

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. 09-2892

ORDER AND REASONS

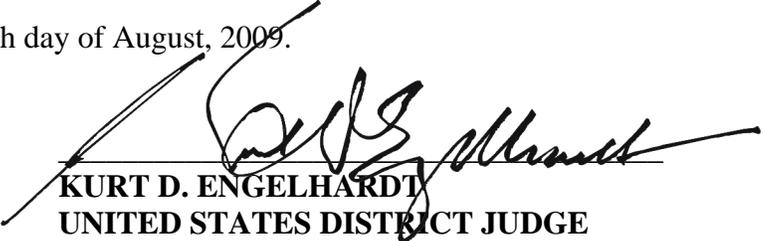
Before the Court is the Motion for Partial Summary Judgment (Rec. Doc. 2582), filed by Defendant Gulf Stream Coach, Inc. ("Gulf Stream"). In this motion, Gulf Stream asserts that Plaintiff Alana Alexander is not entitled to recover mental anguish damages for her minor child's fear of contracting illness or disease because of formaldehyde¹. After considering the memoranda of the parties and the applicable law, the Court concludes that there are genuine issues of material fact that exist, relating to whether Alexander's distress is genuine and serious, which preclude summary judgment on this issue. However, at the conclusion of Plaintiff's case at trial, Gulf Stream may, if it deems appropriate, avail itself of the proper motion under Rule 50 of the Federal Rules of Civil Procedure.

¹ It should be noted that Gulf Stream mischaracterizes this claim. Alexander is not claiming mental anguish damages for Christopher Cooper's fear of contracting a disease, she is claiming mental anguish for her own fear that Cooper will contract a disease. (See Rec. Doc. 2795, p. 1; Rec. Doc. 1686, ¶15(c)).

Also, Plaintiff has noted that she does not oppose the dismissal of her claim of negligent infliction of emotional distress against Gulf Stream. Thus, this motion is granted in that limited respect and denied in all other respects. Accordingly,

IT IS ORDERED that the **Motion for Partial Summary Judgment (Rec. Doc. 2582)** is **GRANTED IN PART and DENIED IN PART** as stated herein.

New Orleans, Louisiana, this 26th day of August, 2009.



KURT D. ENGELHARDT
UNITED STATES DISTRICT JUDGE