

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

ORDER AND REASONS

Before the Court is Forest River, Inc.'s Motion to Exclude Expert Testimony of Dr. Edward Shwery (Rec. Doc. 11400), which motion is opposed by Plaintiff, Lyndon Wright.

The Court has considered the memoranda submitted by the parties, along with the attached documentation (including the written reports by Dr. Shwery). As this juncture, on the showing made, Forest River's motion is denied. Dr. Shwery does relate Plaintiff's "experience of living in the trailer leading to numerous medical symptoms and health concerns [that] has become an area of private worry and distress." July 21, 2009 report, page 9. Dr. Shwery's two reports are based upon his personal interview and examination of Plaintiff. Although Forest River argues that other medical records would have shed further light on Plaintiff's condition, that alone does not disqualify Dr. Shwery's opinions in this case. The Court will allow defense counsel to cross-examine Dr. Shwery about any and all information set forth in medical records which were available at the time but which were not reviewed by Dr. Shwery in connection with the rendition of his opinion.

Moreover, Forest River argues that Dr. Shwery's opinion is likewise weakened to the point of exclusion because it is ostensibly based upon information which Plaintiff himself gave. The defendants have failed to show, however, that the information Plaintiff gave to Dr. Shwery

was so gross a departure from reality (or omitted information of such a critical nature) that Dr. Shwery's opinion was irretrievably damaged by reliance upon such information.

Therefore, **IT IS ORDERED** that **Forest River, Inc.'s Motion to Exclude Expert Testimony of Dr. Edward Shwery (Rec. Doc. 11400)** is **DENIED**.

New Orleans, Louisiana, this 9th day of March, 2010.



KURT D. ENGELHARDT
United States District Court