

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

**IN RE KATRINA CANAL BREACHES
CONSOLIDATED LITIGATION**

CIVIL ACTION

NO. 05-4182

PERTAINS TO:

Bloom C. A. 07-6488

SECTION "K"(2)

ORDER AND REASONS

Before the Court are a Motion for Entry of Judgment Pursuant to the Court's Post-Sher Case Management Order. (Doc. 13809) and State Farm's Motion to Dismiss Flood Water Damage Claims (Doc. 12091) (only as it pertains to the *Bloom* case). These motion seek the dismissal of the above-referenced matter based on the contention that this case only seeks coverage for water damage under policies which exclude such coverage as found by the Louisiana Supreme Court in *Sher v. Lafayette Ins. Co.*, No. 07-C2441, 2008 WL 928486, at *6-7 (La. Apr. 8, 2008), and by the United States Fifth Circuit Court of Appeals in *In re Katrina Canal Breaches Consolidated Litig.*, 495 F.3d 191, 214 (5th Cir. 2007), which decisions hold essentially that the exclusions in Louisiana homeowners' insurance policies of coverage for damages caused by the flood that resulted from the various levee breaches in the aftermath of Hurricane Katrina are valid and unambiguous.

While there is no doubt that the *Bloom* case also sought coverage for water damage caused by the levee breaches, in paragraphs 8 and 10 of the petition filed in civil District Court of the Parish of Orleans, plaintiffs Christopher Bloom and Gladys Bloom allege wind damage and contend that State Farm has refused to pay all amounts due and owing under the Policy for wind, water and other damages. The first cause of action alleged is for breach of contract which would include failure to pay their wind damage claim. Thus, there is an outstanding issue

preventing the entry of judgment. It must be noted that plaintiffs concur that the water damage claim is precluded by the above-noted *Sher* decision.

Furthermore, while plaintiffs' opposition to the State Farm's Motion to Dismiss Flood Water Damage Claims (Doc. No. 12091) was late filed, the Court will still consider this pleading and will deny the "global" dismissal motion with regard to this case as well. Accordingly,

IT IS ORDERED that a Motion for Entry of Judgment Pursuant to the Court's Post-Sher Case Management Order. (Doc. 13809) and State Farm's Motion to Dismiss Flood Water Damage Claims (Doc. 12091) (only as it pertains to the *Bloom* case) are **DENIED**.

New Orleans, Louisiana, this 22nd day of September, 2008.



STANWOOD R. DUVAL, JR.
UNITED STATES DISTRICT COURT JUDGE