

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

**IN RE: CHINESE-MANUFACTURED
DRYWALL PRODUCTS LIABILITY
LITIGATION**

MDL No. 2047

(SEE ATTACHED SCHEDULE)

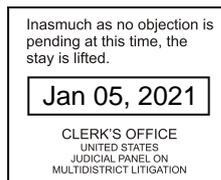
CONDITIONAL REMAND ORDER

The transferee court in this litigation has advised the Panel that coordinated or consolidated pretrial proceedings in the action(s) on this conditional remand order have been completed and that remand to the transferor court(s), as provided in 28 U.S.C. § 1407(a), is appropriate.

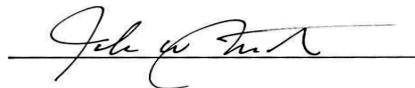
IT IS THEREFORE ORDERED that the action(s) on this conditional remand order be remanded to its/their respective transferor court(s).

IT IS ALSO ORDERED that, pursuant to Rule 10.2 of the Rules of Procedure of the United States Judicial Panel on Multidistrict Litigation, the transmittal of this order to the transferee clerk for filing shall be stayed 7 days from the date of this order. If any party files a notice of opposition with the Clerk of the Panel within this 7-day period, the stay will be continued until further order of the Panel. This order does not become effective until it is filed in the office of the Clerk for the United States District Court for the Eastern District of Louisiana.

IT IS FURTHER ORDERED that, pursuant to Rule 10.4(a), the parties shall furnish the Clerk for the Eastern District of Louisiana with a stipulation or designation of the contents of the record to be remanded.



FOR THE PANEL:



John W. Nichols
Clerk of the Panel

**IN RE: CHINESE-MANUFACTURED
DRYWALL PRODUCTS LIABILITY
LITIGATION**

MDL No. 2047

SCHEDULE FOR CRO

TRANSFeree		TRANSFEROR		CASE CAPTION
<u>DIST DIV.</u>	<u>C.A.NO.</u>	<u>DIST DIV.</u>	<u>C.A.NO.</u>	
LAE 2	14-02722	ALN 5	14-02204	Bennett et al v. Gebrueder Knauf Verwaltungsgesellschaft KG et al

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

IN RE: CHINESE-MANUFACTURED DRYWALL
PRODUCTS LIABILITY LITIGATION

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CIVIL ACTION

MDL NO. 2047

SECTION L (5)

THIS DOCUMENT RELATES TO:

*Elizabeth Bennett, et al. v. Gebr.
KnaufVerwaltungsgesellschaft, KG, et al.*, No. 14-2722

SUGGESTION OF REMAND, OPINION AND ORDER

I. BACKGROUND

From 2004 through 2006, the housing boom in Florida and rebuilding efforts necessitated by Hurricanes Rita and Katrina led to a shortage of construction materials, including drywall. As a result, drywall manufactured in China was brought into the United States and used to construct and refurbish homes in coastal areas of the country, notably the Gulf Coast and East Coast. Sometime after the installation of the Chinese drywall, homeowners began to complain of emissions of foul-smelling gas, the corrosion and blackening of metal wiring, surfaces, and objects, and the breaking down of appliances and electrical devices in their homes. *See In re Chinese-Manufactured Drywall Prods. Liab. Litig.*, 894 F. Supp. 2d 819, 829–30 (E.D. La. 2012), *aff'd*, 742 F.3d 576 (5th Cir. 2014). Many of these homeowners also began to complain of various physical afflictions believed to be caused by the Chinese drywall.

These homeowners then began to file suit in various state and federal courts against homebuilders, developers, installers, realtors, brokers, suppliers, importers, exporters, distributors, and manufacturers who were involved with the Chinese drywall. As a result, many homebuilders also filed suit seeking to recoup their damages. Because of the commonality of facts in the various

cases, this litigation was designated as a multidistrict litigation. Pursuant to a Transfer Order from the United States Judicial Panel on Multidistrict Litigation on June 15, 2009, all federal cases involving Chinese drywall were consolidated for pretrial proceedings in MDL 09-2047 before this Court. The Chinese drywall at issue was largely manufactured by two groups of defendants: (1) the Knauf Entities and (2) the Taishan Entities. The litigation has focused upon these two entities and their downstream associates and has proceeded on strikingly different tracks for the claims against each group. Because the *Bennett* action only involves the Knauf Entities, the Court does not address the Taishan portion of the litigation in this Order.

II. PROCEDURAL HISTORY

A. *The Knauf Defendants*

The Knauf Entities are German-based, international manufacturers of building products, including drywall, whose Chinese subsidiary, Knauf Plasterboard (Tianjin) Co., Ltd. (“KPT”), advertised and sold its Chinese drywall in the United States. The Knauf Entities are named defendants in numerous cases consolidated with the MDL litigation and litigation in state courts. The Knauf Entities first entered their appearance in the MDL litigation on July 2, 2009. Thereafter, the Court presided over a bellwether trial in *Hernandez v. Knauf Gips KG*, Case No. 09-6050, involving a homeowner’s claims against KPT for defective drywall. The Court found in favor of the plaintiff family in *Hernandez*, issued a detailed Findings of Fact and Conclusions of Law, and entered a Judgment in the amount of \$164,049.64, including remediation damages in the amount of \$136,940.46—which represented a remediation cost of \$81.13 per square foot based on the footprint square footage of the house.

Subsequently, the Knauf Entities agreed to institute a pilot remediation program utilizing the remediation protocol formulated by the Court from the evidence in *Hernandez*. The Knauf

pilot remediation program is now completed and more than 2,200 homes containing KPT Chinese drywall have been remediated using the same general protocol. At the Court's urging, the parties began working together to monetize this program and make it available to a broader class of plaintiffs.

On December 20, 2011, the Knauf Entities and the PSC entered into a global, class Settlement Agreement ("Knauf Settlement Agreement"), which was designed to resolve all Knauf-related, Chinese drywall claims. In addition to the Knauf Settlement Agreement and after a jury trial in a bellwether case, numerous defendants in the chain-of-commerce with the Knauf Entities entered into class settlement agreements, the effect of which settles almost all of the Knauf Entities' chain-of-commerce litigation. The total amount of the Knauf Settlement is approximately \$1.1 billion. Thereafter, additional claims were filed against Knauf and others, as in the instant case.

III. SUGGESTION OF REMAND

The instant suggestion of remand involves claims asserted by Plaintiffs who did not participate in the Knauf settlement. After managing this MDL for ten years, the Court concludes that the purpose behind consolidating these related actions in this Court have now been served. The Court has addressed numerous discovery disputes, dispositive motions, and other pretrial issues involving facts and legal questions common to the various cases in this MDL proceeding. No further pretrial motions raising common questions are pending in these cases, and remand to the transferor court appears to be in the interest of judicial efficiency and fairness to the parties.

This suggestion of remand relates to *Elizabeth Bennett, et al. v. Gebr. KnaufVerwaltungsgesellschaft, KG, et al.*, No. 14-2722 ("Bennett Complaint"). On November 13, 2014, Elizabeth Bennett filed suit in the Northern District of Alabama on her own behalf and on

behalf of a nationwide class of similarly situated homeowners who allegedly suffered damages due to defective Chinese drywall in their homes. The Plaintiffs raised claims against the Knauf Entities for negligence, negligence *per se*, strict liability, breach of express and/or implied warranty, redhibition, violations of the Louisiana Products Liability Act, private nuisance, negligent discharge of a corrosive substance, unjust enrichment, violations of consumer protection laws, and equitable and injunctive relief and medical monitoring with respect to the manufacture of allegedly defective Chinese drywall. In January 2015, the Judicial Panel on Multidistrict Litigation transferred the case to the Eastern District of Louisiana and consolidated it with the *In re Chinese Manufactured Drywall Liability Litigation*, MDL 09-2047, currently pending before this Court. Upon learning that twenty-three *Bennett* plaintiffs planned to appeal the Court's Orders and Reasons granting summary judgment against them, the Court severed these cases so as not to delay the instant suggestion of remand. R. Doc. 22967.

Given the extensive motions practice that has occurred in this MDL, the Court finds it appropriate to transfer the remaining *Bennett* cases to the transferor court. *See* Attachment A. This Court recognizes that parties may still need to conduct some discovery before trial. Nevertheless, this discovery is case-specific, so it should be supervised by the transferor court. This Court has worked diligently for the past ten years, and transferor court and parties are now equipped with abundant resources to steer these cases to a fair and just conclusion. In particular, this Court has denied class certification of the purported *Bennett* class action. R. Docs. 22528. At this point in the litigation, centralizing these cases has minimal benefit to parties; local courts are well-suited to evaluate the losses incurred by the Plaintiffs.

V. CONCLUSION

Based on the foregoing reasons and pursuant to Rule 10.1(b)(i) of the Rules of the Judicial Panel on Multidistrict Litigation, the Court **SUGGESTED** that the remaining *Bennett* cases listed in Attachment A be remanded to the transferor court for further proceedings. The Court submitted this suggestion to the Judicial Panel on Multidistrict Litigation by means of the attached letter. *See* Attachment B.

IT IS SO ORDERED.

New Orleans, Louisiana, this 18th day of December 2020.

A handwritten signature in black ink, reading "Eldon E. Fallon". The signature is written in a cursive style with a horizontal line underneath it.

ELDON E. FALLON
United States District Judge

Bennett - Active Claims

Claimant	Address	District Court
Robert & Stephanie Amuso	9461 Ambrose Lane Kimberly, AL 35091	Northern District of Alabama
Carl & Lynn Russell	5427 Creekside Lane Hoover, AL 35244	Northern District of Alabama
Elizabeth Bennett	102 Morningwalk Lane Huntsville, AL 35824	Northern District of Alabama
Jennifer & William Brady	2089 Knollwood Place Birmingham, AL 35242	Northern District of Alabama
Hoan Bao & Hanh Bich Thi Tran	1008 Washington Court Moody, AL 35004	Northern District of Alabama
Damian & Leslie Marie Cason	124 Arbor Hill Lane Huntsville, AL 35824	Northern District of Alabama
David & Dahnelle Reynolds	101 Spotted Fawn Road Madison, AL 35758	Northern District of Alabama
Ike & Nancy Ijemere	7012 Eagle Point Trail Birmingham, AL 35242	Northern District of Alabama
Jason Scott	149 Silo Hill Road Madison, AL 35758	Northern District of Alabama
Katie & Jason Hallmark	775 Ridgefield Way Odenville, AL 35120	Northern District of Alabama
Booker & Terri Lee	3258 Clubhouse Road Mobile, AL 36605	Southern District of Alabama
Michael & Becky Chedester	10955 West Brighton Drive Churchula, AL 36521	Southern District of Alabama
Olivia & Les Porciuncula	339 SW Wilton Avenue Palm Bay, FL 32908	Middle District of Florida
James Blevins	2636 SE 19th Place Cape Coral, FL 33904	Middle District of Florida
John & Rebecca Judge	2618 50th Street West Lehigh Acres, FL 33971	Middle District of Florida
Cesar & Ines Jaramillo	5301 Nicklaus Drive Winter Haven, FL 33884	Middle District of Florida
Abigail Cohen	20305 Chestnut Grove Drive Tampa, FL 33647	Middle District of Florida
Anjali Van Drie	4101 NW 22nd Street Cape Coral, FL 33993	Middle District of Florida
Edward Laremore	7018 Pilgrim Court Labelle, FL 33935	Middle District of Florida
CDO Investments, LLC	25409 Durango Court Punta Gorda, FL 33955	Middle District of Florida
MCF Enterprises, Inc.	8554 Pegasus Drive Lehigh Avenue, FL 33971	Middle District of Florida
Christopher & Julianne Kopach	20318 Chestnut Grove Drive Tampa, FL 33647	Middle District of Florida
Marie Y. Lorquet	284 James Circle Lake Alfred, FL 33850	Middle District of Florida
Vince & Rose Russo	9800 Quinta Artesa Way Ft. Myers, FL 33908	Middle District of Florida
Glenn & Yvette Price	1751 Bobcat Trail North Port, FL 34288	Middle District of Florida
Fred Pool & Raquel DeFigueiredo	14531 Coronado Drive Spring Hill, FL 34609	Middle District of Florida
Matthew Tabacchi (Allstate Servicing, Inc.)	13430 NE 30th Court Anthony, FL 32617	Middle District of Florida
Sharon & Albert Timmons	1820 NE 7th Avenue Cape Coral, FL 33909	Middle District of Florida

Bennett - Active Claims

Tobi & Kenneth Butcher	4020 Island Lakes Drive Winter Haven, FL 33881	Middle District of Florida
Byron & Fern Robbins	421 Chelsea Place Avenue Ormond Beach, FL 32174	Middle District of Florida
Ed Ball & Margot Gravel	2464 Silver Palm Road North Port, FL 34288	Middle District of Florida
Mark & Sheri Rigopoulos	3411 24th Avenue NE Naples, FL 34120	Middle District of Florida
Joseph & Susan Niemiec	6881 Brompton Drive Lakeland, FL 33809	Middle District of Florida
Frederick & Jessica Stockton	13095 Montego Street Spring Hill, FL 34609	Middle District of Florida
Tim Hoffman	624 NE 2nd Place Cape Coral, FL 33909	Middle District of Florida
Ina & Gary Helmick	13237 Emerald Acres Avenue Dover, FL 33527	Middle District of Florida
Leonard & Loretha Armstrong	121 11th Avenue East Bradenton, FL 34208	Middle District of Florida
Mercedes & Nicole Gaspard	1402 O'Donnell Lane, SE Port St. Lucie, FL 34983	Southern District of Florida
Steve Binns	1417 SW Devera Avenue Port St. Lucie, FL 34953	Southern District of Florida
Martin Kuntz	1417 SW Devera Avenue Port St. Lucie, FL 34953	Southern District of Florida
Jackelyn Aquirre-Matat / o.b.o Home and Land, Inc.	3310 NE 3 Dr. Homestead, FL 33033	Southern District of Florida
Karina Martinez	23631 SW 112 Ct. Homestead, FL 33032	Southern District of Florida
Ruben Dapena o.b.o. Annetta, LLC & Baco Annetta LLC	363 NE 30th Avenue Homestead, FL 33033	Southern District of Florida
Santiago Guzman o.b.o Skyline Glass, LLC	10769 NW 81 Lane Doral, FL 33178	Southern District of Florida
Daniel & Shona Blonsky	8220 SW 60 CT South Miami, FL 33143	Southern District of Florida
Elena Kendall & A&B Real Estate Holdings, LLC	23205 SW 217 Avenue Miami, FL 33031	Southern District of Florida
Isidro & Marfelia Calderon	3441 SW Haines Street Port St. Lucie, FL 34953	Southern District of Florida
Elvis Ferrera	22079 SW 88 Path Cutler Bay, FL 33190	Southern District of Florida
Julio Martinez	14731 SW 34 Lane Miami, FL 33185	Southern District of Florida
Levi Taylor	4090 SW Kallen Street Port St. Lucie, FL 34953	Southern District of Florida
Carlos Salabarria	12940 SW 135 St. Miami, FL 33186	Southern District of Florida
Dolores Jarvis	1743 North Olivia Drive Avon Park, FL 33825	Southern District of Florida
Bruno Esteban Ullauri Paredes & Karina Jannine Svoboda Straka	5952 SW 102 St. Pinecrest, FL 33156	Southern District of Florida
Kevin Karpel	17770 64th Place North Loxahatchee, FL 33470	Southern District of Florida
Laura Veira & Aliesky Santiago	14763 SW 35 Lane Miami, FL 33185	Southern District of Florida
M and M the Closers, LLC (Mark Floman)	1924 SE 21st Court Homestead, FL 33035	Southern District of Florida

Bennett - Active Claims

Michael & Karma Zelenenki)	4331 Ferrari Drive Sebring, FL 33872	Southern District of Florida
Nancy & William Mansour	8678 Tally Ho Lane Royal Palm Beach, FL 33411	Southern District of Florida
Neville Marques	1722 NE 6th Street Boynton Beach, FL 33435	Southern District of Florida
Rennie & Amrita Roopchand	15320 87th Road North Loxahatchee, FL 33470	Southern District of Florida
Michelle & Michael Goldenberg	12176 SW 49th Court Cooper City, FL 33330	Southern District of Florida
Christopher Payton	19 Money Hill Lane Poplarville, MS 39470	Southern District of Mississippi
Sherwood & Jody Bailey o.b.o. Carlisle Place, LLC & Michael Christovich	829 East Scenic Drive Pass Christian, MS 39571	Southern District of Mississippi
Susyn Cain & Richard Calevro	5040 Georgia Street Bay St. Louis, MS 39520	Southern District of Mississippi
David & Candace Fozard	72685 Diamondhead Drive North Diamondhead, MS 39525	Southern District of Mississippi
The Van Tran & Chin Thi Nguyen	12912 Rosemont Street Ocean Springs, MS 39564	Southern District of Mississippi
Mary Sue Caranna	224 Pinewood Drive Pass Christian, MS 39571	Southern District of Mississippi
Yulunda (Karen) McAlister & Stephanie Fussell	229 Felicity Street Bay St. Louis, MS 39520	Southern District of Mississippi
George & Mary Ann Ferry	101 Lakeside Drive Waveland, MS 39576	Southern District of Mississippi
Jack & Wanda Green	1709 Seacrest Drive Gautier, MS 39553	Southern District of Mississippi
Mark & Shannon Renee Lee	308 Italian Isle Road Gautier, MS 39553	Southern District of Mississippi
David & Birttany Martino	245 McDonnell Blvd., F-138 Biloxi, MS 39531	Southern District of Mississippi
George Humphries III & George Humphries IV	11209 Texas Street Bay St. Louis, MS 39520	Southern District of Mississippi
Nancy & Larry Lafontaine	478 St. Charles Street Bay St. Louis, MS 39520	Southern District of Mississippi
Peggy A. & Billy McCullar	603 East Second Street Pass Christian, MS 39571	Southern District of Mississippi
Wade & Sheryl Gauthreaux	10171 Lagan Street Bay St. Louis, MS 39520	Southern District of Mississippi
Karen Beth & David Neil Baldwin	909 High Ridge Drive Friendswood, TX 77546	Southern District of Texas
Frank & Suzan Grande/CJ Properties	7 Nevin Court Conroe, TX 77301	Southern District of Texas