

U.S. DISTRICT COURT  
EASTERN DISTRICT OF LA

2005 SEP 19 AM 11:46  
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 250.  
 Process \_\_\_\_\_  
 Dkt. \_\_\_\_\_  
CtRmDep \_\_\_\_\_  
Doc. No. \_\_\_\_\_

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, survivors, relatives and beneficiaries of the deceased

Beneficiaries of the deceased

- Maureen O'Dwyer
- Harold Joseph Gagnet
- Sally A. Richards
- Egerton

~~Goslyn Johnson~~

Shaun Porter and their upholstery business to be  
Stephanie Porter

Shelia Jones Jordan

Charles Edward Jordan

~~Wayne M. Jones~~

Gloria Agnes Grissin, individually and as Administrator

Leticia Brown

~~Robin Farnet~~

Jo Anna McKeon

Leo Davidson

Identified, at a later date by name

upholstery business to be

~~Walter~~  
Katherine          Frank

Richard Springer Favor  
and  
Miriam Mc Michael Favor  
d/b/a The Garden Smith  
Philip B. Alford

~~Charles~~

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 Southland  
Hardy

Martin Ramos

Richard Ehret

Leslie Ehret

Anthony Phillip Henderson

Frances Y. Bellerino

Louise J. Young

Edward R. Young  
and

Veronica F. Young

diola F. Young

representatives of the representative  
classes of plaintiffs, ~~and~~ described  
in this litigation and ~~to be~~ herein  
represented by undersigned ~~to be~~  
counsel.

Joseph Rauchwerk, M.D. (5)  
~~and his spouse and~~  
~~family~~ Cheryl Sweet Rauchwerk

Marilyn Von Schmidt  
Susan G. Jeanfreau, M.D.  
Wallace E. Jeanfreau, M.D.  
Robert J. Jeanfreau, M.D.

Jerry Victor Jacob  
Gloria Poleman Hecker

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

Patton R. O'Dwyer, JR.,  
in proper person

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

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## II.

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

- ① Survivors of human beings who died as a result of governmental <sup>is</sup> 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

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 Louisiana, ~~XXXX~~ 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 ~~XXXXXX~~  
~~XXXX~~ 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

(E) Citizens and/or residents of the Parish of Orleans, State of Louisiana who ~~supported~~ <sup>sustained</sup> 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 ~~depriving~~ <sup>depriving</sup> of land ~~and~~ <sup>and</sup> ~~rights~~ <sup>rights</sup>.

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  
 self-sufficient, did not  
 increase governments' burden during  
 and performed  
 services <sup>for the community,</sup> which  
 government proved  
 in...

admittedly  
 trying  
 times,



(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  
 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



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among others,



NO HIATUS

### 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

- 4) ~~Mr~~ 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

- 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

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

INDENT

~~V.~~  
EVIDENCE OF GOVERNOR <sup>of emotional distress</sup> and MAYOR NAGIN'S ~~IN~~ 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 ~~the~~ illegally armed urban terrorists ~~before~~, commencing even before Hurricane Katrina had moved south 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 Nagin and his appointed Chief of Police had been doing their jobs, these urban terrorists would have

NOT NECESSARILY IN ORDER OF SIGNIFICANCE, BUT LISTED IN STREAM OF CONSCIOUSNESS "FASHION"; 18



uses the element of unified command, pre-incident preparation and planning, and post-incident response. Upon initiation ~~and~~ <sup>and</sup> such Area Contingency Plans exist, and by

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

By the Mayor or the Governor.

A competent Mayor of a so-called "major" city like New Orleans, and the Governor of Louisiana, ~~should~~ <sup>should</sup> 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.

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

5) The citizenry's lives, property and <sup>(2)</sup> quality of life.  
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 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 Nagin would have had to relinquish all power to the United States <sup>de jure</sup> Army Provost Marshall - in other words <sup>the Governor made</sup> ~~words~~ a political decision, rather than one motivated



NOTP By ~~the~~ 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 Noyin literally sentenced scores of citizens to certain death by failing to order the evacuation of <sup>critical care patients in</sup> 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~~ <sup>such</sup> 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

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

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

(27)

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  
workers WHY?

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". If  
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 one

recall  
I sent  
to the  
Superdome  
So "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 should and remain

(31)

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

VI.

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

VIF.  
COUNT 1

(23)

Plaintiffs reaver and reiter  
ate all of their allegations as  
aforsaid, 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 <sup>timely</sup> 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



~~COUNT~~ IX  
COUNT 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 <sup>timely</sup> 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

which allowed fires which were  
 started by persons perpetrating ~~the~~  
 "mischievous and mayhem" ~~to~~ burn out of  
 control, damaging or burning to the  
 ground houses,  
 businesses and  
 other property,  
 because there  
 was no  
 water to  
~~house the~~  
 fires.

COUNT 4

→ or by  
 downed  
 electrical wires  
 or ~~by~~ natural  
 Gas →

Plaintiffs reaver and  
 reiterate all of their  
 allegations as aforesaid,  
 and in addition aver  
 that certain of the  
 defendants negligently,  
 intentionally, and  
 and with malfeasance,  
 misfeasance and non-  
 feasant, failed to  
 secure the water supply  
 to Orleans Parish follow-  
 ing ~~the~~ HURRICANE KATRINA

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~~ <sup>persons</sup> who were "already" in the criminal justice system", illegally armed and terrorizing <sup>law-abiding</sup> citizens, ~~and~~ including killing them, and destroying property.

COUNT 6

Plaintiffs

Results.

refugees included large numbers of young women and children with entirely

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 safeguard the identification records and criminal records of convicted SEX offenders, including rapists and pedophiles, and "injected" these individuals into the refugees at the Louisiana 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 ~~etc~~ the contents of the evidence room at Criminal District Court for the Parish of Orleans, State of Louisiana in the face of an approaching

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

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

who were incarcerated  
 in Orleans Parish  
 Prison, meaning that  
 law enforcement's  
 ability to prove that  
 a certain "John Doe" or  
 "Richard Roe" prisoner,  
 who is now in  
 Texas, or "wherever",  
 is who he <sup>or she</sup> ~~saw~~ he or she is.

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  
Denman Arima and

(75)

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

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 XVI.
 

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Plaintiffs ~~were~~ 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. Plain-  
 tiffs long for the day  
 when the citizens, black  
 and white, would not  
~~tolerate~~ tolerate idleness,  
 drug use ~~and~~ <sup>or</sup> crime - a  
 land in which children  
 knew their father's last  
 name, because he lived  
 in a home within a

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 lawyer 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~~ <sup>drug use,</sup> looting and possession of illegal ~~guns~~ <sup>firearms</sup> was a crime, and that it was a sin to

(48)

Plaintiffs long for ~~the~~ a  
return to sanity, and  
a world in which  
unacceptable behavior  
will not be toler-  
ated, ~~and the~~ 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.

XVII

Plaintiff's specifically invoke the doctrine of res ipsa loquitor in connection with the factual and legal circumstances which resulted in the bringing 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  
request 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. Accordingly, 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 not

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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  
said on and on

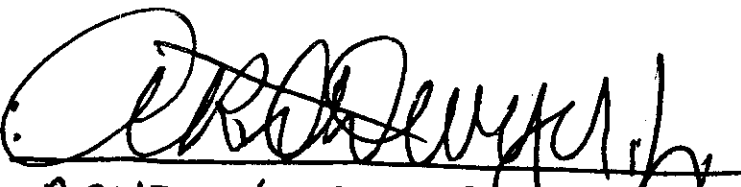
amount of fair  
damages, plus  
reasonable attorney's  
fees, <sup>pre-judgment</sup> interest, and  
costs.

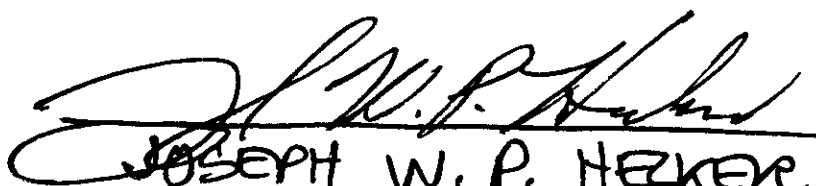
law firm of  
O'Dwyer and  
Hecker, L.L.C.,  
counsel for Plaintiffs

~~XX~~

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BY:   
ASHTON R. O'DWYER, JR.  
BAR NO. 10166

  
JOSEPH W. P. HECKER  
BAR NO. 6744

619 EUROPE STREET  
BATON ROUGE, LA.  
504-225-383-8082