

FILED
 U.S. DISTRICT COURT
 EASTERN DISTRICT OF LA
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 LORETTA G. WHYTE
 CLERK

UNITED STATES DISTRICT COURT
 EASTERN DISTRICT OF LOUISIANA

ETHEL MUMFORD, individually and on behalf
 of a class of persons with common claims

VS.

INGRAM BARGE COMPANY and RIVERWAY
 COMPANY

CIVIL ACTION **05-5724**
 No. **SECT. T MAG. 2**
 SECTION
 MAG. DIV. ()

SUIT FOR DAMAGES
TRIAL BY JURY

The petition for Ethel Mumford, a person of the full age and majority and a
 resident of Orleans Parish, State of Louisiana, individually, and on behalf of a class of
 persons with common claims, with respect, represents

I.

This Court has jurisdiction over this matter as follows: Diversity, under 28 USC
 1332; General Maritime Law under 28 USC §1333; and the surrogate law of the state of
 Louisiana under the saving to suitor's clause of 28 USC §1333.

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II.

The following are named defendants herein, to wit:

- 1.) **INGRAM BARGE COMPANY**, a foreign corporation authorized to do, and doing, business in the state of Louisiana and within the venue of this Honorable Court;
- 2.) **RIVERWAY COMPANY**, a foreign corporation not qualified to do business in the State of Louisiana but, at all times pertinent, engaging in business in the state of Louisiana and within the venue of this Honorable Court.

III.

The nominal plaintiff, and the class she seeks to represent, are: owners, renters, or occupiers, of residences, and the contents thereof, and owners of automobiles, trucks, or boats, on the East side of the Industrial Canal in the Ninth Ward of the City of New Orleans, and St. Bernard Parish, whose property was destroyed, or damaged, by flooding following Hurricane Katrina on Monday, August 29, 2005.

IV.

Defendants at all times pertinent were the owners, charterers, operators of a steel freight barge 200 feet in length, 35 feet in breadth, and 12 feet in depth, identified as ING 4727, VIN #955868, hull # 1942-10, and alternative VIN #CG025606.

V.

The allision between the unmanned barge and the east side flood wall compels defendants to prove that their negligence was not a proximate cause of the allision. At

all times pertinent the aforesaid barge was under the joint, and concurrent, control and supervision of defendants through their employees acting in the course and scope of their employment with defendants. The incident was of a kind and nature that cannot occur without negligence and all of the facts are within the exclusive knowledge, and control of defendants and not equally accessible to plaintiffs wherefore the doctrine of res ipsa loquitur is applicable and specially pleaded herein.

VI.

In the alternative, and should the court find res ipsa loquitur to be inapplicable them, and in that event, plaintiff alleges that the aforesaid barge was negligently left by defendant unmanned, improperly moored, and without a power vessel to assist in its control in the direct path of the approaching category five (5) Hurricane "Katrina".

VII.

The aforesaid barge, abandoned by defendants to the elements, broke loose from its inadequate moorings and crashed through the East side flood wall of the Industrial Canal taking out a large section of the flood wall causing a huge amount of water from Lake Pontchartrain and the Industrial Canal to flow into the Ninth Ward of Orleans Parish and St. Bernard Parish causing catastrophic damage, personal injury and mental anguish to the nominal plaintiff and the class she seeks to represent.

VIII.

The nominal plaintiff, her undersigned counsel, and the class that she seeks to represent meet all the requisites of Rule 23 of the Federal Rules of Civil Procedure.

IX.

Plaintiff's are entitled to recover of defendants the following elements of compensatory damage, among others that will be shown at the time of trial, to wit:

1. Damage to their immovable and movable properties;
2. Demolition and salvage of their immovable and movable properties;
3. Cost of restoration of their land to the pre-Katrina uncontaminated state;
4. Displacement cost in the temporary replacement of their home, and property;
5. Lost income;
6. Pain, suffering, and mental anguish.

X.

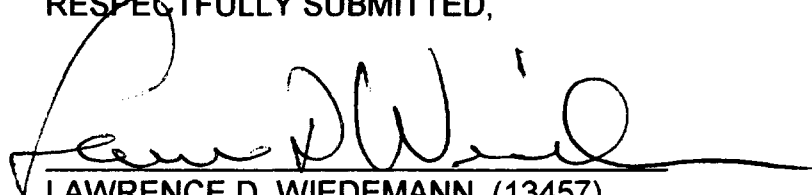
Plaintiff, and the class are entitled to punitive damages because of defendants' reckless, wanton, egregious and reprehensible conduct.

Plaintiff desires is entitled to trial by jury.


WHEREFORE, plaintiff prays that the defendants be duly cited to appear and answer this petition and, after the legal delays and due proceedings had, that there be judgment herein favor of the nominal plaintiff, and the class that she seeks to represent, in amounts to be fixed by the jury to truly, and fully, compensate them for the compensatory damages sustained by them, and for punitive damages to punish and deter defendants such reckless, wanton, egregious, and reprehensible conduct, together, with prejudgment legal interest thereon from date of occurrence and all cost if these proceedings.

Plaintiff's further pray for trial by jury and for all general and equitable relief required or necessary in the premises.

RESPECTFULLY SUBMITTED,



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