

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. 09-2977

PRETRIAL ORDER NO. 60

A pre-trial conference was held in this matter on February 25, 2010. In addition to the undersigned, and the undersigned's law clerk, Ernest Gieger, Chris Pinedo, Jerry Meunier, Aaron Ahlquist, Frank D'Amico, Dennis Reich, Jason Bone, Carson Strickland, Karen Whitfield, David Kurtz, and Paul Dominick attended.

During the conference, the Court **ORDERED** as follows:

(1) Any trial stipulations that have been reached are to be in writing, signed by all counsel, and submitted to the Court on or before **Thursday, March 11, 2010 at 5:00 p.m.** These stipulations are to include the statements of uncontested fact that are set forth in the pre-trial order. Any evidentiary stipulations that are not to be read to the jury shall also be in writing in a separate pleading, signed by all counsel, and submitted to the Court on or before **Thursday, March 11, 2010 at 5:00 p.m.**

(2) Short memoranda supporting objections to exhibits must be electronically filed or

delivered to chambers and opposing counsel no later than **Wednesday, March 3, 2010, at 5:00 p.m.**, with oppositions thereto to be electronically filed or delivered to chambers no later than **Friday, March 5, 2010, at 5:00 p.m.** Counsel are to confer in advance to attempt to amicably resolve any objections to exhibits. A copy of the exhibit to which there is an objection is to be attached to the memorandum supporting the objection, unless the exhibit is voluminous.

(3) A list of potential witnesses/key figures and a proposed short description of the case (to insert into the voir dire script) must be electronically filed or delivered to chambers and opposing counsel no later than **Wednesday, March 10, 2010, at 5:00 p.m.**

(4) Proposed voir dire questions, a proposed verdict form (the form from the *Alexander* bellwether shall be the template), and proposed jury instructions (the instructions from the *Alexander* bellwether shall be the template) must be electronically filed or delivered to chambers and opposing counsel no later than **Thursday, March 4, 2010, at 5:00 p.m.** These documents shall also be transmitted (in WordPerfect or Word format) to the undersigned's law clerk at amanda_ballay@laed.uscourts.gov no later than **Thursday, March 4, 2010, at 5:00 p.m.** The parties are to attempt to agree on a joint proposed jury verdict form. Any objections to proposed voir dire questions, jury instructions, and the jury verdict form shall be electronically filed or delivered to chambers and opposing counsel no later than **Monday, March 8, 2010, at 5:00 p.m.**

(5) If deposition testimony is to be submitted in lieu of live testimony, *trial counsel* are to confer regarding the portions of the deposition transcript that are irrelevant. Those portions are to be redacted from the single transcript to be used at trial. Short memoranda identifying (by page and line numbers) and supporting any objections to the deposition testimony must be electronically filed or delivered to chambers no later than **Friday, March 5, 2010, at 5:00 p.m.**, with oppositions

thereto to be electronically filed or delivered to chambers at the same time. The Court will need a copy of the **redacted, condensed** deposition transcript(s) to be able to rule upon any objection(s).

(6) Expert witness reports must be submitted to chambers no later than **Wednesday, March 10, 2010, at 5:00 p.m.** These reports shall be tabbed and placed in a binder, which shall contain an index.

(7) Counsel are to prepare a joint exhibit disk with a single numbering system to be used at trial. Any *in globo* exhibits must contain page or Bates numbers.

The copy of the exhibit disk to be used by the judge during trial must be delivered to chambers no later than **Tuesday, March 9, 2010, at 5:00 p.m.** Exhibits to which there are pending objections shall be placed on a separate disk and delivered to the Court in hard copy, unless they are voluminous.

A copy of the exhibit book to be used by the witness, if one is to be provided for use by the witness, must be brought to Court on the first morning of trial, and shall not contain any exhibits as to which there are pending objections, unless and until those objections are overruled by the Court. Counsel are to confer regarding preparation of copies of the exhibit book to be used by them during trial. A copy of the admitted exhibits also will be needed for jury deliberation and the Court's record for this action.

Unless otherwise ordered, counsel shall not provide a book of trial exhibits, or copies of any exhibits, to each jury member. Generally, exhibits are to shown by use of the Court's overhead projector and/or counsel's laptop computer. If is necessary for the jury to view an actual document, counsel are to have copies of that particular document to hand out to, and collect from, each juror at the relevant time.

Any questions regarding the use of the Court's electronic exhibit display system, opaque projector, counsel's laptop computer, a television, and/or a DVD player in the courtroom shall be directed to Case Manager, Pam Radosta, at 504-589-7683.

(8) Unless otherwise agreed by counsel, any demonstrative exhibits (excluding enlargements of documents already identified in the pre-trial order as exhibits) are to be exchanged with opposing counsel no later than **Thursday, March 11, 2010, at 5:00 p.m.**

(9) Plaintiff shall be allowed 25 minutes and Defendants shall be allowed 30 minutes (to be split by agreement amongst them) for opening statements. Plaintiff shall be allowed 45 minutes and Defendants shall be allowed 60 minutes (to be split by agreement amongst them) for closing arguments, unless otherwise agreed in advance by counsel. Plaintiffs shall be allowed to reserve up to 15 minutes for rebuttal argument to follow Defendant's closing argument.

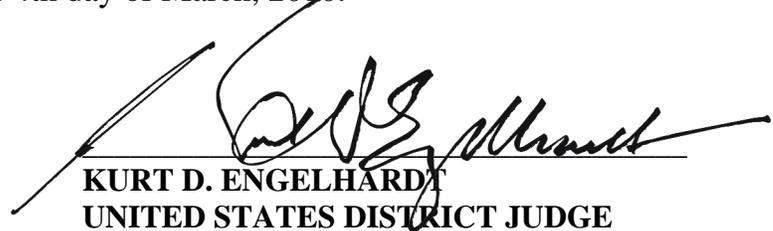
(10) Unless otherwise ordered, the Court shall conduct all voir dire with input from counsel. Plaintiff shall be allowed 6 peremptory challenges. Defendants shall be allowed a total of 6 peremptory challenges. A jury of 9 members shall be selected. All shall deliberate.

(11) Counsel are reminded that cell phones, beepers, and comparable devices are not allowed in the courtroom. They may be left with the undersigned's judicial assistant, Susan Adams, during the trial. Counsel are instructed to inform any witnesses of this policy. Laptop computers may be in the courtroom if they are used in connection with the trial, and with prior notification to and approval by the Court.

(12) Any questions regarding the trial and/or trial preparation that are not addressed herein are to be directed to the undersigned's judicial assistant, Susan Adams, or law clerk, Amanda Ballay, at (504)589-7645, susan_adams@laed.uscourts.gov, or or amanda_ballay@laed.uscourts.gov.

(13) Counsel for each party have been provided with disks containing the completed juror questionnaires. **On or before Monday, March 1, 2010, at 5:00 p.m.**, counsel shall provide to the Court a list of potential jurors that both parties agree should be challenged for cause. Also at this time, counsel should provide to the Court and opposing counsel a list of cause challenges which shall include specific reference to the question at issue and shall state a brief reason for the challenge. Any responses to these challenges shall be filed **on or before Wednesday, March 3, 2010, at 5:00 p.m.**

New Orleans, Louisiana, this 4th day of March, 2010.



KURT D. ENGELHARDT
UNITED STATES DISTRICT JUDGE