

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

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

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* **CIVIL ACTION**
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* **NO. 05-4182**
* **and consolidated cases**
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PERTAINS TO: BARGE

Boutte v. Lafarge_ **05-5531**
Mumford v. Ingram **05-5724**
Lagarge v. Lafarge **06-5342**
Perry v. Ingram **06-6299**
Benoit v. Lafarge **06-7516**
Parfait Family v. USA **07-3500**
Lafarge v. USA **07-5178**

* **SECTION “K” (2)**
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* **JUDGE**
* **STANWOOD R. DUVAL, JR.**
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* **MAG. JOSEPH C. WILKINSON, JR.**
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**DECLARATION OF SHAWN KHORRAMI IN SUPPORT OF PLAINTIFFS’
MOTION TO CERTIFY A CLASS AND POTENTIAL SUBCLASSES, TO
APPOINT CLASS COUNSEL, AND TO PRELIMINARILY APPROVE
PLAINTIFFS’ PROPOSED TRIAL PLAN**

I, SHAWN KHORRAMI, declare as follows:

1. I am the founding partner of Khorrami, Pollard & Abir, LLP., co-counsel for the Plaintiffs in the above entitled action. I make this declaration in support of Plaintiffs’ Motion for Class Certification. I have personal knowledge of the matters stated herein and if so called upon as a witness, could and would testify competently thereto.
2. Concurrent with the filing of this Declaration, Plaintiffs have manually filed with the Court as **Exhibit “1”** a true and correct copy of the Expert Report of **Melvin G.**

- Spinks, P.E.** of CivilTech Engineering, Inc., prepared on June 27, 2008. The Notice of Manual Filing of Exhibit 1 is submitted concurrently herewith. As filed, Exhibit 1 includes sub-exhibit Nos. 1 through 7, and Appendix exhibits A through D.
3. Attached hereto as **Exhibit “2”** is a true and correct copy of an official United States Congress Report entitled “*Failure of Initiative: The Final Report of the Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina.*” A true and correct copy of this document was obtained from the Official United States Government Printing Office at:
<http://www.gpoaccess.gov/Katrinareport/mainreport.pdf>.
 4. Attached hereto as **Exhibit “3”** is a true and accurate copy of the, “*Vital Statistics of All Bodies at St. Gabriel Morgue,*” dated February 23, 2006. A true and correct copy of this document was obtained from the Official Louisiana Department of Health and Hospitals website at:
<http://www.dhh.louisiana.gov/offices/reports.asp?ID=192&Detail=207>
 5. Attached hereto as **Exhibit “4”** is a true and correct copy of the statement of Colonel Jeff Smith (Deputy Director, Louisiana Office of Homeland Security and Emergency Preparedness) on December 14, 2005, submitted to the Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina Re: *Hurricane Katrina: Hearing on the Preparedness and Response by the State of Louisiana Before a Select Committee.* A true and correct copy of this document was obtained from the Official United States House of Representatives website at:
http://katrina.house.gov/hearings/12_14_05/witness_list_121405.htm.

6. Attached hereto as **Exhibit “5”** is a true and correct copy of the statement of Governor Kathleen Blanco on December 14, 2005, submitted to the Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina Re: *“Hurricane Katrina: Hearing on the Preparedness and Response by the State of Louisiana Before a Select Committee.”* A true and correct copy of this document was obtained from the Official United States House of Representatives website at: http://katrina.house.gov/hearings/12_14_05/witness_list_121405.htm.
7. Attached hereto as **Exhibit “6”** is a true and correct copy of the deposition of **Earl Smith**, the LaFarge Maintenance Supervisor, dated November 16, 2006.
8. Attached hereto as **Exhibit “7”** is a true and correct copy of the Expert Report of **Donald Green**, Commander USGC (Retired), dated June 13, 2008 regarding the circumstances surrounding the breakaway of barge ING 4727.
9. Attached hereto as **Exhibit “8”** is a true and correct copy of the deposition of **Edward Busch**, the Lafarge North America Assistant Team Manager, dated November 16, 2006.
10. Attached hereto as **Exhibit “9”** is a true and correct copy of the deposition of **Raymond Grabert Jr.**, Captain of the REGINA H tugboat, dated October 27, 2006.
11. Attached hereto as **Exhibit “10”** is a true and correct copy of the deposition of **Eric Thigpen**, the Deckhand on the REGINA H tugboat, dated October 27, 2006.
12. Attached hereto as **Exhibit “11”** is a true and correct copy of the deposition of **David Castaing**, the dispatcher for Joseph C. Domino, Inc., a Marine Towing Brokerage, dated November 30, 2006.

13. Attached hereto as **Exhibit “12”** is a true and correct copy of the deposition of **Gerald McNeill**, President and Dispatcher of Joseph C. Domino, dated October 11, 2006 .
14. Attached hereto as **Exhibit “13”** is a true and correct copy of the Expert Report of **Donald Green**, Commander USGC (Retired), dated January 17, 2007 regarding the circumstances surrounding the breakaway of barge ING 4727. This Report is a true and correct copy of the Report that was submitted in the Ingram limitations action.
15. Attached hereto as **Exhibit “14”** is a true and correct copy of the declaration of **Edward VanderMuelen**, the LaFarge Area Distribution Manager, dated November 10, 2006.
16. Attached hereto as **Exhibit “15”** is a true and correct copy of the deposition of **William Vilavasso Jr.**, dated December 18, 2007. William Vilavasso Jr., who was the Chief Operator of Pump Station No. 5, a facility near the Florida Avenue Bridge, testified to hearing a boom, a portion of the floodwall giving way, and what appeared to be a barge protruding though the North end of the floodwall.
17. Attached hereto as **Exhibit “16”** is a true and correct copy of the Expert Report of **Gennaro G. Marino, Ph.D. P.E.**, Marino Engineering Associates, INC., entitled *“Preliminary Failure Investigation of the North and South Breaches Along INCH (East), St. Bernard Parish, New Orleans La.”*
18. Attached hereto as **Exhibit “17”** is a true and correct copy of the deposition of **Terry Adams**, dated November 13, 2006. Terry Adams is an eyewitness who lived less than half a block from the Industrial Canal and testified that he observed and heard

the barge contacting and floating through the floodwall at the location of the South Breach.

19. Attached hereto as **Exhibit “18”** is a true and correct copy of the deposition of **Arthur Murph**, Volume I., dated December 17, 2007, Arthur Murph is a witness who lived at 1739 Jordan Avenue who testified to hearing the “big boom” and observed the barge.
20. Attached hereto as **Exhibit “19”** is a true and correct copy of the deposition of **Arthur Murph**, Volume II., dated January 28, 2008. Arthur Murph is a witness who lived at 1739 Jordan Avenue who testified to hearing the “big boom” and observed the barge.
21. Attached hereto as **Exhibit “20”** is a true and correct copy of the deposition of **Carolyn Berryhill**, dated December 13, 2007, Carolyn Berryhill is a witness who lived at 2604 Deslonde Street that testified to hearing a grinding sound.
22. Attached hereto as **Exhibit “21”** is a true and correct copy of the Affidavit of **John A. Kilpatrick** Ph.D. MRICS, Real Estate Appraiser and Consultant, dated June 27, 2008.
23. Attached hereto as **Exhibit “22”** is a true and correct copy of the deposition of **Plaintiff Ethyl Mumford**, who resided within the class region at 1423 Feliciana Street, New Orleans, LA 70117, dated August 5, 2008.
24. Attached hereto as **Exhibit “23”** is a true and correct copy of the deposition of **Plaintiff Josephine Richardson**, who resided within the class region at 1321 Egania Street, New Orleans, LA 70117dated August 11, 2008.

25. Attached hereto as **Exhibit “24”** is a true and correct copy of the deposition of **Plaintiff Jimmie Harris**, who resided within the class region at 924 Lamanche Street, New Orleans, LA 70117, dated August 4, 2008.
26. Attached hereto as **Exhibit “25”** is a true and correct copy of the deposition of **Plaintiff Michael Riche**, who owned rental property within the class region at 128-130 W. Phillip Court, Chalmette, Louisiana, 70043, dated August 6, 2008.
27. Attached hereto as **Exhibit “26”** is a true and correct copy of the deposition of **Plaintiff Jacob Glaser**, who owned business property within the class region, a retail jewelry business located at 8400 W. Judge Perez Drive, Chalmette, Louisiana 70043, dated August 7, 2008.
28. Attached hereto as **Exhibit “27”** is a true and correct copy of the deposition of **Plaintiff Herman Koch**, owner of several rental properties within the class region, including properties located at 3409-11 Shangri La Lane, Chalmette, Louisiana, 70043, dated August 8, 2008.
29. I founded the law Offices of Shawn Khorrami in February 1996, less than three months after being admitted to practice law. Since then, my firm has grown from a solo practice to one of the largest plaintiff-only firms in the nation. In July, 2007, the firm changed its name to Khorrami, Pollard & Abir, LLP (KPA).
30. KPA has represented plaintiffs in many types of complex litigation including, but not limited to; consumer fraud, wage and hour violations, pharmaceutical litigation, environmental law and toxic torts, product liability litigation, catastrophic personal injury, medical negligence/malpractice, nursing home abuse, civil rights, premises liability, residential habitability, tobacco and wrongful death.

31. KPA has served as lead or class counsel in dozens of class actions, each having between a few thousand to millions of putative class members involving anything from pharmaceuticals, to product liability, to labor and employment, to consumer fraud. Among others, these include:
- a. Becker v. Balley Total Fitness, Los Angeles Superior Court Case No. BC290380;
 - b. King v. CVS/Caremark Corp., et al., U.S. District Court, Southern District of Florida Case No. 07 21824 CIV Graham/O'Sullivan;
 - c. Dennis v. Travelocity, Los Angeles Superior Court Case No. BC273172
 - d. Pollard v. Ericsson, Los Angeles Superior Court Case No. BC 288072;
 - e. Ho v. Samsung, Sacramento County Superior Court Case No. 03AS03429;
 - f. The Great Escape Promotion Cases, California Superior Court, JCCP 4343;
 - g. Checkmate v. Yahoo, U.S. District Court, Central District of California Case No. CV 05-4588 CAS;
 - h. Click Defense, Inc. v. Google, U.S. District Court, Northern District of California Case No. C 05 02579 RMW;
 - i. Grair v. GlaxoSmithKline, Los Angeles Superior Court Case No. BC288536;
 - j. Bouverat v. Park West Gallery, Inc., et al., U.S. District Court, Southern District of Florida Case No. 08 21331 CIV Jordan/McAliley;
 - k. Angelino v. DaimlerChrysler Corp., California Superior Court, County of San Diego Case No. GIC 765729;
 - l. Hurtado, et al. v. TEG/LVI Environmental Services, Los Angeles Superior Court Case No. BC276468;

- m. Alba, et al. v. Papa John's, et al., U.S. District Court, Central District of California Case No. CV 05 7487 GAF;
 - n. Bautista v. Park West Gallery, Inc. et al., U.S. District Court, Central District of California Case No. CV08 03717 MRP(RZx);
 - o. Lockette v. Ross Stores, Inc., U.S. District Court, Northern District of California Case No. CV 03430 MMC;
 - p. Cossey v. Coca Cola Bottling Co., Los Angeles Superior Court Case No. BC367978;
 - q. Moore, et al. v. T-Mobile USA, Inc., et al., U.S. District Court, Central District of California Case No. CV 08 3108 GW(AGRx).
32. Additionally, KPA has handled numerous environmental toxic cases including cases involving toxic chemicals such as di(2-ethylhexyl)pythalate (DEHP), mercury, perchloroethylene, polychlorinated biphenyls (PCB's), DDT, toluene, diesel, lindane and lead. KPA has successfully litigated these cases in State and Federal Courts against chemical manufacturers, consumer item manufacturers and distributors, and mining and mineral-extraction interests.
33. KPA has also represented numerous plaintiffs in civil rights actions. Currently, our firm represents a class of tens of thousands of prisoners who suffer from Hepatitis C – a potentially fatal disease – due to the lack of adequate healthcare in California's prisons. We also represent individual plaintiffs in cases involving everything from alleged sexual assault by police officers to use of excessive force, to less lethal munitions.

34. KPA has significant experience in mass torts, having represented thousands of individual plaintiffs against large companies such as GlaxoSmithKline, Eli Lilly, Merck and many more. KPA has served as a member of numerous plaintiff steering committees in state coordinated proceedings and federal MDLs. The firm is experienced in various aspects of managing coordinated proceedings involving thousands of individual cases and multiple class actions – everything from procedure to discovery involving millions of documents and hundreds of depositions, to expert witnesses and scientific issues, to bellwether trial preparation, and even negotiating complex settlement agreements. For example, earlier this year, KPA coordinated and conducted the preparation of over 30 bellwether cases simultaneously in one pending MDL. Among other things, this included many dozens of depositions throughout the country.
35. KPA employs nearly 20 attorneys and 70 administrative staff. Currently, the firm has no fewer than 8 attorneys and at least 12 administrative employees actively involved with this instant action.
36. KPA has dedicated significant resources to this litigation to research, investigate and identify the potential claims in this action, and has undertaken significant effort to package such claims for presentation to this Court through the instant Motion.
37. The expenditure of such resources (which includes both a financial component and dedication of manpower) is a testament to KPA's commitment to Plaintiffs and the overall interest of the putative class, which shall continue as this litigation progresses.

I declare under the penalty of perjury under the laws of the State of Louisiana and the United States of America that the foregoing is true and correct.

Executed on this 29th day of September, 2008, in Los Angeles, California.

A handwritten signature in black ink, appearing to read 'Shawn Khorrami', written over a horizontal line.

Shawn Khorrami, "Declarant"