

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. 07-9228

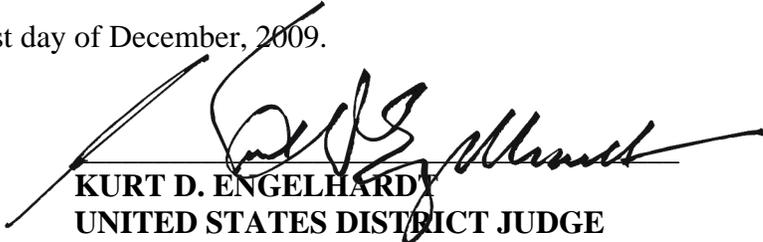
**ORDER AND REASONS**

Before the Court is Plaintiff's Motion to Prohibit Reference to Unrelated, Non-Pled Claims (Rec. Doc. 7284). In this motion, Plaintiff seeks an order preventing Defendant Fleetwood Enterprises, Inc. ("Fleetwood") from referencing Plaintiff's ability to seek future relief should she later develop cancer. After considering the memoranda of the parties and the applicable law, the Court concludes that while it is necessary and appropriate to explain to the jury that Plaintiff may later sue Fleetwood if she develops cancer, Fleetwood shall not be allowed to characterize a later-filed second suit based on the subsequent development of cancer as a "second bite at the apple." The jury may be presented with evidence and testimony describing what damages Plaintiff allegedly currently has (which she now seeks to recover) and what damages she could potentially develop in the future (for which she is not now seeking recovery but could pursue later). Characterizing a subsequent claim for the development of cancer as a "second bite at the apple" is inappropriate as it is really an entirely different "apple". Any suggestion that Plaintiff can be compensated *twice* for the *same* damages is prohibited.

Counsel shall be guided accordingly. Therefore,

**IT IS ORDERED** that the **Plaintiff's Motion to Prohibit Reference to Unrelated, Non-Pled Claims (Rec. Doc. 7284)** is **GRANTED IN PART AND DENIED IN PART**, as expressed herein.

New Orleans, Louisiana, this 1st day of December, 2009.



**KURT D. ENGELHARDY**  
**UNITED STATES DISTRICT JUDGE**