

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

IN RE KATRINA CANAL BREACHES
CONSOLIDATED LITIGATION

CIVIL ACTION

NO. 05-4182

SECTION "K" MAG "2"

PERTAINS TO: ROAD HOME
State of Louisiana, C.A. No. 07-5528

JUDGE DUVAL
MAGISTRATE JUDGE WILKINSON

MOTION TO REMAND

The State of Louisiana, individually and on behalf of the State of Louisiana, Division of Administration, Office of Community Development (the "State"), through the Honorable Charles C. Foti, Jr., the Attorney General for the State of Louisiana, and through the undersigned private counsel duly authorized to act for and on behalf of the State, respectfully request that this Honorable Court remand its suit against the Insurance Company Defendants.¹

¹The Insurance Company Defendants are identified on pages 8-24 of the First Amended and Restated Class Action Petition for Damages and Declaratory and Injunctive Relief ("First Amended Petition").

The State filed a state-law action, against a state-regulated industry, to protect the viability of the state-created Road Home Program. Congress never intended the Class Action Fairness Act (“CAFA”) to apply to this type of lawsuit because it is predominantly local in nature. Furthermore, involuntarily subjecting the State, which has filed this action in its capacity as *parens patriae*, to litigation in federal court is an impermissible infringement on the dignity of a sovereign State. Such an infringement violates the Eleventh Amendment of the United States Constitution. Accordingly, the State requests that this Court remand this matter to state court.

RESPECTFULLY SUBMITTED,

THE STATE OF LOUISIANA

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CERTIFICATE OF SERVICE

I hereby certify that on October 9, 2007, I electronically filed the forgoing with the Clerk of Court by using the CM/ECF system which will send a notice of electronic filing to counsel of record in the captioned matter.

/s/ Calvin C. Fayard, Jr.
CALVIN C. FAYARD, JR.