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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

IN RE: CHINESE-MANUFACTURED \* Docket 09-MD-2047  
DRYWALL PRODUCTS \*  
LIABILITY LITIGATION \* Section L  
\*  
This Document Relates to All Cases \* August 13, 2014  
\* \* \* \* \*

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

APPEARANCES:

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Also Appearing: Dawn Barrios, Esq.  
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Tom Owen, Esq.  
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Proceedings recorded by mechanical stenography using  
computer-aided transcription software.

**PROCEEDINGS**

**(August 13, 2014)**

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

Let's call the case, please.

**THE DEPUTY CLERK:** MDL No. 2047, In Re: Chinese-Manufactured Drywall Products Liability Litigation.

**THE COURT:** Counsel, make your appearances.

**MR. LEVIN:** Arnold Levin, for Russ Herman, for the plaintiffs' steering committee.

**MR. MILLER:** Good morning, Your Honor. It's Kerry Miller on behalf of the defense steering committee and the Knauf defendants.

**THE COURT:** I have had an opportunity to meet with the liaison and lead counsel in the matter to go over the agenda. I will take them in the order that's proposed.

Anything on pretrial orders?

**MR. LEVIN:** Nothing new, sir.

**THE COURT:** State court trial settings, anything on that?

**MS. BARRIOS:** No, Your Honor, there are no state court trial settings. To jump to roman numeral III, the state/federal coordination, Mr. Serpe was going to make that presentation.

**THE COURT:** All right. Anything on that?

09:05 1           **MR. SERPE:** Your Honor, there has been one important  
09:05 2 development on state/federal coordination. Judge Hall is going  
09:05 3 to be supervising a new settlement in Virginia growing out of  
09:05 4 an installer. This is not part of the four Virginia class  
09:05 5 settlements which Mr. Garretson will speak to. This is a  
09:05 6 separate settlement growing out of the state court litigation.

09:05 7           We are approaching the bitter end. In fact,  
09:05 8 this defendant had to be chased all the way to Florida. It was  
09:05 9 an installer. We found them. We were able to get a default  
09:05 10 judgment against them. The carrier showed up. The biggest  
09:06 11 insurance defense firm in Virginia filed a declaratory  
09:06 12 judgment.

09:06 13           Mr. Breit's firm did the lion's share of the  
09:06 14 briefing, and we were able to obtain 90 percent of the  
09:06 15 available coverage. Judge Hall is going to divide that money  
09:06 16 among the families through a QSF procedure in Virginia. She  
09:06 17 will coordinate that with the Court and then deposit the  
09:06 18 set-asides in this Court for attorneys' fees and expenses.

09:06 19           **THE COURT:** Do you have any feel for how many  
09:06 20 claimants?

09:06 21           **MR. SERPE:** Your Honor, I believe there are 36  
09:06 22 families that will be included in that QSF. It will eliminate  
09:06 23 all remaining claims against that defendant and, importantly,  
09:06 24 also resolve an ongoing federal court declaratory judgment  
09:06 25 action trial with respect to coverage that was available for

09:06 1 that installer.

09:06 2 Your Honor, that is probably the second to last  
09:06 3 of these installer defendants that we have been pursuing  
09:06 4 through the state court litigation. We hope, like the four  
09:06 5 Virginia class settlements, that we will be in a position to  
09:06 6 complete the Virginia litigation by year's end.

09:07 7 **THE COURT:** Good. That's good news. Okay.

09:07 8 Anything on the omnibus class?

09:07 9 **MR. LEVIN:** Yes, Your Honor, quite a lot. The PSC  
09:07 10 filed Omni XIX, which we believe at this stage of the  
09:07 11 proceedings closes the loop of the Taishan affiliates. We  
09:07 12 brought in the State-Owned Assets Supervision and  
09:07 13 Administration Commission of the State Council, a Chinese  
09:07 14 government entity. That complaint is being translated  
09:07 15 presently and will be served pursuant to The Hague.

09:07 16 Hopefully the Chinese government will appear  
09:07 17 before this Court and not treat this Court the way other  
09:07 18 entities have. That complaint also re-alleges a cause of  
09:07 19 action against the Taishan defendants, the BNBM Group, two BNBM  
09:08 20 defendants, and two CNBM defendants. All four of those  
09:08 21 entities have a preliminary default.

09:08 22 As to the state agency, the government of China,  
09:08 23 Republic of China, that will not be ripe for class proceedings,  
09:08 24 but I might as well move on to class ahead of time.

09:08 25 On September 18 the motion for class

09:08 1 certification will be before this Court. Prior to the motion  
09:08 2 and that date, the PSC will provide the Court with proposed  
09:08 3 findings of fact and conclusions of law.

09:08 4           Should the Court grant certification, notice  
09:08 5 will be extremely easy because the class is composed of active  
09:09 6 litigants in the other omni complaints who have all intervened  
09:09 7 personally in those omni complaints, so it would just be  
09:09 8 notice. Rather than a 60-day notice period, that is, the usual  
09:09 9 notice period where there's publication, we would ask the  
10 Court, should the Court certify the class, to allow notice in  
11 30 days, at which time we would like to assess damages on a  
12 classwide basis utilizing all that we have learned as against  
13 Knauf and others in this litigation.

09:09 14           Never have we had so much information on damages  
09:09 15 at this stage of a proceeding as we do in this class action  
09:09 16 because of this Court's approval of the remediation program and  
09:09 17 also the way the remediation program has worked and the  
09:09 18 participants in the remediation program. They have given us a  
09:09 19 yardstick to assess damages against Taishan, BNBM, CNBM.  
09:10 20 Should the government of China not come before this Court, we  
09:10 21 will then move for a preliminary default and ask that damages  
09:10 22 be assessed against them.

09:10 23           We intend to pursue this matter and are pursuing  
09:10 24 this matter. There has been some activity in the Senate.  
09:10 25 Senator Nelson and Senator Vitter have spoken to this matter in

09:10 1 detail, and Senator Landrieu has issued a press release with  
09:10 2 regard to it. Government agencies have been informed as to  
09:10 3 what has happened here in the default judgment and the contempt  
09:10 4 proceedings, both civil and criminal, and we are just moving  
09:10 5 along.

09:10 6 I'll get it all out now. The judgment debtor  
09:10 7 proceedings are proceeding. We have subpoenaed four entities  
09:11 8 as a stepping stone in looking for assets in the United States  
09:11 9 of those companies. They go to T. Rowe Price, Morgan Stanley,  
09:11 10 JPMorgan. We have also subpoenaed Alibaba, which we believe is  
09:11 11 the instrument by which China does business in the  
09:11 12 United States, by which money passes from purchasers in the  
09:11 13 United States to China. We intend to conclude those  
09:11 14 depositions shortly. There obviously will be motions probably  
09:11 15 filed by those entities before this Court, and we would ask  
09:11 16 that they be handled on an expedited basis.

09:11 17 We believe that there is and has been American  
09:11 18 interests in BNBM and CNBM. We will find that out in the  
09:11 19 discovery that we have issued. We intend to then issue notices  
09:12 20 to take the depositions of the managing agents of BNBM and  
09:12 21 CNBM. We are determining whether that will be done in  
09:12 22 Hong Kong by video or in the United States.

09:12 23 If it's done by video, we will have our people  
09:12 24 there but counsel will be here, to not expend the money of  
09:12 25 going there, because with a default judgment it's conceivable

09:12 1 that they won't show up.

09:12 2 **THE COURT:** I have received some word from Congress.  
09:12 3 It looks like a bipartisan group of senators are taking an  
09:12 4 interest in this matter and indicate that they will be in touch  
09:12 5 further with the Court on it.

09:12 6 With regard to the depositions that you have  
09:12 7 set, I received some motion to quash one of the depositions. I  
09:13 8 haven't heard from your group yet. They say that they are  
09:13 9 willing to participate, but they don't know what you want.  
09:13 10 They would like to meet with you, get it a little bit more  
09:13 11 fleshed out; and if not, they want some costs guaranteed.

09:13 12 **MR. LEVIN:** Mr. Davis has been in communication with  
09:13 13 that particular law firm. Rather than file it in Maryland,  
09:13 14 they did file their proceedings here in the MDL Court. Leonard  
09:13 15 would like to talk about that.

09:13 16 **MR. DAVIS:** Good morning, Your Honor.

09:13 17 **THE COURT:** Good morning.

09:13 18 **MR. DAVIS:** After the notices were issued, we did  
09:13 19 receive communication from counsel for several of the four  
09:13 20 entities. You may recall that prior deposition notice had been  
09:13 21 issued to some of these entities, so we had a relationship with  
09:13 22 some of the counsel and we did communicate with them further.

09:13 23 With respect to each of the four entities, what  
09:13 24 we did was agreed to move those depositions from when they were  
09:14 25 scheduled, and we asked that they file their motion or their

09:14 1 opposition in advance or they communicate further with us.

09:14 2 We have had some communications, as I have said,  
09:14 3 and I expect that we will meet and confer with each of them.  
09:14 4 Hopefully we can avoid hearings on those, but we are going to  
09:14 5 pursue having those depositions.

09:14 6 **THE COURT:** Okay. Anything on the plaintiffs'  
09:14 7 litigation fee and expense fund?

09:14 8 **MR. LEVIN:** No, other than deposits are being made.

09:14 9 **THE COURT:** Remediation program, anything on that,  
09:14 10 Kerry?

09:14 11 **MR. MILLER:** Kerry Miller on behalf of Knauf,  
09:14 12 Your Honor.

09:14 13 In the remediation program, the homes continue  
09:14 14 to be remediated. It appears that Moss will be done in about  
09:14 15 6 months. What they are doing now, Your Honor, is all of the  
09:14 16 initial settlement homes have basically been done. They are  
09:15 17 wrapping up all of the condos by the end of this year, the next  
09:15 18 couple of months. What they are really working on now are the  
09:15 19 new homes, the settlement that we did last August. Those are  
09:15 20 the ones that they are working on now. We think within the  
09:15 21 next six months 99 percent of them will be complete.

09:15 22 **THE COURT:** Okay. As always, I also have Moss'  
09:15 23 representative present in these meetings so that either the  
09:15 24 attorneys or the litigants themselves can bring up anything  
09:15 25 that they have, any complaints or any observations or any



09:15 1 whatever it is with the Moss representative so you don't have  
09:15 2 to go through two and three levels of attorneys to get to them.  
09:15 3 They are here now. So you can talk with them sometime after  
09:15 4 this matter, during it, or whatever.

09:15 5 **MR. BECNEL:** Judge, I had two homes that got kicked  
09:15 6 off this week. I don't know how we are going to handle time  
09:16 7 and charges and all of that stuff because I sent lawyers, one  
09:16 8 to Florida, one to Alabama.

09:16 9 **THE COURT:** Have they started? Moss has started?

09:16 10 **MR. BECNEL:** They did what what's called the kickoff.

09:16 11 **THE COURT:** Right. Okay.

09:16 12 **MR. BECNEL:** Why don't you tell them, Kerry, what the  
09:16 13 kickoff is.

09:16 14 **MR. MILLER:** Yes. I think what Mr. Becnel is  
09:16 15 referring to, Your Honor, is these are homes that are under the  
09:16 16 new claims settlement agreement; that is, they weren't part of  
09:16 17 the original class action agreement. They are subject to the  
09:16 18 agreement we reached with the PSC last August. There is a  
09:16 19 separate fee and expense paragraph in that settlement  
09:16 20 agreement, and that would apply to the activities that  
09:16 21 Mr. Becnel is just describing.

09:16 22 **THE COURT:** Okay. Well, touch base with the Moss  
09:16 23 person, Danny, while you are here to make sure that at least  
09:16 24 you have some liaison with them.

09:16 25 **MR. BECNEL:** I need to at least tell Sean Payton.

09:16 1 His case has been settled for 2 1/2 years. In Florida they get  
09:17 2 paid. The lawyer is getting paid. I've got nothing.

09:17 3 **THE COURT:** All right. Okay. I'll look into that.

09:17 4 **MR. LEVIN:** I won't comment on Mr. Becnel having  
09:17 5 nothing.

09:17 6 **THE COURT:** Okay. How about InEx, Banner, Knauf?

09:17 7 **MR. LEVIN:** There's nothing new on that, sir.

09:17 8 **THE COURT:** Shared costs fund, anything?

09:17 9 **MR. LEVIN:** Nothing, sir.

09:17 10 **THE COURT:** Taishan defendants? I know we have a  
09:17 11 motion to withdraw. Tom, do you want to talk about that now,  
09:17 12 at this time?

09:17 13 **MR. LEVIN:** Your Honor, that motion is pending. We  
09:17 14 intend to file and the Court has granted us leave to file a  
09:17 15 surreply brief, which will have ultimately the position of the  
09:18 16 PSC with regard to the withdrawal. It's premature to state the  
09:18 17 conditions at this point because they are still under  
09:18 18 discussion. When that is filed, there will be a proposed order  
09:18 19 attached to it, which hopefully we could agree on with regard  
09:18 20 to the withdrawal and the obligations of counsel thereafter.

09:18 21 **THE COURT:** As was mentioned, I have a motion before  
09:18 22 me. I'll just take that off the table, then. The motion is  
09:18 23 from Taishan's present counsel to withdraw from the litigation.

09:18 24 I must say that they have represented Taishan  
09:18 25 and those entities very well. They have done yeoman work in

09:18 1 the court of appeal and even before this Court and the various  
09:18 2 depositions that were taken in China. Every step of the way  
09:19 3 they were conscious of their representation and did a good job  
09:19 4 in representing them. Notwithstanding their good work, Taishan  
09:19 5 has seen fit to write them and tell them that they no longer  
09:19 6 wish their services and they no longer have any authority to  
09:19 7 act for them.

09:19 8 They are presently still before the Court as  
09:19 9 counsel. My concern, of course, in the motion -- and I have  
09:19 10 expressed it to counsel -- is that under the Federal Rules, the  
09:19 11 parties can serve counsel and that's service on the entity.  
09:19 12 While I understand their interest in leaving the litigation,  
09:19 13 I'm interested in making sure that there is somebody to receive  
09:19 14 service for motions and other matters if, in fact, they do  
09:19 15 leave.

09:19 16 I have looked at the law. Primarily on the  
09:19 17 West Coast there's some provisions that have been accepted by  
09:20 18 courts, in other courts also, that have some residual  
09:20 19 responsibility that the attorney has. So I ask counsel for  
09:20 20 both sides to get together and see whether there's some way of  
09:20 21 relieving the present counsel of their responsibilities but at  
09:20 22 the same time having them have responsibilities for service and  
09:20 23 communicating with their former client. So that's what's in  
09:20 24 the mix now.

09:20 25 **MR. LEVIN:** On a personal note, Your Honor, the PSC's

09:20 1 personal note, we want to make it clear that we believe that  
09:20 2 the Taishan defendants and their affiliates have not only  
09:20 3 treated the Court with contempt, our clients with contempt, but  
09:20 4 their own counsel with contempt.

09:21 5 **MR. OWEN:** Tom Owen on behalf of the Taishan  
09:21 6 defendants.

09:21 7 We just want to say that we understand that the  
09:21 8 PSC is going to submit an additional brief with a proposed  
09:21 9 order, and we will respond accordingly. I guess we'll move the  
09:21 10 hearing until the next status conference.

09:21 11 **THE COURT:** What about Venture Supply, anything?

09:21 12 **MR. LEVIN:** I don't know whether Mr. Serpe has  
09:21 13 anything to say.

09:21 14 **MR. SERPE:** Nothing further.

09:21 15 **THE COURT:** I think he has talked about that.

09:21 16 Nothing on the plaintiff profile forms.  
09:21 17 Frequently asked questions, nothing.

09:21 18 I have some motions set. The motion to withdraw  
09:21 19 I will take off. I have a motion for contempt, which I will go  
09:21 20 into after this meeting, a motion to reconsider late claims,  
09:21 21 and a motion regarding enforcement of actions against some  
09:21 22 state court proceedings. I will deal with that afterwards.

09:22 23 **MR. LEVIN:** Your Honor, at this time it doesn't fit  
09:22 24 completely in, but it may be an appropriate time for the  
09:22 25 BrownGreer report and the Garretson report, if that's in order.

09:22 1           **THE COURT:** Sure.

09:22 2           **MR. WOODY:** Good morning, Your Honor. My name is  
09:22 3 Jake Woody. I'm here from BrownGreer to give the monthly court  
09:22 4 report.

09:22 5           As always, we'll start with the total number of  
09:22 6 claims to set the picture. We did have 22,389 claims filed.  
09:22 7 12,599 of those are Global, Banner, InEx repair and relocation  
09:22 8 claims. 3,996 are miscellaneous claims. 1,830 are lost rent,  
09:22 9 use, and sales claims. 1,369 are Knauf remediation claims.  
09:23 10 913 are foreclosure claims. 870 are bodily injury claims. 755  
09:23 11 are alternative living expenses claims. Just 57 are tenant  
09:23 12 loss claims.

09:23 13           We have completed review of 84 percent of all  
09:23 14 the claims. Just under 19,000 have been reviewed initially.  
09:23 15 We have completed our initial review of six of the eight claim  
09:23 16 types. We do have 116 foreclosure claims left to look at. I  
09:23 17 expect to finish those this week, and then we will turn our  
09:23 18 attention to the miscellaneous claims. We have 3,309 of those  
09:23 19 to review. As soon as we finish foreclosure, we will start on  
09:23 20 miscellaneous and move through those quickly. Since the last  
09:23 21 status conference we have reviewed 948 claims. Most of those  
09:23 22 have been foreclosure claims.

09:23 23           We have worked on Global, Banner, InEx claims  
09:23 24 for the longest. They are the largest number of claimants.  
09:23 25 This slide shows the disposition of our review results. The

09:24 1 important information on this slide is not the number of claims  
09:24 2 but the number of open claims because, as I have stated before,  
09:24 3 this is a pro rata settlement. As long as claims are open, it  
09:24 4 makes it difficult to do the pro rata calculation.

09:24 5 Last month I reported that there were 108 open  
09:24 6 claims. This month there are 43, so that number is dwindling  
09:24 7 quickly. 37 of the 43 are claims that have been denied, and 33  
09:24 8 of those have within the next 10 days to appeal. So those will  
09:24 9 close quickly.

09:24 10 Because most of the open claims are denied  
09:24 11 claims, we can for the first time share our preliminary  
09:24 12 pro rata calculations. Just a word about how those are  
09:24 13 calculated. There's a set amount of money available for each  
09:24 14 settlement, the Banner settlement, the InEx settlement, and the  
09:24 15 Global settlement is divided into three separate pools: the  
09:24 16 Global builder, the Global supplier, and the Global installer.

09:25 17 To determine the pro rata amount, we take the  
09:25 18 eligible square footage for each pool and divide the amount  
09:25 19 available by the square footage to come up with a per square  
09:25 20 foot number. The tentative amount for each settlement:

09:25 21 For the Banner settlement it's \$3.06 a square  
09:25 22 foot; for InEx it's 37 cents a square foot; for the Global  
09:25 23 builder it's \$2.09 a square foot; for the Global supplier it's  
09:25 24 \$3.49; and for the installer it's 95 cents.

09:25 25 I do want to emphasize that these are tentative

0 9 : 2 5 1 amounts. As I mentioned, there are still some open claims  
0 9 : 2 5 2 which could affect the calculation. I expect that when we make  
0 9 : 2 5 3 payments, the initial payment will be a very large percentage  
0 9 : 2 5 4 of this; probably 97, 98 percent. So the amount of the first  
0 9 : 2 5 5 payment may not be exactly this amount, but it should be close  
0 9 : 2 5 6 to this.

0 9 : 2 5 7 I know there's great interest in that and I  
0 9 : 2 5 8 wanted to share those calculations for the first time. All I  
0 9 : 2 5 9 have done is -- as I said, it's just a math problem -- divide  
0 9 : 2 5 10 the amount available by the eligible square footage to come up  
0 9 : 2 6 11 with this number.

0 9 : 2 6 12 This is per square foot. So if the home is  
0 9 : 2 6 13 1,000 square feet and it's in the Banner settlement, you would  
0 9 : 2 6 14 simply multiply the per square foot amount by 1,000 to figure  
0 9 : 2 6 15 out roughly what the initial payment will be. There are many  
0 9 : 2 6 16 properties that are eligible for payment from multiple  
0 9 : 2 6 17 settlements, from the Banner settlement and the Global builder  
0 9 : 2 6 18 settlement. They would receive two separate payments for that.

0 9 : 2 6 19 **THE COURT:** When will you be able to make those  
0 9 : 2 6 20 payments?

0 9 : 2 6 21 **MR. WOODY:** I think we are in a good position to make  
0 9 : 2 6 22 those payments probably by the end of the month. We will work  
0 9 : 2 6 23 with the PSC and the defendants to circulate a cap that will  
0 9 : 2 6 24 explain exactly how we will do it, how we have done our math,  
0 9 : 2 6 25 the procedures that we will follow to make payments, how we

09:26 1 will issue the checks.

09:26 2 I do think that the only document that will be  
09:26 3 required for eligible claimants is a W-9. If you haven't  
09:26 4 submitted a W-9 to us yet, I encourage people to do that now.  
09:27 5 We will review them, make sure they are signed and complete.  
09:27 6 If we don't have them, we will let people know that we need  
09:27 7 them to make payments.

09:27 8 I do know that there are many people who have  
09:27 9 given us a W-9 but many who haven't, so I encourage people to  
09:27 10 do that. You can upload them to our portal or you can e-mail  
09:27 11 them to us, and I will share that contact information at the  
09:27 12 end of the presentation.

09:27 13 **THE COURT:** You said something about a holdback.  
09:27 14 What's going to be the holdback?

09:27 15 **MR. WOODY:** I think we will withhold a small  
09:27 16 percentage to accommodate or to include the open claims just to  
09:27 17 make sure we have a little bit left in case there are new  
09:27 18 claims, things of that nature.

09:27 19 **THE COURT:** So what's a small percentage? 3 percent?

09:27 20 **MR. WOODY:** I think 3 percent at the most.

09:27 21 **THE COURT:** So you will give 97 percent and you will  
09:27 22 hold back 3 percent. That will be in addition to the 97  
09:27 23 percent.

09:27 24 **MR. WOODY:** Yes. I will work with the PSC to put  
09:27 25 that in a cap and memorialize that.



09:27 1 THE COURT: Okay.

09:27 2 MR. WOODY: I'll turn quickly to the other loss  
09:27 3 claims. We have worked on bodily injury for quite a while.  
09:28 4 There are 156 potentially eligible bodily injury claims.  
09:28 5 That's an increase of 8 from the last status conference. These  
09:28 6 numbers aren't moving much because most of these claims are  
09:28 7 closed, meaning that we have denied many of them and they have  
09:28 8 run the time to appeal. 624 are denied. 51 are currently  
09:28 9 incomplete. The 51 are the ones that move. They will move to  
10 denied or incomplete within the next month or so.

09:28 11 Pre-remediation alternative living expenses is  
09:28 12 in a very similar position as bodily injury in that we have  
09:28 13 worked on these for the longest. 471 are potentially eligible.  
09:28 14 That's a change of 12 from the last status conference. You can  
09:28 15 see that the longer time has passed since we have done our  
09:28 16 initial reviews the less claims move. 16 of these are  
09:28 17 incomplete. Those will move to eligible or denied within the  
18 next month. 241 are denied.

09:28 19 Lost rent, use, and sales is a very active claim  
09:28 20 type right now, meaning that many claims are open. They have  
09:29 21 incomplete notices that they are responding to. We have  
09:29 22 determined that 908 are potentially eligible, 306 are  
09:29 23 incomplete, and 257 have been denied. These numbers will  
09:29 24 change over the next two months. They will change a lot.

09:29 25 You can see that many of these are complete. I

09:29 1 think that's because the document requirements are not that  
09:29 2 onerous. This claim type is limited to commercial owners.  
09:29 3 Generally they have easier access to records that they need.

09:29 4 Foreclosure and short sales, the claim type we  
09:29 5 have been working on for the most in the last month, all of  
09:29 6 these claims are open. There are 913 of them. Only 28 are  
09:29 7 potentially eligible at this time. 755 are incomplete. As I  
09:29 8 said, we are still to review 116. We'll finish those this  
09:29 9 week.

09:29 10 Finally, just a word about the notices we have  
09:29 11 issued. We have issued a total of 20,070 notices. If you  
09:30 12 haven't received a notice from us on an other-loss claim type,  
09:30 13 it likely means that you are potentially eligible.

09:30 14 If you have questions about that, you can  
09:30 15 contact us and we can give you a full status update on that  
09:30 16 claim. The best way to contact us is by e-mail. It's  
09:30 17 CDWQuestions@browngreer.com.

09:30 18 Our Web portal is [www3.browngreer.com/drywall](http://www3.browngreer.com/drywall).  
09:30 19 That is the best place to upload W-9s for people who are  
09:30 20 interested in doing that. You can upload them like any other  
09:30 21 document you have given us. We will see that it's a W-9 and  
09:30 22 review it. There's no need to give us any special  
09:30 23 instructions.

09:30 24 If you need to call us, our toll-free number is  
09:30 25 (866) 866-1729.

09:30 1           **THE COURT:** Anything from anyone else?

09:30 2           Dan, do you have anything on the personal injury  
09:30 3 matters that you want to --

09:30 4           **MR. BECNEL:** No, Judge.

09:30 5           **THE COURT:** I'm sorry. That's all right, Danny. I  
09:30 6 was looking at Dan Balhoff, but I'll hear you also.

09:30 7           **MR. BALHOFF:** I'm a "B Team Dan."

09:31 8           Your Honor, very briefly, the special master's  
09:31 9 office has been working with BrownGreer. Randy Ellis and I  
09:31 10 have gone through all of the bodily injury claims that  
09:31 11 BrownGreer has sent us and we have started categorizing them.

09:31 12           We are looking for levels of proof that should  
09:31 13 be required for varying amounts. We are going to work with the  
09:31 14 parties and the Court in order to come up with a procedure so  
09:31 15 that we can get some input from the parties before making final  
09:31 16 recommendations to the Court. The initial review is complete.

09:31 17           **THE COURT:** Most of the claims, what do they involve?

09:31 18           **MR. BALHOFF:** The vast majority of the claims involve  
09:31 19 respiratory-type complaints, migraine headaches or some kinds  
09:32 20 of headaches, nasal congestion, and the sort of acute problem  
09:32 21 that was present while the person was in the presence of the  
09:32 22 Chinese drywall but may have gone away later.

09:32 23           There are a few other complaints that are beyond  
09:32 24 that and those may require special treatment. We need to  
09:32 25 coordinate with the parties in order to decide how to handle

09:32 1 those.

09:32 2 **THE COURT:** Thank you.

09:32 3 Danny, you had some comment on that?

09:32 4 **MR. BECNEL:** Judge, I had a comment on the G8, which  
09:32 5 is meeting in September in Wales. I would suggest that the  
09:32 6 Court -- not the plaintiffs' committee or the defense, that the  
09:32 7 Court send Penny Pritzker, the Secretary of Commerce, who will  
09:32 8 be there, and get that on the agenda with the Chinese. That's  
09:32 9 when all of the staffs from the presidents of all of those G8  
09:33 10 countries meet and try to work deals out or what have you. I  
09:33 11 just think that that's a good avenue that's less than a month  
09:33 12 away.

09:33 13 **THE COURT:** Okay. That's a good idea.

09:33 14 **MR. LEVIN:** Your Honor, Ms. Pritzker has been  
09:33 15 notified of the situation.

09:33 16 **THE COURT:** Matt, do you have anything?

09:33 17 **MR. GARRETSON:** Matt Garretson, special master of the  
09:33 18 four Virginia-based settlements. I have just a few brief  
09:33 19 points to summarize and update the Court with.

09:33 20 As the Court is aware, there's 262 active real  
09:33 21 property claims and that has not changed at any time since my  
09:33 22 last report. We have sent determination notices to all 262.  
09:33 23 That occurred at the end of July, earlier this summer. The  
09:33 24 appeals period runs as of August 20, so just a short time away.

09:34 25 To date I have received six appeals. As the

09:34 1 class members are aware, after we make our determination on the  
09:34 2 appeals, if we deny those appeals, class members have 15 days  
09:34 3 to file an objection with this Court.

09:34 4 There is one issue that I have brought to the  
09:34 5 Court's attention that I think is worth mentioning as well and  
09:34 6 that's a duplicate claim issue. Fannie Mae, the Federal  
09:34 7 National Mortgage Association, has asserted real property  
09:34 8 claims on the same pieces of property for which 10 former  
09:34 9 homeowners have also asserted claims. So there's 10 affected  
10 properties.

09:34 11 As the Court has advised, we will be treating  
09:34 12 each of these as one claim for purposes of allocation. To that  
09:34 13 end, I will be sending each of the affected parties a letter  
09:34 14 containing our analysis and our recommendation and, in general,  
09:34 15 will try to facilitate a fair resolution.

09:35 16 Failing that effort, Your Honor, if either party  
09:35 17 objects to our analysis and recommendation, we would propose  
09:35 18 placing the money into the registry of the Court, and then the  
09:35 19 Court can hear from the parties and make a determination.

09:35 20 **THE COURT:** I met with Matt a moment ago. I got his  
09:35 21 letter. I think that that's the way to handle it. We have to  
09:35 22 look at it as one claim. Maybe a number of parties have an  
09:35 23 interest in that claim, but I can't divide the claim up just  
09:35 24 having everybody make claims.

09:35 25 So I'm going to have one claim. You make the

09:35 1 cut as to how much that claim should be valued at. If the  
09:35 2 parties can get together, fine. If they can't, put the money  
09:35 3 in the registry of the Court. I will convene a hearing. I  
09:35 4 will hear from each of the claimants in that particular claim  
09:35 5 and I'll make a decision on it. That's the way I'm doing it.

09:36 6 **MR. GARRETSON:** Yes, Your Honor. So we would  
09:36 7 anticipate preparing those letters in the near future and  
09:36 8 giving out correspondence to the affected parties.

09:36 9 With respect to other loss claims, quite  
09:36 10 frankly, our focus has been on the real property claims so we  
09:36 11 can get those processed and get the bulk of the funds,  
09:36 12 80 percent of the funds out the door as quickly as possible.

09:36 13 There are 488 active individual other loss  
09:36 14 claims across 194 affected properties, and we have gone through  
09:36 15 the initial review of those. Our next step is to issue our  
09:36 16 determination notices, and we will begin that process just  
09:36 17 after we finalize phase one, which is the real property issues  
09:36 18 I have mentioned. Of course, after we have our determination  
09:36 19 notices go out on those other loss claims, we'll have an  
09:36 20 appeals period and then finalize the allocation.

09:36 21 So a very brief report today, Your Honor. In  
09:36 22 summary, the project remains on track with regard to the other  
09:36 23 status updates I have given. The claims submission process is  
09:37 24 complete.

09:37 25 We are dealing with the claims, as I just

09:37 1 mentioned, in two phases, the real property which we are  
09:37 2 focused on now, bringing that to a conclusion, as well as the  
09:37 3 other losses; 262 active real property claims, 488 active other  
09:37 4 loss claims. We are about to end the real property appeals  
09:37 5 phase. We'll communicate to the Court should anyone take an  
09:37 6 objection with our determination on the appeals.

09:37 7 As always, should any class member or class  
09:37 8 counsel or counsel wish to communicate with us, the easiest way  
09:37 9 to get in touch is through [chinesedrywall@garretsongroup.com](mailto:chinesedrywall@garretsongroup.com).  
09:37 10 We receive many inquiries through that medium and will continue  
09:37 11 to respond to those.

09:37 12 **THE COURT:** Thank you very much. I appreciate your  
09:37 13 help.

09:37 14 Anything from the *pro se* claimants? Anything  
09:37 15 from Mr. Johnston?

09:37 16 What about from the attorney general? Anything  
09:37 17 from the attorney general? Not at this time.

09:38 18 Any other area that we need to cover?

09:38 19 The next status conference, of course, is  
09:38 20 September 18. The one in October is October 21.

09:38 21 I'll be back in five minutes and we'll deal with  
09:38 22 the motions. Thank you very much. Court will stand in recess.

09:38 23 **THE DEPUTY CLERK:** All rise.

09:38 24 (Proceedings adjourned.)

09:38 25 \* \* \*

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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



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