

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. 09-3251

**ORDER AND REASONS**

Before the Court is the Rule 12(b)(6) Motion to Dismiss (Rec. Doc. 9721), filed by Defendant Recreation by Design, LLC ("RBD"). After considering the memoranda filed by the parties and the applicable law,

**IT IS ORDERED** that the **Rule 12 (b)(6) Motion to Dismiss (Rec. Doc. 9721)** is **DENIED**, as follows:

- (1) Express Warranty claims - Denied as moot per Rec. Doc. 13325.
- (2) Intended Use claim - As Plaintiff has explained in Rec. Doc. 10351 that she is not asserting an "intended use" claim as a separate cause of action, this part of RBD's motion is denied.
- (3) Loss of Use claim - Denied as moot, per Rec. Doc. 10351, p. 4.
- (4) Fraud and Misrepresentation claims - As Plaintiff has explained in Rec. Doc. 10351 that she is not asserting fraud and misrepresentation claims as separate causes of action, this part of

RBD's motion is denied.

(5) Plaintiff's claims for Joint Liability between the Defendants -Denied as moot; the Court notes that there are no other defendants remaining, other than RBD, in this May bellwether trial.<sup>1</sup>

(6) Loss of Consortium claim - Denied as moot, per Rec. Doc. 10351, p. 4.

New Orleans, Louisiana, this 19<sup>th</sup> day of April, 2010.



**KURT D. ENGELHARDT**  
**United States District Court**

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<sup>1</sup> The fault of non-parties will undoubtedly be the subject of discussion regarding jury verdict form language, as it has been in the past bellwether trials in this MDL.