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FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF LA
2006 JUN 15 P 4:46
LORETTA G. WHYTE
CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

COLLEEN BERTHELOT, ET AL.

Plaintiffs

VERSUS

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

Defendants

THIS DOCUMENT RELATES TO:
05-4181, 05-4182, 05-5237, 05-6073, 05-6314,
05-6324, 05-6327, 06-0020, 06-225, 06-886,
06-2278, 06-2287, 06-2545, 06-2346

* CIVIL ACTION NO. 05-4182
*
* SECTION "K"
*
*
* JUDGE DUVAL
*
*
* MAGISTRATE NO. 2
*
*
* MAGISTRATE WILKINSON
*
*
* A JURY IS DEMANDED

GOVERNMENT DEFENDANTS', THE BOARD OF COMMISSIONERS OF THE
ORLEANS LEVEE DISTRICT AND THE SEWERAGE AND WATER BOARD OF NEW
ORLEANS, FED. R. CIV. P. 12(B)(6) JOINT MOTION TO DISMISS

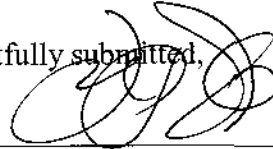
NOW INTO COURT, through undersigned counsel, come government defendants, The Board of Commissioners for the Orleans Levee District (hereinafter sometimes referred to as "defendant" or "Orleans Levee District") and The Sewerage and Water Board of New Orleans (hereinafter sometimes referred to as "SWBNO"), and as more fully discussed in the accompanying Memorandum in Support, which defendants incorporate herein, respectfully pray for an Order granting their Fed. R. Civ. P. 12(b)(6) Motion to Dismiss plaintiffs' claims, with prejudice, for failing to state a claim upon which relief can be granted. Defendants are statutorily

Fee _____
Process _____
X Dktd _____
✓ CtRmDep _____
Doc. No _____

immune from any and all lawsuits arising out of its emergency preparedness activities in accordance with La. R.S. 29:735. Because Louisiana law bars plaintiffs from instituting the subject actions, defendants are entitled to an Order granting their Fed. R. Civ. P. 12(b)(6) Motion to Dismiss.

WHEREFORE, government defendants, The Board of Commissioners for the Orleans Levee District and The Sewerage and Water Board of New Orleans, pray for an Order granting their Fed. R. Civ. P. 12(b)(6) Motion to dismiss, with prejudice.

Respectfully submitted,

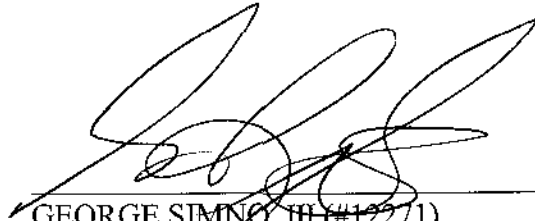


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CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing pleading has been served upon all counsel of record by placing same in the U.S. Mail, postage prepaid and properly addressed this 15th day of June, 2006.

