

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF  
LOUISIANA

CMP, LLC v. Board of Commissioners for the Lafitte Area  
Independent Levee District

CMP, LLC · No. 2:24-cv-02298 · Decided December 17, 2025

SUMMARY

The United States District Court for the Eastern District of Louisiana denies the Lafitte Area Independent Levee District’s motion to dismiss for lack of subject-matter jurisdiction based on Eleventh Amendment sovereign immunity. Applying the Fifth Circuit’s six-factor test, the court concludes that the levee district is not an arm of the state, while reserving the defendant’s alternative motion for summary judgment for a later order.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                     |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the Eastern District of Louisiana                                                                                                                                                                                                                                                                                                  |
| WRITING FOR THE COURT | Wendy B. Vitter                                                                                                                                                                                                                                                                                                                                                     |
| JURISDICTION          | United States District Court for the Eastern District of Louisiana                                                                                                                                                                                                                                                                                                  |
| DECIDED               | December 17, 2025                                                                                                                                                                                                                                                                                                                                                   |
| DOCKET                | 2:24-cv-02298                                                                                                                                                                                                                                                                                                                                                       |
| DISPOSITION           | dismissed                                                                                                                                                                                                                                                                                                                                                           |
| PROCEDURAL POSTURE    | Defendant moved under Federal Rule of Civil Procedure 12(b)(1) to dismiss for lack of subject matter jurisdiction based on Eleventh Amendment sovereign immunity. The court denied the motion.                                                                                                                                                                      |
| STANDARD OF REVIEW    | On a Rule 12(b)(1) motion, the court may consider the complaint, undisputed record facts, and resolve disputed facts as necessary to determine whether it has jurisdiction. The party asserting jurisdiction bears the burden of proof, and dismissal is appropriate if it appears certain that the plaintiff cannot prove any set of facts entitling it to relief. |
| PRECEDENTIAL VALUE    | unknown                                                                                                                                                                                                                                                                                                                                                             |

TOPICS

- eleventh amendment immunity
- subject matter jurisdiction
- civil procedure
- section 1983
- eminent domain

## PRACTICE AREAS

civil procedure

constitutional law

civil rights

municipal law

real estate

## QUESTIONS PRESENTED

1. Whether the Lafitte Area Independent Levee District is an arm or alter ego of the State of Louisiana entitled to Eleventh Amendment sovereign immunity.
2. Whether the district court therefore lacked subject matter jurisdiction over CMP's federal taking and 42 U.S.C. § 1983 claims.

## HOLDINGS

1. The Lafitte Area Independent Levee District is not an arm of the State of Louisiana and is not entitled to Eleventh Amendment sovereign immunity.
2. The court denied the levee district's Motion to Dismiss for Lack of Subject Matter Jurisdiction.

## KEY QUOTATIONS

*“the Lafitte Area Independent Levee District is not an arm of the state and, as such, is not entitled to immunity under the Eleventh Amendment.”* (at 9-10)

*“All factors need not be present for an entity to receive sovereign immunity.”* (at 4)

## FACTUAL BACKGROUND

CMP, LLC owns property within the Lafitte Area Independent Levee District in Jefferson Parish, Louisiana. As part of the Rosethorne Basin Lafitte Tidal Protection Levee project, the levee district raised an existing levee on CMP's property; CMP alleged that the work involved an unauthorized trespass and occurred without compensation and before an appropriating resolution was passed. The levee district later adopted a resolution appropriating the portion of the property containing the levee, and CMP sued for just compensation and declaratory relief.

## PROCEDURAL HISTORY

CMP, LLC filed an action against the Lafitte Area Independent Levee District alleging an uncompensated taking under the Fifth and Fourteenth Amendments and 42 U.S.C. § 1983. The levee district moved to dismiss for lack of subject matter jurisdiction and alternatively moved for summary judgment; this order addresses only the Rule 12(b)(1) motion and denies it. The court stated that it would address the alternative summary-judgment motion in a subsequent order.

## DISPOSITION

dismissed

## CASES CITED

- *Ramming v. United States*, 281 F.3d 158, 161 (5th Cir. 2002)

- Krim v. pcOrder.com, Inc., 402 F.3d 489, 494 (5th Cir. 2005)
- Home Builders Association of Mississippi, Inc. v. City of Madison, 143 F.3d 1006, 1010 (5th Cir. 1998)
- Flores v. Pompeo, 936 F.3d 273, 276 (5th Cir. 2019)
- Robinson v. TCI/US West Communications Inc., 117 F.3d 900, 904 (5th Cir. 1997)
- Randall D. Wolcott, M.D., P.A. v. Sebelius, 635 F.3d 757, 762 (5th Cir. 2011)
- Seminole Tribe of Florida v. Florida, 517 U.S. 44, 54 (1996)
- Warnock v. Pecos County, Texas, 88 F.3d 341, 343 (5th Cir. 1996)
- Vogt v. Board of Commissioners of Orleans Levee District, 294 F.3d 684, 688-95 (5th Cir. 2002)
- Hudson v. City of New Orleans, 174 F.3d 677, 681-82, 687 (5th Cir. 1999)
- Pendergrass v. Greater New Orleans Expressway Commission, 144 F.3d 342, 344, 347 (5th Cir. 1998)
- Cozzo v. Tangipahoa Parish Council—President Government, 279 F.3d 273, 281-82 (5th Cir. 2002)
- Jacintoport Corp. v. Greater Baton Rouge Port Commission, 762 F.2d 435, 443 (5th Cir. 1985)
- Bonin v. Sabine River Authority, 65 F.4th 249, 259 (5th Cir. 2023), cert. denied, 144 S. Ct. 287 (2023)