

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

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

**MDL NO. 1873
SECTION "N-5"**

**JUDGE ENGELHARDT
MAG. JUDGE CHASEZ**

THIS DOCUMENT IS RELATED TO ALL CASES

PRETRIAL ORDER NO. 26

On December 15, 2008, the Court held a telephone conference call with Plaintiffs' Liaison Counsel ("PLC"), Defendant Manufacturers' Liaison Counsel ("DMLC"), and Government Counsel regarding the sale and destructive/component part testing of emergency housing units ("EHUs"). It is hereby **ORDERED**:

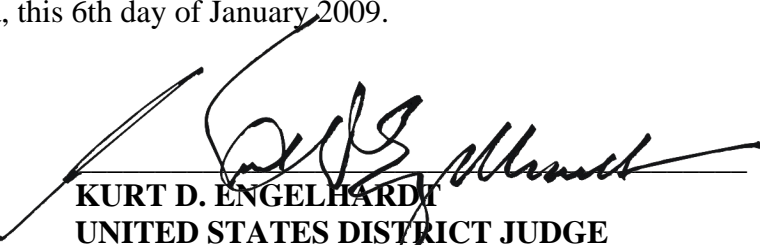
- (1) This order applies to all destructive/component part testing conducted for the purpose of this litigation by, or at the behest of, any and all parties to this litigation, their counsel, and their agents/experts. This order does not apply to any destructive/component part testing or other testing conducted by various agencies or divisions of the Government, unless such testing is conducted for the express purpose of this litigation, and is conducted at the behest of Government Counsel, their agents/experts, or counsel for FEMA. If any agency or division of

the Government conducts any such testing, that testing, and results of any such testing will not be subject of any such disclosure requirements;

- (2) Prior to the commencement of any destructive/component part testing covered by this order, the testing party shall provide notice to Plaintiffs' Steering Committee ("PSC"), Manufacturer Defendants' Steering Committee ("MDSC"), and Government Counsel, by providing the time, date and location of testing at least **twenty-one (21) days** before testing is commenced;
- (3) The testing party shall provide copies of the destructive/component part testing protocol(s) that will be followed prior to the commencement of destructive testing covered by this order, and provide a copy of the protocol to the PLC, MDLC and Government counsel at least **twenty-one (21) days** before the commencement of any testing;
- (4) The testing party shall identify the manufacturer of each EHU, including VIN and/or Serial Number, that is subject to destructive/component part testing;
- (5) PSC, MDLC and Government Counsel shall each be entitled to have two representatives or observers present at each incidence of destructive/component part testing covered by this order and may video-tape and/or otherwise document or record the testing procedure and process;
- (6) Each party conducting destructive/component part testing that is covered by this order shall distribute true and accurate copies of all test results to PLC, MDLC and Government Counsel within **seven (7) days** of when such test results are received by the testing party or their agents/experts.

- (7) Any material that will be subjected to scientific testing will be split three ways between the plaintiffs, the manufacturing defendants and the government.

New Orleans, Louisiana, this 6th day of January 2009.



KURT D. ENGELHARDT
UNITED STATES DISTRICT JUDGE