

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

COLLEEN BERTHELOT, ET AL.,

CIVIL ACTION

VERSUS

NO. 05-4182

**BOH BROTHERS CONSTRUCTION CO.,
L.L.C., ET AL.**

**SECTION "K"(2)
CONS. KATRINA CANAL**

PERTAINS TO: 05-4181

ORDER AND REASONS

Before the Court a Motion for Reconsideration of the Court's Denial of Plaintiffs' Objections to and Motion to Review Magistrate's Order (Doc. 421) which was filed with respect to the Court's previous ruling overruling plaintiffs' objections to Magistrate Judge Jay Wilkinson's denial of plaintiffs' motion to amend which would represent the twelfth time plaintiffs sought leave to do so.

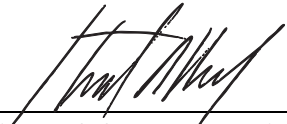
The Court recognizes that as this matter is a non-dispositive pretrial matter referred pursuant to 28 U.S.C. § 636 to Magistrate Judge Wilkinson for decision, under 28 U.S.C. § 636(b)(1)(A), "a judge of the court may reconsider any pretrial matter under this subparagraph (A) where it has been shown that the magistrate judge's order is clearly erroneous or contrary to law." Nonetheless, because ultimately, a decision regarding whether the amendment of a complaint should be allowed is entrusted to the discretion of the Court under Fed. R. Civ. P. 15(a), courts have reviewed a magistrate judge's decision in this regard based on an abuse of discretion standard which is less stringent than the clearly erroneous standard. *See Complaint of Kirby Inland Marine, L.P.*, 365 F. Supp.2d 777, 781 (M.D.La. 2005); *Douglas v. DynMcDermott Petroleum Operations Co.*, 1996 WL 304257, *1 (E.D.La.1996). Apparently counsel is arguing

that the Court should use an even more stringent standard of review of the magistrate judge's ruling. Thus, the Court is unpersuaded by plaintiffs' arguments to allow the amendment. Plaintiffs have failed to demonstrate that the magistrate judge's order is clearly erroneous or contrary to law, and the Court remains convinced that there was no abuse of discretion on the part of Magistrate Judge Wilkinson in his decision to deny leave. Accordingly,

IT IS ORDERED the Motion for Reconsideration of the Court's Denial of Plaintiffs' Objections to an d Motion to Review Magistrate's Order (Doc. 421) is **DENIED**.

IT IS FURTHER ORDERED that the Request for Oral Argument was filed with respect to these objections is **MOOT**.

New Orleans, Louisiana, this 13th day of June, 2006.



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