

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 Nos. 09-4829, 09-8394

ORDER AND REASONS

Local Rule 7.5 of the Eastern District of Louisiana requires that a memorandum in opposition to a motion be filed eight days prior to the noticed submission date. No memoranda in opposition to the "Motion to Dismiss for Failure to Comply With Pre-Trial Orders No. 2, 32 & 88 Relating to Plaintiffs Fact Sheets," filed by defendant Sun Valley, Inc. (Rec. Doc. 22707), noticed for submission on September 21, 2011, was filed. Further, it appears to the Court that this motion has merit. Accordingly,

IT IS ORDERED that the "**Motion to Dismiss for Failure to Comply With Pre-Trial Orders No. 2, 32 & 88 Relating to Plaintiffs Fact Sheets**" (Rec. Doc. 22707), filed by defendant Sun Valley, Inc., is hereby **GRANTED**, dismissing the claims of Annie Mae Barnes, in Civil Action No. 09-8394 only,¹ with prejudice for failure to comply with Pre-Trial Orders Nos. 2, 32 and 88.

¹ Annie Mae Barnes has filed a Notice of Voluntary Dismissal (Rec. Doc. 22797), dismissing without prejudice her claims in Civil Action No. 09-4829. *See* Rec. Doc. 22797.

IT IS FURTHER ORDERED that counsel should refer to and familiarize themselves with Pretrial Order No. 10, ¶¶ (1) and (2) (Rec. Doc. 301), to the extent such rules are applicable to this particular instance.

A motion for reconsideration of this Order, if any, must be filed within ten days of the date this Order is entered by the Clerk of Court. The motion must be accompanied by opposition memorandum to the original motion. Because a motion for reconsideration would not have been necessary had a timely opposition memorandum been filed, the costs incurred in connection with the motion, including attorneys' fees, will be assessed against the party moving for reconsideration. *See* FED. R. CIV. P. 16, 83. A statement of costs conforming to Local Rule 54.3 shall be submitted by all parties desiring to be awarded costs and attorneys' fees no later than eight days prior to the hearing of the motion for reconsideration.

New Orleans, Louisiana, this 21st day of September 2011.



KURT D. ENGELHARDT
UNITED STATES DISTRICT JUDGE