

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

In re: CHINESE-MANUFACTURED DRYWALL PRODUCTS LIABILITY LITIGATION	*	MDL Docket No. 2047
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	*	SECTION L
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This document relates to All Cases	*	JUDGE FALLON
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	*	MAGISTRATE JUDGE WILKINSON
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**JOINT REPORT NO. 1 OF
PLAINTIFFS' AND DEFENDANTS' LIAISON COUNSEL**

Plaintiffs' Liaison Counsel ("PLC") and Defendants' Liaison Counsel ("DLC")

submit this Joint Report No. 1.

I. PRE-TRIAL ORDERS

The Court has issued the following Pre-Trial Orders:

Pre-Trial Order No. 1 entered June 15, 2009 – Initial Case Management

Pre-Trial Order No. 2 entered June 16, 2009 – Notice to Transferor Court

Pre-Trial Order No. 3 entered July 6, 2009 – Designation of Plaintiffs’ Liaison Counsel

Pre-Trial Order No. 4 entered July 6, 2009 – Designation of Defendants’ Liaison Counsel

Pre-Trial Order No. 5 entered July 6, 2009 – Contact Information

Pre-Trial Order No. 5A entered July 9, 2009 – Counsel Contact Information Form

Pre-Trial Order No. 6 entered July 21, 2009 – Electronic Service (LexisNexis)

Pre-Trial Order No. 7 entered July 27, 2009 – Appointment Defendants’ Steering Committee

Pre-Trial Order No. 7A entered August 4, 2009 – Amending PTO 7 re Defendants’ Steering Committee

Pre-Trial Order No. 8 entered July 28, 2009 – Appointing Plaintiffs’ Steering Committee

Pre-Trial Order No. 9 entered July 28, 2009 – Time and Billing Guidelines/Submissions

II. PROPERTY INSPECTIONS

The Parties have been discussing and developing a Threshold Inspection Protocol (TIP) for MDL plaintiff properties impacted by Chinese Drywall. The inspection protocol will attempt to determine (1) whether or not the property in question contains Chinese manufactured drywall; (2) the manufacturer, distributor, and installer of the drywall; and (3) the nature and extent, if any, of the impact on the property, including the wiring, air conditioning, and plumbing. The TIP will be subject to the supervision of the Court. The parties have also met with six different inspection companies that have advised they can implement the TIP. The parties will be prepared to discuss these issues further at the monthly status conference on August 11, 2009.

III. PLAINTIFF AND DEFENDANT PROFILE FORMS

The Parties have been discussing and developing Plaintiff and Defendant Profile Forms. The profile forms shall address identification, manufacturer, distributor, date(s) of sale and installation of Chinese manufactured drywall and alleged damages resulting therefrom. The profile forms shall also address insurance information for plaintiffs and defendants. The parties

will be prepared to discuss these issues further at the monthly status conference on August 11, 2009.

IV. PRESERVATION ORDER

The Parties have met to discuss the modification of Section 14 of Pre-Trial Order No. 1 that addresses “Preservation of Evidence.” The parties contemplate that both physical things, as well as documents should be addressed with respect to any Preservation Order. The parties will be prepared to discuss these issues further at the monthly status conference on August 11, 2009.

V. STATE COURT TRIAL SETTINGS

The Parties will be prepared to advise the Court, to the best of their knowledge, the following:

1. All trial settings in state courts that are set over the next twelve (12) months;
2. All pending discovery motions in state court cases; and
3. All dispositive motions pending in state court cases.

VI. STATE/FEDERAL COORDINATION

Representatives of the Plaintiffs’ Steering Committee (“PSC”) and Defendants’ Steering Committee (“DSC”) will discuss coordination efforts that have been undertaken with respect to the MDL and various state court actions. The parties will be prepared to discuss this matter further at the monthly status conference on August 11, 2009.

VII. DISCOVERY ISSUES

The PSC is in the process of drafting a master set of discovery to be served upon Defendants. In addition, the PSC has advised that it will be scheduling depositions. Prior to actual service of the discovery requests, drafts shall be provided to Defendants for discussion

purposes. The PSC will request that all such discovery be handled on an expedited basis. Consistent with the Court's prior ruling, defendants believe that discovery should commence upon completion of the parties' profile forms and inspections of the applicable homes, and reserve all rights to object to under the Federal Rules of Civil Procedure and applicable law as to the timing and substance of the discovery contemplated by this section. Defendants propose that initial discovery should be limited to determining the supply chain of the Chinese manufactured drywall. Plaintiffs oppose this. The parties will be prepared to discuss these issues further at the monthly status conference on August 11, 2009.

VIII. FREEDOM OF INFORMATION ACT/PUBLIC RECORDS REQUESTS

Several Freedom of Information Act/Public Records Requests have been made by Plaintiffs. No responses have yet to be received. PLC will be prepared to discuss the status of these requests at the monthly status conference on August 11, 2009.

IX. TRIAL SETTINGS IN FEDERAL COURT

The Court has advised that it desires to establish "Bellwether" trials (see Minute Entry dated July 9, 2009 [Doc. 111]). The parties have been discussing the protocol and procedure for selecting Bellwether trial candidates. The parties will be prepared to discuss this further at the monthly status conference on August 11, 2009.

X. FILINGS IN THE MDL

The parties have been discussing the ability of allowing direct filings in the MDL. Plaintiffs believe this process would allow for multiple plaintiffs to file claims in one matter (see Minute Entry dated July 9, 2009 [Doc. 111]). This process would allow for multiple plaintiffs to file claims in one matter (see Minute Entry dated July 9, 2009 [Doc. 111]). In addition, the

parties continue to discuss the issue regarding service upon foreign Defendants through the Hague Convention and the substantial cost associated with that process, as well as Plaintiffs' requests that the Defendants waive this requirement. The parties will be prepared to discuss this further at the monthly status conference on August 11, 2009.

XI. TOLLING AGREEMENT/SUSPENSION OF PRESCRIPTION

The parties have been in discussion regarding the entering of a Tolling Agreement/Suspension of Prescription Agreement. The parties will be prepared to discuss this further at the monthly status conference on August 11, 2009.

XII. CLASS ACTIONS

In the status conference of July 9, 2009, the Court advised it intended to defer class certification issues. The PSC has requested consent from the Defendants for waiver of Local Rule 23(B) requiring that a motion be filed moving for certification. The parties will be prepared to discuss this further at the monthly status conference on August 11, 2009.

XIII. MOTIONS IN THE MDL

(1) Application for the Homebuilders for Creation of a Homebuilder's Steering Committee.

(2) There will be a number of motions that the parties will be presenting to the Court in the near future. The parties will prepare for the Court a separate listing of motions by August 14, 2009 so that the Court will be aware of the various issues that the respective parties believe need to be addressed so that the Court can set a briefing schedule for such motions. Resolution of many of the issues may expedite the progress of the MDL. The parties will be prepared to discuss the issues at the monthly status conference on August 11, 2009.

XIV. INSURANCE ISSUES

There are a number of issues involving insurance matters that will be addressed in this litigation. These include actions against insurers of manufacturers, exporters, importers, distributors, builders, drywall contractors/installers and homeowners. The parties will be prepared to discuss these issues at the monthly status conference on August 11, 2009.

XV. SERVICE OF PLEADINGS ELECTRONICALLY

The LexisNexis File & Serve System has been established for the service of pleadings electronically in the MDL in order to facilitate service to all counsel. All counsel are to serve pleadings both through LexisNexis and the Electronic Filing System (ECF) of the Eastern District of Louisiana Court. Pre-Trial Order No. 6 governs service of pleadings electronically and sets forth the procedure required for all counsel to register with LexisNexis.

XVI. MASTER COMPLAINT

PSC is in the process of drafting a Master Complaint. The parties will be prepared to discuss this further at the monthly status conference on August 11, 2009.

XVII. NEXT STATUS CONFERENCE

PLC and DLC will be prepared to schedule the next status conference, on a date to be selected by the Court.

Respectfully submitted,

/s/ Russ M. Herman

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Defendants' Liaison Counsel

CERTIFICATE

I hereby certify that the above and foregoing Joint Status Report No. 1 of Plaintiffs' and Defendants' Liaison Counsel has been served upon all parties by electronically uploading the same to LexisNexis File & Serve Advanced in accordance with Pre-Trial Order No. 6, and that the foregoing was electronically filed with the Clerk of Court of the United States District Court for the Eastern District of Louisiana by using the CM/ECF system which will send a Notice of Electronic Filing in accord with the procedures established in MDL 2047, on this 10th day of August, 2009.

/s/ Leonard A. Davis

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Plaintiffs' Liaison Counsel

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