

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
NEW ORLEANS DIVISION**

**IN RE: FEMA TRAILER
FORMALDEHYDE
PRODUCT LIABILITY LITIGATION**

MDL NO. 1873

SECTION "N-4"

**JUDGE ENGELHARDT
MAG. JUDGE ROBY**

THIS DOCUMENT IS RELATED TO ALL CASES

**JOINT REPORT NO. 1 OF
PLAINTIFFS' AND DEFENDANTS' LIAISON COUNSEL**

Plaintiffs' Liaison Counsel ("PLC") and Defendants' Liaison Counsel ("DLC")

respectfully this Joint Report No. 1.

1. **REPORT OF CASE INVENTORY**

The attached list reflects that eighteen cases have been filed and transferred into this MDL.

2. **TAG-ALONG CASES**

Currently Pretrial Order No. 1, paragraph 1, states in part, "This Order also applies to all related cases filed in all sections of the Eastern District of Louisiana and will also apply to any "tag-along actions" later filed in, removed to, or transferred to this court." To avoid the possibility of adverse consequences, defendants request that the Court revisit the mechanism for identifying "tag along actions."

3. ENTRY OF PRETRIAL ORDER NO. 2

PLC and DLC have submitted Pretrial Order No. 2 to the Court for entry. This Order sets forth initial dates and deadlines governing pleadings, initial motion practice, and initial discovery. Subsequent orders will be submitted as further pretrial issues are addressed herein.

4. PENDING MOTIONS

There currently is pending a motion to amend the complaint in the case of *Nelson v. Gulf Stream Coach, Inc., et al*, (Case No. 07-7494) [Rec. Doc. #21, W.D., LA], in order to add the United States of America/the Federal Emergency Management Agency (FEMA) as a defendant. The parties understand that the Court now will be addressing and deciding this motion.

In addition, defendants have filed a Motion to Dismiss and/or Strike Class Claims in the case of *Hilliard v. U.S., et al* (Case No. 06-2576) [Rec. Doc. #24]. Plaintiffs submit that with the filing of the Master Complaint under PTO #2, this motion may be deferred and/or rendered moot.

5. ADDITION OF FEMA AS DEFENDANT UNDER THE FTCA

The Court has been advised that certain plaintiffs intend to file tort claims in these proceedings against the United States of America based upon allegations of fault on the part of FEMA. Plaintiffs' counsel will do so as soon as the requisite time period has passed for the processing of Form 95 administrative claims required under the Federal Tort Claims Act (FTCA).

Notwithstanding the above, both PLC and DLC advise that they are in contact with counsel for the United States/FEMA in order to address issues that already have arisen with respect to the Federal Government.

6. PROTECTIVE ORDER FOR PRESERVATION OF EVIDENCE

The United States/FEMA have advised PLC and DLC that a number of mobile housing units which previously have not been occupied are now intended to be transferred to Tribal lands in various places. Prior to this occurring, the United States/FEMA has offered an opportunity to plaintiffs and the defendant manufacturers to inspect and conduct testing as to these previously-unoccupied mobile housing units. Arrangements in this regard have been made, and appropriate inspection and testing of sample units will proceed by agreement.

In addition, it has been reported to plaintiffs' counsel, and now to both PLC and DLC, that numerous travel trailers which are believed to have been previously occupied by the victims Hurricanes Rita and/or Katrina, are being sanitized and cleaned by or on behalf of the Federal Government at a staging location in or near Purvis, Mississippi. On receiving this information, PLC and DLC have requested that FEMA allow an appropriate sample inspection and testing of these travel trailers as well. As of the time of this report, PLC and DLC are awaiting word from counsel for FEMA as to whether and how this might occur voluntarily.

If necessary and appropriate, PLC and DLC intend to submit to the Court an appropriate protective order for the preservation of this critical evidence in the case.

7. CONFIDENTIALITY ORDER

PLC and DLC currently are working on a jointly-acceptable Confidentiality Order. This Order will protect against the unwarranted disclosure of certain materials which might be exchanged in discovery. If a jointly-acceptable Confidentiality Order cannot be effected, the Court will be asked to address this matter and enter its own Confidentiality Order.

8. PLAINTIFF FACT SHEET

Pretrial Order No. 2 provides for the preparation and submission of Plaintiff Fact Sheets (PFS), as alternatives to formal interrogatories and request for production propounded to plaintiffs on an individual basis. Pretrial Order No. 2 sets forth the procedure and deadlines for completing the PFS, and also stipulates that the parties shall confer and agree upon a jointly-acceptable form for the PFS by February 29, 2008. If the parties are unable to reach an agreement, the Court will be asked to address this issue.

9. JOINT NOTICE PROTOCOL

PLC and DLC respectfully submit to the Court that it may be appropriate initially, if not throughout this litigation, to handle the claims of plaintiff on a mass joinder basis, as opposed to a class action certified under Rule 23. For this reason, both plaintiffs and the manufacturing defendants are interested in exploring a jointly-funded notification protocol, whereby actual and potential claimants will be advised of the necessity of identifying themselves and completing Plaintiff Fact Sheets. The parties will be discussing this further and will report to the Court on these discussions at the next status conference.

10. REQUESTED INJUNCTION HEARING

Certain plaintiffs' counsel previously requested injunctive relief against United States/FEMA, in the same matter in which, as noted *supra*, a motion to amend and add the United States/FEMA as a defendant currently is pending. These plaintiffs' counsel have asked that PLC bring to the Court's attention at this time their requested injunction hearing.

11. NEXT STATUS CONFERENCE

The next status conference in this matter will be on the 20th day of March, 2008, at 10:00

o'clock a.m.

Respectfully submitted:

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2:07-md-01873-KDE-KWR In Re: FEMA Trailer Formaldehyde Products Liability Litigation
 Kurt D. Engelhardt, presiding
 Karen Wells Roby, referral
Date filed: 10/24/2007 **Date of last filing:** 01/09/2008

Associated Cases

Lead Case	Member Case	Start Date	End Date
2:07-md-01873-KDE-KWR	2:06-cv-02576-KDE-KWR Hillard et al v. United States of America et al	11/05/2007	
	2:06-cv-05659-KDE-KWR McGuire et al v. Gulf Stream Coach, Inc. et al	11/05/2007	
	2:07-cv-02961-KDE-KWR Oldenburg et al v. United States of America et al	11/05/2007	
	2:07-cv-03375-KDE-KWR Mealancon v. Gulf Stream Coach, Inc. et al	11/05/2007	
	2:07-cv-03893-KDE-KWR Seal v. Fleetwood Enterprises, Inc. et al	11/05/2007	
	2:07-cv-04012-KDE-KWR Kahl et alv. Fleetwood Enterprises, Inc et al	11/05/2007	
	2:07-cv-04018-KDE-KWR Culler v. Gulf Stream Coach, Inc.	11/05/2007	
	2:07-cv-05709-KDE-KWR Pujol et al v. Pilgrim International, Inc. et al	11/05/2007	
	2:07-cv-07018-KDE-KWR Devlin et al v. Fleetwood Enterprises, Inc. et al	11/05/2007	
	2:07-cv-07263-KDE-KWR Phillpott et al v. Forest River, Inc.	11/05/2007	
	2:07-cv-07389-KDE-KWR Hunt Curley v. United States of America et al	11/05/2007	
	2:07-cv-07494-KDE-KWR Nelson v. Gulf Stream Coach, Inc. et al	11/13/2007	
	2:07-cv-07783-KDE-KWR Duplessis v. Fleetwood Enterprises, Inc. et al	11/05/2007	
	2:07-cv-09073-KDE-KWR Klibert v. Fleetwood Enterprises, Inc. et al	11/28/2007	
	2:07-cv-09141-KDE-KWR Collins et al v. Forest River, Inc. et al	12/12/2007	
	2:07-cv-09184-KDE-KWR Lucien v. Gulf Stream Coach, Inc. et al	12/03/2007	
	2:07-cv-09228-KDE-KWR Aldridge v. Gulf Stream Coach, Inc. et al	12/03/2007	
	2:07-cv-09248-KDE-KWR Pizani v. Gulf Stream Coach,		

Inc. et al	12/04/2007
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