

How strong is the case?

We have discovered many facts that increase our level of confidence as the case progresses. For example, Ingram had no written hurricane plan and made a conscious decision at the executive level not to take any measures to prevent the barge from breaking free from its moorings. Both Lafarge and Ingram failed to implement hurricane guidelines and rules established by the United States Coast Guard under direct authority of the United States Legislature. Additionally, we have located several witnesses who say that they heard the barge scraping against the still intact floodwall, and then saw it crash through. We have retained expert witnesses whose opinions show that the defendants were negligent, that the barge was unseaworthy, that it broke the floodwall, and that the flooding caused extensive damage.

How long will this suit go on?

We cannot be certain. The suit is divided into phases, and each phase proceeds according to a schedule set by the Court in consultation with the parties to the suit. However, we are always mindful to implement ways of speeding up the process. We expect to see constant progress towards resolution, whether by trial or settlement.

Is this a class action suit?

We have asked the Court to recognize this as a class action. The court has not yet addressed this request. Whether this suit proceeds as a class action depends on the Court's evaluation of several factors such as location, the similarity of everyone's claims and the ease of managing a class action as opposed to individual suits.

Is there a deadline for my participation in this suit?

At present, there is no deadline for participation in the lawsuit. The deadline for participation in the vessel owner defendants' limitation action passed in 2006. All persons who signed contracts before the deadline established by my office are included as claimants in the limitation action. If you are not part of this action, it does not affect your rights in the lawsuit unless the Court allows the vessel owner defendants to limit their liability to only the value of the vessel.

What about attorney's fees?

This case is being handled on a contingency fee basis. Unless we obtain a judgment or settlement, the client owes nothing. There are no out of pocket costs for participating. We are funding all of the costs needed to pursue this lawsuit. The retainer contract provides for contingency fees based upon a certain percentage of your recovery, if any, plus, dollar-for-dollar reimbursement of costs incurred by the attorneys, but only if you recover. The percentage is based upon the status of the case at the time it is resolved. The percentage in the contract will govern unless the Court orders a different percentage upon settlement or judgment.

How much might the recovery be?

Any settlement must be approved by the Court. If the case goes to trial or appeal and we win, we will not know the amount of the judgment until that decision. However, we believe that if we are successful, the insurance policies and assets belonging to the defendants will yield a substantial amount of compensation. Obviously, recovery is not guaranteed.

Should I sue the Army Corps of Engineers, Orleans Levee District, Washington Group International, etc? What if I have filed a claim in the suits against the Army Corps of Engineers, Orleans Levee District, Washington Group International, etc? Will this suit affect my rights there?

We believe that the barge was the sole cause of the eastern Industrial Canal breaches in the Lower Ninth Ward. We are not pursuing claims against anyone other than those parties we believe are responsible for the barge. If you would like to pursue claims against other parties, you must do so through another attorney. Deadlines may apply. Please seek the advice of another attorney immediately if you intend to pursue other claims.

If you have brought claims against other parties, it *should* not affect your right to proceed against the barge defendants. However, be aware that in all likelihood, you will not be permitted to recover more than once for the same damages. In other words, if you are compensated in this action for the destruction of your property, you probably cannot receive money in another action for this same loss.

Can I sign up on behalf of my minor children (under the age of 18)?

Generally, yes, but certain conditions must be met under Louisiana law. We will provide further instructions in this regard at the appropriate time.

For now, you should complete a separate questionnaire and retainer for each child. You should sign the retainer, "John Doe on behalf of his minor child Jane Doe." If you are not the child's biological, adoptive or sole custodial parent, please describe your relationship to the child.

Persons 18 or older are no longer minors, and must participate on their own.

My relative died during Katrina (See also My relative died after Katrina).

The law allows only certain family members or succession representatives to bring wrongful death and survival actions. In order to determine whether you may sue, we will need to know your relationship to the deceased, the existence of all other living relatives, and whether the deceased's succession has been opened and a succession representative or executor appointed.. If so, we need to know the court, case number, and attorney handling the succession.

My relative died after Katrina. Do I inherit my relative's lawsuit?

Depending on your relationship to the deceased, and depending on the provisions of the deceased last will, if any, the answer might be "yes." You must describe your relationship to the deceased, and identify all other surviving relatives. If the deceased left a will, we will need a copy. If the deceased's succession has been opened, we will also need to know the court, case number, and attorney handling the succession.

What if the property was sold after Katrina?

If you were the rightful owner of the property, and the sale price was reduced due to damage caused by flooding, you might recover the difference between the fair market value before and after Katrina. You will need proof of the pre-Katrina fair market value and the post-Katrina fair market value or sale price.

Do husband and wife participate together?

If the only damage is to property they own together, husband and wife may sign the same retainer and complete the same questionnaire as long as both are fully identified on the questionnaire. If there are other damages, or if they are married under a separate property regime, each must complete a separate retainer and questionnaire.

Couples not married according to Louisiana law, i.e., common law marriage, or persons living together who are not married, must participate separately.

What types of damages can I claim?

As of this point, the Court has not specified what types of damages will be included in any class that may be certified. However, we expect that the damages will include wrongful death, physical injuries, mental and emotional injuries and trauma, property loss - including loss of a business, lost employment, lost income, loss of use of property, additional living expenses due to displacement, and additional losses if they can be shown to have resulted from the flooding.

You will need proof of your losses - medical records and bills, documents showing the value of your house, car or personal property, proof of wages or other income you lost, etc. Concerning any death, you will need the appropriate death certificate.

You cannot collect for damages you would have incurred anyway, if the flooding had not occurred, such as prescription medications you were already taking before Katrina, or physical injuries you already had. However, if you have sufficient medical proof that a disease or injury was made worse, you may be able to recover for this worsening.

Can I receive financial assistance?

Unfortunately, the answer is "no." We cannot offer assistance in class action cases because

there are simply too many claimants.

Do you provide any other type of hurricane relief?

Again, the answer is “no.” We are not associated with the Red Cross, Road Home, FEMA, ACORN, or any other relief organization. We are attorneys and our services only include legal representation.

What if I have questions not answered here?

Call us at 504-885-7700, or 504-581-6180, or write to us at barge@briangilbertlaw.com, or mail your question to Law Office of Brian A. Gilbert, 821 Baronne Street, New Orleans, Louisiana 70113.