

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

UNITED STATES OF AMERICA ex rel.

CORI RIGSBY and KERRI RIGSBY
RELATORS/COUNTER-DEFENDANTS

Vs.

STATE FARM MUTUAL INSURANCE COMPANY
DEFENDANT/COUNTER-PLAINTIFF, et al.

CASE NO. 1:06cv433-LTS-RHW

DECLARATION OF COUNSEL

1. This declaration is made pursuant to the penalties of perjury, from personal knowledge.
2. I am an attorney and a member of the Missouri Bar, am over 18 years of age, and have never been convicted of a felony.
3. By making the disclosures in this declaration I am not waiving any claim of attorney client privilege related to these disclosures.
4. My principal place of business is at 715 Swifts Highway, Jefferson City, Missouri. Our firm's principal place of business is at 11050 Overbrook, Leawood, KS 66211.
5. I have thirteen years of experience in pursuing False Claims Act cases.
6. Because of this expertise at some time in February of 2006 our firm was asked by Richard Scruggs to represent Cori and Kerri Rigsby in a False Claims Act case.
7. On April 14, 2006, I flew to Mississippi to meet with the Relators in this case, Cori and Kerri Rigsby. With me were Mary Winter, Todd Graves, Edward D. "Chip" Robertson, and Richard Scruggs.

8. As has been described by defendants, the meeting took place in a temporary housing unit where a house once stood.
9. At that meeting the Relators engaged counsel and provided information protected by attorney-client privilege to their counsel. At no time during that meeting did I or anyone else touch or use a computer.
10. A second meeting was set up on April 20, 2006 at the same location as the prior meeting.
11. Mary D. Winter, Zachary Scruggs, and myself were in attendance along with Cori and Kerri Rigsby.
12. The purpose of the second meeting was the prepare an evidentiary disclosure for the United States Department of Justice because a meeting had been set up with the United States Attorney on April 21, 2006.
13. At one point during the second meeting Relators indicated that they had received electronic mail from State Farm, and from State Farm employee Alexis "Lecky" King that supported their claims that State Farm was purposefully, knowingly, and deliberately demanding that adjusters pay the limits on flood claims, as well as taking other steps to push off on the National Flood Insurance Program all the damage properly due to wind.
14. Relators also indicated that they had received emails that related to assignments for engineering firms, one of which included a roster of all engineering assignments.
15. The emails were stored on the hard drives of the Rigsbys' laptop computers.
16. The Relators had received these emailed documents in the scope and course of their employment as adjusters.
17. The Relators did not have a printer available to print out copies of the documents.

18. Declarant provided a USB drive to Cori Rigsby to copy these emails so that they could be incorporated into the evidentiary disclosure that was to be made on the next day.
19. Cori Rigsby was not familiar with how to use that specific USB drive so Declarant moved the mouse to drag the emails from the desktop where Cori Rigsby had saved them over to the USB drive.
20. Other than dragging the documents over to the USB drive, counsel did not further use the computer. Counsel did not open any documents on the computer. Counsel did not read any documents on the computer.
21. No other lawyer or member of Counsel's firm, or the firm of Graves, Bartle & Marcus touched or used any computer in the possession of Cori or Kerri Rigsby.
22. Declarant never asked Cori Rigsby to access any State Farm server and never requested that the Relators show him any other documents on the State Farm System or her computer.
23. Declarant was never provided with any passwords to the computer or any State Farm information systems.
24. Relators never volunteered to let Counsel see any documents on the State Farm System.
25. Declarant never saw Relators enter any passwords, nor did Relators disclose any passwords to Counsel.
26. None of the documents or emails sent to the Rigsbys and possessed by them was marked as confidential.
27. None of the documents or emails included any personal indentifying information like social security numbers or dates of birth.
28. None of the documents or emails sent to the Rigsbys and possessed by them was marked as proprietary.

29. None of the documents or emails indicated that they were in any way a trade secret.
30. The documents appeared to Declarant to be evidence of fraud on the government and were in the custody and control of the Relators, and Relators were lawfully possessed of the same at the time they were turned over to Counsel.
31. All of the documents and emails that were a part of the material received on that date were subsequently turned over to the United States Attorney and to the Department of Justice in the Evidentiary Disclosure made to the United States.
32. Declarant filed the Relators' qui tam action on behalf of the Rigsby Relators on April 26, 2006.
33. Declarant made the aforementioned trip to Jackson, Mississippi on April 21, 2006, to present the evidentiary disclosure and information to the United States Attorney, and Department of Justice.
34. Other than the initial two trips to interview the Relators, and the trip to brief the Department of Justice, Counsel has conducted most of the work on this case from his office in Jefferson City, MO.
35. Declarant had no involvement in the day-to-day activities of the policy-holder cases filed against State Farm.
36. Declarant was not consulted by the Rigsbys before they engaged in copying data to protect it from spoliation in June, 2006.
37. Declarant was not aware of the copying until after it had occurred, and after the documents had been turned over to law enforcement.
38. Declarant and his law firm never instructed Relators to copy any additional materials after the meeting on April 20, 2006.

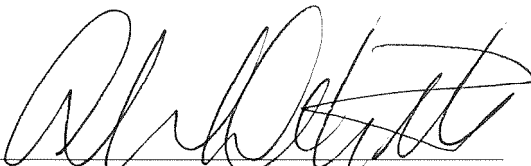
39. Declarant did not see the copied documents until December 6, 2006. At that time I obtained four CDs with the documents on them solely for the purpose of providing the same to the United States Department of Justice Civil Division.
40. At some time after June 5, 2006, the Relators were discharged from employment with State Farm.
41. Later in 2006, I became aware that the Rigsbys had entered into some kind of consulting/employment relationship with Scruggs Katrina Group (SKG).
42. When I learned of such employment, it was Relators' Counsel's understanding that the Relators were being employed as consulting experts to read through claim files and offer analysis in cases other than those involving State Farm.
43. When I learned of this purported employment relationship I had a conversation with Edward D. Robertson, Jr., of our firm where I expressed my belief that we could not participate in providing any remuneration to Relators in advance of any settlement of the case under Missouri Rule 4-1.8 which prohibited payments to clients.
44. I was not consulted by Scruggs Katrina Group before the arrangement was initiated.
45. I was not asked to participate in or become a party to any employment agreement with Relators.
46. I was not a party to or aware of the amount of money that the Relators were being paid, the work that was being done, or any other terms or conditions of Relator's employment with the Scruggs Katrina Group.
47. Neither I nor my law firm supplied any of the funds used to pay the Relators.
48. I am not now nor have I or my firm ever been a member or associated with the Scruggs Katrina Group.

49. I was solely employed to pursue a cause of action under the False Claims Act because the Scruggs Katrina Group lacked the expertise and/or willingness to pursue those claims.

50. At all times Scruggs Law Firm was local counsel only and was not actively engaged in evaluating or formulating the strategy or claims in this case.

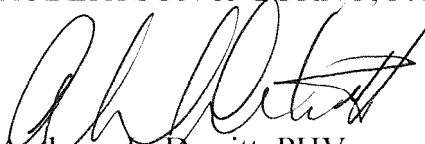
51. Scruggs Law Firm has withdrawn and no longer has an interest in this case.

I MAKE THESE STATEMENTS FROM PERSONAL KNOWLEDGE AND SUBJECT TO THE PENALTIES OF PERJURY.



Anthony L. DeWitt

BARTIMUS, FRICKLETON,
ROBERTSON & GORNY, P.C.



Anthony L. DeWitt, PHV
Michael Rader, Miss Bar #
Counsel for Relators
715 Swifts Highway
Jefferson City, MO 65109
573-659-4454
Fax: 573-659-4460