

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

IN RE KATRINA CANAL BREACHES
CONSOLIDATED LITIGATION

CIVIL ACTION

NO. 05-4182

SECTION "K"

PERTAINS TO: BARGE

<i>Mumford</i>	C.A. No. 05-5724	<i>as to claims of plaintiffs Josephine Richardson and Holiday Jewelers, Inc. - ONLY</i>
<i>Benoit</i>	C.A. No. 06-7516	<i>as to claims of plaintiffs John Alford and Jerry Alford - ONLY</i>

ORDER

At the completion of the trial of this matter the Court reiterated its order concerning the parties' briefing schedule and provided page limits as follows:

July 23	Trial transcript shall be completed.
August 13	Plaintiffs' Post-Trial Findings of Fact/Conclusions of Law with no page limitation with respect to this pleading shall be filed. As the Court noted, the persuasive Post-Trial Memoranda shall be the main focus of the Court's deliberations. Plaintiffs' Post Trial Memoranda shall not be more than 75 pages and will include, but is not limited to, the issues outlined below.
September 3	Defendant's Post-Trial Findings of Fact/Conclusions with no page limitation with respect to this pleading shall be filed. As the Court noted, the persuasive Post-Trial Memoranda shall be the main focus of the Court's deliberations. Defendant's Opposition to Plaintiffs' Post Trial Memoranda which shall not be more than 75 pages and will include, but is not limited to, the issues outlined below.
September 17	Plaintiffs' final responses thereto which shall not be more than 30 pages.

The purpose of the Post-Trial Memoranda is to persuade the Court why plaintiffs' or defendant's theory of the case should prevail. The issues to be included to in these memoranda are as follows:

- a. The applicability and the significance of *Louisiana Rule* and the *Pennsylvania Rule* in this case;
- b. Whether the barge was a substantial factor in the levee breaches; what criteria should be used to make such a determination;
- c. In the event the Court should find that the Barge was a substantial factor with respect to one breach, what effect does that have on damages and how would the Court determine such damages;
- d. Whether Dr. Marino's or Dr. Bea's/Bakeer's approach to the failure mechanisms involved in these breaches is correct and why—this discussion should include a concise, incisive and clear differentiation of the approaches;
- e. Credibility of eye-witnesses as to alleged location and sounds allegedly made by the barge on Sunday and Monday of the storm;
- f. Credibility of theory that places the barge at the North Breach and/or South Breach at the approximate time of the respective breaches on Monday, August 29, 2005;
- g. Explanation of the uniqueness of the breaches particularly the flipping of the sheet piling at the North Breach and the extensive fan-out of the sheet piling at the South Breach; and
- h. Permeability of the soil, timing of commencement of under-seepage, trenching, overtopping and scouring.

As noted during the Court's closing remarks, the parties are reminded that brevity is the sole of wit and persuasion; the briefing should be concise and to the point with specific citation into the record exhibits and specific testimony to support each parties contentions.

IT IS FURTHER ORDERED that any objection to testimony in the deposition of Mr. Joel Dupre shall be filed **no later than Friday, July 16, 2010** with response thereto to be filed **no later than Friday July 23, 2010**.

New Orleans, Louisiana, this 14th day of July, 2010.



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