

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
the Member Case Nos. listed herein

ORDER

Certain service issues were detailed in this Court's Order at Rec. Doc. 25618. None of these service issues have been timely addressed and remedied by counsel. Accordingly, after considering the applicable law, the Court rules as set forth herein:

A.

IT IS ORDERED, ADJUDGED, AND DECREED that the claims of Plaintiffs against the specified defendants in the following member cases are hereby **DISMISSED WITHOUT PREJUDICE** in accordance with Rule 4(m) of the Federal Rules of Civil Procedure, as more than 120 days have elapsed since the filing of the Complaints in these actions. Counsel for Plaintiffs have failed to show good cause why service of process has not been effected upon the defendants listed below. Indeed, counsel offered no response whatsoever to this Court's service order. See *Redding v. Essex Crane Rental Corp. Of Alabama*, 752 F.2d 1077 (5th Cir. 1985):

<u>DEFENDANT</u>	<u>MEMBER CASE NO.</u>
Superior Homes, LLC	10-2548
Superior Homes, LLC	10-4094
Mitchell County Industries	09-3717
Mitchell County Industries	10-758
Mitchell County Industries	10-3717
Mitchell County Industries	10-3799
Mitchell County Industries, LLC	10-478
Mitchell County Industries, LLC	10-1354
Mitchell County Industries, LLC	10-2387

<u>DEFENDANT</u>	<u>MEMBER CASE NO.</u>
Mitchell County Industries, LLC	10-2397
Mitchell County Investments, LLC	09-5292
Mitchell County Investments, LLC	09-7861

B.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the claims of Plaintiffs against the specified defendants in the following member cases are hereby **DISMISSED WITHOUT PREJUDICE** in accordance with Rule 4(m) of the Federal Rules of Civil Procedure, as service has not been effected, evidenced in these member cases by the unexecuted returns in the record. More than 120 days have elapsed since the filing of the Complaints in these actions, and counsel for Plaintiffs have failed to show good cause why service of process has not been effected upon the defendants listed below. See *Redding*, 752 F.2d 1077:

<u>DEFENDANT</u>	<u>MEMBER CASE NO.</u>
Mitchell County Industries, LLC	09-4742

<u>DEFENDANT</u>	<u>MEMBER CASE NO.</u>
Mitchell County Industries, LLC	09-6639
Mitchell County Industries, LLC	09-7098
Mitchell County Industries, LLC	09-7820
Mitchell County Industries, LLC	09-7829
Mitchell County Industries, LLC	10-1293
Mitchell County Industries, LLC	10-2181
Mitchell County Industries, LLC	10-2274

C.

IT IS ORDERED, ADJUDGED, AND DECREED that the claims of Plaintiffs against the specified defendants in the following member cases are hereby **DISMISSED WITHOUT**

PREJUDICE in accordance with Rule 4(m) of the Federal Rules of Civil Procedure, as more than 120 days have elapsed since the filing of the Complaints in these actions and counsel for Plaintiffs have failed to show good cause why service of process has not been effected upon the defendants listed below. Indeed, although summons has been issued, no executed return has been timely placed in the record. See *Redding*, 752 F.2d 1077:

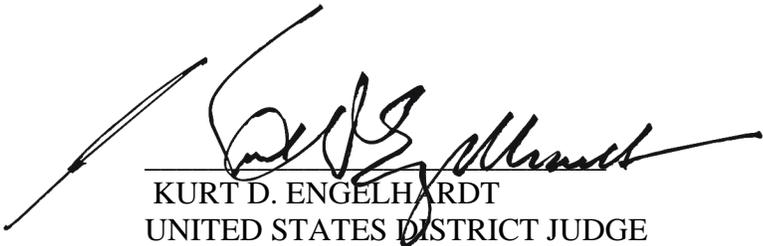
<u>DEFENDANT</u>	<u>MEMBER CASE NO.</u>
Superior Homes, LLC	09-8395
Superior Homes, LLC	09-8428
Superior Homes, LLC	09-8429
Superior Homes, LLC	09-8430
Mitchell County Industries, LLC	09-6341
Mitchell County Industries, LLC	09-7266
Mitchell County Industries, LLC	09-8719
Mitchell County Industries, LLC	09-8728

<u>DEFENDANT</u>	<u>MEMBER CASE NO.</u>
Mitchell County Industries, LLC	10-2694
Mitchell County Investments, LLC	10-921

D.

IT IS FINALLY ORDERED that, because Mitchell County Industries, LLC failed to timely obtain licensed counsel to represent it in member case no. 09-3629, its Preservation of Defenses (Rec. Doc. 2609) is hereby **STRICKEN** from the record. Plaintiffs in this member case shall file a motion seeking to obtain a preliminary default on Mitchell County Industries, LLC **on or before Monday, June 18, 2012**. Failure to do so timely will result in the DISMISSAL of this defendant, for failure to prosecute, without any further notice, in accordance with Rule 41(b) of the Federal Rules of Civil Procedure.

New Orleans, Louisiana, this 5th day of June, 2012.



KURT D. ENGELHARDT
UNITED STATES DISTRICT JUDGE