

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

In Re: FEMA TRAILER
FORMALDEHYDE PRODUCTS
LIABILITY LITIGATION

MDL NO. 07-1873

SECTION "N" (5)

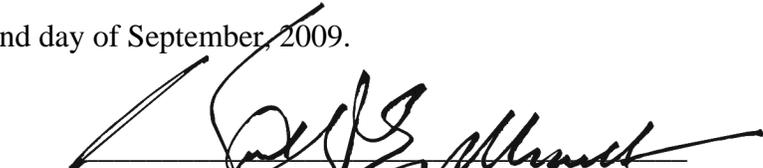
THIS DOCUMENT RELATES TO
Member Case No. 09-2892

ORDER AND REASONS

Before the Court is Fluor Enterprises, Inc.'s Motion for Summary Judgment Based on Louisiana Tort Immunity for Contractors Pursuant to La. Rev. Stat. 9:2771 (Rec. Doc. 2729). In this motion, Fluor Enterprises, Inc. ("Fluor") asserts that Plaintiffs' claims against it are barred by La. Rev. Stat. 9:2771 because Fluor is a government contractor that performed its work according to and in compliance with the plans and specifications provided and mandated by the Government through the Federal Emergency Management Agency ("FEMA") and, therefore, Fluor is immune from suit, entitling it to summary judgment. 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 Fluor acted outside the scope of its contract with FEMA, whether Fluor failed to exercise ordinary care in assembling the EHUs, and whether Fluor was aware of formaldehyde problems surrounding the EHUs, which preclude summary judgment on this issue. Accordingly,

IT IS ORDERED that **Fluor Enterprises, Inc.’s Motion for Summary Judgment Based on Louisiana Tort Immunity for Contractors Pursuant to La. Rev. Stat. 9:2771 (Rec. Doc. 2729)** is **DENIED**.

New Orleans, Louisiana, this 2nd day of September, 2009.



KURT D. ENGELHARDT
UNITED STATES DISTRICT JUDGE