

**THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

MISSISSIPPI INSURANCE DEPARTMENT,)
by and through MICHAEL J. CHANEY,)
Commissioner of Insurance for the State of)
Mississippi)

Plaintiff,)

v.)

UNITED STATES DEPARTMENT OF)
HOMELAND SECURITY; RAND BEERS,)
in his official capacity as the Secretary of the)
United States Department of Homeland Security;)
UNITED STATES FEDERAL EMERGENCY)
MANAGEMENT AGENCY; W. CRAIG)
FUGATE, in his official capacity as the)
Administrator of the United States Federal)
Emergency Management Agency)

Defendants.)

Case No. 1:13-cv-379-LG-RHW

DEFENDANTS’ MOTION TO DISMISS

Pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure, Local Rule 7, and this Court’s Preliminary Scheduling Order of October 17, 2013 (see DE # 12), Defendants the United States Department of Homeland Security (“DHS”), Rand Beers (in his official capacity as the Acting Secretary of DHS), the United States Federal Emergency Management Agency (“FEMA”), and W. Craig Fugate (in his official capacity as the Administrator of FEMA) (collectively “Defendants”) respectfully move to dismiss Plaintiff’s Amended Complaint in its entirety for lack of subject-matter

jurisdiction. The reasons for this motion are set forth in the Memorandum Brief in Support of Defendants' Motion to Dismiss, filed concurrently herewith.

Dated: November 18, 2013

Respectfully submitted,

STUART F. DELERY
Assistant Attorney General

GREGORY K. DAVIS
United States Attorney

STEPHEN R. GRABEN
Assistant United States Attorney
1575 20th Avenue
Gulfport, MS 39501
Phone: (228) 563-1560
Fax: (228) 563-1571
stephen.graben@usdoj.gov
Miss. Bar No.: 4931

/s/ Jennie L. Kneedler
MICHAEL SITCOV
JENNIE L. KNEEDLER
ERIC J. SOSKIN
United States Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Ave., N.W.
Washington, D.C. 20001
Tel. (202) 305-8662
Fax (202) 616-8470
Email: Jennie.L.Kneedler@usdoj.gov
D.C. Bar # 500261

Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on November 18, 2013 I electronically filed the foregoing with the Clerk of Court using the ECF system which sent notification of such filing to the following:

Ben H. Stone
Jonathan P. Dyal
Karl C. Hightower
BALCH & BINGHAM
1310 Twenty Fifth Ave.
Gulfport, MS 39501
Phone: (228) 214-0402
Fax: (228) 864-8221
bstone@balch.com
jdyal@balch.com
kchightower@balch.com

Lee Davis Thames, Jr.
Mississippi Insurance Commission
Woolfolk Bldg.
501 North West St., Ste. 1001
P.O. Box 79
Jackson, MS 39025-0079
Telephone: (601) 618-3119
lee.thames@mid.ms.gov

Attorneys for Plaintiff

/s/ Jennie L. Kneedler