

Chinese Drywall Update

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Presenter



HILL WARD HENDERSON
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2nd Annual Real Estate &
Construction Law Seminar

Act II

JUDGES, JURIES AND “THE FIX”



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Overview

- I. The Courts Speak
- II. State and Federal Government
- III. The light at the end of the tunnel?
- IV. Questions



Case Studies

Germano v. Taishan Gypsum Co. Ltd.

Hernandez v. Knauf Gips KG

- I. Background
- II. Facts
- III. Outcome





UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

IN RE: CHINESE MANUFACTURED DRYWALL PRODUCTS LIABILITY LITIGATION : MDL NO. 2047
: SECTION: L
: JUDGE FALLON
: MAG. JUDGE WILKINSON
:

This Document Relates to *Germano, et al. v. Taishan Gypsum Co. Ltd., et al.*, case no. 09-6687

FINDINGS OF FACT & CONCLUSIONS OF LAW

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1. All Drywall in the Plaintiff-intervenor Homes Needs to be Removed & Replaced.....27
a. Drywall sales and delivery records, where available, lack the reliability and precision necessary to locate all of the Chinese drywall in a mixed drywall home.....28
b. The Knauf proposed method, or combination of methods, for selective drywall identification do not rise above the level of experimental, and lack the scientific reliability necessary to conduct a board-by-board removal system at the present time.....29
c. Removal of all drywall in a mixed home is efficient and cost





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MAG. JUDGE WILKINSON

THIS DOCUMENT RELATES TO:
Hernandez v. Knauf Gips KG, et al., case no. 09-6050

FINDINGS OF FACT & CONCLUSIONS OF LAW

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A. The Entire Electrical System Must be Removed & Replaced.....20

 1. General information on electrical systems.....20

 2. Electrical wires are corroded.....21

 a. Visual evidence.....21

 b. Scientific testing & standards.....21



Case Studies

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- I. Remove and Replace all drywall
 - a. Locating/identifying drywall types
 - b. Economy/efficiency of selective removal
 - c. Cross-contamination



Case Studies

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II. Replacement of Electrical Wires

a. Corrosion

b. Insulation

c. Economic considerations





Case Studies

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III. HVAC

a. Duct work







Case Studies

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III. Copper Pipes

IV. Flooring

a. replace carpet

b. Germano – replace wood flooring

Hernandez – wood floors remain
with proper care



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V. Cabinets, Countertops, Fixtures,
Trim replaced for economic
reasons



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VI. Post Demolition Clean UP

- a. Air out (15-30 days)
- b. HEPA
- c. Inspection



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VII. Damages

- A. Germano – Seven homes awarded a total of \$2,609,129.99.
- B. Repair costs of \$86 per square foot.
- C. Damages for “loss of enjoyment.”



Case Studies

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VII. DAMAGES

A. Hernandez – Total award of
\$164,049.64

B. Repair costs of approximately \$81
per square foot



Consumer Product Safety Commission (CPSC)

CPSC guidance calls for replacing:

1. All “problem” drywall
2. All fire safety alarm devices
3. Electrical components and wiring
4. Gas service piping and fire sprinklers
5. HVAC?



State & Local Government

I. Legislation

A. Federal legislation to regulate imported drywall still in committee.



CS/CS/HB 965

2010

1 A bill to be entitled
2 An act relating to real property assessment; creating s.
3 193.1552, F.S.; providing a definition; requiring property
4 appraisers to adjust the assessed value of certain
5 properties affected by imported drywall under certain
6 circumstances; providing for a nominal just value of \$0
7 under certain circumstances; providing for application to
8 certain properties; providing for nonapplication to
9 certain property owners; specifying homestead property as
10 damaged for certain purposes; prohibiting consideration of
11 homestead property as abandoned under certain
12 circumstances; providing for assessment of certain
13 property after completion of remediation or repair;
14 providing application; providing for future repeal unless
15 reviewed and reenacted; providing an effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. Section 193.1552, Florida Statutes, is created
20 to read:

21 193.1552 Assessment of properties affected by imported
22 drywall.—

23 (1) As used in this section, the term "imported drywall"
24 means drywall that contains elevated levels of elemental sulfur
25 that results in corrosion of certain metals.

26 (2) When a property appraiser determines that a single-
27 family residential property is affected by imported drywall and
28 needs remediation to bring that property up to current building



State & Local Government

B. Florida Statute 193.1552 provides property tax relief to homeowners with CDW, but with exceptions.



The Light at the End of the Tunnel

As of June 30, 2010 CPSC reports:
3,418 “incident reports” from 37 states.



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The Light at the End of the Tunnel

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Lawsuits resolved by verdict or
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Chinese manufacturers engaging.



Questions?



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