

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
ALL CASES

ORDER AND REASONS

Before the Court are the following two motions: (1) Fluor Enterprises, Inc.'s Motion for Partial Summary Judgment on the Pleadings on Negligence Claims in the Third and Fourth Supplemental and Amended Administrative Master Complaints (Rec. Doc. 13426); and (2) CH2M Hill Constructors, Inc's and Shaw Environmental, Inc's Joint Rule 12(b)(6) Motion to Dismiss Plaintiffs' Negligence Claims in the Third and Fourth Supplemental and Amended Administrative Master Complaints (Rec. Doc. 13428).¹ These two motions are opposed. (See Rec. Docs. 13777 and 13796, respectively). Further, replies and sur-replies have been filed at Rec. Docs. 14077, 20828 and 20829). After reviewing the memoranda of the parties and the applicable law,

¹ Though Fluor's motion is filed under Rule 12(c) of the Federal Rules of Civil Procedure and CH2M Hill's and Shaw's motion is filed under Rule 12(b)(6) of the Federal Rules of Civil Procedure, the two motions seek the same relief (i.e., dismissal of Plaintiffs' negligence claims under Louisiana law, Mississippi law, and Alabama law. Further, the standard for a motion for judgment on the pleadings pursuant to Federal Rule of Civil Procedure 12(c) is the same as a motion to dismiss brought under Federal Rule of Civil Procedure 12(b)(6). *Great Plains Trust Co. v. Morgan Stanley Dean Witter & Co.*, 313 F.3d 305, 313 n. 8 (5th Cir.2002).

IT IS ORDERED that (1) **Fluor Enterprises, Inc.’s Motion for Partial Summary Judgment on the Pleadings on Negligence Claims in the Third and Fourth Supplemental and Amended Administrative Master Complaints (Rec. Doc. 13426)**; and (2) **CH2M Hill Constructors, Inc.’s and Shaw Environmental, Inc.’s Joint Rule 12(b)(6) Motion to Dismiss Plaintiffs’ Negligence Claims in the Third and Fourth Supplemental and Amended Administrative Master Complaints (Rec. Doc. 13428)** are both **DENIED**. Specifically, these motions are denied for substantially the same reasons stated by Plaintiffs in Rec. Docs. 13777, 13796, 20228, and 20829.

New Orleans, Louisiana, this 27th day of April, 2011.



KURT D. ENGELHARDT
UNITED STATES DISTRICT JUDGE