

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

IN RE: FEMA TRAILER
FORMALDEHYDE
PRODUCT LIABILITY LITIGATION

* MDL NO. 1873

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* SECTION "N-4"

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* JUDGE ENGLEHARDT

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* MAGISTRATE CHASEZ

VERSUS

THIS DOCUMENT IS RELATED TO:
Laney, et al. v. The United States of America, et al.,
Case No. 08-4630 and the Second Supplemental and
Amended Master Complaint filed in 07-1873

RULE 12(B) MOTION TO DISMISS

Defendant, ScotBilt Homes, Inc. ("ScotBilt"), which, for the reasons provided in the attached Memorandum in Support, moves to dismiss all of Plaintiffs' claims against it in *Laney, et al. v. The United States of America, et al.*, as transferred into MDL 1873 (Case no. 08-4630 in the U.S. District Court, Eastern District of Louisiana, and to the extent that such claims are superseded by the allegations in the Second Supplemental and Amended Master Complaint in Civil Action No. 07-1873 also pending in the same court (Rec. Doc. 722)). ScotBilt joins in and adopts by reference the Motion to Dismiss, all arguments made therein, authorities cited to and relief requested, as filed by the co-defendants Southern Energy Homes, Inc.; Giles Industries, Inc.; and SunRay RV, LLC, as if fully set forth at length herein (See Rec. Doc. 949). The arguments advanced therein

are equally applicable as to ScotBilt. Defendant also reserves its right to assert all defenses raised in its Rule 12 preservation lists and to amend its Rule 12 preservation lists in all cases.

WHEREFORE, ScotBilt Homes, Inc. prays that this Court grant this Motion dismissing the Plaintiffs' claims against it in this action.¹

NIELSEN LAW FIRM, L.L.C.

/s/ Thomas C. Pennebaker

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CERTIFICATE OF SERVICE

I hereby certify that a copy of this pleading was served upon all counsel of record participating by the CM/ECF system, and that if there are any counsel that do not participate in the CM/ECF system, a copy will be sent to such counsel by U.S. mail, postage prepaid and properly addressed, this 17th day of December, 2008.

/s/ Thomas C. Pennebaker

¹ Out of an abundance of caution, ScotBilt also moves to dismiss the claims asserted against it in the in the Original, First Amended, and Second Supplemental and Amended Complaint (Rec. Doc. 721) in the underlying action, *Pujol v. The United States of America*, No. 08-3217 adopting the reasons and argument set forth herein by reference for that action.