

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 Recreation By Design, LLC ("RBD")'s Motion to Exclude Expert Testimony of Edward Shwery, Ph. D. (Rec. Doc. 13303), which motion is opposed by Plaintiff, Earline Castanel. (See Rec. Doc. 13591).

The Court has considered the memoranda submitted by the parties, along with the attached documentation (including the written report by Dr. Shwery and applicable excerpts from his deposition). As this juncture, on the showing made, RBD's motion is denied. Dr. Shwery testified that Plaintiff's primary stressor for her right now is "trouble breathing and the sinus problems." (Exhibit B to Rec. Doc. 13591, p. 128). Dr. Shwery ultimately opined:

[Plaintiff's] anxiety and distress is apparently the result of having had breathing difficulties during her months in the trailer that led to panic and fears of suffocation and death. Since living back in her home, the intensity, frequency, and duration of her anxieties diminished, but the increase in sinus problems have caused her anxieties to increase. Her problems are slowly resolving, but it is prudent to offer a brief course of supportive

psychotherapy in order to assist her in learning how to manage her anxieties more efficiently, to understand her medical and health issues and to offer reassurance to increase her coping skills. Her recurrent fears are that her breathing problems have worsened as her sinus problems have increased. The panic she experience about suffocation and death in the trailer is being resurrected. Clearly there are psychological issues intertwined with her medical problems.

(Exhibit H to Rec. Doc. 13591, p. 8). Dr. Shwery's report is based upon his personal interview and examination of Plaintiff. The Court will, of course, allow RBD to cross-examine Dr. Shwery about, inter alia, its contention that Plaintiff suffered from anxiety problems prior to living in the trailer, about its contention that Plaintiff's mental troubles were actually caused by the loss of her possessions in Hurricane Katrina and other family-related issues, and about its contention that Plaintiff's fear of cancer actually surfaced 10-12 years ago when her son died from cancer.

Therefore, **IT IS ORDERED** that **Recreation By Design, LLC's Motion to Exclude Expert Testimony of Edward Shwery, Ph. D. (Rec. Doc. 13303)** is **DENIED**.

New Orleans, Louisiana, this 11th day of May, 2010.


KURT D. ENGELHARDT
United States District Court