

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA**

**IN RE KATRINA CANAL BREACHES  
CONSOLIDATED LITIGATION**

**CIVIL ACTION**

**NO. 05-4182**

**PERTAINS TO:  
BARGE**

**SECTION "K"(2)**

**ORDER**

On July 1, 2008, the Court held a status conference concerning the issue of insurance coverage for Lafarge North America (“Lafarge”) and plaintiffs’ direct action against Lafarge’s insurer. The Court was concerned about the apparent delay in resolving the coverage issue for Lafarge with respect to its P&I carrier The American Steamship Owners Mutual Protection & Indemnity Associations, Inc. (“the American Club”). The Court requested briefing on various topics to determine whether it should reverse its prior decision and allow the Barge plaintiffs to file a motion for summary judgment against the American Club concerning coverage.

Having reviewed the voluminous filings and having now been fully apprised of the various issues pending in the Southern District of New York before Judge Haight, this Court finds that its initial decision not to entertain a motion practice on the coverage issue should not be disturbed. The major reason for the Court’s concern was the fact that it did not appear that a decision concerning coverage was imminent. However, on August 1, 2008, Judge Haight made clear to the litigants and to this Court<sup>1</sup> that he intends to resolve this matter by summary judgment if possible with all submissions having been filed by August 25, 2008. In the event it is not so decided, there will be a bench trial on the main issue commencing on October 6, 2008.

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<sup>1</sup>The Court greatly appreciates Judge Haight’s determination to bring this matter to a swift resolution particularly having now been fully apprised of the thorny issues before him.

In addition, the ancillary issues surrounding excess coverage have not been consolidated with this decision and that they will proceed in due course.

In the event that Judge Haight finds that the American Club must provide coverage to Lafarge for the alleged damages caused by the Ingram barge, then it will be bound by that decision in this case. If not, plaintiffs will not necessarily be precluded from adjudicating the issue before the Court at a later time. While this decision may create another layer of litigation here, allowing summary judgment on the issue now could likewise create another layer of litigation with inconsistent rulings; whereas, should there be a finding of coverage, then the matter would be settled. Thus, the fact remains that it makes no sense in terms of judicial economy to entertain a motion practice on this issue at this stage of the litigation. Accordingly,

**IT IS ORDERED** that the stay shall remain in place with respect to motion practice on the insurance issues concerning Lafarge.

New Orleans, Louisiana, this 29th day of August, 2008.

  
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**STANWOOD R. DUVAL, JR.**  
**UNITED STATES DISTRICT COURT JUDGE**