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Re: Industrial Canal Barge Litigation

Dear Client(s):

Please note that my office address and fax number have changed, as reflected above. Please also allow me this opportunity to update you as to the progress of your case, and to convey some important information and instructions.

UPDATE

First, I am pleased to announce that my co-counsel, Lawrence Wiedemann, Pat Sanders, and I, have been appointed interim class counsel by the Court. We will be handling all aspects of the case through the class certification phase, and expect to remain class counsel after that time.

As you are aware, we have sued Ingram Barge Company, Lafarge North America, Zito Towing, and other private companies as the parties with primary responsibility for the barge that broke through the Industrial Canal floodwall. We have accomplished many important tasks including:

Depositions, which reveal, among other things, that the barge was improperly moored, that Coast Guard and other regulations were violated, and that the corporate defendants ignored their obligations to prepare for the hurricane;

Written discovery, which reveals that the defendants knew very early of the danger presented by Katrina, and that the barge itself posed a danger;

We have hired experts in the fields of maritime and port operations, maritime engineering, floodwater analysis, environmental damage and pollution;

We and our experts have made numerous inspections of the barge, mooring lines, Lafarge facility and areas damaged by the flooding;

We have won many motions and court proceedings intended to advance our case;

We have found two eyewitnesses who saw the barge crash through the floodwall;

We have had countless meetings to prepare for trial and develop strategies that might help the case to settle or go to trial much sooner than is typical in large class action claims;

We have determined that the corporate defendants are insured for very large amounts that will provide much money that the State and Federal governments have failed to allocate for recovery in New Orleans.

In July 2006, the court established a schedule for moving the case forward. Right now, we are determining what facts and evidence the defendants possess that will prove our case. The court has tentatively scheduled trial of the first phase of the case for June 2007. This will involve only one issue: one particular defense raised by Ingram (the owners

of the barge). It will not involve testimony from any of the victims, but only the question whether Ingram knew that its barge posed a danger. We expect to prevail, and are very pleased with the progress of the case thus far. Later phases will concern other defenses raised by all defendants, the calculation of damages, and the geographic boundaries of the areas affected by the Industrial Canal floodwaters.

The case looks exceedingly good and we are highly encouraged by the progress thus far. We know of no major obstacles to a very large recovery in due course.

INFORMATION AND INSTRUCTIONS

- 1.) I want to remind each of you that this case is based only upon the flooding caused by the east-side Industrial Canal floodwall breach, not flooding from MRGO or any other source. MRGO claims are not included. Neither are 17th Street Canal, London Avenue Canal, or any other source of flooding.
- 2.) At present, we are only pursuing claims concerning the barge. We have not sued the Army Corps, Levee Board, or any other defendants for claims that the levee or floodwall failed. We believe that the barge caused it to break. We believe that the case against the barge defendants is better than any case against the government. We believe that the barge claims represent the best opportunity for compensation to the victims of the east-side Industrial Canal flooding. We believe that bringing claims against the government might weaken our barge claims.

We do not know if any claims against the government can succeed, but if you are concerned about preserving any rights you may have to bring such claims, you are instructed to contact an attorney who is handling these claims. You are advised that a deadline will probably govern such claims, and that an attorney handling such claims will have information regarding this deadline.

We will continue to represent you relative to the barge claims, regardless of whether you decide to pursue the government also.

- 3.) If you know of anyone who saw or heard the barge hit the eastern Industrial Canal floodwall, we need to talk to him/her/them. Please have any witnesses contact this office immediately.
- 4.) If you have moved, or if your mailing address has changed, please give me an update. I need your current mailing address in order to stay in contact with you. There will be several occasions later in the case in which additional information will be needed. If I cannot locate you then to get your information, your rights may be affected. Please be sure that I always know where to send mail to you.
- 5.) If you know of anyone within the area flooded by the east-side Industrial Canal breach who wants to participate, please have him/her/them contact my office. It's still not too late to sign up.

I will provide additional updates periodically, as the case develops.

Please do not hesitate to call if you have any questions or comments.

With kindest regards,

Brian A. Gilbert

BAG/jrc