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ADMITTED IN LOUISIANA

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**Via CM/ECF Filing System**

Lyle W. Cayce, Clerk of Court  
U.S. Court of Appeals for the Fifth Circuit  
600 S. Maestri Place  
New Orleans, LA 70130-3408

RE: ***Board of Commissioners of the Southeast Louisiana Flood Protection Authority  
– East, et al. v. Tennessee Gas Pipeline Company, LLC, et al., No. 15-30162***

Dear Hon. Cayce:

Pursuant to F.R.A.P. 28(j), Appellants provide notice of eight decisions since the conclusion of briefing wherein courts applied the *Grable* analysis and found state-law claims referencing federal law did not raise a “substantial” federal issue:

- *MHA LLC v. Healthfirst, Inc.*, 2015 WL 7253669 (3d Cir. 11/17/2015) (federal statutory interpretation “incidental” to claims, no dispute over identified statutory text, and validity of federal statute not challenged).
- *Louisiana v. Smithkline Beecham Corp.*, 2016 WL 452318 (M.D. La. 2/5/2016) (FDA issues not substantial where fact-dependent).
- *Louisiana v. Pfizer, Inc.*, 2016 WL 521533 (M.D. La. 2/5/2016) (no substantiality).
- *Gearheart v. Elite Ins. Agency, Inc.*, 2016 WL 81766 (E.D. Ky. 1/7/2016) (“only federal question ... is whether the federal regulations in fact required the defendants to provide a certain amount of insurance .... This is hardly the kind of federal question that is important ‘to the federal system as a whole.’”).
- *Kelly v. Bayview Loan Servicing, LLC*, 2016 WL 67285 (N.D. Ga. 1/5/2016) (claims citing HUD regulations not “substantial” federal issue because regulatory compliance a “fact-specific” question, “small likelihood” of impacting future cases, and “weak interest of the government in federal adjudication of Plaintiffs’ state law claims”).
- *Carmine v. Poffenbarger*, 2015 WL 9581416 (E.D. Va. 12/29/2015) (claim citing FDCA not “substantial” because “[n]one of the issues in this case would affect the

Government's operation.”).

- *Ruiz v. Woodland Park Obgyn, LLC*, 2016 WL 158522 (D.N.J. 1/13/2016) (“That a state-law complaint refers to a federal statute as one of several sources of public policy does not create a substantial federal question.”).
- *Meriter Health Servs., Inc. v. Godfrey & Kahn, S.C.*, 2015 WL 7313883 (W.D. Wisc. 11/20/2015) (malpractice claim involving underlying ERISA claim “a backward-looking, hypothetical question” of federal law).

Sincerely,

/s/ Harvey S. Bartlett III

H.S. Bartlett III

Counsel for Plaintiffs-Appellants