

SPECIAL REPORT

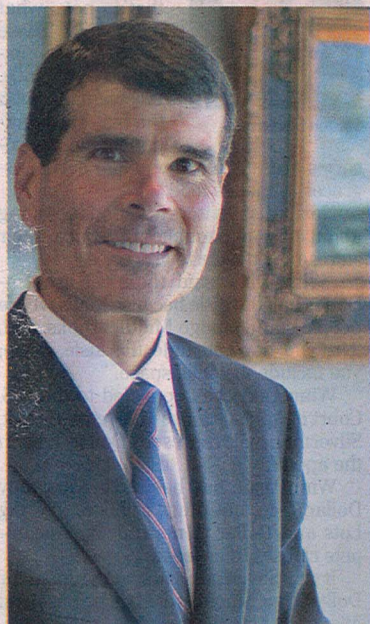
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CLASS ACTION

Attorney helped make deal with Chinese drywall manufacturer

MOST EFFECTIVE LAWYER 2012



J ALBERT DIAZ

Ervin Gonzalez helped win a drywall verdict in a closely watched case.

Ervin A. Gonzalez
Colson Hicks Eidson

In the summer of 2009, thousands of defective Chinese-made drywall claims surfacing nationwide were consolidated in New Orleans federal court.

A 15-member plaintiffs steering committee was formed, and U.S. District Judge Eldon E. Fallon put three South Florida attorneys on it — Robert Josefsberg of Podhurst Orseck; Victor Diaz Jr., now with VM Diaz & Partners; and Ervin A. Gonzalez, a partner at Colson Hicks Eidson in Coral Gables.

“Ervin’s a constant source of energy. He’s like the Energizer Bunny,” Josefsberg said. “He’s working very hard at it. He’s even got a place to stay in New Orleans. Ervin doesn’t do anything halfway. He’s devoted himself to that case, and he’s also working the BP case. The fact is Ervin’s done so much more than others on the committee, including myself.”

Since at least 2004, defective Chinese drywall was being used by the home-building industry to the det-

rimment of homeowners. Toxic fumes escaping from wallboard was suspected of producing noxious odors and corroding air conditioning units and other metal fixtures. The only solution was to remove the drywall, but most homeowners could not afford the cost.

As a member of the PSC, Gonzalez was assigned a bellwether case, *Armin and Lisa Seifart v. Banner Supply*.

“It was a consolidated proceeding between the federal court and Miami-Dade Circuit Judge Joseph Farina,” Gonzalez recalled. “It was chosen because it was well-suited to determine the liability of a distributor of Chinese drywall. The Seifart home had all its drywall from the same manufacturer, the same distributor and it was reflective of damages in other homes.”

The 2010 trial had to prove a direct link between damage and the drywall manufacturer.

Gonzalez and partner Patrick Montoya showed a causal link and obtained a \$2.5 million verdict. Liability was established, not just for the manufacturer but, under negligence and strict liability, for the distributors.

Concurrent with this seminal case, Gonzalez was part of the steering committee’s strategy development and participated in settlement talks.

Gonzalez traveled extensively for the global discovery process, conducting key depositions in China, Europe and the United States.

He helped gather and analyze hundreds of documents and damage as-

essment evidence to establish causation, liability and total damages.

The steering committee faced a multibillion dollar manufacturer, Knauf, with virtually unlimited resources.

The scale of the litigation required enormous hours spent in discovery. And the major defendants were foreign, which meant corporate officers and executives had to be served under Hague Convention requirements.

Gonzalez helped orchestrate a \$55 million settlement with Banner Supply last year, and that appeared to be the turning point.

“Knauf recognized that as manufacturer it had the most culpability and would be bearing the brunt,” Gonzalez said.

Last December, the steering committee announced Knauf’s Chinese holding, Knauf Plasterboard Tianjin, reached an agreement that would pay out \$600 million to \$1 billion.

“Ervin has been a zealous advocate for what each of us believe is in the best interest of the homeowners,” Diaz said. “At times, we have disagreed. More often than not, we have agreed. We have enormous respect for each other’s talent and courtroom skills.”

Since the Knauf settlement, Gonzalez helped negotiate an \$80 million settlement in June with insurance companies for many builders and installers. At this point, the job is considered half done.