that's what we're  
09:11:05 20 dealing with.

09:11:07 21 There are some people that don't know whether  
09:11:09 22 they want Option 1 or Option 2. Those individuals have to make  
09:11:12 23 that decision. It's time for them to make the decision.

09:11:16 24 On Option 2 or Option 3, it's time for them to  
09:11:20 25 make the decision.

09:11:21 1 So we've had some situations where there have  
09:11:25 2 been delays; maybe good reason, but there have been delays. So  
09:11:28 3 that's the motions that the Court has set for 9:30 that we're  
09:11:32 4 trying to deal with at this point.

09:11:35 5 MR. DYSART: The only other matter, Your Honor, as  
09:11:36 6 referenced by Mr. Herman, was the Bennett status conference.  
09:11:41 7 Mr. Doyle is here. If the Court wants to handle it now or  
09:11:45 8 after, we can do that.

09:11:47 9 THE COURT: What's your recommendation? We do it in  
09:11:52 10 the conference room, here, or what?

09:11:54 11 MR. DYSART: I'm fine with doing it in the conference  
09:11:56 12 room, Judge. I think it will be pretty brief.

09:11:57 13 At the last status conference, we were asked to  
09:11:59 14 follow up on some plaintiff issues that I think have mostly  
09:12:03 15 been addressed. So we can address those in conference, and see  
09:12:06 16 if there's anything else we can do.

09:12:09 17 THE COURT: We've got some time, though.

09:12:10 18 Let's see. Mr. Doyle, do you want to come in?  
09:12:14 19 What's the report?

09:12:18 20 These are individual cases that have opted out of  
09:12:22 21 the settlement. They are not interested in settling. So we're  
09:12:26 22 at this point getting ready to try the cases.

09:12:30 23 The parties have gotten together. We discussed  
09:12:36 24 some trial plans for doing that. I asked them to come today to  
09:12:38 25 give me some updates.

09:12:40 1 MR. DYSART: As you recall, Your Honor, at the last  
09:12:43 2 status, there were certain claimants from the Fifth Amended  
09:12:44 3 Complaint that needed to be removed, and certain would be  
09:12:47 4 added.

09:12:48 5 I've got the list from Mr. Doyle. We believe we  
09:12:50 6 have a full list now, except for one claimant, which is still  
09:12:54 7 unsure if he's going to add them to the Sixth Amended  
09:12:58 8 Complaint.

09:12:58 9 At this point, once the Sixth Amended Complaint  
09:13:03 10 is filed, the served defendants could then file -- we also  
09:13:07 11 discussed certain motions with respect to parent companies.  
09:13:10 12 Once the Sixth Amendment is filed, we would request 21 days  
09:13:13 13 from that point to file those motions and otherwise to answer  
09:13:16 14 for the served defendants. Then, from there, we would probably  
09:13:19 15 come back to the Court in terms of scheduling future discovery  
09:13:22 16 and trial deadlines.

09:13:23 17 THE COURT: What I would like you all to do is to kind  
09:13:26 18 of get together and maybe propose to me a scheduling that makes  
09:13:32 19 sense for these particular cases. You know them better than I.  
09:13:36 20 See if you can get me a discovery schedule that makes sense for  
09:13:40 21 you all and makes sense for the cases, and give it to me.

09:13:45 22 If you all agree, fine; if not, then I'll make my  
09:13:49 23 own, but I'd prefer to get some recommendations from you all.

09:13:54 24 MR. DOYLE: Sure.

09:13:55 25 THE COURT: Jimmy, do you have anything? What about

09:13:56 1 that case that he talked about?

09:13:59 2 MR. DOYLE: Jimmy Doyle, on behalf of the Bennett  
09:14:03 3 plaintiffs.

09:14:03 4 What was your question, Your Honor?

09:14:05 5 MR. DYSART: The one case.

09:14:06 6 THE COURT: Yes, the one case.

09:14:06 7 MR. DOYLE: We're waiting on paperwork. Just as we  
09:14:08 8 discussed at the last status conference, telephonic status  
09:14:12 9 conference, I have a couple that was waiting on paperwork,  
09:14:14 10 waiting on confirmatory inspections. One of them got ruled  
09:14:17 11 out. The other one, I'm simply waiting on the inspection  
09:14:20 12 report.

09:14:20 13 THE COURT: When can you get that to me?

09:14:23 14 MR. DOYLE: I've asked them to get it to me this week,  
09:14:26 15 so we can get this cleaned up.

09:14:28 16 THE COURT: All right. Well, let's get that, and then  
09:14:28 17 get together on it.

09:14:28 18 MR. LEVIN: Your Honor, we've spoken to Mr. Doyle about  
09:14:36 19 this. We're not exactly wallflowers here.

09:14:36 20 THE COURT: Yes.

09:14:38 21 MR. LEVIN: So we've designated Lenny Davis to be privy  
09:14:42 22 and to be at the various conferences.

09:14:46 23 Thank you, Your Honor.

09:14:47 24 THE COURT: Jimmy, you're going to have all of the  
09:14:49 25 material available to you that has been developed by the PSC,

09:14:53 1 so --

09:14:55 2 MR. DOYLE: Yes, Your Honor.

09:14:55 3 THE COURT: -- know what's there and access it. That  
09:14:58 4 will be very helpful to you, hopefully.

09:15:00 5 MR. DOYLE: Yes, Your Honor. I already do have the  
09:15:01 6 trial package, but I'm not sure that it's comprehensive. If  
09:15:05 7 there is anything else I need, we've already discussed, I'll  
09:15:06 8 get in touch with Mr. Davis.

09:15:07 9 THE COURT: Good. Okay. That's fine. Thanks.

09:15:07 10 MR. DOYLE: Thank you, Your Honor.

09:15:11 11 THE COURT: Anything else?

09:15:11 12 Harry, do you have anything?

09:15:13 13 MR. ROSENBERG: Your Honor, I was just going to add  
09:15:15 14 that, on behalf of the four separate independent entities,  
09:15:20 15 Taishan, CNBM, BNBK, PLC, and BNBK Group, we have nothing to  
09:15:26 16 add to the Court's agenda for this morning.

09:15:28 17 There are other matters for next month,  
09:15:30 18 Your Honor.

09:15:30 19 THE COURT: All right.

09:15:32 20 MR. HERMAN: May it please the Court. I just want to  
09:15:34 21 indicate we did provide, some weeks ago, as learned counsel  
09:15:39 22 said, the Knauf trial package. We are able, willing to provide  
09:15:48 23 anything referenced in the trial package and any supplement.

09:15:53 24 THE COURT: All right. The next conference is on  
09:15:58 25 August 14th, 2018, and the following one is September 13, 2018,

09:16:05 1 at 8:30 for the liaison lead counsel, and 9:00 for the formal  
09:16:14 2 hearing.

09:16:15 3 We'll take a break at this time. At 9:30, we  
09:16:18 4 have the motions.

09:16:19 5 If we have any motions, they really don't involve  
09:16:26 6 Taishan in any way; but, you certainly can stay, if you would  
09:16:29 7 like.

09:16:29 8 Court will stand in recess until 9:30.

9 (WHEREUPON, at 9:16 a.m., a recess was taken.)

10 \* \* \*

11 REPORTER'S CERTIFICATE

12

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

20

21

s/Cathy Pepper

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