

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

The following order pertains to a Motion for Disqualification of the District and Magistrate Judges of the United States District Court for the Eastern District of Louisiana *En Banc* which was filed in each of the following cases, the document number being noted thereafter:

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| 05-4181 "K"(2) | O'Dwyer, et al. v. USA, et al. (Doc. No. 173) |
| 05-4182 "K"(2) | Berthelot, et al. v. Boh Bros. Construction, et al. (Doc. No. 53) |
| 05-4568 "K"(2) | Harvey v. Board of Commissioners for the Orleans Levee Board (Doc. No. 28) |
| 05-5237 "K"(2) | Vodanovich v. Boh Bros. Construction, et al. Doc. No. (Doc. No. 45) |
| 05-6073 "K"(2) | Kirsch, et al. v. Boh Bros. Construction Co., et al. (Doc. No. 40) |
| 05-6314 "K"(2) | Ezell, et al. v. Boh Bros. Construction Co., et al. (Doc. No. 30) |
| 05-6323 "K"(2) | Vanderbrook, et al. v. State Farm Fire & Casualty (Doc. No. 27) |
| 05-6324"K"(2) | Brown, et al. v. Boh Brothers Construction, et al. (Doc. No. 16) |
| 05-6327 "K"(2) | LeBlanc, et al. v. Boh Bros. Construction Co., et al. (Doc. No. 36) |
| 05-6438 "K"(2) | Armstead, et al. v. C. Ray Nagin, Mayor, et al. (Doc. No.13) |
| 06-0020 "K"(2) | Tauzin, et al. v. Board of Comm. for the Orleans Levee Board (Doc. No. 16) |
| 06-0151 "K"(2) | Conlay v. Encompass Ins. Co., et al. |

(Doc. No. 30)

06-0152 "K"(2) Rogers v. Encompass Ins. Co., et al
(Doc. No. 23)

06-0153 "K"(2) Baird, et al. v. Encompass Ins. Co., et al.
(Doc. No. 25)

06-0169 "K"(2) Humphreys v. Encompass Ins. Co., et al.
(Doc. No. 26)

06-0225 "K"(2) Bradley, et al. v. Pittman Const. Co., et al.
(Doc. No. 9)

06-0886 "K"(2) Finney, et al. v. Boh Brothers, et al.
(Doc. No. 9)

ORDER AND REASONS

Before the Court is a Motion for Disqualification of the District and Magistrate Judges of the United States District Court for the Eastern District of Louisiana *En Banc* which was filed by the Board of Commissioners of the Orleans Levee District ("OLD") in each of the above-captioned cases. As noted by the title, OLD seeks to disqualify every judge and magistrate judge of the Eastern District of Louisiana from these cases contending that pursuant to the constricts of 28 U.S.C. § 455(a)¹ and § 455(b)(4)², such a recusal is mandated.

The Court has reviewed this motion and finds that the motion is cast in a procedurally improper posture. At the present time, each of the above-captioned cases is allotted to the

¹ Section 455(a) provides, "Any justice, judge or magistrate of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.."

² Section 455(b)(4) provides in relevant part: "He shall also disqualify himself . . . [where] he knows that he, individually or as a fiduciary, or his spouse or minor child residing in his household, has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding."

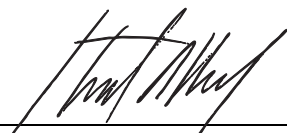
undersigned and Magistrate Judge Jay Wilkinson. As disclosed in open court on March 24, 2006, the undersigned suffered no damage caused by flooding. Thus, neither does the undersigned have any financial interest in the subject matter of these suits, nor does his spouse or any minor child residing in his household. To attempt to recuse every judge and magistrate judge of this Court *en banc* is premature, given the fact that the undersigned may not have a basis to recuse. Likewise, it is not for this judge to rule on the propriety of Magistrate Judge Wilkinson or any other judge's qualifications under 28 U.S.C. 455. Accordingly,

IT IS ORDERED that the Motion to Disqualify in each of the above-numbered cases is **DENIED** as procedurally improper.

IT IS FURTHER ORDERED that should the Commissioners of the Orleans Levee District find it necessary, a proper motion to recuse **solely** the undersigned must be filed on or before **April 5, 2006**, and noticed for hearing before the undersigned.

IT IS FURTHER ORDERED that should the Commissioners of the Orleans Levee District find it necessary, a proper motion to recuse Magistrate Judge Jay Wilkinson must be filed on or before **April 5, 2006**, and noticed for hearing before him.

New Orleans, Louisiana, this 28th day of March, 2006.



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