

Chinese Drywall Litigation & Insurance Coverage Update

Wednesday, November 11, 2009, The Ritz-Carlton, New Orleans



CONFERENCE CHAIRS:

Michael Ryan, Esq., Krupnick Campbell Malone Buser Slama Hancock Liberman & McKee, P.A., Fort Lauderdale
 Hilarie Bass, Esq., Greenberg Traurig, LLP, Miami

7:30	<p>Continental Breakfast and Morning Registration Sponsored by Building Health Sciences, Inc. - A Division of NMAS</p>	12:00	<p>The Crowded Defense Table <ul style="list-style-type: none"> • Who is brought into the fray, who usually gets out, and how to coordinate among the defendants left standing • How to build up a cogent defense story and case roadmap • Assessing case strength and when to consider settlement • Possible indemnity claims for defendants and how to pursue them • Ways to minimize costs and time spent, to help the client in these hard economic times Kay Baxter, Esq., Swetman Baxter Massenburg, LLC, New Orleans Leigh Ann Schell, Esq., Kuchler Polk Schell Weiner & Richeson, LLC, New Orleans</p>
7:50	<p>Introduction and Opening Remarks</p>	12:45	<p>Networking Luncheon Location: Algiers</p>
8:00	<p>Latest on Class Actions and the MDL <ul style="list-style-type: none"> • How cases are being phased and tried in the MDL • The first set of bellwether cases in the MDL - the case details, current status and where we will be in 2010 • Where are cases being filed-directly with the MDL or transferring in? • Big discovery issues and the results of coordinated inspections from the MDL • Where have class actions been filed, against whom and what is the status of the pending cases? • Do you want to be part of or defending against a class action in state court? • The benefits of being in federal court or part of the MDL Allan Kanner, Esq., Kanner & Whiteley, L.L.C., New Orleans Hilarie Bass, Esq., Greenberg Traurig, LLP, Miami</p>	1:45	<p>Creating Efficiency, Control & Return on Investment in Cases Daniel Gold, Esq., Litigation Services Specialist - U.S. Legal Markets, LexisNexis®, Charlotte, NC</p>
8:45	<p>Toxicity and Health Damages: Proving Causation <ul style="list-style-type: none"> • Toxicity and the distinction between regulatory risk assessment and toxicologic causation analysis • What needs to be proven or disproven on toxicity: studies and reports needed, threshold numbers and the data that will make or break your case • Determining if there are additive or synergistic effects from the potential toxicants • The CPSC-the kinds of studies they are doing, what will they reveal or have revealed and next steps • New inspection protocols, confounding factors and possible alternative causes • Courses of treatment for health injuries, injury diagnosis, the standard of care and living during treatment • Relocation recommendation decisions and costs of care Richard Parent, PhD, DABT, FATS, RAC, ERT, President, Consultox, Limited, Damariscotta, ME Hung Cheung, MD, MPH, FACOEM, President, Dr. Cheung/OEM Advisor, LLC, Baltimore</p>	2:00	<p>CDW, the Numbers and its Impact on All Parties <ul style="list-style-type: none"> • Assessing the potential costs nationwide, potential claims and settlements • What public agencies are seeing on the front lines, how they are handling the onslaught of cases, and what this means to your case • The builder's perspective-motivated to help but drowning in an economic downturn • The homeowner-the practical side of dealing with CDW in your home Katherine Ann Cahill, Global Managing Director, Product Risk Services, Marsh USA, Inc., New York Paul Hinton, Vice President, NERA Economic Consulting, New York Bruce Hallock, PSP, CFCC, Vice President-Construction Consulting Practice, Marsh USA, Inc., Sunrise, FL</p>
9:45	<p>Morning Break sponsored by Marsh</p>	2:45	<p>Important Coverage Considerations for Chinese Drywall Claims <ul style="list-style-type: none"> • When multiple claims are made, do the deductibles and SIRs eat up the whole loss? • Are the fumes harmful enough to trigger the pollution exclusion and how to deal with jurisdictions not requiring "harmful fumes" for trigger • Do the "your work" or "your product" exclusions take away the central cost of replacing the drywall? • Other important exclusions: ongoing operations; damage to impaired property or property not physically damaged; and recall of products, work or impaired property Michael Packer, Esq., Marshall, Dennehey, Warner, Coleman & Goggin, Fort Lauderdale Robert Horkovich, Esq., Anderson Kill & Olick, P.C., New York</p>
10:00	<p>Home and Property: What Happens When CDW Hits <ul style="list-style-type: none"> • Product identification: required tests and lessons learned • Why we are not seeing the same effects in commercial buildings and other residential area builds? • Property damage: appliances and electrical damage, potential fire hazards, and cross-contamination issues • How much does remediation cost, avoiding unnecessary costs, and determining the proper project scope • Phosphogypsum • Risk reduction: how to prevent future liability • The real estate valuation implications of CDW (both pre and post-remediation)? • How should appraisals be conducted in the MDL and after the bellwethers? Russell Nassof, Esq., Principal, TRC, Phoenix Mark Rigler, PhD, Senior Consultant, MAS, LLC, Suwanee, GA John Kilpatrick, PhD, MRICS, Chief Executive Officer, Greenfield Advisors, Seattle</p>	3:45	<p>Afternoon Break</p>
11:00	<p>Claims Processing-Special Considerations for the Various Parties <ul style="list-style-type: none"> • Notice & which policies to place on • Allocation of coverage among policies Special considerations under homeowner policies <ul style="list-style-type: none"> • "No Action" policy conditions • "Voluntary Payment" prohibitions in policies • Policy coverage for mitigation efforts • The extent to which an additional insured gets the full coverage available to subcontractor's policy Matthew Jacobs, Esq., Jenner & Block LLP, Washington, DC Carol Kreiling, Esq., Assistant Vice President-Claims & Liability, Swiss Reinsurance America Corporation, Overland Park, KS Owen Shean, Esq., Akerman Senterfitt, Vienna, VA</p>	4:00	<p>Service Obstacles, Alternative Case Structures and Judgments Involving Chinese Defendants <ul style="list-style-type: none"> • Service difficulties and mitigating costs in state court: service of process and "informal" service-when is it an option? • Potential leverage points against Chinese defendants • Enforcing judgments in China and enforcing judgments against Chinese companies in the US and elsewhere • Pursuing discovery in China Daniel Harris, Esq., Harris & Moure, PLLC, Seattle</p>
11:00	<p>Claims Processing-Special Considerations for the Various Parties <ul style="list-style-type: none"> • The characterization of claims arising from allegedly defective China wallboard in a Chapter 11 proceeding • The liquidation and treatment of China wallboard claims (both personal injury and property damage) in bankruptcy Craig Averch, Esq., White & Case LLP, Los Angeles Michael Ryan, Esq., Krupnick Campbell Malone Buser Slama Hancock Liberman & McKee, P.A., Fort Lauderdale</p>	4:45	<p>Dealing with Chinese Drywall During an Insolvency <ul style="list-style-type: none"> • The characterization of claims arising from allegedly defective China wallboard in a Chapter 11 proceeding • The liquidation and treatment of China wallboard claims (both personal injury and property damage) in bankruptcy Craig Averch, Esq., White & Case LLP, Los Angeles Michael Ryan, Esq., Krupnick Campbell Malone Buser Slama Hancock Liberman & McKee, P.A., Fort Lauderdale</p>
11:00	<p>Networking Reception Location: Crescent View, 12th Floor</p>	5:30	<p>Networking Reception Location: Crescent View, 12th Floor</p>

SPONSORED BY:

