

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

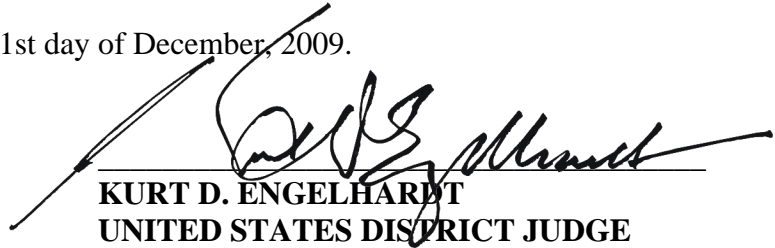
ORDER AND REASONS

Before the Court is Defendant Fleetwood Enterprises, Inc.'s Motion for Partial Summary Judgment on Mental Anguish Claims (Rec. Doc. 6639). In this motion, Fleetwood Enterprises, Inc. ("Fleetwood") asserts that Plaintiff Timia Dubuclet is not entitled to recover mental anguish damages, including her fear of cancer claim. After considering the memoranda of the parties and the applicable law, the Court concludes that there are genuine issues of material fact that exist, relating to (1) whether Plaintiff's mental anguish is partly caused by the skin condition that she claims was exacerbated by the exposure to formaldehyde emissions in the Fleetwood trailer in which she temporarily resided; (2) whether Plaintiff, who is merely 11 years old, can be held to her proposed explanation of the origin of her alleged fear of cancer (i.e., because her "Auntie Rita" died of cancer); and (3) whether the circumstances surrounding her exposure to what some research classifies as a "known human carcinogen" would result in a particular likelihood of genuine and serious mental distress. All of these genuine issues of material fact preclude summary judgment on this issue. However, at the conclusion of Plaintiff's case at trial,

Fleetwood may, if it deems appropriate, avail itself of the proper motion under Rule 50 of the Federal Rules of Civil Procedure. Accordingly,

IT IS ORDERED that the **Defendant Fleetwood Enterprises, Inc.’s Motion for Partial Summary Judgment on Mental Anguish Claims (Rec. Doc. 6639)** is **DENIED**.

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



KURT D. ENGELHARDT
UNITED STATES DISTRICT JUDGE