

The Barge Plaintiffs' Subgroup Litigation Committee

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July 8, 2009

Re: *IMPORTANT UPDATE REGARDING STATUS OF YOUR CASE*

***In Re Katrina Canal Breaches Consolidated Litigation (BARGE)
United States District Court, Eastern District of Louisiana***

Dear Client:

The Barge Plaintiffs' Subgroup Litigation Committee (PSLC) wants to take this opportunity to update all of our clients regarding **critical developments** on the case. You are receiving this letter because you have signed a contract for legal representation with the PSLC relative to Katrina flood claims, and more specifically flood claims arising from the breach of the Industrial Harbor Navigation Canal (IHNC) during Hurricane Katrina. Our lawsuit alleges that a barge, that was inadequately moored and should never have been moored inside of the IHNC with an impending Category 5 hurricane bearing down, broke away from the Lafarge North America dock facility on the western bank of Industrial Canal during Katrina, and breached the eastern Industrial Canal floodwall, causing catastrophic flooding which destroyed portions of the Lower Ninth Ward, Holy Cross, Arabi, and other areas of St. Bernard Parish, west of Paris Road.

As we informed you in our previous updates, we asked the Court to treat your claims as a class action so that there would be one trial that would seek to resolve a very large portion of the Barge-related flooding claims. We believed it would further the administration of justice on as large a case as this is to have the Court proceed in that fashion. The Court (Judge Stanwood Duval, Jr., the federal judge in the Eastern District of Louisiana overseeing all Katrina-related cases) recently **declined** our request to have this suit certified as a class action, deciding that a class action is not the most efficient way to resolve the tens of thousands of potential claims arising out of these events. Instead, the Court has decided that each person, business, or other entity whose rights were affected by the flooding, and who wishes to proceed with a lawsuit, must do so individually. This type of proceeding is known as a mass tort, and it offers certain advantages over class actions.

The Court's decision means that instead of a few selected plaintiffs pursuing a few claims common to everyone, **each person, business or other entity** affected by the flooding in these specific areas may now bring suit for all damages and theoretically, each individual's case (or groupings of individuals) will proceed to trial in an orderly manner. As a result of Judge Duval's ruling, the first set of individual bellwether trials is set to proceed on April 10, 2010.

WHAT DO YOU NEED TO DO NOW TO ASSURE YOUR CLAIMS ARE TIMELY FILED?

Anyone who sustained any type of property loss, bodily injury, or death due to the flooding is entitled to file suit. This may include property owners, renters, businesses, and persons who happened to be in the specific areas damaged by flooding during Katrina. If you are receiving this letter, it is because you are on our roster of clients. We will take care of filing suit on your behalf or otherwise entering into an agreement with the Defendants to "toll" (i.e. suspend) the statute of limitations for enough of a period for us to get an assessment of how the first bellwether trials turn out, after which point we may be in a better position to resolve your case without the need for a trial. However, currently, the Defendants are not offering to resolve this case for any amount of money so we have no choice other than to take these cases to trial.

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In order to be part of this litigation (as you are, because you are receiving this letter), each person over the age of eighteen, must file a lawsuit. If there are other members of your family who you believe have claims but are not specifically receiving this letter, they will need to contact our office to assure that we have the correct paperwork for them to be represented. **YOU DO NOT NEED TO HIRE ANOTHER ATTORNEY TO PROTECT YOUR RIGHTS.**

WHAT KIND OF DAMAGES ARE RECOVERABLE IN THIS CASE?

Losses for which damage may be claimed are wrongful death, bodily injuries, property loss, damage to contents and personal property, damage to vehicles and watercraft, lost employment, lost income, displacement (forced relocation), business losses, emotional injuries (**but only if you did not evacuate prior to Katrina and you suffered a personal injury, witnessed a death or loss of your property, or under certain circumstances were in fear for your safety**), and other potential losses to be determined by the Court.

If you have proof of any of the above losses that **you have not already provided to us**, you must do so *immediately* to the address shown above, 141 Robert E. Lee Boulevard, Ste. 420 New Orleans, Louisiana 70124. Without some sort of proof, there is always the chance your claims will be denied by the court.

DO NOT DELAY. DEADLINES APPLY.

Now that class certification has been denied, suit must be filed within certain deadlines. We anticipate entering into an agreement with the defendants on this case to extend the deadlines for filing individual suits until after the first round of bellwether trials is completed next Spring. We will update you on the results of that negotiation once it is complete. Keep in mind however that if these deadlines are missed, your claims could be permanently and forever time barred (i.e. the statute of limitations may expire), and all rights to recovery lost. As such, we must have all personal information, proof of damages, and retainer contracts **no later than October 1, 2009**. Beyond this date, we cannot assure that your rights will be protected.

If you know of anyone else who intends to participate in these lawsuits and wish to be represented by us (i.e. family members, friends or neighbors that you know have claims), they must provide all information, and a signed retainer contract immediately. All of the necessary forms are available by calling **866.546.7266**.

Also, be sure to provide us with **UPDATED CONTACT INFORMATION** including your current address(es), phone number(s) and email address.

If you have any questions, you may dial **866.546.7266**. One of our representatives will answer your questions, or refer you to an attorney for consultation.

Yours truly,



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