

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

In Re: KATRINA CANAL BREACHES  
CONSOLIDATED LITIGATION

CIVIL ACTION

NO. 05-4182 "K" (2)

PERTAINS TO: ROAD HOME, Louisiana State, 07-5528

JUDGE DUVAL  
MAG. WILKINSON

**INTERIM "ROAD HOME" CASE MANAGEMENT ORDER**

In its "Road Home Consolidation Order," the court previously stated that it "intends to enter a Case Management and Scheduling Order No. 6 ("CMO No. 6"), which will set forth a particular schedule the Court will impose on this case concerning discovery, motion practice, and a trial date, . . ." Record Doc. No. 7729. The State of Louisiana subsequently filed a "Motion to Enter Case Management Order," Record Doc. No. 8646, with a proposed CMO No. 6 attached. No opposition to the motion has been timely filed, as ordered in Record Doc. No. 8676.

While the motion is unopposed, and much of what the proposed order contains is acceptable to the court, the proposed order does none of the things contemplated in the court's prior order concerning CMO No. 6. Rather than set forth a schedule for further proceedings in the "Road Home" case, the proposal of the parties is essentially a stand-still order concerning formal proceedings, while the court addresses the pending motion to remand and the parties conduct an informal exchange of information and further discussions.

Accordingly, the motion is GRANTED IN PART as provided herein. CMO No. 6 will not be entered at this time. Instead, the court enters the following order, largely consistent with the proposal of the parties, as an interim case management order pursuant to Fed. R. Civ. P. 16, along the lines requested in the parties' motion, but amended by the court as provided therein.

**IT IS ORDERED** that:

I. PARTIES: For the purposes of motion practice or discovery matters, the parties are classified in the following categories:

A. Plaintiffs: The State of Louisiana and a putative class of Road Home Applicants and Recipients on whose behalf the State purports to sue, and;

B. Insurance Company Defendants.

II. REMAND MOTION: The State has filed a motion to remand the Road Home Action to state court. Such motion has been noticed for November 14, 2007. Oppositions shall be filed by **November 6, 2007**, and any reply shall be filed by **November 9, 2007**.

III. RESPONSIVE PLEADINGS: The deadline for responding to the complaint, whether by answer or by motion, is hereby extended until 30 days after the later of the following events: (1) the date on which the court issues its order on the Motion to Remand filed by The State of Louisiana, or (2) in the event of an appeal from any order of remand, the date on which the court of appeals rules on such motion. No pleading or motion in response to the

complaint shall be filed until after the later of the events that trigger the deadline stated in this paragraph.

IV. CLASS CERTIFICATION: All matters relating to class certification, including all deadlines for filing a motion for class certification, are stayed pending further order of this court.

V. DISCOVERY, MOTION PRACTICE, TRIAL: Unless otherwise provided by order of this court, all Rule 16 obligations, Rule 26 obligations, discovery, motion practice, pleading deadlines, and trial plan relating to the Road Home case, other than the State's motion to remand and the Defendant Insurance Companies' responsive pleadings as set forth in Section III are stayed until 30 days after the later of the following events: (1) the date on which the court issues its order on the Motion to Remand filed by the State of Louisiana or (2) in the event of an appeal from any order of remand, the date on which the court of appeals rules on such motion. No discovery shall take place until further order of the court. Nothing contained within this paragraph shall prohibit the filing of a consent motion to dismiss any party which is not a proper defendant if agreed to in writing by the parties.

VI. PLAINTIFFS' LEAD COUNSEL AND DEFENDANTS' STEERING COMMITTEE:

A. Plaintiffs' Lead Counsel: The court appoints Calvin C. Fayard, Jr. as Plaintiffs' Liaison and Lead Counsel and the following attorneys as Co-Lead Counsel for

Plaintiffs: Paul Gerard Aucoin, Frank C. Dudenhefer, Jr., Joseph Jerry McKernan, Drew Ranier, and James P. Roy.

B. Defendants' Road Home Steering Committee: The court hereby appoints Ralph Hubbard III as Liaison Counsel for the Defendant Road Home Steering Committee, and Judy Barrasso and Charles L. Chassignac, IV are appointed to the Defendants' Road Home Steering Committee.

VII. CONFIDENTIALITY: The court acknowledges that Exhibit A to the State's First Amended Petition was filed under seal pursuant to order of the Civil District Court of Orleans Parish entered on August 29, 2007. As Exhibit A contains personal information of Road Home Applicants and Recipients, as well as information that is proprietary to the Insurance Company Defendants, such seal order is continued in effect until lifted or modified by this court.

The parties hereto have submitted an agreed Stipulated Confidentiality Agreement and Order governing the information contained on Exhibit A and any supplements to Exhibit A that may be filed or exchanged during the course of this litigation. Some of what is contained in this proposed order is not acceptable to the court. The court will separately issue its Protective Order based in part upon this submission, as modified, after further discussions with counsel and upon the filing of a new motion.

After entry of a suitable Protective Order, the State shall use its best efforts to provide each of the Insurance Company Defendants, or group of Defendants, as the parties agree, within 10 (ten) days of the date of entry of the court's Protective Order, with a separate list of all those Insurance Company Defendant's insureds' Personal Information contained on Exhibit A to the State's First Amended Petition, pursuant to the Stipulated Confidentiality Agreement and the court's separate Protective Order. The State shall also periodically provide updates to the Insurance Company Defendants as to any grant Applicants who have become grant Recipients.

At such time as discovery commences, the court may make further orders regarding additional confidential information that may be exchanged in this litigation and may direct the parties to use their best efforts to agree on a proposed confidentiality order.

VIII. OTHER: Neither any provision of this Order nor the participation of the Insurance Company Defendants in the preparation of this Order shall be deemed to be any kind of concession by the Insurance Company Defendants as to the validity of the State's claims or to be any kind of waiver of any defenses.

IX. JURISDICTION: Neither any provision of this Order nor the participation of the State in the preparation of this Order or any other motion, conference or hearing shall be deemed to be any kind of concession by the State as to the validity of this court's or any other federal court's jurisdiction over the State's Road Home case or any kind of waiver of any

defense to jurisdiction or any right to pursue any other state court action against any insurance company for its activities in handling any insurance claim arising from Hurricanes Katrina or Rita.

X. FURTHER PROCEEDINGS:

When the motion to remand is determined, the court may require the parties to confer and submit a proposed CMO No. 6 that suggests a schedule for all further proceedings, including discovery deadlines, motion practice and trial, in this matter.

New Orleans, Louisiana, this 6th day of November, 2007.



---

STANWOOD R. DUVAL, JR.  
UNITED STATES DISTRICT JUDGE



---

JOSEPH C. WILKINSON, JR.  
UNITED STATES MAGISTRATE JUDGE