

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF LA

2005 SEP 19 AM 11:47

LORETTA G. WHYTE
CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
NEW ORLEANS DIVISION

NO. : 05-4181
DIVISION:
MAGISTRATE
SECTION 1
MAG. 2

MAUREEN O'DWYER, ET AL
VERSUS

THE UNITED STATES OF AMERICA, ET AL

COMPLAINT FOR COMPENSATORY
AND EXEMPLARY DAMAGES,
AND FOR REASONABLE ATTORNEY'S
FEES AND TAXABLE COSTS
IN A CLASS ACTION LAWSUIT
FILED PURSUANT TO THE
FEDERAL RULES OF
CIVIL PROCEDURE

Fee _____
Process _____
X Dkt _____
Clerk/Dep _____
Dec. No _____

(2)

I.

Current plaintiffs in the above-styled and numbered cause are the following:

Trust of the Succession of
Her Brother Stephen
Williams, and on behalf
of any and all heirs, sub-
junctives, relatives and bene-

ficiaries of the deceased

Maureen O'Dwyer
Harold Joseph Gagnet
Sally A. Richards
Kigerton

~~Caryn Johnson~~

Shaun Porter } and their ^{upheld} ~~upheld~~
Stephanie Porter } business to be

Shelia Jones Jordan

Charles Edward Jordan

~~Wayne M. Jones~~

Gloria Agnes Gussin,
individually and as Administrator

Leticia Brown

~~Robin Foster~~

JO Anna McLean

Lee Davidson McLean III

Identified, at a later date
by name

3

~~Wally~~
Katherine Franks

Richard Springer Favor
and
Miriam Mc Michael Favor
d/b/a The Garden Smith

Philip B. Aelford

~~Gerald~~

Gerald Pipes Guice
Beverly Anne ~~Guice~~
Ferguson Guice

Constantine Frank
Nicoladis

Madeline Alise Guice
Nicoladis

Kenneth Hastings Guice

Anthony Phillip
Henderson

Louis Joseph O'Dwyer, Jr. (4)
Maureen M. O'Dwyer
Caron Jacob O'Dwyer
Henry Grady Hardy, Jr.
Letizia Hardy
Jane Veronica Hardy
Brian Southwold
Hardy
Martin Ramos
Richard Ehret
Leslie Ehret
Anthony Phillip Henderson
Frances Y. Bellerino
Louise J. Young
Edward R. Young
and
Veronica F. Young
d/b/a Floorcrafters Wood

(5)

representatives of the representatives
~~the~~ classes of plaintiffs, ~~as~~ described
in your ~~tr~~is litigation and ~~with~~ ^{with} to be
represented by undersigned ^{counsel}.

Joseph Rauchwerk, M.D.
~~and his spouse~~
~~family~~ Cheryl Sweet-Rauchwerk
Marilyn Von Schmidt
Susan G. Jeanpierre, M.D.
Wallace E. Jeanpierre, M.D.
Robert J. Jeanpierre, M.D.

Jerry Victor Jacob
Gloria Pohlenman Hecker

~~Joseph W. P. Hecker,~~
in proper person

Anton R. O'Dwyer, ^{JR.} in
proper person

NOT Plaintiffs reserve the right
to amend the list of plaintiffs
as more persons, ~~as~~

⑥

II.

Plaintiffs are representative of the following classes of people, inter alia:

- ① Survivors of human beings who died as a result of governmental^{is} intentional and negligent malfeasance, misfeasance and non-feasance prior to and after Hurricane KATRINA.
- ② Citizens and/or residents of the Parish of Orleans, State of Louisiana who suffered bodily injury, mental suffering and emotional distress as a

(17)

intentional and negligent
malfeasance, misfeasance
and non-feasance, ~~both~~
prior to and after Hurricane
KATRINA.

mental scatology of urban
terrorism, see infra.

(C) Citizens and/or residents
of the Parish of Orleans,
State of Louisiana who
suffered loss of or
damage to property as
a result of government's
intentional and
negligent malfeasance,
misfeasance and
non-feasance, whether
by flood, fire or govern-

(D) Citizens and/or residents
of the Parish of Orleans,

⑧

state of hoisic, ~~their~~ and
their survivors, who suffered
death, bodily injury,
mental suffering, and
emotional distress as
a result of government's
de facto sanctioning of
urban terrorism ~~which~~
~~which~~ which commenced
even before Hurricane
KATRINA had abated,
and continued, virtually
unchecked, until the
arrival of the United
States military in the
City of New Orleans, long
before the ~~state~~ had abated

(9)

(E) Citizens and/or residents of the Parish of Orleans, State of Louisiana who ^{sustained} ~~suffered~~ mental suffering and emotional distress as a result of government's ultra vires acts such as claimed "mandatory evacuation due to exigent circumstances", which is not a legal concept sanctioned by the Constitution of the United States of America, and ~~deprive~~ of land and soul.

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hungry and thirsty
so-called "hold-outs",
who remained in
the City because the

U.S. Constitution gives
them the right to
bear arms and
protect their
property at their
own risk, and
who were entirely

admittedly
trying
times,
increase self-sufficient, did not
government's burden during
and performed
services for the community,
government proved
incommensurate in return

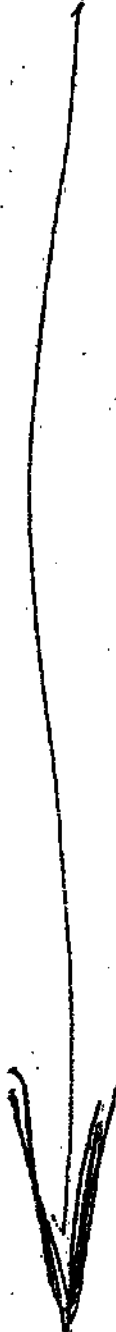
(11)

(F) ~~XXX~~ Citizens and/or residents
 of the Parish of Orleans,
 State of Louisiana who
 suffered environmental
 damages akin to con-
~~ta~~ tamination of natural
 resources under the
 federal and state legislation which ~~make~~
 make provision for
~~the~~ Natural Resource
 Damage Assessments
 and damages recover-
 able under the Oil
 Pollution Act of 1990,
 the Louisiana Oil Spill
 Prevention and Recovery

federal
and
state

12

among others,



NO HIATUS

⑬

III.

Made defendants in this action are the following:

- 1) The United States of America which, at all times pertinent, acted by and through its agency and instrumentality, the United States Army Corps of Engineers.
- 2) Louisiana State Governor Kathleen Blanco, both individually and in her elected capacity.
- 3) The State of Louisiana.

(14)

- 4) ~~the~~ Mayor Ray Nagin, both individually and in his elected capacity
- 5) The City of New Orleans.
- 6) Chief of Police Eddie Compass, both individually and in his appointed capacity as Chief of Police for the City of New Orleans.
- 7) Eddie Jordan, District Attorney for the Parish of Orleans, State of Louisiana, both individually and in his elected capacity.

(15)

- 8) Jim Huey, President of the Orleans Parish Levee Board, both individually and in his official capacity
- 9) The Orleans Parish Levee Board.
- 10) Ray Nagin, of the Orleans Parish Sewerage and Water Board, both individually and in his ~~representative~~ official capacity with the Water Board
- 11) _____, the Criminal Sheriff of the Parish of Orleans, State of Louisiana, both individually and in his elected capacity.

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defendants herein pursuant to the provisions of the Louisiana Direct Action Statute.

12) _____, clerk of Court, criminal District court for the Parish of Orleans, State of Louisiana, both individually and in his elected capacity.

13) ABC and DEF and XYZ Insurance Company, who insure the above-identified defendants (Nos. 1 through 12) for liability, and who are named as

(17)

IV.

This Court is the exclusive Court of competent jurisdiction over the United States of America. This Court has ancillary or pendent jurisdiction over the remaining defendants.

convicted and incarcerated long before the approach of Hurricane Katrina to the city of New Orleans

EVIDENCE OF GOVERNOR BLAUGHTER and MAYOR NABIN'S INCOMPETENCE

AND VIOLATION, BY MALFEASANCE AND MISFEASANCE, NEGLIGENCE, GROSS NEGLIGENCE AND INTENTIONAL INFLECTION

The real story is not that the city of New Orleans was ransacked and its citizens raped and murdered by illegally armed urban terrorists, commencing even before Hurricane Katrina had moved north of the city, but the fact that the urban terrorists had been allowed to live amongst hard-working, law-abiding, taxpayers and citizens at all before the storm. If Mayor Nabin and his appointed Chief of Police had been doing their jobs, these urban terrorists would have been disarmed, arrested, tried,

of emotional distress NOT NECESSARILY IN ORDER OF SIGNIFICANCE, BUT LISTED IN STRIPES OF CONSCIOUSNESS "FASHION"

INDICENT

attributed to Hurricane Katrina since the storm, as distinguished ⁽¹⁹⁾ from deaths ~~of~~ ^{as a result of} natural causes, homicide ~~or~~ ^{due to} busidness, and the like?

2) upon information and belief, prior to the approach of Hurricane Katrina, Mayor Nagin had on hand in the City some 6000 body bags. Some time following the storm Mayor Nagin ^{or those working for him as directed,} ordered ~~an additional~~ ^{25,000} body bags, for a total of 31,000 body bags. What did Mayor Nagin intend to do with 31,000 body bags; who was he trying to impress with ordering 25,000 additional ^{body bags with most of them no one would use} body bags when he already had 6,000 body bags on hand? Has ^{Mayor Nagin} ~~the~~ ^{any of governing bodies} ~~we~~ ^{we} ~~informed~~ ^{the} ~~hand~~ ^{hand}?

tax-payers and ~~body~~ ^{of the "body count"} of New Orleans ^{and the like?}

also the element of unified command, pre-incident preparation and planning, and post-incident response. Upon information and belief, such Area Contingency Plans exist, and

such a plan does exist, it was not since the storm it is fairly widely known about by hard-working, ~~tax~~ ^{tax payors and} law-abiding citizens that Mayor Najin's "leadership" has earned him the nickname "Body Bags" Najin, which is an embarrassment to civilized society.

A competent Mayor of a so-called "major" city like New Orleans, and the Governor of Louisiana, should have prepared for the contingency of a Category 5 hurricane like Katrina by preparing and formulating an Area Contingency Plan pursuant to the standards of the Incident Command System within minimum-

(20) *the mayor or the Governor.*

by government's primary obligation to its citizenry, is the protection of

the citizenry's lives, property and ^{(2) quantity of life.}

5) A competent Governor of a State within the United States, with full knowledge of the total breakdown of law and order in the City of New Orleans, even before Hurricane Katrina had moved out of the city, should have immediately invoked martial law or invited the United States Military Forces to do so. Upon information and belief, Governor Blanco did not do so, because ~~she~~ to have done so would have required that both she and Mayor Hazin would have had to relinquish all power to the United States Army ^{legal} Provost Marshall - in other words ^{the Governor made} ~~she~~ a political decision, rather than one motivated

was out with from (1) one (2)

6) Mayor Najin, in a now-celebrated radio interview with local news celebrity Garland Robinette, demonstrated his utter ignorance of the term "martial law", which he was powerless to invoke. Further, Mayor Najin utterly failed ~~in~~ in his duties to his ~~city~~ citizens by ~~ordering~~ ^{failing to} ~~order~~ Chief of Police Compass to invoke posse comitatus, and to deputize law-abiding citizens to do whatever was necessary to keep the peace, pursue and arrest and/or kill felons, and to restore order to the City, which was in effect. ~~He had~~

illegally documented gangs of urban terrorists for more than

23

NOTP

By ~~failure~~ the failure of Governor Blanco to declare martial law, and by the failure of Mayor Najin to ~~order~~ order his chief of Police to invoke posse comitatus, Governor Blanco and Mayor Najin in effect "organized" state and local government sponsored urban terrorism on the city and its law-abiding citizens. For this they should pay a heavy price.

(24)

7) Governor Blanco and Mayor Najar literally sentenced scores of citizens to certain death by failing to order the evacuation of ^{critical care patients in} hospitals, nursing homes, and the like, well in advance of the approach of the storm, of which they were well-aware for several days prior to the storm. By failing to order the evacuation of ~~the~~ ^{such} critical care patients, by private or commercial aircraft, by train, by other means of ground transportation, or by vessels or craft capable of navigation on the Mississippi River, killed more of their constituents in this manner than they killed in drowning cases.

(25)

8) Upon information and belief, today, precisely three (3) weeks after Hurricane KATRINA, only 39 pumps out of a total of ^{the} 1179 pumps available to pump water out of the City of New Orleans are working. Why?

(26)

9) Upon information and belief, at the time that the levee structures of the London Avenue and seventeenth street Canals broke, ~~some~~ many hours AFTER the departure of Hurricane KATRINA from

(37)

In the New Orleans
metropolitan area,
there were NO,
or only ~~only~~ a
minimal number
of the 179 ~~only~~ pumps
available to the
New Orleans Sewerage
and Water Board
working WHY?

(28)

10) During the afore-
mentioned ~~interview~~
radio interview
with Garland Robinette,
Mayor Nagin bemoaned
the fact that long
before anyone had
ever heard of
~~Hurricane~~ Hurricane KATRINA.

(29)

"drugs were pouring
into our city" of
Mayor Nagin and
~~Police~~ Chief of Police
Compass had been
doing their jobs
even before the
storm, why were
drugs pouring into

San Antonio, Texas, permanently,
Mayor Nagin recently said words to
the effect that "Mr Benson will get
his new stadium, because the

people
I sent
to the
Superdome
30 "track-
ed" the
building
that it
will
have to
be
destroyed.

30

our city, and
why did Mayor
Nagin and Police
Chief Compass
allow that to

happen?

1) Upon information and belief, notwithstanding
Tom Benson's announcement that
he was moving the New Orleans Saints to

Plaintiffs reaver
and reiterate that

and upon said information

(31)

examples of the total
incompetence, etc. of
certain dependants
is a non-exclusive
list, and plaintiff's
specifically
reserve the right to
enumerate other
examples of incompetence,
etc. once the facts
become better known.

(32)

VI.

Plaintiff's specific causes of action asserted against defendants are itemized and described in the following "Counts".

VII.
COUNT 1

(23)

Plaintiffs reaver and reiter
at all of their allegations as
aforesaid, and in addition
over that certain of the
defendants negligently, in-
tentionally, and with mal-
feasance, misfeasance and
non-feasance, failed to
~~order~~ order the ^{timely} evacuation
of critical care patients in
hospitals, nursing homes, etc
whose very lives depended on
the availability of electricity
or emergency electrical
power for the operation of
life-sustaining medical
equipment, without
which the said critical
care patients were under
a sentence of death.

VIII
COUNT 2

(34)

Hurricane Katrina, but by ~~as a result of~~
~~part of~~ ~~men to whom the citizens of New Orleans~~
incompetence of the defendants

entrusted the safety of their lives and
Plaintiffs' real and ^{property}
reiterate all of their allega-
tions as aforesaid, and in
addition aver that certain
of the defendants intention-
ally, negligently, and
with malfeasance, misfea-
sance and non-feasance,
failed in their duty to
ensure competent design of
the levee systems for the
London Avenue Canal and
the Seventeenth Street
Canal, which were defectively
designed, the result being
that 80% of "something"
was destroyed - not less

~~XXXXXX~~
COUNT IX
3

35

Plaintiffs reaver and reiterate their allegations as aforesaid, and in addition aver that certain defendants intentionally, negligently and with malfeasance, misfeasance and non-feasance failed to ^{timely} stop the flooding of 80% of "something", which had survived Hurricane KATRINA, but which could not survive the incompetence of government officials at the local, state and federal levels.

which allowed fires which were started by persons perpetrating mischief and mayhem, ~~for~~ ^{for} town out of control, damaging or burning to the ground houses, businesses and other property, because there was no water do ~~use the~~ ^{use the} fires.

COUNT 4

or by ~~downed~~ ^{downed} electrical wires ~~or by~~ ^{or by} natural Gas

(36)

Plaintiffs reaver and reiterate all of their allegations as aforesaid, and in addition aver that certain of the defendants negligently, intentionally, and with malfeasance, misfeasance and non-feasance, failed to ~~secure the water supply~~ ^{secure the water supply} to Orleans Parish following ~~the~~ Hurricane KATRINA

which allowed fires which were started by persons perpetrating mischief and mayhem, ~~for~~ ^{for} town out of control, damaging or burning to the ground houses, businesses and other property, because there was no water do ~~use the~~ ^{use the} fires.

XI.
COUNT 5

(37)

Plaintiffs reaver and reiterate their allegations as aforesaid, and in addition aver that certain defendants intentionally, negligently and with malfeasance, misfeasance and non-feasance failed to protect the public from ~~the~~ marauding bands of convicted felons, and ~~persons~~ ~~persons~~ who were "already" in the criminal justice system", illegally armed and terrorizing ^{law-abiding} citizens, ~~and~~ including killing them, and destroying property.

XII.

COUNT 6

38

presumably
recruits.

refugees included large numbers of
young women and children with entirely

Plaintiff's reaver and
reiterate their allegations
as aforesaid, and in
addition aver that certain
defendants intentionally,
negigently and with
malfeasance, misfeasance
and non-feasance failed
to safeguard the
identification records and
criminal records of
convicted SEX offenders,
including rapists and
pedophiles, and
"injected" these individuals
into the refugees at the
Louisian Superdome and
Convention Center, which

XIII.

(39)

COUNT 7

Plaintiffs reaver and reiterate their allegations as aforesaid, and in addition aver that certain defendants failed to safeguard the ~~the~~ the contents of the evidence room at Criminal District Court for the Parish of Orleans, State of Louisiana in the face of an approaching

(40)

Category 5 hurricane, by failing to simply move evidence necessary for criminal prosecution of "real bad guy and gals" to higher floors of the building, with the result that evidence was lost and/or compromised, and successful prosecution thwarted.

(40)

XIV.

COUNT 8

Plaintiffs reaver and reiterate their allegations as aforesaid, and in addition aver that certain defendants failed to safeguard the means of identifying prisoners

(42)

Who were incarcerated
 in Orleans Parish
 Prison, meaning that
 law enforcements'
 ability to prove that
 a certain "John Doe" or
 "Richard Roe" prisoner,
 who is now in
 Texas, or "wherever",
 in with ^{or she} ~~him~~ ~~her~~ ~~name~~ ~~is~~ ~~in~~

(43)

XV

COUNT 9

Plaintiffs reaver and reiterate all of their allegations as aforesaid, and in addition aver that certain of the defendants negligently, intentionally, and with malfeasance, misfeasance

(74)

and non-feasance
caused pollution of
the ~~area~~ environment
of the ~~city~~ territory and
~~of the~~ atmosphere
of the Parish of Orleans,
State of Louisiana, which
not only caused damage
to plaintiffs and others
non-innocent persons and

(45)

corporations similarly
situated to plaintiffs,
but which pollution
must be contained,
cleaned up, remediated
and disposed of — a
Herculean ~~task~~ and
expensive task,

(46)

XVI.

Plaintiffs ~~was~~ long for the day in the city of New Orleans and in the state of Louisiana ~~where~~ when certain behavior was simply UNACCEPTABLE to polite, respectful, law-abiding citizens. Plaintiffs long for the day when the citizens, black and white, would not ~~tolerate~~ tolerate idleness, drug use ~~and~~ ^{or} crime - a land in which children knew their father's last name, because he lived in a house with a no

(47)

Whatever towards women, no matter what their race, creed or color, which would be addressed by Swift and certain justices,

had ~~acquired~~ through his own industry (no one "gave" it to him), with ~~them~~ and his wife, the children's mother.

Plaintiff's boy for the days when twelve (12) year old girls did not give birth to illegitimate children, and where clergymen, black and white, taught people from a tender eye that killing ~~and~~ ^{drug use,} looking and possession of illegal ~~guns~~ ^{firearms} was a crime, and that it was a sin to ~~disorder and disturb~~

(78)

Plaintiffs long for ~~for~~ a
return to sanity, and
a world in which
unacceptable behavior
will not be toler-
ated, ~~and~~ rather
~~return to a world~~
than a world in
which what was once
unacceptable behavior

(49)

is now not only
acceptable, but
the norm and
commonplace.

(50)

XVII

Plaintiff's specifically
invoke the doctrine
of res ipsa loquitor
in connection with
the factual and legal
circumstances which
resulted in the
springing of this
action.

XVIII

Pursuant to the provisions of Rule 39(e), FRCP, or any other applicable Rule. (5)

Plaintiff's demand trial by jury as to all issues so triable as to every party. As to parties to which trial by jury is not available, such as the United States of America, plaintiff's demand for a jury trial.

(52)

XIX.

Undersigned counsel for
plaintiffs represent to
the Court that this
complaint has been
prepared without the
benefit of a
law library. Accord-
ingly, undersigned
counsel reserve the

(53)

right to amend
this Complaint after
they have the
opportunity to
read the law.

WHEREFORE, Plaintiffs
pray ~~for~~ that their
class status be
reexamined and con-

(54)

tried as such, and
that after trial on the
merits, and all due
proceedings had, there
be judgment entered
in favor of plaintiffs
and against
defendants, jointly,
severally and in
solidum on all

55

amount of their
damages, plus
reasonable attorney's
fees, ^{pre-judgment} interest, and
costs.

law firm of
O'Dwyer and
Hecker, L.L.C.,
counsel for Plaintiffs
↓

~~XX~~

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BY: *[Signature]*
ASHTON R. O'DWYER, JR
BAR NO. 10166

[Signature]
JOSEPH W. P. HECKER
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