

THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

UNITED STATES OF AMERICA, ex rel.)
Cori Rigsby, et al.,)
)
Plaintiff,) Civil No. 1:06cv433WJG-JMR
)
v.)
)
STATE FARM INS. CO., et al.)
)
Defendants.)
_____)

**RELATORS' EMERGENCY MOTION TO STAY PROCEEDINGS PENDING A
RULING ON DEFENDENT'S MOTION TO DISQUALIFY**

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ATTORNEYS FOR RELATORS

Relators Cori Rigsby and Kerri Rigsby (collectively, "Relators"), through their undersigned attorneys of record, hereby move the Court for an Order staying all proceedings in the captioned cause pending a ruling on the Motion to Disqualify filed by Defendant State Farm Fire and Casualty Company ("State Farm"). In support of this Motion, Relators state as follows:

1. This is an action to recover damages and civil penalties on behalf of the United States of America arising out of the false claims presented for payment by defendants under the National Flood Insurance Program, 42 USC § 4001, et seq.

2. This action was brought by Relators pursuant to 31 USC § 3729 and the *qui tam* provisions of that statute found at 31 USC §§ 3730 and 3731.

3. On or about April 8, 2008, State Farm, one of the defendants in this action, moved to dismiss Relators' claims on various grounds, including lack of jurisdiction and failure to comply with Rule 9 of the Federal Rules of Civil Procedure. State Farm also moved for summary judgment on Relators' retaliatory discharge claim.

4. In addition, concurrently with the filing of these dispositive motions, State Farm moved the Court to disqualify Relators' attorneys Graves Bartle & Marcus LLC ("GBM") and Bartimus, Frickleton, Robertson & Gorny, P.C. ("BFRG") from continuing to represent Relators in this action, and to dismiss this action because of Relators' attorneys' alleged ethical violations.

5. State Farm's disqualification motion is based upon the misguided premise that GBM and BFRG are vicariously responsible and can be disqualified for acts about which they had no or incomplete knowledge, and did not in any way direct. The motion is over-brimming with innuendo ad inflammatory rhetoric, and lacks any factual basis to show that GBM and BFRG are

unqualified to continue this representation. The motion is nothing more than a transparent attempt to focus attention away from the fraud State Farm perpetrated on its own policyholders and on the federal government, and create a side-show big enough to camouflage its own obvious wrongdoing.

6. Relators intend to vigorously contest the disqualification of their counsel. Relators also intend to contest the dismissal of their claims and whether summary judgment is appropriate on their claim for retaliatory discharge.

7. So that Relators will have a full and fair opportunity to contest both the Motion to Disqualify and the dispositive motions, Relators request that these proceedings be stayed until 30 days following a ruling on the Motion to Disqualify.

8. A stay is appropriate for several reasons. First, while Relators strongly believe GBM and BFRG should be allowed to remain attorneys of record in this action, State Farm has put this matter directly at issue through its motion to disqualify. As a result, at least some uncertainty exists as to whether GBM and BFRG will continue to represent Relators going forward. So long as this uncertainty remains, it will be awkward and difficult for GBM and BFRG to make strategic decisions regarding the conduct of the litigation. GBM's and BFRG's decisions as to how to address State Farm's dispositive motions may be at odds with the thoughts and strategy of new counsel (assuming it is necessary to secure new counsel). This could cause unfair prejudice to Relators and to the United States, on whose behalf this case is being brought. It would be far better, prior to requiring the parties to litigate the merits of this case, to confirm that GBM and BFRG can continue as counsel of record or, if they cannot continue, to allow new counsel to enter the litigation and decide on the proper approach for addressing the pending motions.

9. Moreover, if State Farm obtains all the relief they are seeking—dismissal of the lawsuit due to Relators’ attorneys’ alleged ethical violations—then pending an appeal of the Court’s ruling, there will be no need to address the merits of this action. While Relators vehemently deny GBM and BFRG engaged in any unethical conduct, State Farm has put this matter directly at issue through its Motion to Disqualify. It would be a needless waste of time, money and energy to prepare responses to the pending dispositive motions if, at the end of day, this lawsuit is adjudicated based upon Relators’ attorneys’ alleged conduct instead of the substance and adequacy of Relators’ legal claims.

10. Staying these proceedings pending a ruling on the Motion to Disqualify will cause no prejudice to Defendants. Although State Farm has been litigating claims arising out of Hurricane Katrina for some time, this particular lawsuit is still in its infancy. There has been no formal discovery. No depositions have taken place. The case is not presently set for trial.

11. Relators bring this Motion for good cause, and not to oppress or harass Defendants or to needlessly delay resolution of this dispute.

WHEREFORE, for the foregoing reasons, Relators’ Motion to Stay Proceedings should be granted and the Court should enter an Order:

- A. Requiring Realtors to respond to State Farm’s Motion to Disqualify on or before April 25, 2008;
- B. Requiring State Farm to file any reply in support of the Motion to Disqualify on or before May 2, 2008; and
- C. Requiring Relators to submit briefing on all pending motions, other than the Motion to Disqualify, within 10 business days following expiration of the stay.

Respectfully submitted,

**BARTIMUS, FRICKLETON,
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s/Michael Rader

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CERTIFICATE OF SERVICE

I, Michael C. Rader, one of the attorneys for Cori and Kerri Rigsby, do hereby certify that I have this day caused a true and correct copy of the foregoing instrument to be delivered to the following, via the means directed by the Court's Electronic Filing System:

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THIS the 10th day of April, 2008

s/ Michael C. Rader
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