

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

In Re: FEMA TRAILER  
FORMALDEHYDE PRODUCTS  
LIABILITY LITIGATION

MDL NO. 07-1873

SECTION "N" (5)

THIS DOCUMENT RELATES TO  
Member Case No. 09-2977

**ORDER AND REASONS**

Before the Court is Forest River, Inc.'s Motion for Partial Summary Judgment on Plaintiff's Mental Anguish Claims (Rec. Doc. 10934). In this motion, Forest River, Inc. ("Forest River") asserts that Plaintiff's mental anguish claims, including his claims regarding an alleged fear of cancer, based on his alleged exposure to formaldehyde, should be dismissed. The Court has considered the memoranda of the parties and the applicable law.

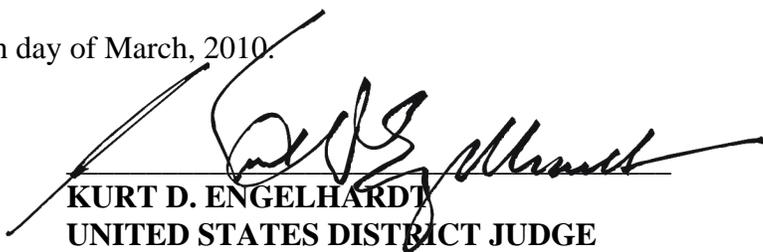
According to Dr. Shwery's July 21, 2009 report, Plaintiff "continues to ruminate about death and the long-term effects of formaldehyde." (Exhibit B to Rec. Doc. 11542, p. 5 of 11). Further, Dr. Shwery's September 24, 2009 report states that "long-term health concerns are now becoming intense in [Plaintiff's] mind." (Exhibit E to Rec. Doc. 11542, p. 2 of 3). Thus, the Court finds that Plaintiff has, at the very least, testified as to mental anguish and fear of cancer claims.

Also, the Court concludes that there are genuine issues of material fact that exist, relating to whether the circumstances surrounding his exposure to what some research classifies as a

“known human carcinogen” would result in a particular likelihood of genuine and serious mental distress, which further preclude summary judgment on this issue. However, at the conclusion of Plaintiff’s case at trial, Forest River may, if it deems appropriate, avail itself of the proper motion under Rule 50 of the Federal Rules of Civil Procedure. Accordingly,

**IT IS ORDERED** that the **Forest River, Inc.’s Motion for Partial Summary Judgment on Plaintiff’s Mental Anguish Claims (Rec. Doc. 10934)** is **DENIED**.

New Orleans, Louisiana, this 9th day of March, 2010.

  
KURT D. ENGELHARDT  
UNITED STATES DISTRICT JUDGE