

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

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

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**THIS DOCUMENT RELATES TO  
LEVEE: 07-4775 (Murphy Building  
Corp., et al)**

\* **CIVIL ACTION**  
\*  
\* **NUMBER 05-4182**  
\* **& CONSOLIDATED CASES**  
\*  
\* **SECTION "K"**  
\*  
\* **JUDGE DUVAL**  
\*  
\* **MAGISTRATE WILKINSON**  
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**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 plaintiffs' Complaint under F.R.Civ.P. 12(b)(6). The Complaint, filed on August 28, 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 plaintiffs' 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 plaintiffs' claims against the Sewerage and Water Board of New Orleans pursuant to F.R.Civ.P. 12(b)(6), with prejudice and at plaintiffs' cost.

Respectfully submitted,

s/Charles M. Lanier, Jr.

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ATTORNEYS FOR DEFENDANT SEWERAGE  
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**CERTIFICATE**

I do hereby certify that on the 2<sup>nd</sup> 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.

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**CHARLES M. LANIER, JR.**

**KEVIN R. TULLY**