

**UNITED STATES DISTRICT COURT**

**EASTERN DISTRICT OF LOUISIANA**

**In Re: KATRINA CANAL BREACHES  
CONSOLIDATED LITIGATION**

§ **CIVIL ACTION NO. 05-4182 “K”(2)**

§  
§ **JUDGE DUVAL**

§  
§ **MAGISTRATE WILKINSON**

**PERTAINS TO: ROAD HOME**  
*Louisiana State C.A. No. 07-5528*

§  
§  
§

**DEFENDANTS’ MOTION TO DISMISS**

The undersigned Defendants respectfully move the Court for an Order dismissing the Amended Petition with prejudice pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. As set forth more fully in the accompanying Memorandum in support of this Motion, dismissal is appropriate because (1) the State of Louisiana (“State” or “Plaintiff”) lacks standing, as purported assignee, to sue on Defendants’ insurance policies; (2) the State’s claims for recovery or declaratory judgment with respect to flood claims are barred by controlling precedent; (3) the State’s claims under the Valued Policy Law fail as a matter of law; (4) the State’s claims for extra-contractual damages fail as a matter of law; (5) the State’s claims are prescribed as to many insureds; and (5) the State has failed to adequately plead any breach of contract or bad faith claim. For all of these reasons, the Amended Petition should be dismissed in its entirety under Rule12(b)(6).

In support of this Motion, Defendants submit the accompanying Memorandum of Law, as well as Appendix A (setting forth certain relevant policy language), Appendix B (containing

certain relevant policy pages), Appendix C (“The Road Home Limited Subrogation/Assignment Agreement”) (emphasis in original), and Appendix D (certain unreported decisions).

Respectfully submitted,

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I hereby certify that a copy of the foregoing Defendants' Motion to Dismiss has been served upon all counsel of record by electronic notice from the Court's CM/EC Filing System, this 20th day of November, 2008.

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