

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

December 6, 2012

No. 12-30205

Lyle W. Cayce
Clerk

SEARS ROEBUCK & COMPANY,

Plaintiff-Appellant,

v.

CITY OF SHREVEPORT,

Defendant-Appellee.

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 5:10-CV-0782

Before STEWART, Chief Judge, and GARZA and ELROD, Circuit Judges.

PER CURIAM:*

Plaintiff, Sears Roebuck & Company (“Sears”), incurred significant damages as a result of flooding from severe storms and rainfall which took place in Shreveport, Louisiana, in 2008 and 2009. Sears filed suit against Defendant, the City of Shreveport (the “City”), alleging various claims of negligence and liability related to the construction of a project in the City involving the Ockley Ditch, which was intended to minimize and alleviate flood-related problems in the affected area.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

No. 12-30205

The City moved for summary judgment against Sears asserting various defenses under the Louisiana Revised Statutes and the Louisiana Civil Code, including prescription, discretionary immunity, and that the storms qualified as an “Act of God.” The district court granted summary judgment in favor of the City and Sears appealed.

After reviewing the record, the applicable statutory and case law, and the district court’s summary judgment and reasoning, we AFFIRM the district court’s judgment and adopt its analysis in full.¹

¹ On appeal, Sears raises for the first time an inverse condemnation argument. We conclude this argument is waived. *See Celanese Corp. v. Martin K. Eby Const. Co., Inc.*, 620 F.3d 529, 531 (5th Cir. 2010) (“The general rule of this court is that arguments not raised before the district court are waived and will not be considered on appeal.”).