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by Michael Kunzelman / Associated Press

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NEW ORLEANS -- A government contractor isn't immune from claims that it performed shoddy work that resulted in the failure of a New Orleans levee system during Hurricane Katrina, a federal appeals court has ruled.

Tuesday's ruling by the 5th U.S. Circuit Court of Appeals revives claims against Washington Group International Inc. over Industrial Canal levee breaches that flooded the city's Lower 9th Ward during the 2005 storm.

Plaintiffs' lawyers claim the firm employed excavation and backfilling methods that undermined the integrity of the levees.

The 5th Circuit reversed a federal judge's dismissal of claims against the Army Corps of Engineers contractor. A three-judge panel said the company isn't entitled to government-contractor immunity from liability because it exercised "significant discretion" over its work, without precise specifications from the Corps.

"The Corps did not 'make' WGI use the exact backfill material that was utilized, nor did it 'require' WGI select the compaction method that was employed. In the absence of reasonably precise Corps specifications, those decisions were made by WGI," 5th Circuit Judge Jerry Smith wrote.

Joseph Bruno, a lawyer for several residents named as plaintiffs in the case, said he was "absolutely thrilled" with the ruling.

"All of these (contractors) have been shrouded with immunity. We're just chipping away at it, one at a time," he said. "WGI will face a jury, which is absolutely extraordinary."

A lawyer for the company didn't immediately return a call for comment Wednesday.

The 5th Circuit said the Corps provided the company with "imprecise, and at times non-existent" specifications for what kind of backfill material to use.

"Significantly, the evidence in the record shows that the sole consideration for the Corps in evaluating the backfill was the cost of the material," Smith wrote.

The plaintiffs filed separate claims against the Corps over the Industrial Canal levee and floodwall failures. A judge hasn't ruled whether the Corps is entitled to immunity in the case, according to Bruno.

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