

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

In Re: FEMA TRAILER
FORMALDEHYDE PRODUCTS
LIABILITY LITIGATION

MDL NO. 07-1873

SECTION "N" (4)

THIS DOCUMENT RELATES TO
THE ADMINISTRATIVE MASTER
COMPLAINT

ORDER AND REASONS

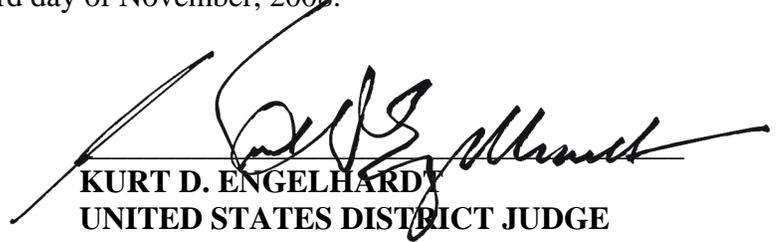
Before the Court is the Rule 12(B) Motion to Dismiss (Rec. Doc. 732). After reviewing the complaints and amended complaints, the memoranda of the parties, and the applicable law, the Court hereby grants the instant motion.

Newly Added Defendant, Indiana Building Systems, L.L.C., d/b/a Holly Park ("IBS") has filed this motion, arguing that Plaintiffs' claims against it should be dismissed because Plaintiffs have failed to assert that any plaintiff, whether a class representative or not, allegedly resided in a home manufactured by IBS. In their opposition, Plaintiffs admit this to be true, but argue against dismissal, asserting that such would be premature. Specifically, Plaintiffs claim that, as of the last hearing, there were over 11,000 Form 95's filed. While the Plaintiffs Steering Committee ("PSC") claims it has been able to identify manufacturers from the 1,291 Plaintiff Fact Sheets that have been completed and served upon Defendants, they note that this leaves over 9,700 claimants that have not yet identified the manufacturer of their emergency housing unit in a Plaintiff Fact Sheet. The PSC asserts that Plaintiff's claims against IBS should be stayed while it discusses with FEMA appropriate ways of alleviating its Privacy Act concerns regarding the 11,000 Form 95s, so that the identity of

all Plaintiffs' counsel presenting these forms may be obtained, and their counsel questioned about the manufacturers of the units occupied by their clients. However, in its Order and Reasons, dated August 1, 2008 (Rec. Doc. 599), the Court clearly cautioned Plaintiffs that "any Defendants not specifically matched to individual Plaintiffs will be dismissed without prejudice."

Considering the foregoing, **IT IS ORDERED** that **Rule 12(B) Motion to Dismiss (Rec. Doc. 732)** is **GRANTED**. Thus, Plaintiffs' claims against Newly Added Defendant, Indiana Building Systems, L.L.C., d/b/a Holly Park are dismissed without prejudice.

New Orleans, Louisiana, this 3rd day of November, 2008.


KURT D. ENGELHARDY
UNITED STATES DISTRICT JUDGE