

**UNITED STATES DISTRICT COURT**

**EASTERN DISTRICT OF LOUISIANA**

**In Re: KATRINA CANAL BREACHES  
CONSOLIDATED LITIGATION**

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**THIS DOUMENT RELATES TO  
LEVEE: 07-5184 (Rault Resources, Inc.)  
07-5187 (R. Scott McCay)  
07-4775 (Murphy Building Corp.)  
07-5186 (Bonnie Rault)**

**\* CIVIL ACTION  
\*  
\* NUMBER: 05-4182  
\* & CONSOLIDATED CASES  
\*  
\* SECTION "K"  
\*  
\* JUDGE DUVAL  
\*  
\* MAG. WILKINSON**

\* \* \* \* \*

**MOTION PURSUANT TO F.R.CIV.P. 12(B)(6) TO DISMISS**

**NOW INTO COURT**, through undersigned counsel, comes defendant, The Board of Commissioners of the East Jefferson Levee District ("EJLD"), who moves this Court to dismiss plaintiffs' Complaints under F.R.Civ.P. 12(b)(6). The Complaints filed on August 28 and 29, 2007, alleging negligence and fault against EJLD, as well as others, for flooding and resulting damages following Hurricane Katrina, are prescribed as against the EJLD. The EJLD is therefore entitled to an Order dismissing plaintiffs' Complaints against them with prejudice. The reasons supporting this Motion are more fully set forth in the attach memorandum in support of this motion.

**WHEREFORE**, defendant, EJLD prays that after due proceedings are held, that this Court grant its motion and dismiss plaintiffs' claims against the EJLD pursuant to

F.R.Civ.P. 12(b)(6), with prejudice and at plaintiffs' cost.

Respectfully Submitted,

**DUPLASS, ZWAIN, BOURGEOIS, MORTON,  
PFISTER & WEINSTOCK**

/S/ JOSEPH E. BEARDEN, III

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**ATTORNEYS FOR DEFENDANT,  
BOARD OF COMMISSIONERS OF THE  
EAST JEFFERSON LEVEE DISTRICT**

**CERTIFICATE**

I do hereby certify that on the 8<sup>th</sup> day of January 2008, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system, which will send a notice of electronic filing to all participating counsel of record. I also certify that I have mailed the foregoing by United States Postal Service, First Class, to all non-CM/ECF participants.

/S/ JOSEPH E. BEARDEN, III

JOSEPH E. BEARDEN, III (#26188)