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## Construction defect firm adds new class action practice

By America Hernandez

IRVINE - After 25 years of exclusively representing plaintiffs in complex construction defect cases, Kasdan LippSmith Weber & Turner LLP this week announced the addition of a class action practice based out of downtown Los Angeles, to be headed by new partner Graham LippSmith.



Alexander Drecun / Special to the Daily Journal  
Kenneth Kasdan, left, managing partner of Kasdan LippSmith Weber & Turner LLP, with the firm's newest name partner, Graham LippSmith.

The firm kicked off its new practice by being the first to file suit against Lumber Liquidators Inc. over laminate flooring that contained formaldehyde, just days after CBS aired a "60 Minutes" expose on the subject.

"It's a great, entirely new direction the firm has wanted to move in for a long time that is consistent with our mission," said managing partner Ken Kasdan. "We bring the in-house construction expertise, and Graham is a nationally recognized expert in class action law."

LippSmith comes to the firm as an equity partner after 14 years at the prominent plaintiffs' shop Girardi Keese, where he handled class action work for the past decade. In 2011, he helped secure a \$550 million nationwide settlement over excessive management fees charged to customers by Farmers Insurance Group, and most recently assisted in negotiating an uncapped settlement on behalf of more than 600 retired athletes in the highly watched litigation over NFL players' concussion injuries.

Some know him as the husband of MaryBeth LippSmith, career law clerk for Judge Dorothy W. Nelson of the 9th U.S. Circuit Court of Appeals.

The class action lawyer said he first took note of Kasdan's firm three years ago when the latter was the sole party objecting to a nationwide settlement involving an obscure fixture buried behind the drywall in houses.

"They were literally the only people out there standing up against a settlement that all of us had problems with, in terms of being overbroad in the release of claims and not giving homeowners quite what they deserved in the deal," LippSmith recalled. "It was the right thing to do." He eventually joined the objection and formed a case with Kasdan, who came away impressed with the young lawyer's abilities.

Since then, KLWT and Girardi Keese have collaborated on a series of cases against manufacturers of PEX plumbing systems, which uses plastic tubes with metal fittings made of yellow brass - an inferior metal subject to corrosion that could require invasive repairs and potentially lead to leaks in the walls and mold growth.

That first joint case settled for \$15 million, compensating homeowners in 14 states and requiring an extended warranty from the manufacturer, subject to a \$50 million insurance guarantee and a court order for performing.

KLWT lawyers say their expertise in construction defect - coupled with their willingness to take cases to trial - has helped the firm set itself apart since the early days, when business came mainly from larger firms asking for help on cases too big to handle alone.

"Not a lot of construction defect firms have the willingness or the staff capability to try a case, so we'd get called to associate in and 95 percent of cases would settle, but today when our firm settles it's in significant numbers because the defense knows we're not bluffing," Kasdan chuckled, counting off all the technical issues they have worked up in court, including which specific mixes of concrete do not adequately guard against degradation.

"Today virtually every home in Southern California has better quality concrete, not because the builders want to put it in but because we've showed them the [Building] Code and they can't afford to get sued," he said proudly.

KWLT split off from the general practice firm Capretz & Kasdan in 1993 when all but one partner, James Capretz, wanted to focus exclusively on construction defect cases following a series of hugely successful defective heart valve cases in Orange County. Kasdan began his niche firm with just four partners, and has since grown to 18 attorneys and 85 staff throughout California and Arizona. The main office is in Irvine.

Adding a class action component to the firm will allow its work to extend nationwide and streamline hundreds of cases KWLT has previously handled individually.

"Just on Thursday, a potential consumer protection class action came in that I might have previously passed on," Kasdan said. "Now I have that capacity in-house."

The firm hopes to have five lawyers in Los Angeles by the end of the year.

Both LippSmith and associate Celene Chan, who came over with LippSmith from Girardi Keese, are admitted to practice in Hawaii and represent homeowners there. Chan has worked alongside LippSmith since her admittance to the bar in 2008, and will also be based out of the new office.

"Celene is one of the best writing partners I've had on dozens of cases I've worked on, and so much these days is won on paper rather than in front of juries," said LippSmith.

The two, and Kasdan, see the move as a natural fit.

"Not everybody can enter a new arrangement feeling that they know it's going to work," remarked Kasdan. "And we do."

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