

LOS ANGELES
Daily Journal

TUESDAY,
MAY 6, 2008

— SINCE 1888 —

OFFICIAL NEWSPAPER OF THE LOS ANGELES SUPERIOR COURT AND UNITED STATES SOUTHERN DISTRICT COURT

Led By L.A. Lawyer, Katrina Suit Allowed to Proceed

By Nicolas Taborek
Daily Journal Staff Writer

LOS ANGELES — A legal team led by California litigator Pierce O'Donnell of Los Angeles' O'Donnell & Associates has won a key ruling in a case against the federal government over damages for Hurricane Katrina victims.

Clearing the way for a September trial, a federal judge in New Orleans ruled the government is not immune from liability in the disaster, which plaintiffs allege was exacerbated by shoddy design and maintenance of a government-constructed shipping channel.

The case, brought by six residents of the greater New Orleans area, alleges the Army Corps of Engineers is liable for flaws in the Mississippi River-Gulf outlet that increased the floodwaters by three feet during the storm, causing damage to their properties. *Robinson v. The United States of America*, CV06-2268 (E.D. La., filed April 25, 2006).

The trial is set to begin Sept. 8.

"It's a huge victory. It's a great big hurdle we had to get over," O'Donnell said Monday of the ruling. "The government threw everything they had at us."

The government had argued the case

should be dismissed because of a 1928 law that says it cannot be sued over accidents related to flood-control projects. In rejecting the government's argument, Judge Stanwood Duval ruled the channel was a navigation canal, not a flood-control project.

Department of Justice spokesman Charles Miller declined to comment except to say, "We're still reviewing the ruling. We've made no determination as to our next step in that matter."

The ruling is significant because it allows the last remaining suit seeking damages for Hurricane Katrina-related losses to go forward, O'Donnell said. Two class actions seeking damages from insurance companies and the government have been dismissed, he said.

At trial, O'Donnell and other attorneys will argue the government knew about the hazard the channel would cause during a severe hurricane.

"There's a long history, we believe, of studied indifference to the risk to public safety and property," O'Donnell said.

The 40-year-old channel, known as the MRGO, was built to aid shippers going in and out of New Orleans. During its construction, engineers caused substantial

erosion of wetlands that had sheltered the city from flooding, O'Donnell said.

The lawsuit is seeking millions of dollars in damages and emotional distress for the six plaintiffs. If the Robinson lawsuit is successful, O'Donnell said, it could lead to payouts for about 300,000 people who filed similar property damage claims. Total damages in a class action or Sept. 11-style payout could reach into the hundreds of billions of dollars, he said.

The 20-firm legal team behind the case also includes California attorneys Thomas Girardi of Girardi & Keese in Los Angeles, Joseph Cotchett of Cotchett, Pitre & McCarthy in Burlingame and Mark P. Robinson Jr. of Robinson Calcagnie & Robinson in Newport Beach.

O'Donnell, who has led the trial effort since January 2006, said he brought in other top California litigators because of the magnitude of the case and the difficulty of winning against the U.S. government.

"They print the money and they make the laws. You need a team — an armada of legal talent — to go up against the government," he said.

The ruling, issued Friday, is the second time Duval has rejected a government motion to dismiss the case.