

Florida Jury Awards Residential Homeowners \$2.5 Million Against Domestic Supplier of Chinese Drywall

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A Florida jury recently awarded residential homeowners nearly \$ 2.5 million in damages stemming from the installation of defective Chinese-manufactured drywall in their Miami home.

Armin and Lisa Seifart v. Banner Supply Co., 2009-038887-CA-42 (Fla. Cir. Ct. June 18, 2010).

Significantly, unlike recent damage awards in the multidistrict litigation pending in the Eastern District of Louisiana, the *Seifart* case was tried to a jury in state court. The jury verdict bears additional significance because it apportioned a majority of the fault to an American supplier of drywall and not the foreign manufacturer.

Armin and Lisa Seifart filed a complaint in Miami-Dade County, Florida, against Banner Supply Company (“Banner”) seeking damages for “inherently defective” drywall in their home. According to various news reports, during the course of the litigation the plaintiffs claimed that Banner had entered into a secret agreement with Knauf Plasterboard (Tianjin) Co. (“Knauf”), the foreign company that supplied Banner with the drywall. Indeed, the parties obtained the agreement and Miami-Dade Circuit Judge Joseph Farina permitted the agreement to be unsealed before trial. Following an investigation in 2007 that revealed the drywall emitted sulfur, which contributed to noxious, rotten-egg like odors, Knauf and Banner entered into the agreement to remain silent about the problems, while Knauf replaced the drywall it sold Banner with domestically produced drywall. Banner, however, only replaced drywall it had sold to select builders.

In assessing its \$2.46 million award, the jury found Banner negligent and in violation of Florida’s deceptive and unfair trade law, and quantified damages for the loss of use to their home; for renting a temporary home during renovations; for repairs to the home and replacement of certain goods; and for the loss of value to the home from the stigma of having contained Chinese-manufactured drywall.

Banner, though the only defendant in the case, did succeed in persuading the trial judge to instruct the jury to allocate fault among itself and several other parties, including Knauf, an importer, and a Chinese-based exporter. The jury determined that Banner was 55% liable, Knauf was 35% liable, and the jury ascribed 5% to each of the importers and exporters. The plaintiffs have alleged that under Florida law Banner is liable for the entire verdict. However, no determination on that issue has been made.

Banner has not announced whether it plans to appeal the jury’s verdict. Regardless of an appeal, the verdict will likely encourage plaintiff’s attorneys to continue pursuing suppliers, developers, importers, and exporters (and their insurers), in addition to foreign-based manufacturers for damages arising out of the installation of defective Chinese-manufactured drywall.