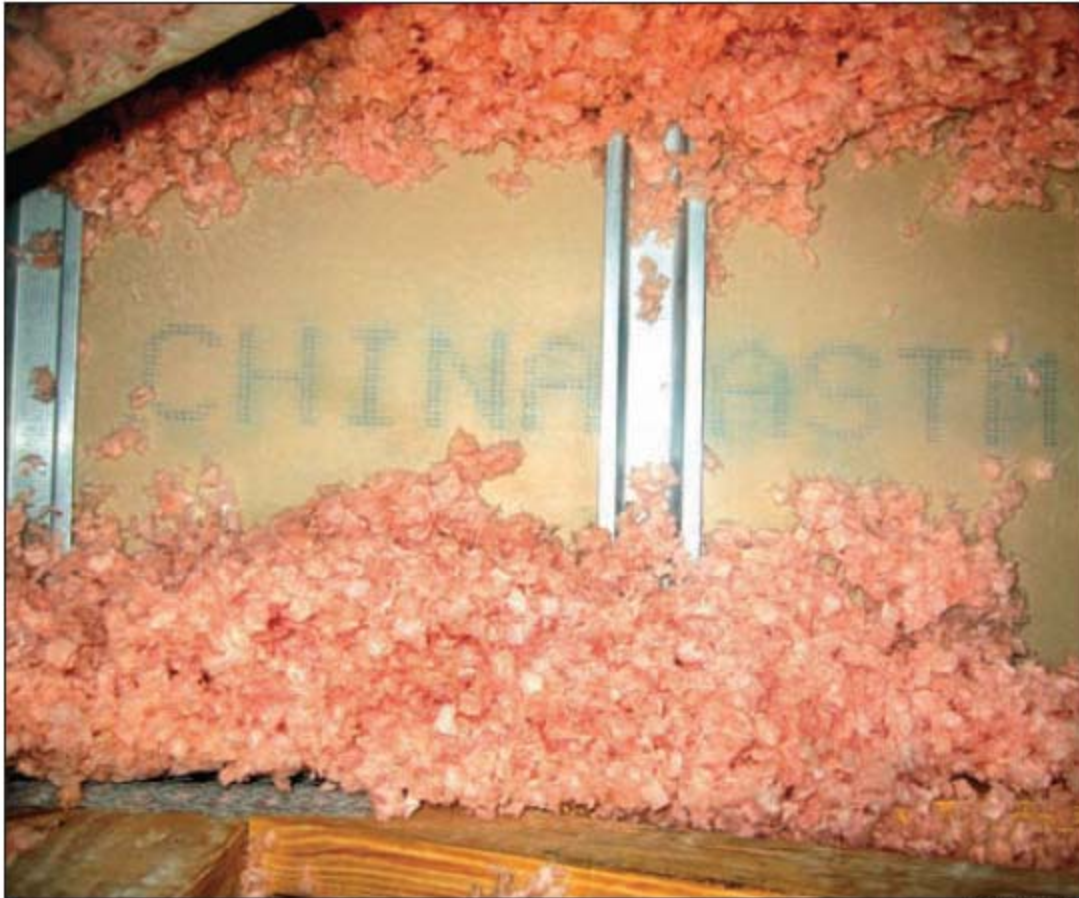


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MARK FREERKS

An example of drywall stamped that it was made in China.

Chinese drywall class action lawsuit targets Lennar Corp.

BY PAUL BRINKMANN

For the first time, Miami-based Lennar Corp. has been targeted with a class action lawsuit in the growing product liability issue over Chinese drywall.

On March 23, Miami law firm Alters, Boldt, Brown, Rash, Culmo filed federal and circuit court civil suits, naming five Miami couples as plaintiffs. The four plaintiffs in the federal complaint allege their homes, in Lennar's Tuscany Village near Tamiami Executive Airport, were damaged by installation of Chinese drywall.

The suit seeks a jury trial and alleges negligence against nine defendant companies, including Lennar and drywall manufacturer Knauf Plasterboard Tianjin. It also alleges breach of contract against Lennar.

Class action lawsuits have been popping up almost weekly over the problem drywall, which give off sulfuric gases that corrode metal and smell like rotten eggs. But, none have been directed at Lennar, one of the nation's largest homebuilders.

Lennar said it had no comment on the litigation, but two months ago, it announced a program to handle homeowners' complaints by testing for the drywall, moving people out of their homes temporarily and replacing the drywall.

Lennar has said it relied on subcontractors who purchased and installed drywall, which is common industry practice.



Alters

Jeremy Alters, managing partner at Alters Boldt, said Lennar may not have purchased drywall, but it paid people to install the drywall. He criticized Lennar's remediation program as offering too little to homeowners.

"There's a stigma to the home, even if it's repaired, that it had this sulfur gas in it at one time," he said.

Alters Boldt may have a tough road in targeting Lennar, according to another attorney handling drywall class actions.

"People will have a very difficult time getting a class certified against builders, because arbitration can be required," said Jordan Chaikin, an attorney at Parker Waichman Alonso in Bonita Springs. "Besides, that many builders are already in bankruptcy."

COMPLYING WITH FLORIDA LAW

Chaikin referred to Florida law (specifically Chapter 558), which requires homeowners to contact builders and attempt to resolve construction complaints before filing litigation.

Fort Lauderdale-based Katzman Garfinkel Rosenbaum is also pursuing a possible class action over drywall problems, but the firm said last month it was attempting to make sure the 558 requirement is satisfied before filing suit.

On Feb. 2, Lennar filed a lawsuit against manufacturers and sellers of Chinese drywall, including Knauf Plasterboard Tianjin, Taishan Gypsum and Miami-based Banner Supply Co.

The suit alleges that Knauf Tianjin and Taishan sold "defective gypsum" drywall that was installed in homes built by Lennar, which "caused substantial damage" to Lennar in Florida.

That suit was filed in Miami-Dade Circuit Court by attorneys with the Miami office of Greenberg Traurig.

Mark Sustana, general counsel for Lennar, said in a written statement that Lennar took responsibility for the problems drywall caused in its homes. He said the company expects Knauf Tianjin and others to do the same.

Lennar's complaint also charges 12 installers with breach of contract and breach of express and implied warranty.