

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

In Re: FEMA TRAILER
FORMALDEHYDE PRODUCTS
LIABILITY LITIGATION

MDL NO. 07-1873

SECTION "N" (5)

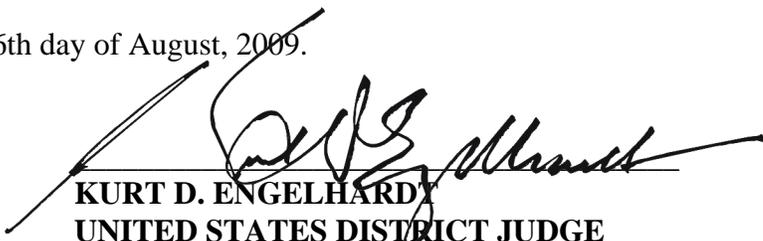
THIS DOCUMENT RELATES TO
Member Case No. 09-2892

ORDER AND REASONS

Before the Court is the Motion for Partial Summary Judgment (Rec. Doc. 2583), filed by Defendant Gulf Stream Coach, Inc. ("Gulf Stream"). In this motion, Gulf Stream asserts that Plaintiff Alana Alexander and her minor child, Christopher Cooper, are not entitled to recover mental anguish damages based on their fear that they are at an increased risk to develop cancer because of their alleged exposure to formaldehyde. 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 whether the circumstances surrounding their exposure to what some research classifies as a "known human carcinogen" would result in a particular likelihood of genuine and serious mental distress, which preclude summary judgment on this issue. However, at the conclusion of Plaintiff's case at trial, Gulf Stream 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 **Motion for Partial Summary Judgment (Rec. Doc. 2583)** is **DENIED**.

New Orleans, Louisiana, this 26th day of August, 2009.


KURT D. ENGELHARDY
UNITED STATES DISTRICT JUDGE