

24TH JUDICIAL DISTRICT COURT FOR THE PARISH OF JEFFERSON

STATE OF LOUISIANA

NO: U25-988

DIVISION: " "

DOCKET

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Candace Boyd
PARISH DEPUTY CLERK
JEFFERSON
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DIV. C

ROB SCHMIDT

VERSUS

THE PARISH OF JEFFERSON AND
AARON BROUSSARD IN HIS CAPACITY AS ITS PRESIDENT

FILED: _____
DEPUTY CLERK

PETITION FOR DAMAGES: CLASS ACTION

NOW INTO COURT, through undersigned counsel comes your petitioner **ROB SCHMIDT**, a person of the age of majority and resident of the Parish of Jefferson, State of Louisiana, on Bchalf of Himself and All Others Similarly Situated, and for his Petition respectfully states:

1.

On August 27, 2005, Hurricane Katrina, by now in the Gulf of Mexico, was upgraded to a Category 3 hurricane. Local authorities in Orleans and Jefferson Parishes called for a voluntary evacuation of their parishes, and Louisiana Governor Kathleen Blanco requested that President Bush declare a major disaster for the State of Louisiana.

2.

On August 28, 2005, Jefferson Parish pumps were shut down and 200 Jefferson parish drainage pump operators were ordered by Parish President Aaron Broussard to evacuate approximately 90 miles to the north in Mount Hermon, Washington Parish, Louisiana.

3.

At 6:10 a.m. on August 29, 2005 Katrina made landfall near Grand Isle, Louisiana, and then made a second landfall a short time later near the Louisiana-Mississippi border.

4.

The Jefferson Parish pump operators ordered to evacuate by the parish president were not brought back to Jefferson parish by parish officials until 7:00 p.m. on August 29, 2005, approximately twelve hours after the storm had passed.

5.

The ordered shutting down of the pumps and evacuation of the pump operators left Jefferson Parish without any capability to pump storm water from the parish

6.

Because of the non-operation of the pumps, the east bank of Jefferson Parish sustained extensive flooding that would not have occurred had the pumps not been shut down and the operators not evacuated.

7.

Because of the non-operation of the pumps, water was allowed to siphon from the lake through the pumping system and into the neighborhoods of East Jefferson Parish

8.

Petitioners bring this action on their own behalf and on behalf of all others similarly situated in the respects herein below stated:

9.

This is a class action pursuant to La.C.C.P. Art. 591, *et seq.* on behalf of a class of plaintiffs similarly situated but as yet unidentified, as plaintiffs herein represents that they have injuries common to all those similarly situated who incurred damages arising out of the flooding which occurred in Jefferson Parish, Louisiana in the wake of hurricane Katrina, particularly on the east bank of Jefferson Parish.

10.

Made defendants herein are **THE PARISH OF JEFFERSON, AND AARON BROUSSARD IN HIS CAPACITY AS ITS PRESIDENT.**

11.

Plaintiffs allege and propose that the class be defined as:

All residents, domiciliaries, and property owners in the Parish of Jefferson in the State of Louisiana who sustained damages as a result of water intrusion on the east bank of Jefferson Parish on or about August 29, 2005 and thereafter as a result of the shutting down of pumps and mandatory evacuation of the pump operators on August 28, 2005, such damages including but are not limited to damage to real property, damage to personal property, and personal injury.

12.

The proposed class action arises out of the evacuation of the drainage pump operators and the non-operation of the drainage pumps beginning on August 28, 2005 and continuing until at least 7:00 p.m. on August 29, 2005 and the flooding in Jefferson Parish that occurred as a result on August 29 and the following days. The exact number and identities of the class plaintiffs are unknown at this time, and can only be ascertained through appropriate discovery, plaintiffs are of information and belief that the class of plaintiffs clearly consists of thousands of persons presenting a level of numerosity better handled through the class action procedure.

13.

The drainage pumps in Jefferson Parish were constructed to protect the Parish from flooding in the event of hurricanes and/or heavy rains, such as the Parish faced as hurricane Katrina approached.

14.

Plaintiff avers, upon information and belief, that the flooding of East Jefferson Parish was caused by the negligence and fault of the defendants including but not limited to:

1. The defendants' negligent evacuation of pump operators from their posts as a storm approached;
2. The defendants' negligent shutting down of pumps as a storm approached;
3. The defendants' negligent evacuating the pump personnel to a location too far from the parish for those pump operators to be able to return to their posts in a timely manner once the storm had passed,
4. Other acts of negligence or omissions which may be proved at the trial of this matter.

15.

This action is appropriate for determination through the Louisiana Class Action Procedure (La.C.C.P. art. 591, *et seq.*) for the following reasons:

A. NUMEROSITY

The exact number and identities of the class plaintiffs are unknown at this time, and can only be ascertained through appropriate discovery, plaintiffs are of information and belief that the class of plaintiffs clearly consists of hundreds of thousands of persons presenting a level of

numerosity better handled through the class action procedure.

B. COMMON QUESTIONS OF LAW AND FACT

There are common questions of law and fact applicable to all class members and which predominate over individual questions and which include but are not limited to whether the flooding in East Jefferson Parish was caused by the non-operation of the parish drainage pumps as ordered by the Parish President, Aaron Broussard

C. ADEQUATE REPRESENTATION

Plaintiffs will fairly and adequately represent the interests of the class, and the class representatives herein are represented by skilled attorneys who are experienced in the handling of mass tort class action litigation and who may be expected to handle this action in an expeditious and economical manner to the best interest of all members of the class;

D. TYPICALITY

The claims of the class representative as named herein are typical of the claims of the class members they seek to represent in that they are all claims seeking damages arising from the flooding of East Jefferson Parish following the landfall of Hurricane Katrina on August 29, 2005

E. SUPERIORITY

The Louisiana Class Action Procedure affords a superior vehicle for the efficient disposition of the issues and claims herein presented, especially since individual joinder of each of the class members is impracticable. Individual litigation by each of the class members, besides being unduly burdensome to the plaintiffs would also be unduly burdensome and expensive to the court system as well as the defendants.

16.

In addition to the above stated negligence, and in the alternative thereto, the injuries and damages suffered by your petitioners and others was caused by acts or omissions of the defendants, which acts or omissions may be beyond proof by the plaintiffs herein, but which were within the knowledge and control of the defendants, there being no other possible conclusion than that the flooding of East Jefferson Parish could not have occurred had the defendants not ordered the pumps shut down and the pump workers evacuated, and your petitioners therefore plead the doctrine of *res ipsa loquitur*.

17.

Plaintiffs demand a trial by jury on all issues so triable.

WHEREFORE, your petitioner prays:

1. That the defendants be served with a copy of this Petition and be cited to appear and answer same;
2. That after due proceedings had, that this action be certified as a class action pursuant to the provisions of La.C.C.P. art 591 et seq., in the respects alleged herein above, for the purposes of determining the common issues of liability for compensatory damages;
3. That upon certification of the class action, the Court call for the formulation of a suitable management plan pursuant to La.C.C.P. 593.1(C);
4. That after due proceedings had, and a trial by jury, there be a judgment in this matter in favor of the plaintiffs and against the defendants, declaring that the defendants are liable to the plaintiffs and all members of the class for all damages resulting from the flooding of East Jefferson Parish following the landfall of Hurricane Katrina on August 29, 2005 and thereafter;
5. That the rights of the plaintiffs and all members of the class to establish their entitlement to compensatory damages, and the amount thereof, be reserved for determination in their individual actions when appropriate;
6. That plaintiffs recover their costs for the prosecution of this class action, and for interest on all damages from the date of judicial demand until paid.

Respectfully submitted:

BRUNO & BRUNO

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PLEASE SERVE:

THE PARISH OF JEFFERSON AND
AARON BROUSSARD IN HIS CAPACITY AS ITS PRESIDENT