

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

**IN RE: KATRINA CANAL BREACHES
CONSOLIDATED LITIGATION**

**THIS DOCUMENT RELATES TO
LEVEE: 07-5187 (McCay)**

* **CIVIL ACTION**
*
* **NUMBER 05-4182**
* **& CONSOLIDATED CASES**
*
* **SECTION "K"**
*
* **JUDGE DUVAL**
*
* **MAGISTRATE WILKINSON**
*

MOTION PURSUANT TO F.R.CIV.P. 12(B)(6) TO DISMISS

Now into Court, through undersigned counsel, comes defendant the Sewerage and Water Board of New Orleans to move this Court to dismiss plaintiff's Complaint under F.R.Civ.P. 12(b)(6). The Complaint, filed on August 29, 2007, alleging negligence and fault against the Sewerage and Water Board of New Orleans, as well as others, for flooding and the resulting damages following Hurricane Katrina, is prescribed as against the Sewerage and Water Board of New Orleans. The Sewerage and Water Board of New Orleans is therefore entitled to an Order dismissing plaintiff's Complaint as against the Sewerage and Water Board of New Orleans with prejudice. The Sewerage and Water Board of New Orleans submits a memorandum in support of this motion.

Wherefore, defendant Sewerage and Water Board of New Orleans prays that after due proceedings are held, that this Court grant its motion and dismiss plaintiff's claims against the Sewerage and Water Board of New Orleans pursuant to F.R.Civ.P. 12(b)(6), with prejudice and at plaintiff's cost.

Respectfully submitted,

s/Charles M. Lanier, Jr.

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CERTIFICATE

I do hereby certify that on the 2nd day of January 2008, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system, which will send a notice of electronic filing to all participating counsel of record. I also certify that I have mailed the foregoing by United States Postal Services, First Class, to all non-CM/ECF participants.

s/Charles M. Lanier, Jr.

CHARLES M. LANIER, JR.

KEVIN R. TULLY