

A CERTIFIED TRUE COPY  
ATTEST  
By Mecca Thompson at 1:19 pm, Oct 24, 2007  
FOR THE UNITED STATES  
JUDICIAL PANEL ON  
MULTIDISTRICT LITIGATION

FILED  
OCT 24 2007  
LORETTA G. WHYTE  
CLERK  
UNITED STATES JUDICIAL PANEL

1:19 pm, Oct 24, 2007  
FILED  
CLERK'S OFFICE

on  
MULTIDISTRICT LITIGATION

**IN RE: FEMA TRAILER FORMALDEHYDE  
PRODUCTS LIABILITY LITIGATION**

MDL No. 1873

**TRANSFER ORDER**

**Before the entire Panel<sup>1</sup>:** Plaintiffs in one action pending in the Eastern District of Louisiana have moved, pursuant to 28 U.S.C. § 1407, to centralize this litigation for coordinated or consolidated pretrial proceedings in the Eastern District of Louisiana. All plaintiffs in the other actions now before the Panel as well as plaintiff in an Eastern District of Louisiana potential tag-along action support this motion. Responding defendants<sup>1</sup> oppose centralization; if the Panel deems centralization appropriate, they support selection of the Eastern District of Louisiana as transferee district.

This litigation presently consists of four actions listed on Schedule A and pending in two districts as follows: three actions in the Eastern District of Louisiana and one action in the Western District of Louisiana.<sup>2</sup>

On the basis of the papers filed and hearing session held, we find that the actions in this litigation involve common questions of fact, and that centralization under Section 1407 in the Eastern District of Louisiana will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. All actions share factual questions relating to allegations that trailers – provided by the Federal Emergency Management Agency in the wake of Hurricanes Rita and Katrina – contain materials which emit dangerous, excessive levels of formaldehyde. Centralization under Section 1407 will eliminate duplicative discovery; avoid inconsistent pretrial rulings, especially with respect to class certification; and conserve the resources of the parties, their counsel and the judiciary.

We further find that the Eastern District of Louisiana is an appropriate transferee district for this

<sup>\*</sup> Judge Heyburn took no part in the disposition of this matter.

<sup>1</sup> Fleetwood Enterprises, Inc.; Fleetwood Canada, Ltd.; Gulf Stream Coach, Inc.; Jayco Enterprises, Inc.; Pilgrim International, Inc.; Starcraft RV, Inc.; and Thor Industries, Inc.

<sup>2</sup> The Panel has been notified that five other related actions have recently been filed as follows: four actions in the Eastern District of Louisiana and one action in the Middle District of Louisiana. These actions will be treated as potential tag-along actions. See Rules 7.4 and 7.5, R.P.J.P.M.L., 199 F.R.D. 425, 435-36 (2001).

Fee \_\_\_\_\_  
Process \_\_\_\_\_  
 Dkt'd \_\_\_\_\_  
Clerk Dep \_\_\_\_\_  
Dec. No \_\_\_\_\_

**IN RE: FEMA TRAILER FORMALDEHYDE  
PRODUCTS LIABILITY LITIGATION**

MDL No. 1873

**SCHEDULE A**

EDLA  
SEC. N/4

Eastern District of Louisiana

Keith Hillard, et al. v. United States of America, et al., C.A. No. 2:06-2576  
Decarlo McGuire, et al. v. Gulf Stream Coach, Inc., et al., C.A. No. 2:06-5659  
Robin Oldenburg, et al. v. United States of America, et al., C.A. No. 2:07-2961

Western District of Louisiana

Kimberly G. Nelson, etc. v. Gulf Stream Coach, Inc., et al., C.A. No. 6:07-921

07-7494

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litigation, because (1) three of the four actions now before the Panel and four potential tag-along actions are currently pending in this district, and (2) all parties agree, at least in the alternative, that the Eastern District of Louisiana is an appropriate transferee district for this litigation.

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, the action listed on Schedule A and pending in the Western District of Louisiana is transferred to the Eastern District of Louisiana and, with the consent of that court, assigned to the Honorable Kurt D. Engelhardt for coordinated or consolidated pretrial proceedings with the actions pending there and listed on Schedule A.

PANEL ON MULTIDISTRICT LITIGATION



D. Lowell Jensen  
Acting Chairman

John G. Heyburn II, Chairman\*  
Robert L. Miller, Jr.  
David R. Hansen

J. Frederick Motz  
Kathryn H. Vratil  
Anthony J. Scirica

**UNITED STATES JUDICIAL PANEL**  
**on**  
**MULTIDISTRICT LITIGATION**

**CHAIRMAN:**  
Judge John G. Heyburn II  
United States District Court  
Western District of Kentucky

**MEMBERS:**  
Judge D. Lowell Jensen  
United States District Court  
Northern District of California

Judge J. Frederick Motz  
United States District Court  
District of Maryland

Judge Robert L. Miller, Jr.  
United States District Court  
Northern District of Indiana

Judge Kathryn H. Vratil  
United States District Court  
District of Kansas

Judge David R. Hansen  
United States Court of Appeals  
Eighth Circuit

Judge Anthony J. Scirica  
United States Court of Appeals  
Third Circuit

**DIRECT REPLY TO:**

Jeffery N. Lüthi  
Clerk of the Panel  
One Columbus Circle, NE  
Thurgood Marshall Federal  
Judiciary Building  
Room G-255, North Lobby  
Washington, D.C. 20002

Telephone: [202] 502-2800  
Fax: [202] 502-2888  
<http://www.jpml.uscourts.gov>

October 24, 2007

Loretta G. Whyte, Clerk  
U.S. District Court  
500 Poydras Street  
Room C-151  
New Orleans, LA 70130

Re: MDL No. 1873 -- IN RE: FEMA Trailer Formaldehyde Products Liability Litigation

Dear Ms. Whyte:

Attached as a separate document is a certified copy of a transfer order issued today by the Judicial Panel on Multidistrict Litigation in the above-captioned matter. The order is directed to you for filing. Rule 1.5 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, 199 F.R.D. 425, 428 (2001), states "A transfer or remand pursuant to 28 U.S. C. § 1407 shall be effective when the transfer or remand order is filed in the office of the clerk of the district court of the transferee district."

Today we are also serving an information copy of the order on the transferor court(s). The Panel's governing statute, 28 U.S.C. §1407, requires that the transferee clerk "transmit a certified copy of the Panel's order to transfer to the clerk of the district court from which the action is being transferred [transferor court]."

Rule 1.6(a), pertaining to transfer of files, states "the clerk of the transferor district court shall forward to the clerk of the transferee district court the complete original file and a certified copy of the docket sheet for each transferred action." **With the advent of electronic filing, many transferee courts have found that it is not necessary to request the original file. Some transferee courts will send their certified copy of the Panel order with notification of the newly assigned transferee court case number and inform the transferor courts that they will copy the docket sheet via PACER. Others may request a certified copy of the docket sheet and a copy of the complaint (especially if it was removed from state court). You should be specific as to the files you would like to receive from the transferor courts and if no files will be necessary, you should make that clear. Therefore, Rule 1.6(a) will be satisfied once a transferor court has complied with your request.**

You may find Chapter 7 of Volume 4 of the Clerks Manual, United States District Courts helpful in managing the your MDL docket.

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The Panel Clerk's Office maintains the only statistical accounting of multidistrict litigation traffic in the federal courts. These statistics are used by the Administrative Office of the United States Courts and the Judicial Conference. Therefore, your cooperation in keeping the Panel advised of the progress of this litigation would be appreciated. We are particularly interested in receiving the docket numbers assigned to each transferred action by your court; the caption and docket numbers of all actions originally filed in your district; and copies of orders regarding appointment of liaison counsel, settlements, dismissals, state court remands, and reassignments to other judges in your district.

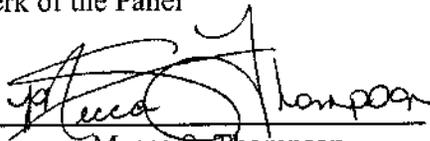
Your attention is also directed to Panel Rule 7.6, regarding termination and remand of transferred actions. Upon notification from your court of a finding by the transferee judge suggesting to the Panel that Section 1407 remand of a transferred action is appropriate, this office will promptly file a conditional remand order.

Attached to this letter, for your information, is a copy of the Panel Attorney Service List. Listed below is the transferor clerk information:

Robert H. Shemwell, Clerk  
2100 U.S. Courthouse  
800 Lafayette Street  
Lafayette, LA 70501  
[MDLClerk@lawd.uscourts.gov](mailto:MDLClerk@lawd.uscourts.gov)

Very truly,

Jeffery N. Lüthi  
Clerk of the Panel

By   
Mecca S. Thompson  
Deputy Clerk

Attachments (Transfer Order is a Separate Document)

cc: Transferee Judge: Judge Kurt D. Engelhardt  
Chief Judge Transferee District: Judge Helen G. Berrigan  
Judge Martin C. Feldman

JPML Form 33

**Judicial Panel on Multidistrict Litigation - Panel Attorney Service List  
for  
MDL 1873 - IN RE: FEMA Trailer Formaldehyde Products Liability Litigation**

**\*\*\* Report Key and Title Page \*\*\***

Please Note: This report is in alphabetical order by the last name of the attorney. A party may not be represented by more than one attorney. See Panel rule 5.2(c).

**Party Representation Key**

- \* Signifies that an appearance was made on behalf of the party by the representing attorney.
  - # Specified party was dismissed in some, but not all, of the actions in which it was named as a party.
- All counsel and parties no longer active in this litigation have been suppressed.

**This Report is Based on the Following Data Filters**

Docket: 1873 - FEMA Trailer Formaldehyde PL

For Open Cases

Docket: 1873 - IN RE: FEMA Trailer Formaldehyde Products Liability Litigation

Status: Transferred on 10/24/2007

Transferee District: LAE Judge: Engelhardt, Kurt D.

Printed on 10/24/2007

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**UNITED STATES JUDICIAL PANEL  
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MULTIDISTRICT LITIGATION**

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United States District Court  
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October 23, 2007

**MEMORANDUM**

To: Clerks, United States District Courts

From: Jeffery N. Lüthi 

RE: TEST EMAIL TRANSMITTAL OF PANEL TRANSFER ORDERS (**ACTION REQUESTED**)

As you know, the Panel is about to begin transmitting its orders via email. Thank you for providing us with a general JPML email address for your district court. To start off, we will email the initial transfer orders for new matters from the Panel's September 2007 hearing session. We have, in fact, already emailed several of the transfer orders. We anticipate emailing other types of Panel orders in the coming months.

Today, we will send a test email to confirm that we have entered each court's general email address accurately. **If you do not receive our test email by close of business today, please contact the Panel's office as soon as possible via email at [MDLPanelOrders@ao.uscourts.gov](mailto:MDLPanelOrders@ao.uscourts.gov) and indicate the correct email address for your district court.** It is not necessary to confirm successful receipt of our test email.

Thank you again for your cooperation as we move to implement our new notification procedures. If you have any questions, feel free to contact me or Cathy Maida, the Panel's Chief Deputy Clerk, at 202-502-2800.