

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

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

CIVIL ACTION

PERTAINS TO LEVEE:

NO. 05-4182

**ADAMS, NO. 06-4634
TAUZIN, NO. 06-0020**

SECTION "K"(2)

ORDER

Before the Court is the "Motion to Dismiss Under Fed.R.Civ.P. 12(b)(6) (Failure to State a Claim)" filed on behalf of defendant CSX Transportation, Inc. ("CSXT") on February 8, 2007 (Doc. 3099) in the captioned cases. On March 15, 2007, pursuant to Case Management Order No. 4 (Doc. 3299), plaintiffs filed the Superseding Master Consolidated Class Action Complaint (Doc. 3420) which names CSXT as a defendant. That complaint superseded the previously filed complaints in the captioned cases. Thereafter CSXT filed a "Motion to Dismiss Fed.R.Civ.P.12(b)(6) (Failure to State a Claim), Fed.R.Civ.P. 12(b)(2) (Lack of Jurisdiction Over the Person), and Fed.R.Civ.P. 12(b)(5) (Insufficiency of Service of Process)" (Doc. 3621). That motion to dismiss supersedes CSXT's previously filed motion to dismiss (Doc. 3099). Accordingly, the "Motion to Dismiss Under Fed R.Civ.P. 12(b)(6) (Failure to State a Claim)" filed on behalf of defendant CSXT (Doc. 3099) is Denied as Moot.

New Orleans, Louisiana, this 27th day of December, 2007.



STANWOOD R. DUVAL, JR.
UNITED STATES DISTRICT JUDGE