

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

THOMAS C. and PAMELA McINTOSH,
Plaintiffs,

VERSUS NO. 1:06-cv-1080-LTS-RHW

STATE FARM FIRE & CASUALTY COMPANY,
FORENSIC ANALYSIS & ENGINEERING CORPORATION
and E.A. RENFROE & COMPANY, INC.,
Defendants.

VIDEOTAPED DEPOSITION OF DAVID LEE HARRELL,
VOLUME II

Taken at the Offices of Harris,
Jernigan & Geno, 587 Highland Colony
Parkway, Ridgeland, Mississippi, on
Wednesday, October 31, 2007, beginning
at 9:51 a.m.

JOB NO. 12416

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 CHRISTINA KELSEY, ESQUIRE
 24
 25 REPORTED BY:
 MONICA SCHROEDER, RPR, CRR, CSR #1285

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 25 2007 Receipts and
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1 STIPULATION
 2 It is hereby stipulated and agreed
 3 by and between the parties hereto, through
 4 their respective attorneys of record, that
 5 this deposition may be taken at the time and
 6 place hereinbefore set forth, by Monica
 7 Schroeder, Court Reporter and Notary Public,
 8 pursuant to the Federal Rules of Civil
 9 Procedure, as amended;
 10 That the formality of READING AND
 11 SIGNING is specifically NOT WAIVED;
 12 That all objections, except as to
 13 the form of the questions and the
 14 responsiveness of the answers, are reserved
 15 until such time as this deposition, or any
 16 part thereof, may be used or is sought to be
 17 used in evidence.
 18 ---
 19
 20
 21
 22
 23
 24
 25

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1 MR. SCRUGGS:
 2 Dan, before we get started, let me
 3 just make an objection, well, to this entire
 4 deposition. Mr. Harrell's depo was taken on
 5 June 7th, 2007. After much ado and
 6 protective orders, it was scheduled and
 7 taken on that date. He was tendered over to
 8 you, and you asked some questions, and the
 9 deposition was ceased, subject to us coming
 10 back, which we have not yet done.
 11 So I'm going to move to strike, in
 12 advance, any testimony he gives that you are
 13 going to try to elicit from him, given the
 14 fact that he was already deposed on June 7th
 15 and you had the opportunity to ask any
 16 questions that you wanted to ask him.
 17 Subject to that, you can ask
 18 whatever you want, but we have a motion to
 19 strike all of this, whenever you finish it.
 20 MR. WEBB:
 21 I understand. Your record doesn't
 22 call for me to comment on that. I would
 23 just say that it's my understanding that the
 24 deposition was, in fact, recessed and we did
 25 not exercise the right to ask all of our

<p style="text-align: right;">Page 309</p> <p>1 questions at that time. Plus, we had a 2 right to notice the deposition 3 independently, in any event. 4 For the record, I have attached 5 the Amended Notice and Continuation of Video 6 Deposition of Mr. Harrell as Exhibit 29. 7 And that's the only exhibit I've had 8 pre-marked. 9 (Exhibit 29 was marked.) 10 DAVID LEE HARRELL 11 having been first duly sworn, was 12 examined and testified as follows: 13 EXAMINATION 14 BY MR. WEBB: 15 Q. Good morning, Mr. Harrell. 16 A. Good morning. 17 Q. As you know, from the prior 18 deposition, and I think maybe a meeting just 19 for a moment out in the hallway a little bit 20 ago, I'm Dan Webb. I'm a lawyer from up in 21 Tupelo, and I represent State Farm in this 22 lawsuit that's filed by the McIntoshes. 23 Like with any deposition, and even 24 a continuation of a deposition, if I ask you 25 something and you don't understand it,</p>	<p style="text-align: right;">Page 311</p> <p>1 or at least one question asked about your 2 knowledge of persons, I believe, that were 3 identified as Cori and Kerri Rigsby. Do you 4 have a recollection of that being discussed 5 in your deposition? 6 A. No, sir. 7 Q. Do you remember any reference in 8 the earlier testimony you gave to insiders 9 with State Farm? 10 A. No, sir. 11 Q. Have you heard that term before? 12 A. Yes, sir. 13 Q. In what context have you heard 14 that term? And by "that term," I mean the 15 term "insider." 16 A. Can you clarify exactly -- clarify 17 the question? 18 Q. Okay. I'll try. Let me back up 19 and ask you this: Have you reread your 20 deposition transcript up to this point in 21 preparation for today? 22 A. Yes, sir. 23 Q. And if the Rigsbys were mentioned, 24 you just don't happen to recall that, 25 correct?</p>
<p style="text-align: right;">Page 310</p> <p>1 please let me know and I'll go back and try 2 to start over. Okay? 3 A. Yes, sir. 4 Q. I know you've testified several 5 times before, including, as Mr. Scruggs 6 mentioned, earlier on in this particular 7 case. And I'm wondering, have you testified 8 in any depositions related to Hurricane 9 Katrina matters since you gave the first 10 part of this deposition? 11 A. No, sir. 12 Q. Do you have any other depositions 13 related to Hurricane Katrina matters 14 scheduled at this point? 15 A. No, sir. 16 Q. With respect to the testimony -- 17 MR. JERNIGAN: 18 Just a minute. 19 MR. WEBB: 20 Sure. Anything else? 21 MR. JERNIGAN: 22 No. 23 MR. WEBB: 24 Q. With respect to your prior 25 testimony, there were some questions asked</p>	<p style="text-align: right;">Page 312</p> <p>1 A. That's correct, yes, sir. 2 Q. Do you recall ever having any 3 discussions with either Dick Scruggs, Zach 4 Scruggs, Mike Moore or Jim Hood in the fall 5 or early winter of 2005 regarding the 6 insiders? 7 A. Yes, sir. 8 Q. What do you recall about that? 9 A. December 14th and maybe 15th, 10 Commissioner Dale and I met with Dickie 11 Scruggs. 12 Q. December 14th or 15th? 13 A. I believe it was the 15th. 14 Q. The 15th. What was the occasion 15 for -- 16 MR. SCRUGGS: 17 I'm sorry, counsel. What year was 18 that? 19 MR. JERNIGAN: 20 '05. 21 A. 2005. 22 MR. WEBB: 23 Q. And you and Commissioner Dale were 24 in a meeting with Dickie Scruggs? 25 A. Yes, sir.</p>

3 (Pages 309 to 312)

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1 Q. Where did that meeting take place?
 2 A. Commissioner Dale's office.
 3 Q. Who arranged the meeting, if you
 4 know?
 5 A. Dickie called the Commissioner's
 6 secretary and wanted to meet.
 7 Q. Other than yourself and
 8 Commissioner Dale and Mr. Scruggs, was there
 9 anyone else present?
 10 A. No, sir.
 11 Q. Do you have -- do you have any
 12 documents or any notations that confirm the
 13 date of that meeting?
 14 A. Yes, sir.
 15 Q. Do you have them here with you?
 16 A. Counsel.
 17 MR. WEBB:
 18 Do you all have them?
 19 MR. JERNIGAN:
 20 Now the witness has them.
 21 MR. WEBB:
 22 Q. Your counsel just handed you a
 23 folder with some paper in it. Could you
 24 identify what those are, please, sir?
 25 A. This one is a Woolfolk Building

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1 sign-in sheet from the police state capitol
 2 from December 15th, 2005.
 3 Q. It says up at the top, under the
 4 -- and over to the right of it, under the
 5 printed words Sign-in Sheet, it says,
 6 "Delivering from September 15th, 2005"?
 7 A. Yes, sir.
 8 Q. Is that the -- to me, that's an
 9 unusual use of the word "delivering." What
 10 -- is that the way it's normally written to
 11 reflect that that's the date, if you know?
 12 A. I don't know.
 13 Q. And where on here do you see
 14 anything that references anything about this
 15 meeting you had with Dickie Scruggs?
 16 A. Come down about halfway down the
 17 page, you will see a signature that is Dick
 18 Scruggs, going to --
 19 Q. I counted up from the bottom, and
 20 it looks like that's the 8th line from the
 21 bottom.
 22 A. Yes, sir.
 23 Q. Okay. And it says, agency --
 24 there's a column that says, Agency/Floor.
 25 It says 10th. What's on the 10th Floor of

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1 the Woolfolk Building?
 2 A. The Mississippi Department of
 3 Insurance.
 4 Q. Is that where Commissioner Dale's
 5 office was on December 15th, 2005?
 6 A. Yes, sir.
 7 Q. And yours, as well?
 8 A. Yes, sir.
 9 Q. And it says, Company. Can you
 10 read that?
 11 A. I -- it looks like an S and
 12 something and an F.
 13 Q. Time in is 9:10, and time out is
 14 10:06?
 15 A. Yes, sir.
 16 Q. So assuming those times would be
 17 correct, from the sign-in time until the
 18 sign-out time would have been 56 minutes?
 19 A. Yes, sir.
 20 Q. Just a little under an hour.
 21 A. Yes. You are testing my math.
 22 MR. WEBB:
 23 Okay. Let me take the copy that
 24 you have there, please, sir, and ask the
 25 reporter to mark this as Exhibit 30.

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1 (Exhibit 30 was marked.)
 2 MR. NORRIS:
 3 Would it be possible for Mr.
 4 Harrell to speak up a little bit? I'm
 5 having a little trouble hearing him.
 6 MR. WEBB:
 7 Q. And you have another sheet there.
 8 What is that? Or is that multiple copies of
 9 one sheet? Okay. I see what appears to be
 10 a day planner or a calendar page with
 11 December to -- with the word "to December
 12 18th" in the top right portion of the page.
 13 What is this, if you can identify this,
 14 please, sir?
 15 A. This is a page out of Commissioner
 16 Dale's calendar for 2005.
 17 Q. Okay. And I see, looking at the
 18 -- over on the left-hand side, it looks like
 19 the number 9, and a dash, and "Dickie
 20 Scruggs" written in.
 21 A. Yes.
 22 Q. Is that what this -- is that
 23 meeting and that time referencing the
 24 meeting with Mr. Scruggs that's reflected on
 25 Exhibit 30?

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<p>1 A. Yes, sir. 2 Q. Whose handwriting is that? 3 A. Mr. Dale's. 4 MR. WEBB: 5 Let's mark that as Exhibit 31, 6 please, ma'am. 7 (Exhibit 31 was marked.) 8 MR. WEBB: 9 Q. With respect to the meeting and 10 the fact that we noted that it's 56 minutes 11 from sign in to sign out, is that consistent 12 with the length of time that you recall that 13 that meeting took place? 14 A. Yes, sir. 15 Q. Okay. And were you in the meeting 16 at all times when Commissioner Dale and 17 Dickie Scruggs were in the room that day? 18 A. Yes, sir. 19 Q. From the time Mr. Scruggs arrived 20 until he left? 21 A. Yes, sir. 22 Q. And what led into this series of 23 questions was a question about insiders. 24 Did the subject insiders come up during the 25 course of that meeting?</p>	<p>1 for Mr. Scruggs, personally, to administer? 2 MR. SCRUGGS: 3 Object to the form. 4 A. That's the way we took -- I took 5 the conversation. 6 MR. SCRUGGS: 7 And let me go ahead and make a 8 general objection to -- even though all 9 objections are preserved to relevancy of any 10 of this, but I'm sure it will be fine. Keep 11 on going. 12 MR. WEBB: 13 Do you want to have a continuing 14 one on that one? 15 MR. SCRUGGS: 16 Well, it depends on how irrelevant 17 you go. I might throw it out there just to 18 let you know how -- where you are going, but 19 go ahead. 20 MR. WEBB: 21 Q. Was the presentation all oral or 22 was there a slide show or a Power Point or 23 anything like that? 24 A. No, sir. It was just discussions. 25 Q. Just discussions. What else do</p>
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<p>1 MR. SCRUGGS: 2 Object to the form. 3 A. Yes, sir. 4 MR. WEBB: 5 Q. Tell me what you remember about 6 what was said about insiders. 7 A. Mr. Scruggs used the terminology. 8 Q. He did? 9 A. Yes, sir. 10 Q. And do you recall what he said 11 when he used the terminology? 12 A. Yes. 13 Q. What did he say? 14 A. He was making a presentation to 15 Mr. Dale and myself regarding why we should 16 make State Farm put up \$500 million for him 17 to administer to pay claims. 18 Q. He was making a presentation to 19 you and the Commissioner as to why the 20 Commissioner or Department of Insurance 21 should make State Farm put up a half a 22 billion dollars for him -- for Mr. Scruggs 23 to administer? 24 A. To pay claims, yes, sir. 25 Q. To pay claims. But for him -- but</p>	<p>1 you remember about that discussion, other 2 than the fact that Mr. Scruggs was 3 explaining to you and the Commissioner why 4 the Department of Insurance, in his view, 5 should set aside or require State Farm to 6 pay a half a billion dollars for him to 7 administer and pay claims? 8 MR. SCRUGGS: 9 Object to the form. 10 A. He said he was going to do it the 11 same way he did the tobacco case, that he 12 had a couple insiders, high-ranking State 13 Farm representatives working for him as 14 insiders, and he was going to work it the 15 same way he and Mike Moore worked the 16 tobacco case. 17 MR. WEBB: 18 Q. And this was on December 15th, 19 2005? 20 A. Yes, sir. 21 MR. SCRUGGS: 22 Let me -- I don't know if I 23 remember this. Was he under oath? Did you 24 swear him in before he said that? 25 COURT REPORTER:</p>

5 (Pages 317 to 320)

<p style="text-align: right;">Page 321</p> <p>1 Yes, I did. 2 MR. SCRUGGS: 3 Okay. Keep on going. 4 MR. WEBB: 5 Q. And did he identify beyond the 6 general description you just gave the couple 7 of insiders that he claimed to have at that 8 time? 9 A. No, sir. 10 Q. Have you subsequently learned who 11 those insiders were? 12 MR. SCRUGGS: 13 Object to the form. 14 A. I've learned of some insiders. 15 MR. WEBB: 16 Q. The ones you've learned are the 17 Rigsbys? 18 MR. SCRUGGS: 19 Object to the form. 20 A. Yes, sir. 21 MR. WEBB: 22 Q. Excuse me? I'm sorry. 23 A. Yes, sir. 24 Q. Have you learned of any other 25 claimed to be insiders other than the</p>	<p style="text-align: right;">Page 323</p> <p>1 discussed, what was your understanding of 2 that with respect to the connection between 3 the political issues and the money that Mr. 4 Scruggs wanted set aside? 5 MR. SCRUGGS: 6 Object to the form and to the 7 relevancy of any of this, but whatever. 8 A. My understanding of the 9 discussion, or my perception of it, was that 10 if Commissioner Dale didn't go along with 11 trying to make State Farm put up \$500 12 million, that Mr. Scruggs was going to 13 attempt to get Mr. Dale beat. 14 MR. WEBB: 15 Q. Do you know -- 16 MR. SCRUGGS: 17 Object to non-responsive, but go 18 ahead. 19 MR. WEBB: 20 Q. Do you know if, in fact, Mr. 21 Scruggs subsequently was engaged in any 22 activities to accomplish that purpose? 23 MR. SCRUGGS: 24 Object to the form. 25 A. You'd have to go ask Mr. Scruggs</p>
<p style="text-align: right;">Page 322</p> <p>1 Rigsbys? 2 A. No, sir. 3 Q. What else do you recall about that 4 conversation? 5 MR. SCRUGGS: 6 Object to the form. 7 A. He talked about political issues. 8 MR. WEBB: 9 Q. What do you mean, political 10 issues? 11 A. He told Mr. Dale that, George, a 12 lot of people on the coast are calling you 13 the Commissioner for insurance. He talked 14 about how he had always liked Mr. Dale, and 15 had always been there, trying to help Mr. 16 Dale, but if we didn't work with him on 17 this, he was not going to be able to support 18 Mr. Dale in the future, politically. 19 Q. Okay. Did he go any farther than 20 just saying he wasn't going to support him? 21 MR. SCRUGGS: 22 Object to the form. 23 A. No, sir. 24 MR. WEBB: 25 Q. When the political issues were</p>	<p style="text-align: right;">Page 324</p> <p>1 that. 2 MR. WEBB: 3 Q. Okay. He didn't communicate to 4 you about that, after that, I suppose? 5 A. No, sir. 6 Q. Did the department insist that 7 State Farm put up the \$500 million for Mr. 8 Scruggs to administer? 9 A. No, sir. Mr. Dale advised Mr. 10 Scruggs that he didn't think that was legal 11 to do that and, Dickie, you are just going 12 to have to do what you have to do. 13 Q. But there's no question in your 14 mind that on December 15th, during -- 2005, 15 during this discussion, Mr. Scruggs 16 specifically used the term "insiders"? 17 MR. SCRUGGS: 18 Object to the form. 19 A. That, and the term "whistle 20 blower." 21 MR. WEBB: 22 Q. He used the term "whistle blower"? 23 A. I think so. I know he used the 24 word "insiders." 25 Q. And he referred to a couple --</p>

6 (Pages 321 to 324)

<p style="text-align: right;">Page 325</p> <p>1 MR. SCRUGGS: 2 Object to the form. 3 MR. WEBB: 4 Q. -- of insiders? 5 A. To the best of my recollection, he 6 had a couple of high-ranking State Farm 7 representatives working for him as insiders. 8 MR. WEBB: 9 Q. Did he say anything about what he 10 claimed that they knew? 11 MR. SCRUGGS: 12 Object to the form. 13 A. He talked about claim files, 14 engineer reports and things like that. 15 MR. WEBB: 16 Q. Did he say anything about any 17 particular insureds? 18 A. No, sir. 19 Q. So he didn't mention, in that 20 conversation, the McIntoshes by name? 21 A. Not that I recall. 22 Q. He did mention allegations that 23 were being made about engineering reports, 24 though? 25 MR. SCRUGGS:</p>	<p style="text-align: right;">Page 327</p> <p>1 about these issues? 2 MR. SCRUGGS: 3 Object to the form. 4 A. Which issues? 5 MR. WEBB: 6 Q. About the Katrina issues -- 7 A. Yes. 8 Q. -- the same issues that Mr. 9 Scruggs was discussing? 10 MR. SCRUGGS: 11 Same objection. 12 A. I have met and talked with General 13 Moore, yes, sir. 14 MR. WEBB: 15 Q. Did you work in his office when he 16 was Attorney General? 17 A. Yes, sir. 18 Q. And you met and talked with, as 19 you say, General Moore. How many times did 20 you do that? 21 A. I'm not sure how many times we 22 spoke on the telephone. I know we met a 23 couple different times, I know once in my 24 office and once in General Hood's office. 25 Q. And do you recall, well, first of</p>
<p style="text-align: right;">Page 326</p> <p>1 Object to the form. 2 A. That was my recollection. 3 MR. WEBB: 4 Q. Did he mention anything about -- 5 in the context of engineering reports, did 6 he mention anything about any claim that 7 there were more than one engineering report 8 in any -- in some cases? 9 MR. SCRUGGS: 10 Object to the form. 11 A. I don't remember. 12 MR. WEBB: 13 Q. You don't remember that part of 14 it. Is there anything else about that 15 conversation, other than what we've 16 discussed thus far, that you recall? 17 MR. SCRUGGS: 18 Object to the form. 19 A. Not really. 20 MR. WEBB: 21 Q. He mentioned Mr. Moore, correct? 22 But Mr. Moore was not there, right? 23 A. Correct. 24 Q. Have you had any conversations 25 with former Attorney General Mike Moore</p>	<p style="text-align: right;">Page 328</p> <p>1 all, with respect to the meeting with Mr. 2 Moore, when you met in your office, if 3 anyone was there with you other than him? 4 A. Yes, sir. 5 Q. Who was there? 6 A. Jimmy Blissett. 7 Q. And I believe you identified Mr. 8 Blissett as an investigator that worked for 9 the department? 10 A. Yes, sir. 11 Q. On a contractor basis? 12 A. Yes, sir. 13 Q. And approximately when did that 14 meeting take place, if you know? 15 A. Sometime probably in early 2007. 16 Q. Now, what about the meeting with 17 Mr. Moore when it was at Mr. Hood's office? 18 When was it? 19 A. Sometime in early 2007 is when. 20 Q. Okay. And other than that, from 21 what you recall, your conversations with Mr. 22 Moore would have been on the phone, other 23 than those two meetings? 24 A. There may have been some more 25 meetings in my office. I just don't recall</p>

7 (Pages 325 to 328)

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<p>1 at this time.</p> <p>2 Q. In either the meeting where you</p> <p>3 were meeting with Mr. Moore in Attorney</p> <p>4 General Hood's office, was Attorney General</p> <p>5 Hood present?</p> <p>6 A. Yes, sir.</p> <p>7 Q. Was there anybody else there other</p> <p>8 than yourself, Attorney General Hood and Mr.</p> <p>9 Moore?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Who else was there?</p> <p>12 A. Mr. Dale, Danny Cupit.</p> <p>13 Q. Attorney Danny Cupit?</p> <p>14 A. Yes, sir. And the young lady that</p> <p>15 works for General Hood's office.</p> <p>16 Q. Do you remember --</p> <p>17 A. It was a young blonde-headed lady.</p> <p>18 I apologize. I don't recall her name and</p> <p>19 didn't really catch it. She sat in the</p> <p>20 corner and didn't say much.</p> <p>21 Q. Do you know if she was an</p> <p>22 attorney?</p> <p>23 A. Yes.</p> <p>24 Q. She was an attorney. Does</p> <p>25 Courtney sound familiar?</p>	<p>1 the group?</p> <p>2 MR. SCRUGGS:</p> <p>3 Object to the form,</p> <p>4 mischaracterizes his testimony, but go</p> <p>5 ahead.</p> <p>6 A. Can you repeat the question? I'm</p> <p>7 sorry.</p> <p>8 MR. WEBB:</p> <p>9 Q. I'll try. I'm trying to include</p> <p>10 both meetings at the same time, as opposed</p> <p>11 to separating them. It might be better to</p> <p>12 separate them. But I'll ask it like this</p> <p>13 again. What did Mike Moore tell either you</p> <p>14 in the meeting that you had with him alone</p> <p>15 and/or the group that you met with when it</p> <p>16 was the group of people about his</p> <p>17 investigative work concerning Hurricane</p> <p>18 Katrina?</p> <p>19 MR. SCRUGGS:</p> <p>20 Same objection.</p> <p>21 THE WITNESS:</p> <p>22 Do I --</p> <p>23 MR. JERNIGAN:</p> <p>24 Mr. Harrell asked me if he had to</p> <p>25 answer that on the record, and I know, Lee,</p>
Page 330	Page 332
<p>1 A. It wasn't Courtney Sliman.</p> <p>2 Q. Someone else?</p> <p>3 A. Yes, sir.</p> <p>4 Q. Did she participate in the</p> <p>5 conversation?</p> <p>6 A. Not really.</p> <p>7 Q. How long did you all meet that</p> <p>8 day?</p> <p>9 A. An hour or so.</p> <p>10 Q. In either of these conversations,</p> <p>11 did any discussion occur with respect to Mr.</p> <p>12 Moore's work investigating Katrina matters?</p> <p>13 MR. SCRUGGS:</p> <p>14 Object to the form.</p> <p>15 A. Yes.</p> <p>16 MR. WEBB:</p> <p>17 Q. Did it occur in both of those</p> <p>18 meetings or just one?</p> <p>19 MR. SCRUGGS:</p> <p>20 Same objection.</p> <p>21 A. Both.</p> <p>22 MR. WEBB:</p> <p>23 Q. With respect to what Mr. Moore</p> <p>24 said regarding what he was doing concerning</p> <p>25 investigating work, what did he tell you or</p>	<p>1 of no reason it's privileged right now, that</p> <p>2 I can think of, as long as it doesn't go</p> <p>3 into some privileged communication regarding</p> <p>4 the Market Conduct Exam, I think that's --</p> <p>5 MR. SCRUGGS:</p> <p>6 And I'll --</p> <p>7 MR. JERNIGAN:</p> <p>8 He has to answer it.</p> <p>9 MR. SCRUGGS:</p> <p>10 And to answer that question will</p> <p>11 open the door to just about everything on</p> <p>12 the Market Conduct Exam, but go ahead.</p> <p>13 A. I asked General Moore who was he</p> <p>14 representing.</p> <p>15 MR. WEBB:</p> <p>16 Q. What did he tell you?</p> <p>17 A. He said he was serving as</p> <p>18 resolution counsel.</p> <p>19 Q. And was this in the meeting that</p> <p>20 he had where it was just you and him?</p> <p>21 A. And Jimmy Blissett. That's it.</p> <p>22 Q. And he was resolution counsel.</p> <p>23 Did he explain what that term meant to you?</p> <p>24 MR. SCRUGGS:</p> <p>25 I'm going to object on relevancy,</p>

8 (Pages 329 to 332)

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1 too.
 2 A. I asked him, well, who's paying
 3 you? I know you are not doing it for free.
 4 MR. SCRUGGS:
 5 Move to strike as non-responsive.
 6 MR. WEBB:
 7 Q. What did he say?
 8 A. He said he gets paid at the end of
 9 the day.
 10 Q. He said he gets paid at the end of
 11 the day?
 12 A. Yes, sir.
 13 Q. Did he ever say how he was going
 14 to get paid or by whom?
 15 A. We never could figure that one
 16 out.
 17 Q. Okay. Did Mr. Moore ever
 18 represent to you that he was doing any work
 19 in conjunction with any Grand Jury?
 20 MR. SCRUGGS:
 21 Object to the form.
 22 A. Yes, sir.
 23 MR. WEBB:
 24 Q. What did he tell you about that?
 25 A. In that meeting, in my office, he

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1 said he was helping Jim Hood with the Grand
 2 Jury process.
 3 Q. And this is the same meeting where
 4 he told you he was resolution counsel who
 5 got paid at the end of the day; he also told
 6 you that he was helping Jim Hood with the
 7 Grand Jury process?
 8 MR. SCRUGGS:
 9 Object to the form.
 10 A. Yes, sir.
 11 MR. WEBB:
 12 Q. And when he said he was helping
 13 Jim Hood with the Grand Jury process, did he
 14 tell you that he was actually going into the
 15 Grand Jury room?
 16 MR. SCRUGGS:
 17 Object to the form.
 18 A. No, sir.
 19 MR. WEBB:
 20 Q. Did he ever tell you that?
 21 A. No, sir.
 22 Q. Did anyone ever tell you that he
 23 was doing that?
 24 MR. SCRUGGS:
 25 Object to the form.

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1 A. Doing --
 2 MR. WEBB:
 3 Q. That Mr. Moore, in his work with
 4 the Grand Jury, was going into the Grand
 5 Jury room when they met?
 6 A. No, sir.
 7 Q. Did he say what he was doing for
 8 Mr. Hood relative to the Grand Jury?
 9 MR. SCRUGGS:
 10 Objection, asked and answered.
 11 A. He said he was helping them with
 12 the Grand Jury process. They didn't know
 13 how to do a lot of that. He was helping
 14 them prepare documents and meet with
 15 witnesses.
 16 MR. WEBB:
 17 Q. Meeting with witnesses?
 18 A. Yes, sir.
 19 Q. Did he say where he was meeting
 20 with those witnesses?
 21 A. No, sir.
 22 Q. Did he say he was not meeting with
 23 those witnesses in the Grand Jury room?
 24 MR. SCRUGGS:
 25 Object to the form.

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1 A. No, sir.
 2 MR. WEBB:
 3 Q. Do you know whether, of your own
 4 knowledge, at the time Mr. Moore had this
 5 conversation with you, whether he was
 6 associated with the Scruggs Katrina Group or
 7 in conjunction with its pursuit of Katrina
 8 claims?
 9 MR. SCRUGGS:
 10 Object to the form.
 11 A. Did I know it at the time or now?
 12 MR. WEBB:
 13 Q. Yes, sir.
 14 A. At the time, I did not.
 15 Q. Subsequently, you've learned that
 16 to be the case?
 17 MR. SCRUGGS:
 18 Object to the form.
 19 A. Yes, sir.
 20 MR. WEBB:
 21 Q. Is there anything else about Mr.
 22 Moore's conversation with you in the initial
 23 meeting where he stated anything else
 24 concerning his work regarding the Grand Jury
 25 that you can recall?

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1 MR. SCRUGGS:
2 Object to the form.
3 A. No, sir.
4 MR. WEBB:
5 Q. Did he talk about that again in
6 the second meeting, where Mr. Cupit and
7 others were also present?
8 A. I don't recall if he brought it up
9 in that meeting or not.
10 Q. Okay. Do you remember any
11 particular comments that Mr. Moore made in
12 that second meeting?
13 MR. SCRUGGS:
14 Object to the form.
15 A. There were a lot of discussions
16 held in the meeting from a lot of different
17 perspectives, like from people. That
18 meeting was an attempt to try to figure out
19 if there was a way to bring some type of
20 global resolution settlement involving State
21 Farm and their Mississippi policyholders.
22 MR. WEBB:
23 Q. Did it deal only with State Farm?
24 A. Yes, sir.
25 Q. Was there any discussion of the

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1 claims being pursued by the Scruggs Katrina
2 Group against State Farm?
3 MR. SCRUGGS:
4 Object to the form.
5 A. Yes, sir.
6 MR. WEBB:
7 Q. What was Mr. Cupit's role in that
8 meeting?
9 A. My understanding, because I asked
10 Danny, is that he was helping Jim Hood.
11 Q. And did Mr. Hood talk during that
12 meeting?
13 A. Yes, sir.
14 Q. Did he make any statements
15 concerning what his position regarding
16 settlement of the claims was?
17 MR. SCRUGGS:
18 Object to the form.
19 A. Yes, sir.
20 MR. WEBB:
21 Q. Do you remember what he said?
22 A. He wanted them -- he wanted them
23 settled.
24 Q. And when he said he wanted them
25 settled, was it your understanding that he

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1 was talking about the claims that the
2 Scruggs Katrina Group had?
3 MR. SCRUGGS:
4 Object to the form.
5 A. My understanding is he was
6 referencing Mr. Scruggs' claims and his
7 civil lawsuit, and Jim Hood's civil lawsuit.
8 MR. WEBB:
9 Q. And would that be, to your
10 recollection and understanding, Jim Hood's
11 civil lawsuit that he filed back in
12 September of '05, if you know?
13 A. Say it again. I apologize.
14 Q. When you said Jim Hood's civil
15 lawsuit, is that the Jim Hood civil lawsuit
16 that was filed soon after the hurricane, in
17 September of '05?
18 A. That was my understanding, yes,
19 sir.
20 Q. Was there any discussion of
21 settling any other lawyers' civil cases in
22 that meeting, other than Scruggs?
23 MR. SCRUGGS:
24 Object to the form. It
25 mischaracterizes his prior testimony. He

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1 said -- he previously testified a
2 resolution, a global resolution of all State
3 Farm claims, but go ahead.
4 A. There were no other attorneys
5 mentioned.
6 MR. WEBB:
7 Q. In that meeting, did Mr. Hood make
8 any representations about any action he
9 would take if the State Farm cases were not
10 settled?
11 MR. SCRUGGS:
12 Object to the form.
13 A. It was either in that meeting or
14 in a phone call with General Hood.
15 MR. WEBB:
16 Q. Or in a phone call with who?
17 A. General Hood.
18 Q. A phone call -- either in that
19 meeting or a phone call in which General
20 Hood said what?
21 A. If they don't settle with us, I'm
22 going to indict them all, from Ed Rust down.
23 Q. And was that said to you?
24 A. Yes, sir.
25 Q. On your end of the line, did

10 (Pages 337 to 340)

<p style="text-align: right;">Page 341</p> <p>1 anyone else hear that comment? 2 A. Not to my recollection. 3 Q. Okay. Do you know whether the 4 comment was made in person or over the 5 phone, for certain? 6 A. I don't remember. 7 Q. You don't have any doubt that he 8 said that? 9 MR. SCRUGGS: 10 Object to the form. 11 A. That's correct. 12 MR. WEBB: 13 Q. And when he said, if they don't 14 settle with us, who's "they"? 15 A. The way I took the conversation, 16 is he was talking about State Farm. 17 Q. And the reason you took the 18 conversation that way is because why? 19 A. We were dealing with State Farm 20 and Mr. Scruggs' settlement of his lawsuit, 21 General Hood's lawsuit, and the proposed 22 class action lawsuit. 23 Q. And the proposed class action 24 lawsuit, the Woullard? 25 MR. SCRUGGS:</p>	<p style="text-align: right;">Page 343</p> <p>1 A. That and the proposed Woullard 2 case. 3 MR. WEBB: 4 Q. That and the proposed Woullard 5 case. And the Attorney General -- the 6 sitting Attorney General of the State of 7 Mississippi, in a conversation with you, 8 told you that if they, meaning State Farm, 9 do not settle with us. Who's "us"? 10 A. I would have to refer you to 11 General Hood. 12 MR. SCRUGGS: 13 Object to the form. 14 MR. WEBB: 15 Q. And he said, if they don't settle 16 with us, he's going to indict who? 17 MR. SCRUGGS: 18 Object to the form. 19 A. My recollection was he used the 20 name of Ed Rust, all the way down. 21 MR. WEBB: 22 Q. Did he use any other names? 23 A. No, sir. 24 Q. Did he represent anything 25 concerning any factual matters about Mr.</p>
<p style="text-align: right;">Page 342</p> <p>1 Object to the form. 2 A. Yes, sir. 3 MR. WEBB: 4 Q. And you weren't discussing claims 5 that other lawyers or other lawyer groups 6 had at that time with Mr. Hood? 7 MR. SCRUGGS: 8 Object to the form. 9 Mischaracterizes the prior testimony. 10 A. Not in my presence. 11 MR. WEBB: 12 Q. In the course of the discussions, 13 of any of these discussions, it's my 14 understanding -- you can correct me if I'm 15 wrong about this -- that the civil lawsuits 16 that were being discussed were the civil 17 lawsuits that the Scruggs group had against 18 State Farm and no others? 19 MR. SCRUGGS: 20 Object to the form. 21 MR. WEBB: 22 Q. Other than Mr. Hood's cases; is 23 that right? 24 MR. SCRUGGS: 25 Same objection.</p>	<p style="text-align: right;">Page 344</p> <p>1 Rust or any other persons other than just to 2 say he was going to indict them? 3 A. Not to my recollection. 4 MR. WEBB: 5 Let's go off the record just a 6 minute. 7 (Off the record.) 8 MR. WEBB: 9 Q. Mr. Harrell, that famous lawyer's 10 comment, just a couple more questions from 11 me, at least, and then the other folks will 12 have, obviously, an opportunity to question 13 you, if they choose to. 14 I want to go back to the meeting 15 that you mentioned, which I believe you said 16 was at Attorney General Hood's office, the 17 one with Danny Cupit present. Was that at 18 his office? 19 A. Yes, sir. 20 Q. Is there anything else, other than 21 what you've testified to, that you can 22 recall at that meeting concerning -- that 23 came out about State Farm, that was 24 discussed about State Farm or any of its 25 personnel?</p>

11 (Pages 341 to 344)

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1 MR. SCRUGGS:
 2 Object to the form; asked and
 3 answered.
 4 A. The main gist of the meeting was
 5 trying to figure out percentages to put in
 6 their structure, contents and loss of use.
 7 MR. WEBB:
 8 Q. Okay. Related to the settlement
 9 of the civil cases?
 10 A. The proposed Woullard case.
 11 Q. Now, other than the meeting with
 12 -- the two meetings that you've named with
 13 -- where Mike Moore was present, the one we
 14 just talked about, I believe, as well as the
 15 other one in your office, has Mr. Moore met
 16 with you at any other times, encouraging the
 17 department to push resolution of the civil
 18 cases of State Farm?
 19 MR. SCRUGGS:
 20 Object to the form.
 21 A. I don't recall any more meetings
 22 with him on that issue.
 23 MR. WEBB:
 24 Q. Any phone conversations that you
 25 remember?

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1 A. There were some phone
 2 conversations.
 3 Q. Did you understand that the
 4 Attorney General's office was using or
 5 attempting to use a threat of criminal
 6 prosecution of State Farm and/or its
 7 employees to assist in brokering settlement
 8 of the civil cases with the Scruggs group?
 9 MR. SCRUGGS:
 10 Object to the form.
 11 MR. JERNIGAN:
 12 Can we go off the record just a
 13 minute?
 14 MR. WEBB:
 15 Sure.
 16 (Off the record.)
 17 (Wherein, the question was read back.)
 18 MR. SCRUGGS:
 19 Object to the form.
 20 MR. JERNIGAN:
 21 You can answer that, Lee.
 22 A. I don't know what General Hood's
 23 intent was. I'd have to defer you to him.
 24 MR. WEBB:
 25 Q. You just know what he said?

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1 MR. SCRUGGS:
 2 Object to the form.
 3 MR. WEBB:
 4 Q. Right?
 5 A. Yes, sir.
 6 MR. WEBB:
 7 I tender the witness.
 8 (Off the record.)
 9 EXAMINATION
 10 BY MR. SCRUGGS:
 11 Q. Good morning, Mr. Harrell.
 12 A. Good morning.
 13 Q. It's good to see you again.
 14 A. Sure.
 15 Q. The last time that we were
 16 together for your deposition, you were
 17 represented by Jim Streetman; was that
 18 correct?
 19 A. Yes, sir.
 20 Q. Are you still represented by Mr.
 21 Streetman?
 22 A. Not in this issue.
 23 Q. But when you say, "this issue,"
 24 you are referring to your capacity as the
 25 Deputy Insurance Commissioner and

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1 individually as it relates to the McIntosh
 2 case?
 3 A. Yes, sir.
 4 Q. At what point in time did Mr.
 5 Streetman cease being your counsel related
 6 to that matter?
 7 A. I don't know the exact time, date.
 8 Q. Within the last month?
 9 A. Whenever we hired Mr. Jernigan.
 10 Q. When did you hire Mr. Jernigan?
 11 A. Sometime after the subpoena got
 12 served, I believe.
 13 Q. What subpoena are you speaking of?
 14 A. The one that -- I think Butler,
 15 Snow served it on me for my presence here
 16 today.
 17 Q. Shortly after then, you hired Mr.
 18 Jernigan?
 19 A. Yes, sir.
 20 Q. I think you originally said "we,"
 21 if I remember correctly. Who would the "we"
 22 have been?
 23 A. The Mississippi Department of
 24 Insurance.
 25 Q. Why would the Mississippi

12 (Pages 345 to 348)

1 Department of Insurance have chosen
2 different counsel for you in this
3 proceeding?
4 MR. JERNIGAN:
5 To the extent that calls for him
6 to divulge any privileged information, I
7 instruct the witness not to answer.
8 MR. SCRUGGS:
9 Q. Sir?
10 A. Mr. Streetman's firm represents
11 the department in the ongoing examination of
12 State Farm, and Mr. Jernigan represents me
13 and the department as it relates to this
14 deposition.
15 Q. But as of June 7th, when your
16 deposition was first taken, Mr. Streetman
17 also represented you and the department
18 as --
19 A. Yes.
20 Q. I'm sorry?
21 A. Yes, sir.
22 Q. How many times have you talked to
23 your counsel, Mr. Jernigan, since he was
24 retained to represent you and the
25 department's interests?

1 A. Multiple.
2 Q. Have you talked to anyone employed
3 or representing State Farm since the
4 deposition of you was first taken on June
5 7th, 2007?
6 A. Yes, sir.
7 Q. Who have you spoken with?
8 A. It relates to the examination, the
9 Market Conduct Examination of the Department
10 of Insurance.
11 Q. We'll get into that in a minute.
12 Have you had any discussions with anyone at
13 State Farm or representing State Farm about
14 your testimony that you gave on June 7th,
15 2007, since that time?
16 A. No, sir.
17 Q. And when I say State Farm or
18 anyone representing State Farm, I mean their
19 lawyers, as well. Would your answer still
20 be the same?
21 A. Yes, sir.
22 Q. I couldn't help but notice, in
23 your examination by Mr. Webb, that it seemed
24 to flow quite nicely. Have you ever spoken
25 to Mr. Webb about the subjects you just

1 testified to him about today?
2 A. No, sir.
3 Q. Have you talked to, I think it's
4 Mr. Simkins here, employed by State Farm, to
5 my left, about any of the matters you just
6 testified to today?
7 A. I don't remember.
8 Q. Wouldn't that be something you
9 would remember discussing with somebody at
10 State Farm?
11 A. The meetings that we referenced in
12 my discussion or testimony to Mr. Webb,
13 that's not anything that we've kept secret.
14 We've had discussions with multiple parties
15 regarding those meetings.
16 Q. Well, who are those multiple
17 parties?
18 A. They were public meetings.
19 Anybody who wanted to ask about them.
20 Q. I'm sorry. Let me back up. Is it
21 your testimony that the testimony you just
22 gave Mr. Webb about your meetings and the
23 discussions in those meetings has been the
24 subject of public meetings?
25 A. No. I think the meeting that was

1 held with your dad, I don't think that was a
2 private meeting.
3 Q. Well, who have you discussed it
4 with prior to today?
5 A. Off the top of my head, I can't
6 remember who all we've discussed it with. I
7 just know we've never kept that issue a
8 secret.
9 Q. Well, I didn't ask you whether you
10 kept it a secret. I'm asking now, who have
11 you discussed -- the question was initially
12 State Farm. We'll get to everybody else in
13 a minute. Who, at State Farm, have you
14 discussed this meeting you testified
15 occurred with Mr. Scruggs December 15th,
16 2005, prior to today?
17 A. Counsel.
18 Q. Your counsel, Mr. Jernigan?
19 A. Yes.
20 Q. Who else?
21 A. I'm sure Mike Moore. And the
22 settlement discussions involving the
23 Woullard case. There were parties involved
24 in that one, both from State Farm's
25 perspective and from the other side of the

1 table, Mike Moore, Jim Hood and those
2 parties.
3 Q. No. I appreciate that. My
4 question is a little more limited. Who at
5 State Farm did you discuss, prior to today
6 -- let's start first with this meeting with
7 Dick Scruggs. Who did you discuss that with
8 prior to today?
9 MR. WEBB:
10 Objection, asked and answered.
11 A. I don't recall the specific
12 parties that I discussed it with. I recall
13 the discussions.
14 MR. SCRUGGS:
15 Q. Did you discuss this meeting you
16 say occurred with Dick Scruggs with anyone
17 at State Farm prior to today?
18 A. I don't recall. I don't remember.
19 I apologize.
20 Q. You don't remember, one way or the
21 other?
22 A. No, sir.
23 Q. So prior to -- I just want to make
24 sure I understand this. Prior to today, you
25 never told anyone at State Farm about the

1 meeting you just described with Mr. Scruggs?
2 MR. WEBB:
3 Objection.
4 MR. SCRUGGS:
5 Q. Is that your testimony?
6 A. No, sir.
7 Q. That's not your testimony?
8 A. No, sir.
9 Q. So you did discuss the meeting
10 with Mr. Scruggs with someone at State Farm
11 prior to today?
12 MR. JERNIGAN:
13 I think he answered that question,
14 Zach, and said he didn't recall.
15 MR. SCRUGGS:
16 No, but -- he didn't recall who he
17 met with. Now I'm trying to figure out if
18 he ever talked to anybody. We moved on, who
19 he talked to. We might come back to that if
20 his memory is refreshed.
21 Q. The question on the table is, did
22 you ever discuss with anyone at State Farm
23 your meeting with Mr. Scruggs that you
24 testified about today prior to today?
25 A. I'm sure we did back in '05, when

1 the meeting occurred.
2 Q. Okay. Have you discussed with
3 anyone at State Farm this meeting you
4 testified occurred within the last couple
5 months?
6 A. It may have come up in a meeting
7 regarding James Tucker.
8 Q. Who is James Tucker?
9 A. He's an attorney here in town.
10 Q. What firm is he with?
11 A. I believe he's with Butler, Snow.
12 Q. And who does he represent?
13 A. In my dealings with him, he
14 represents State Farm regarding the Market
15 Conduct Examination.
16 Q. Tell me about those discussions
17 with Mr. Tucker about those conversations
18 you say occurred with Dick Scruggs.
19 MR. WEBB:
20 I object to that, to the extent
21 you are asking for him to offer testimony
22 about anything connected with the Market
23 Conduct Examination.
24 MR. SCRUGGS:
25 That door was slammed open by his

1 testimony here today.
2 MR. JERNIGAN:
3 Not hardly. He's not going to
4 testify about anything related to the Market
5 Conduct Exam, Zach. You can ask him all you
6 want to. He's just not going to do that.
7 MR. SCRUGGS:
8 So if I understand correctly, the
9 question on the table is who he's talked to
10 State Farm with about this interesting
11 testimony he's given today, and you are
12 going to hide behind this Market Conduct
13 Exam? Is that what's going on here?
14 MR. JERNIGAN:
15 To the extent he had conversations
16 with Mr. Tucker about the Market Conduct
17 Examination, he's not going to testify about
18 the substance of that. He's already
19 answered your question that he spoke with --
20 he told Mr. Tucker or had a conversation
21 with Mr. Tucker about the fact that the
22 meeting took place.
23 MR. SCRUGGS:
24 And that meeting has absolutely
25 nothing to do with the Market Conduct Exam,

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1 so the objection is --
2 MR. JERNIGAN:
3 That's why he can testify about
4 it. But he's not going to testify about
5 anything regarding substantive issues
6 related to the Market Conduct Exam.
7 MR. SCRUGGS:
8 I hadn't gotten into the Market
9 Conduct Exam.
10 MR. JERNIGAN:
11 That's good, because you are going
12 to waste your time, if you do.
13 MR. SCRUGGS:
14 Well, we'll see about that. We'll
15 get to that in a minute.
16 Q. But before we get to that, what
17 did you tell Mr. Tucker about this meeting
18 that you just testified you had with Mr.
19 Scruggs?
20 A. Walked him through the meeting as
21 to what happened.
22 Q. Why did you have this discussion
23 with Mr. Tucker? Why would that have been
24 of interest to him? Why would it have been
25 of interest to you to tell him?

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1 A. It was a part of the Market
2 Conduct Examination, an issue.
3 Q. It was part of the Market Conduct
4 Examination for you to tell Mr. Tucker, who
5 is State Farm's criminal attorney, about a
6 discussion you had with Dick Scruggs in
7 December '05?
8 A. I'm dealing with Mr. Tucker
9 regarding production of documents relating
10 to the Market Conduct Examination. I don't
11 know how he represents State Farm in a
12 criminal capacity.
13 Q. And in what possible capacity
14 could a conversation you say occurred with
15 Dick Scruggs in December relate to any of
16 that?
17 A. That would be part of the Market
18 Conduct Examination.
19 MR. SCRUGGS:
20 You see? We keep on running into
21 the same thing here.
22 Q. Well, tell me about what you and
23 Mr. Tucker talked about relating to the
24 Market Conduct Exam.
25 MR. JERNIGAN:

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1 Don't answer that.
2 MR. SCRUGGS:
3 On what basis do you instruct him
4 not to answer?
5 MR. JERNIGAN:
6 Because that's privileged
7 information under the statute. It protects
8 the Market Conduct Examination investigation
9 until it becomes final and the report is
10 filed at the department, which it's an
11 ongoing investigation, Zach, and therefore,
12 the witness is not going to answer any
13 questions about that.
14 MR. SCRUGGS:
15 Well, the last time I checked,
16 this case was filed in federal court, and
17 I'm not sure a state statute that I don't
18 agree with your interpretation of bars
19 inquiry into admissible evidence. Is that
20 still going to be your objection?
21 MR. JERNIGAN:
22 It certainly is.
23 MR. SCRUGGS:
24 Well, we'll see how far we get.
25 We might get Walker on the phone.

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1 MR. JERNIGAN:
2 So we don't have to comply with
3 state law just because we are in federal
4 court?
5 MR. NORRIS:
6 In the diversity jurisdiction --
7 MR. SCRUGGS:
8 Admissibility of evidence is a
9 federal question, last time I checked.
10 MR. NORRIS:
11 Privilege is governed by state law
12 on diversity jurisdiction --
13 MR. SCRUGGS:
14 I'm sorry --
15 MR. JERNIGAN:
16 Thank you. We are not going to
17 answer any questions about that. I've made
18 that perfectly clear.
19 MR. SCRUGGS:
20 Well, he's already answered
21 questions about it --
22 MR. JERNIGAN:
23 You are going to waste your time,
24 Zach, asking him any more questions about
25 the Market Conduct Examination. You can ask

15 (Pages 357 to 360)

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1 all you want to. We're just not going to
2 answer them.
3 MR. SCRUGGS:
4 So he can testify he had a
5 conversation with James Tucker, but he can't
6 testify why he was having a conversation
7 with James Tucker.
8 MR. JERNIGAN:
9 Well, it's kind of like, did you
10 meet with your lawyer, yes, but you can't
11 talk about what you and your lawyer talked
12 about.
13 MR. SCRUGGS:
14 Q. Is James Tucker your lawyer?
15 MR. JERNIGAN:
16 No.
17 MR. SCRUGGS:
18 I'm asking him. I'm not asking
19 you.
20 MR. JERNIGAN:
21 I just answered that question.
22 MR. SCRUGGS:
23 Well, you're not sworn in.
24 MR. JERNIGAN:
25 I'm his lawyer.

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1 MR. SCRUGGS:
2 Q. Is James Tucker your lawyer?
3 A. No, sir.
4 Q. Then what did you and he discuss?
5 MR. JERNIGAN:
6 Don't answer that question.
7 MR. SCRUGGS:
8 Q. Other than James Tucker, who else
9 at State Farm did you discuss this meeting
10 you had with Dick Scruggs in December '05
11 prior to today?
12 MR. WEBB:
13 Objection to the form.
14 A. Like I said, there could have been
15 discussions back in 2005, when the meeting
16 occurred, and in -- specifically who those
17 parties were.
18 MR. SCRUGGS:
19 Q. When did you have this discussion
20 with Mr. Tucker that you testified about
21 previously?
22 A. In the last 45 days, I talked to
23 him.
24 Q. Since the last 45 days, have you
25 had any discussions with anyone at State

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1 Farm about this meeting you allege occurred
2 with Mr. Scruggs?
3 MR. WEBB:
4 Objection to form.
5 A. Not to my recollection.
6 MR. SCRUGGS:
7 Q. And just so I'm clear -- I don't
8 want to repeat myself, but who else, other
9 than Mr. Tucker, would you have had -- at
10 State Farm would you have had such a
11 discussion with?
12 MR. WEBB:
13 Objection, asked and answered.
14 A. It could have been the people
15 involved with State Farm back in 2005 and
16 2006.
17 MR. SCRUGGS:
18 Q. Who would that have been?
19 A. It would have been -- the people I
20 was dealing with would have been Allen
21 McGlynn, Webb Howell. It could have been
22 lawyers out of Bloomington, Jeff Jackson or
23 Sheila somebody.
24 Q. Sheila Birnbaum, does that ring a
25 bell?

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1 A. Yes, it does, a young lady. She's
2 not out of Chicago. I forget where she's
3 from.
4 Q. Who is paying Mr. Jernigan to be
5 here today representing you?
6 A. The Mississippi Department --
7 MR. JERNIGAN:
8 The State of Mississippi.
9 MR. SCRUGGS:
10 Q. He can answer that.
11 A. The Mississippi Department of
12 Insurance.
13 Q. Let me talk about this meeting you
14 testified about between you and Dick Scruggs
15 on -- I believe you testified was December
16 15th, 2005?
17 A. Yes, sir.
18 Q. That was a pretty important
19 meeting, wouldn't you say?
20 A. I didn't see it as that at the
21 time.
22 Q. You didn't see it as important
23 that Dick Scruggs was meeting with you and
24 George Dale about Hurricane Katrina claims,
25 you didn't find that important?

16 (Pages 361 to 364)

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1 A. No, sir.
2 Q. Did you take any notes of that
3 meeting?
4 A. No, sir.
5 Q. You didn't write anything down
6 about the discussions that occurred at that
7 meeting that you testified about?
8 A. No, sir.
9 Q. Well, after that meeting on
10 December 15th, 2005, did you call the FBI?
11 A. Why?
12 Q. We'll get into that in a minute.
13 The question on the table is, did you call
14 anybody at the FBI?
15 A. No, sir.
16 Q. Anybody at the U.S. attorney's
17 office?
18 A. No, sir.
19 Q. Did you call anybody at State
20 Farm?
21 A. I don't remember.
22 Q. You don't remember. You didn't --
23 and just to clarify, for the record, you
24 didn't call anybody at the FBI and say, hey,
25 Dick Scruggs just came in here and asked us

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1 to give him \$500 million to administer to
2 State Farm claimants?
3 A. No, sir.
4 Q. And you didn't -- you didn't tell
5 the U.S. attorney's office, hey, Dick
6 Scruggs just came in here and demanded that
7 we give him \$500 million to administer the
8 State Farm claims?
9 A. No, sir.
10 Q. Did you call anybody in the press
11 and tell them that?
12 A. No, sir.
13 Q. And you didn't call anybody at
14 State Farm that you can remember after that
15 and told them?
16 A. Not at that time.
17 Q. Who were the people that were
18 present at this meeting that you testified
19 about?
20 A. The one with your dad?
21 Q. This December 15th, 2005 meeting.
22 A. Your dad, Commissioner Dale and
23 myself.
24 Q. Did Mr. Dale take any notes of
25 that meeting?

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1 A. I don't know.
2 Q. Do you recall Mr. Dale telling Mr.
3 Scruggs that he didn't intend to do anything
4 about the Hurricane Katrina insurance
5 problem because he considered it only a
6 six-county problem?
7 A. No, sir. That wasn't said.
8 Q. Do you remember any discussion
9 where George Dale said this was only a
10 six-county problem?
11 A. No, sir.
12 Q. Do you remember any discussion
13 where Mr. Dale told Mr. Scruggs that if I
14 get indicted, my reelection rate is 69
15 percent; if I don't get indicted, it's 70
16 percent?
17 A. No, sir.
18 Q. And speaking of that, Mr. Dale was
19 previously indicted, was he not?
20 A. Yes, sir.
21 Q. In the early '90s. Do you recall
22 that?
23 A. Yes, sir.
24 Q. And he was indicted for misuse of
25 monies given to him by a health insurer that

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1 conducted business in Mississippi; is that
2 correct?
3 A. I don't remember the specifics.
4 Q. But you remember he was indicted
5 related to his role as Insurance
6 Commissioner?
7 A. Yes, sir.
8 Q. And were you aware that Mr.
9 Scruggs, Dickie Scruggs, that is, the person
10 you are speaking of, was the largest
11 contributor to his criminal defense fund for
12 that indictment?
13 A. No, sir.
14 Q. You were not aware?
15 A. I was not aware he was the
16 largest.
17 Q. Were you aware that he contributed
18 money to George Dale's criminal defense
19 fund?
20 A. Yes, sir.
21 Q. Were you aware of anyone that
22 contributed more money than Dick Scruggs to
23 George Dale's criminal defense fund?
24 A. I'm not aware either way.
25 Q. To the best of your knowledge, did

17 (Pages 365 to 368)

<p style="text-align: right;">Page 369</p> <p>1 George Dale accept money from Dick Scruggs 2 to help defend a criminal indictment against 3 him? 4 MR. WEBB: 5 Object to the form. 6 A. Repeat the question. I'm sorry. 7 MR. SCRUGGS: 8 Q. To the best of your knowledge, did 9 Mr. Dale accept the money that Dick Scruggs 10 paid to help defend his criminal indictment? 11 A. To the best of my knowledge. 12 Q. That he did accept it? 13 A. Yes, sir. 14 Q. So it's fair to say that George 15 Dale relied, at least in part, on Dickie 16 Scruggs' money to defend him in a criminal 17 proceeding, wouldn't it be? 18 MR. WEBB: 19 Object to the form. 20 A. Mr. Dale did not know your dad 21 gave him any money. 22 MR. SCRUGGS: 23 Q. How do you know that? 24 A. Mr. Dale told me that. 25 Q. It's your testimony that Mr. Dale</p>	<p style="text-align: right;">Page 371</p> <p>1 to. 2 Q. Mr. Harrell, if you were provided 3 testimony from Mr. Scruggs and the Rigsbys 4 that their first meeting did not occur until 5 February, late February 2006, would you have 6 any reason to dispute that? 7 MR. WEBB: 8 Objection to form. 9 A. All I can go on is what your dad 10 told us. 11 MR. SCRUGGS: 12 I move to strike and I'm going to 13 ask the question again. 14 Q. If you were provided testimony, 15 sworn testimony from the Rigsbys and -- both 16 the Rigsbys and Dick Scruggs that their 17 first meeting occurred in February, late 18 February 2006, would you have any reason to 19 dispute that? 20 MR. NORRIS: 21 Objection, asked and answered. 22 MR. WEBB: 23 And objection to the form. I 24 don't believe Mr. Scruggs has testified in 25 this case.</p>
<p style="text-align: right;">Page 370</p> <p>1 never asked Dickie Scruggs to contribute to 2 his criminal defense fund? That's your 3 testimony? 4 A. I don't know if he did or didn't. 5 Q. But you know that Dickie Scruggs, 6 in fact, did contribute to his criminal 7 defense fund? 8 A. Yes, sir. 9 Q. I believe you testified that in 10 this December 15th meeting that Dickie 11 Scruggs had mentioned that he had a couple 12 of insiders in State Farm. Did I understand 13 that testimony correctly? 14 A. Yes, sir. 15 Q. And without being dramatic, you 16 understand you are under oath, right? 17 A. Yes, sir. 18 MR. SCRUGGS: 19 Well, you can roll your eyes all 20 you want, counsel. 21 MR. JERNIGAN: 22 Let the record reflect, Monica, 23 he's referring to me, not Mr. Harrell. 24 MR. SCRUGGS: 25 That's exactly what I'm referring</p>	<p style="text-align: right;">Page 372</p> <p>1 A. I don't know who Mr. Scruggs 2 referred to. He advised the State of 3 Mississippi that he had a couple of 4 high-ranking State Farm representatives 5 working for him as insiders. 6 MR. SCRUGGS: 7 Q. But that's not what I asked you. 8 What I asked you is, if you had any 9 information in the form of testimony, sworn 10 testimony that Dick Scruggs and Cori Rigsby 11 and Kerri Rigsby did not first meet until 12 February 2006, would you have any reason to 13 dispute that? 14 MR. NORRIS: 15 Objection, asked and answered. 16 MR. JERNIGAN: 17 Without seeing the testimony, I 18 don't know how he can answer that question. 19 MR. SCRUGGS: 20 Well, I can provide him testimony. 21 Q. But assuming that that testimony 22 was provided, would you have any reason to 23 dispute that? 24 MR. NORRIS: 25 Objection, asked and answered.</p>

18 (Pages 369 to 372)

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1 A. Again, I don't know who Mr.
 2 Scruggs was referring to in December 15th of
 3 2005. All I know is what he advised the
 4 State of Mississippi.
 5 MR. SCRUGGS:
 6 Q. Well, and I got that, and that's
 7 clear, that he didn't mention any names,
 8 allegedly, in this alleged conversation that
 9 you've testified to, did he?
 10 A. You are talking about on the
 11 meeting of December 15th we had?
 12 Q. Yes.
 13 A. No specific names of insiders were
 14 used.
 15 Q. Right. But it's your sworn
 16 testimony that he discussed he had two
 17 insiders at State Farm?
 18 A. He had a couple of high-ranking
 19 State Farm representatives.
 20 Q. So were you aware that the first
 21 time that Dick Scruggs and the Rigsbys met
 22 was late February of 2006?
 23 MR. WEBB:
 24 Object to the form of the
 25 question. It's an improper predicate.

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1 A. I don't know when they first met.
 2 MR. SCRUGGS:
 3 Q. Would you have a reason to doubt
 4 that the first time they met was February
 5 2006?
 6 MR. WEBB:
 7 Object to the form.
 8 MR. JERNIGAN:
 9 He just answered that question.
 10 A. I don't know.
 11 MR. SCRUGGS:
 12 Q. You don't know one way or the
 13 other?
 14 A. No, sir.
 15 Q. Let's go to this meeting that I
 16 believe you testified you had with Jim Hood,
 17 Grimes Pittman and others. When did that
 18 meeting take place?
 19 A. I don't think I used Mr. Pittman's
 20 name.
 21 Q. Excuse me. Mr. Cupit. Maybe it
 22 was Mr. Cupit.
 23 A. I don't recall -- the meeting I
 24 was referencing was in General Hood's
 25 office, and it was sometime during the

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1 negotiations back and forth with the
 2 settlement of you all's cases and the
 3 Woullard case in early '07.
 4 Q. I'm glad you brought that up.
 5 Were you aware that 640 individual State
 6 Farm cases that were filed by Scruggs
 7 Katrina Group were settled in November 2006?
 8 A. I don't recall.
 9 Q. If I provided you with a letter
 10 that indicated that they were settled in
 11 2006 from State Farm's counsel, would you
 12 have any reason to dispute that?
 13 MR. WEBB:
 14 Object to the form.
 15 A. It says what it says.
 16 MR. SCRUGGS:
 17 Q. Right. So I guess my question is,
 18 were you aware that State Farm actually
 19 settled Scruggs' cases in November 2006?
 20 MR. NORRIS:
 21 Object to form, asked and
 22 answered.
 23 MR. WEBB:
 24 Same objection.
 25 A. No, sir.

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1 MR. SCRUGGS:
 2 Q. You weren't aware?
 3 A. No, sir.
 4 Q. You don't have any reason to
 5 dispute that, though, do you?
 6 A. I don't have any knowledge of it
 7 one way or the other.
 8 Q. So there would have been no way
 9 for you to have had discussions about
 10 settling Scruggs' individual cases in
 11 January '07 if they had already been
 12 settled; is that right?
 13 MR. WEBB:
 14 Objection to form.
 15 A. Repeat the question.
 16 MR. SCRUGGS:
 17 Q. You've had -- you indicated in
 18 your testimony with Mr. Webb, and I think
 19 again here, that there was this testimony --
 20 excuse me, there was this meeting about
 21 settling the lawsuits that Dick Scruggs and
 22 others had brought with the Scruggs Katrina
 23 Group. If those had been settled prior to
 24 that meeting, you would have no reason to be
 25 discussing it, would you?

1 MR. WEBB:
2 Object to the form.
3 A. I can remember sitting in meetings
4 with Mike Moore discussing that issue and
5 the Woullard case. Now, exact time period,
6 I may be a little bit off.
7 MR. SCRUGGS:
8 Q. The Woullard case that you
9 mentioned ended up being a class settlement
10 agreement that was presented to Judge Senter
11 for approval; is that right?
12 A. Yes, sir.
13 Q. And at the time that class
14 settlement agreement was presented to the
15 court, Commissioner Dale issued a statement
16 praising that agreement, did he not?
17 A. I don't remember.
18 Q. You don't remember. Okay. You
19 don't remember any statement by George Dale,
20 on January 23rd, 2007, praising the global
21 class action settlement between State Farm
22 and the policyholders?
23 A. That's right.
24 Q. Are you aware of any statements
25 George Dale made after the class settlement

1 was proposed to Judge Senter but before it
2 was denied about that settlement?
3 A. I just don't remember.
4 Q. But you do recall George Dale
5 signing off on that class action settlement
6 before it was presented to Judge Senter, do
7 you not?
8 A. No, sir.
9 Q. You don't remember that?
10 A. No, sir.
11 Q. Strike that. Let me ask it this
12 way. Is it that you don't remember or that
13 didn't occur?
14 A. I don't recall the department
15 signing off on it.
16 Q. And you don't recall the
17 department issuing a statement saying that
18 it approved of the class action settlement?
19 A. I don't remember the statement.
20 Q. Or any statements to the press at
21 all?
22 A. If you have them, I'll be glad to
23 review them. I just don't remember.
24 Q. Well, I'll get them. I'm, quite
25 frankly, a little surprised by your

1 testimony here today, but we'll probably
2 take a break and get those faxed over.
3 Getting back to this meeting you
4 had with General Hood and Danny Cupit and
5 Mike Moore -- is there anyone else that was
6 at that meeting?
7 A. Commissioner Dale, myself and some
8 lawyer that worked for General Hood.
9 Q. That's right. Now, at that
10 meeting, I believe you testified that
11 General Hood said that if State Farm didn't
12 do the deal, he was going to indict Ed Rust
13 on down; is that your testimony?
14 A. It was either in that meeting or
15 the telephone call that I had with Jim Hood,
16 conference call.
17 Q. But you heard that, is your
18 testimony?
19 A. Yes, sir.
20 Q. Did you take any notes of that
21 meeting or the phone call where this
22 statement was allegedly told to you?
23 A. No, sir.
24 Q. Don't you think that's a pretty
25 important bit of information that you

1 testified Jim Hood said?
2 A. I didn't take any notes.
3 Q. No. I understand. But don't you
4 -- don't you think it would be important to
5 note something, when an Attorney General
6 threatens to indict a CEO of a company on
7 down, that you testified to, don't you think
8 that's a pretty significant statement?
9 A. Yes, sir.
10 Q. But you didn't write it down?
11 A. No, sir.
12 Q. Did you call the FBI and tell them
13 that General Hood was threatening to indict
14 State Farm, all the way down, if they didn't
15 do a settlement?
16 A. No, sir.
17 Q. Did you call anybody at the U.S.
18 attorney's office and tell them that Jim
19 Hood was threatening to indict everybody at
20 State Farm unless they did a settlement?
21 A. No, sir.
22 Q. Did you call anybody in the press
23 and tell them Jim Hood is threatening to
24 indict everybody at State Farm unless they
25 did a settlement?

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1 A. No, sir.
2 Q. Did you call anybody at State Farm
3 after that phone call and tell them, Jim
4 Hood is threatening to indict you guys
5 unless we do a settlement?
6 A. They were already meeting with Jim
7 Hood.
8 Q. I appreciate that. That wasn't my
9 question. My question is, did you pick up
10 the phone or verbally tell anyone, right
11 after that statement allegedly occurred
12 that, hey, Jim Hood is saying he's going to
13 indict you guys if you all don't do this
14 deal?
15 MR. WEBB:
16 Objection to form.
17 A. Whether there was a discussion
18 right after that or not, I don't recall.
19 There were discussions and meetings with
20 State Farm representatives regarding the
21 settlement.
22 MR. SCRUGGS:
23 Q. Well, I'm not talking about or
24 asking about meetings that State Farm was
25 having with General Hood. I'm asking, did

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1 you call anybody you knew at State Farm and
2 say, hey, Jim Hood just said he's going to
3 indict all you guys if you all don't do a
4 deal?
5 MR. WEBB:
6 Object to the form.
7 A. I don't recall. I don't think so.
8 MR. SCRUGGS:
9 Q. So the first time that information
10 has ever seen the light of day is right here
11 today, in this deposition initiated by State
12 Farm; is that right?
13 MR. WEBB:
14 Object to form.
15 MR. NORRIS:
16 Object to form.
17 A. Explain your "light of day"
18 comment.
19 MR. SCRUGGS:
20 Q. Well, what do you take it to mean?
21 MR. WEBB:
22 Object to the form.
23 MR. JERNIGAN:
24 Don't answer that, Lee. You are
25 entitled to a clear, fair question, so --

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1 MR. SCRUGGS:
2 Well, I'm trying to help him out
3 here.
4 Q. Help me ask the question. What do
5 you take "light of day" to mean?
6 MR. WEBB:
7 Objection to form.
8 A. If you can clarify your question,
9 Mr. Scruggs.
10 MR. SCRUGGS:
11 Q. Okay. This statement that you
12 just testified to about General Hood
13 threatening to indict a company if they
14 didn't do a deal, is that the first time
15 you've given testimony about such an issue?
16 MR. WEBB:
17 Objection to form.
18 A. Yes, sir.
19 MR. SCRUGGS:
20 Q. Don't you think that bit of
21 information would be important information
22 for the public to know, the public of the
23 state of Mississippi to know, if the
24 Attorney General is threatening to indict
25 people if they don't do a deal?

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1 MR. WEBB:
2 Objection to form, argumentative.
3 A. I don't know.
4 MR. SCRUGGS:
5 Q. You don't know. But you are
6 saying it now, right?
7 A. I'm here under oath to testify,
8 yes, sir.
9 Q. This isn't the first time you've
10 been under oath testifying about the
11 McIntosh case, is it?
12 A. No, sir.
13 Q. The first time you were under oath
14 testifying about the McIntosh case was June
15 7th, 2007, wasn't it?
16 A. It was earlier this year. I don't
17 remember the exact date.
18 Q. If I told you it was June 7th,
19 2007, would you have a reason to doubt that?
20 A. No, sir.
21 Q. But this conversation you
22 testified allegedly occurred between you and
23 General Hood, you didn't testify about that
24 at that time, did you?
25 MR. WEBB:

21 (Pages 381 to 384)

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1 Objection to form.
 2 A. I don't think it was asked.
 3 MR. SCRUGGS:
 4 Q. That wasn't my question, sir.
 5 A. That's my answer.
 6 Q. Okay. Well, State Farm asked you
 7 some questions at that deposition, didn't
 8 it?
 9 A. I don't recall.
 10 Q. You don't recall State Farm's
 11 counsel, Mr. Webb, here, asked you some
 12 questions at your deposition in this case?
 13 A. I don't remember whether he did or
 14 didn't. That was a long day.
 15 Q. It was only a couple months ago,
 16 though, wasn't it?
 17 A. Yes, sir.
 18 Q. How many times have you been
 19 deposed since then?
 20 A. None.
 21 Q. Don't you think you would remember
 22 who deposed you at a deposition that
 23 occurred a couple months ago --
 24 MR. JERNIGAN:
 25 Wait a minute, Zach. If you are

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1 going to argue with him, we're not going to
 2 answer any of those questions. He told you
 3 he didn't remember. You are arguing with
 4 him now. So don't answer that, Lee.
 5 MR. SCRUGGS:
 6 I'm not arguing with him. It's a
 7 fair question, given the epiphany that has
 8 come out in this deposition, this contrived
 9 deposition, at that.
 10 MR. WEBB:
 11 Objection.
 12 MR. SCRUGGS:
 13 So what's the answer?
 14 MR. JERNIGAN:
 15 Why don't you just hand him a copy
 16 of his deposition, see if he can -- if it's
 17 in there, it's in there. If it's not, it's
 18 not. I've got a copy.
 19 MR. SCRUGGS:
 20 No. I'll use mine.
 21 (Off the record.)
 22 MR. SCRUGGS:
 23 I'm going to hand you a copy of
 24 the deposition you took on June 7th, 2007.
 25 Off the record for a minute.

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1 (Off the record.)
 2 MR. SCRUGGS:
 3 Q. I'm going to hand you a copy of
 4 the deposition you took on June 7th, 2007,
 5 and I want to refresh your recollection. Do
 6 you see a line of questioning by Mr. Webb,
 7 who just testified -- excuse me, who just --
 8 well, that too, maybe, but just examined you
 9 earlier?
 10 A. Yes, sir.
 11 Q. Does that refresh your
 12 recollection that Mr. Webb, for State Farm,
 13 had asked you questions at the deposition
 14 that occurred on June 7th, 2007?
 15 A. Yes.
 16 Q. But you never testified about this
 17 meeting you had with either Dickie Scruggs
 18 or Jim Hood or any of the discussions that
 19 you testified about today in that
 20 deposition; is that correct?
 21 A. That's correct.
 22 Q. It's my understanding that you
 23 work for the Mississippi Department of
 24 Insurance; is that correct?
 25 A. Yes, sir.

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1 Q. And what is your position?
 2 A. Deputy Commissioner of Insurance
 3 and Special Counsel.
 4 Q. And how much longer are you going
 5 to have that position?
 6 A. I don't know.
 7 Q. Who is the Commissioner of
 8 Insurance for the State of Mississippi?
 9 A. George Dale.
 10 Q. And how much longer is George Dale
 11 going to be the Commissioner of Insurance?
 12 A. Until January 8th or 9th, 2008.
 13 Q. And then there will be a new
 14 commissioner?
 15 A. Yes, sir.
 16 Q. And that new Commissioner gets to
 17 -- the new Commissioner is the one that
 18 selects the Deputy Commissioner; is that
 19 correct?
 20 A. Yes, sir.
 21 Q. So there's a pretty good
 22 likelihood you won't be the Deputy
 23 Commissioner come January 8th, 2008; is that
 24 fair to say?
 25 A. I don't know.

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1 Q. You don't know. Have you had any
2 discussions with anyone about staying as the
3 Deputy Commissioner?
4 A. Nope.
5 Q. Were you in any way involved in
6 George Dale's reelection campaign?
7 A. Yes, sir.
8 Q. In what capacity?
9 A. I helped him.
10 Q. How did you help him?
11 A. I just helped him in his campaign.
12 Q. What kind of things did you do?
13 MR. JERNIGAN:
14 You covered that in his June 7th
15 deposition, Zach.
16 MR. SCRUGGS:
17 I didn't cover it, and there's a
18 lot that's happened between June 7th and
19 today, as reflected in his testimony.
20 A. I would help him --
21 MR. JERNIGAN:
22 The deposition I read, you covered
23 it.
24 MR. SCRUGGS:
25 Q. Sir?

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1 MR. JERNIGAN:
2 Yes.
3 A. I helped Commissioner Dale where
4 he needed it on the campaign, raise money or
5 whatever he needed.
6 MR. SCRUGGS:
7 Q. Is it fair to say that you wanted
8 him to be reelected?
9 A. Yes, sir.
10 Q. Is it fair to say you were
11 disappointed when he was not reelected?
12 A. Yes, sir.
13 Q. Is it fair to say that Mr. Dale
14 and you have attributed blame to Dickie
15 Scruggs for Mr. Dale's defeat?
16 A. Yes, sir.
17 Q. And when was George Dale defeated
18 in his reelection bid?
19 A. In the primary.
20 Q. Do you remember when that was?
21 A. August of this year.
22 Q. August of this year?
23 A. Yes, sir.
24 Q. After your deposition -- your
25 first deposition in this case?

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1 A. Yes, sir.
2 Q. But before this deposition here
3 today?
4 A. Yes, sir.
5 Q. Is it fair to say that you had
6 ambitions of one day being the Mississippi
7 Insurance Commissioner, yourself?
8 MR. WEBB:
9 Objection to form.
10 A. People had asked me about that. I
11 didn't know if I wanted to stay in public
12 service or not.
13 MR. SCRUGGS:
14 Q. Is it your testimony that you had
15 no desires to be Mississippi Insurance
16 Commissioner one day?
17 MR. WEBB:
18 Object to the form.
19 A. My testimony is that I thought
20 about it, but I hadn't made my mind up as to
21 what the future held for me.
22 MR. SCRUGGS:
23 Q. Is it fair to say that both you
24 and Commissioner Dale were upset by Mr.
25 Scruggs' involvement in you all's campaign?

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1 MR. WEBB:
2 Objection to form.
3 A. Yes, sir.
4 MR. SCRUGGS:
5 Q. And the result of that campaign,
6 Mr. Dale is not Insurance Commissioner come
7 June 8, 2008; is that correct?
8 MR. WEBB:
9 Object to the form.
10 A. Can you repeat the question?
11 MR. SCRUGGS:
12 Sure. Actually, it's probably not
13 a good question. I could phrase it better.
14 Q. Is it fair to say that you
15 attribute -- you and Commissioner Dale
16 attribute his, meaning Dickie Scruggs'
17 involvement in that election, primary
18 election, for the reason that George Dale
19 won't be Commissioner of Insurance after
20 January 8th, 2008?
21 A. That would be a big issue.
22 Q. So yes?
23 A. Yes, sir.
24 Q. Moving onto General Hood, I
25 believe there is some testimony you just

23 (Pages 389 to 392)

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1 gave that there were some discussions about
2 General Hood's lawsuit against State Farm
3 and others; is that right?
4 A. Yes, sir.
5 Q. And that lawsuit was, to the best
6 of your recollection, filed in September
7 2005?
8 A. It was filed in 2005. The exact
9 filing, I don't recall.
10 Q. Sometime shortly after Katrina?
11 A. Yes, sir.
12 Q. And neither you or the
13 Commissioner approved of that lawsuit, did
14 you?
15 A. He didn't consult with us.
16 Q. We'll get to that in a minute, but
17 let's stick to the first question. Isn't it
18 true that you and Commissioner Dale did not
19 approve of Jim Hood's lawsuit against the
20 insurance companies?
21 A. I assumed the Attorney General
22 knew what he was doing.
23 Q. The question is, did you approve
24 or disapprove of Jim Hood's lawsuit against
25 the insurance companies after Katrina?

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1 MR. WEBB:
2 Objection to form, asked and
3 answered.
4 A. It wasn't ours to approve.
5 MR. SCRUGGS:
6 Q. I'm not sure that answers the
7 question to you. But did you think it was a
8 good idea?
9 MR. WEBB:
10 Objection to form.
11 A. I thought it was premature.
12 MR. SCRUGGS:
13 Q. You thought it was premature. So
14 it would be fair to say that you all didn't
15 approve of Jim Hood filing lawsuits against
16 insurance companies at that time?
17 A. Nobody knew the facts at that
18 time.
19 Q. Well, do you know -- do you feel
20 like you know the facts now?
21 A. Our investigation is still
22 continuing.
23 Q. Well, as you sit here today, do
24 you think Jim Hood's lawsuit against
25 insurance companies was a good idea?

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1 MR. WEBB:
2 Objection to form.
3 A. It was probably premature.
4 MR. SCRUGGS:
5 Q. You still think it was premature?
6 A. Yes, sir.
7 Q. So is it your testimony that
8 George Dale never made any public statements
9 disapproving of Jim Hood's lawsuit against
10 the insurance companies?
11 A. Say that again.
12 MR. WEBB:
13 Objection to form.
14 MR. SCRUGGS:
15 Q. To your knowledge -- I can
16 probably state it a little bit better,
17 before I get to that question. To your
18 knowledge, did Commissioner Dale ever make
19 any statements, public statements to the
20 press or otherwise disapproving of General
21 Hood's lawsuit against the insurance
22 companies?
23 A. I don't know.
24 Q. You don't know?
25 A. That's correct.

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1 Q. Did George Dale make any private
2 comments to you about what he thought about
3 General Hood's lawsuits against insurance
4 companies?
5 A. My discussions with Commissioner
6 Dale regarding those issues would be covered
7 by attorney/client privilege.
8 Q. What attorney/client privilege?
9 A. I'm one of his attorneys.
10 Q. You are George Dale's personal
11 attorney?
12 A. No. I serve as special counsel.
13 Q. I forgot. Well, I'm not getting
14 into legal advice. I'm just asking if
15 George Dale ever expressed any opinion to
16 you about what he thought about Jim Hood's
17 lawsuit against the insurance companies.
18 A. I think I just answered that. Any
19 discussions I had with Commissioner Dale
20 regarding those issues and my opinion would
21 be covered by attorney/client privilege.
22 Q. So if we were to subpoena George
23 Dale and get him in here, would you be
24 defending the deposition as his counsel?
25 MR. WEBB:

24 (Pages 393 to 396)

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1 Objection, argumentative.
2 A. I don't know.
3 MR. SCRUGGS:
4 Q. You don't know. Aren't you his
5 lawyer?
6 A. Yes. It's Mr. Dale's call, who
7 represents him.
8 Q. Okay. I won't go into the special
9 counsel genre. Unfortunately, I think we
10 are going to have to file some motions to
11 compel that I thought we could leave dormant
12 on the Market Conduct Exam and your
13 conversations with George Dale, but that's
14 just a statement on the record. We'll get
15 to that later.
16 Did Mr. Dale ever express to
17 anyone in your presence that was not a
18 lawyer of George Dale's any opinion on Jim
19 Hood's lawsuit against the insurance
20 companies?
21 MR. WEBB:
22 Objection to form, asked and
23 answered.
24 A. I don't recall.
25 MR. SCRUGGS:

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1 Q. Mr. Harrell, as you sit here
2 today, what are your current job intentions
3 in the future?
4 A. I haven't made my mind up on that.
5 Q. Have you had any job interviews
6 since the election in August?
7 A. I haven't been on any interviews.
8 Q. Ever talk to anybody about
9 employment outside the insurance department?
10 A. In general discussions, yes, sir.
11 Q. Tell me about -- well, first, who
12 have you had those discussions with?
13 MR. JERNIGAN:
14 Hang on just a minute, Lee. We
15 are going off the record, here. I don't
16 know that you are entitled to any of that
17 information.
18 MR. SCRUGGS:
19 I'm absolutely entitled to it. It
20 shows his motivation and bias, which is why
21 you are taking him outside of the room right
22 now.
23 (Off the record.)
24 MR. JERNIGAN:
25 For the record, Zach, I'll let Mr.

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1 Harrell answer any questions you want to ask
2 him about prospective employment by State
3 Farm or somebody like that, but as far as
4 what his other employment conversations may
5 be, those are confidential and he's not
6 going to answer any questions, not going to
7 give you any information about employment
8 inquiries that may have -- he may have made,
9 for example, for the practice of law
10 someplace. So --
11 MR. SCRUGGS:
12 Well, a couple of things --
13 MR. JERNIGAN:
14 You can ask him, but we're not
15 going to answer those. If you want to ask
16 him if he's been offered a job by State Farm
17 or somebody like that after he gets out of
18 the Insurance Commissioner's office,
19 assuming he doesn't stay there, ask him.
20 MR. SCRUGGS:
21 Well, I'll decide what I'm going
22 to ask him, Skip, but what -- I don't see
23 any recognizable privilege to him testifying
24 to any potential job, occupations that he's
25 going to be taking when he gets out of here,

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1 and I am entitled to know what they are if
2 they in any way relate to any of this. And
3 I don't think that's something you get to
4 decide. It doesn't have to just be working
5 for State Farm to create more motivational
6 bias and conflict here.
7 I mean, which law firm is he --
8 which law firm would he be talking to, do
9 they represent --
10 MR. JERNIGAN:
11 You can ask him all you want to,
12 but he's not going to answer those
13 questions. So just fire away.
14 MR. SCRUGGS:
15 I'm going to repeat the question.
16 Q. Who have you had discussions with
17 about prospective employment if and when you
18 leave the Department of Insurance?
19 MR. JERNIGAN:
20 And I instruct the witness not to
21 answer that question.
22 MR. SCRUGGS:
23 Q. Have you had any discussions with
24 anyone at State Farm about employment with
25 State Farm if and when you leave the

25 (Pages 397 to 400)

<p style="text-align: right;">Page 401</p> <p>1 Department of Insurance?</p> <p>2 A. I have no intentions, I've had no</p> <p>3 discussions of working for State Farm.</p> <p>4 Q. I didn't ask about the intentions.</p> <p>5 Have you had any discussions with anyone at</p> <p>6 State Farm about possible employment with</p> <p>7 State Farm after -- when and if you leave</p> <p>8 the Department of Insurance?</p> <p>9 A. No, sir.</p> <p>10 Q. Have you had any discussions with</p> <p>11 the law firm of Butler, Snow about possible</p> <p>12 employment with that firm if and when you</p> <p>13 leave the Department of Insurance?</p> <p>14 MR. JERNIGAN:</p> <p>15 Don't answer that.</p> <p>16 MR. SCRUGGS:</p> <p>17 Q. Are you aware that Butler, Snow</p> <p>18 represents State Farm in civil and criminal</p> <p>19 matters?</p> <p>20 MR. WEBB:</p> <p>21 Objection, asked and answered.</p> <p>22 MR. SCRUGGS:</p> <p>23 Q. Sir?</p> <p>24 A. Yes, sir.</p> <p>25 Q. Have you had any discussions about</p>	<p style="text-align: right;">Page 403</p> <p>1 with anyone at Copeland, Cook, Taylor & Bush</p> <p>2 about possible employment with that law firm</p> <p>3 if and when you leave the Department of</p> <p>4 Insurance?</p> <p>5 MR. JERNIGAN:</p> <p>6 And his response is that based on</p> <p>7 the advice of counsel, he's not going to</p> <p>8 answer that question. Now you can answer</p> <p>9 that, Lee.</p> <p>10 A. Based on advice of counsel, I'm</p> <p>11 not going to answer that question, Mr.</p> <p>12 Scruggs.</p> <p>13 MR. SCRUGGS:</p> <p>14 Q. Just so the record is clear, on</p> <p>15 Butler, Snow -- I don't know if we had an</p> <p>16 actual answer to that -- have you had any</p> <p>17 discussions with anyone at the Butler, Snow</p> <p>18 law firm about prospective employment with</p> <p>19 that firm if and when you leave the</p> <p>20 Department of Insurance?</p> <p>21 MR. JERNIGAN:</p> <p>22 Same instruction to the witness.</p> <p>23 A. Based on advice of counsel, I'm</p> <p>24 not going to answer that, Mr. Scruggs.</p> <p>25 MR. SCRUGGS:</p>
<p style="text-align: right;">Page 402</p> <p>1 employment with Copeland, Cook, Taylor &</p> <p>2 Bush if and when you leave the Department of</p> <p>3 Insurance?</p> <p>4 MR. JERNIGAN:</p> <p>5 Don't answer that.</p> <p>6 MR. SCRUGGS:</p> <p>7 Sir?</p> <p>8 MR. JERNIGAN:</p> <p>9 He's been instructed not to</p> <p>10 answer.</p> <p>11 MR. SCRUGGS:</p> <p>12 Well, he can testify -- he can</p> <p>13 testify to that on the record.</p> <p>14 MR. JERNIGAN:</p> <p>15 Testify to what? Since he's been</p> <p>16 instructed not to answer, there's nothing to</p> <p>17 testify to.</p> <p>18 MR. SCRUGGS:</p> <p>19 Well, you don't testify here,</p> <p>20 Skip. He does. He can repeat your</p> <p>21 instruction and we'll keep on going. But I</p> <p>22 want on the record what he's doing. And</p> <p>23 your instruction is not testimony. It's not</p> <p>24 evidence.</p> <p>25 Q. Sir, have you had any discussions</p>	<p style="text-align: right;">Page 404</p> <p>1 Q. Have you had any discussions with</p> <p>2 anyone at the law firm of Baker, Donelson in</p> <p>3 Jackson about prospective employment if and</p> <p>4 when you leave the Department of Insurance?</p> <p>5 MR. JERNIGAN:</p> <p>6 Same advice -- same advice, for</p> <p>7 the record. The witness is instructed not</p> <p>8 to answer that.</p> <p>9 MR. SCRUGGS:</p> <p>10 Q. Sir?</p> <p>11 MR. JERNIGAN:</p> <p>12 The witness is instructed not to</p> <p>13 answer that.</p> <p>14 MR. SCRUGGS:</p> <p>15 I heard you.</p> <p>16 Q. Sir?</p> <p>17 A. Based on advice of counsel, I'm</p> <p>18 not going to answer that, Mr. Scruggs.</p> <p>19 Q. Have you had any discussions with</p> <p>20 anyone at the law firm of Watkins, Ludlam,</p> <p>21 Winter & Stennis about employment with that</p> <p>22 law firm if and when you leave the</p> <p>23 Department of Insurance?</p> <p>24 MR. JERNIGAN:</p> <p>25 You don't have to answer that,</p>

<p style="text-align: right;">Page 405</p> <p>1 Lee.</p> <p>2 A. Based on advice of counsel, I'm</p> <p>3 not going to answer that, Mr. Scruggs.</p> <p>4 MR. SCRUGGS:</p> <p>5 Q. Have you had discussions with any</p> <p>6 law firm, not even getting into which one it</p> <p>7 is, any law firm about prospective</p> <p>8 employment if and when you leave the</p> <p>9 Department of Insurance?</p> <p>10 MR. JERNIGAN:</p> <p>11 Don't answer that one either.</p> <p>12 A. Based on advice of counsel, Mr.</p> <p>13 Scruggs, I'm not going to answer that</p> <p>14 question either.</p> <p>15 MR. SCRUGGS:</p> <p>16 Q. Have you had any discussions with</p> <p>17 any insurance company about prospective</p> <p>18 employment if and when you leave the</p> <p>19 Department of Insurance?</p> <p>20 MR. JERNIGAN:</p> <p>21 You can answer that, Lee, just</p> <p>22 like you did with State Farm.</p> <p>23 A. No, sir.</p> <p>24 MR. SCRUGGS:</p> <p>25 Q. I believe you testified previously</p>	<p style="text-align: right;">Page 407</p> <p>1 Q. I believe you testified previously</p> <p>2 that you assisted in helping raise money for</p> <p>3 George Dale in that reelection effort?</p> <p>4 A. Yes, sir.</p> <p>5 Q. Put that aside for one second --</p> <p>6 MR. WEBB:</p> <p>7 That's 32?</p> <p>8 MR. SCRUGGS:</p> <p>9 That's it, 32.</p> <p>10 (Exhibit 33 was marked.)</p> <p>11 MR. SCRUGGS:</p> <p>12 Q. Exhibit 33 is a copy of a Campaign</p> <p>13 Finance Guide Ensuring Compliance and</p> <p>14 Improving Disclosure. It's published by the</p> <p>15 Secretary of State's office. Are you</p> <p>16 familiar with that document at all?</p> <p>17 A. No, sir.</p> <p>18 Q. Perhaps, refreshing your</p> <p>19 recollection -- I flagged it here, if you</p> <p>20 could read into the record the Itemized</p> <p>21 Contributions sections I highlighted.</p> <p>22 A. Which one?</p> <p>23 Q. I'm sorry, sir. If you could read</p> <p>24 that into the record for me.</p> <p>25 MR. WEBB:</p>
<p style="text-align: right;">Page 406</p> <p>1 that you were involved in George Dale's</p> <p>2 reelection campaign this year.</p> <p>3 A. Yes, sir.</p> <p>4 (Exhibit 32 was marked.)</p> <p>5 MR. SCRUGGS:</p> <p>6 Q. I've marked as Exhibit 32 to your</p> <p>7 deposition a copy of a 2006 Election Cycle,</p> <p>8 Secretary of State Campaign Report filed on</p> <p>9 behalf of George Dale. Are you familiar</p> <p>10 with that document at all?</p> <p>11 A. I'm waiting on my counsel.</p> <p>12 MR. JERNIGAN:</p> <p>13 The question was, are you familiar</p> <p>14 with it or not. If you are not --</p> <p>15 A. No, sir.</p> <p>16 MR. JERNIGAN:</p> <p>17 -- say no. If you are, say yes.</p> <p>18 MR. SCRUGGS:</p> <p>19 Q. Are you familiar with this general</p> <p>20 form that has to be filed with the Secretary</p> <p>21 of State?</p> <p>22 A. I've seen the forms, yes, sir.</p> <p>23 Q. Have you seen any forms related to</p> <p>24 George Dale's reporting requirements?</p> <p>25 A. Yes, sir.</p>	<p style="text-align: right;">Page 408</p> <p>1 Objection to form.</p> <p>2 A. "Itemized Contributions. Each</p> <p>3 report must contain an itemized listing of</p> <p>4 each person, business or entity (including</p> <p>5 name, address, occupation, employer, date of</p> <p>6 expenditure or disbursement and amount)</p> <p>7 giving year-to-date totals aggregating to</p> <p>8 more than \$200. Mississippi Code Annotated</p> <p>9 Section 23-15-807(d)(ii) 1972. The grand</p> <p>10 total (itemized contributions plus</p> <p>11 non-itemized contributions) must be</p> <p>12 disclosed. Mississippi Code Annotated</p> <p>13 Section 23-15-807(d)(iii) 1972."</p> <p>14 Q. Are you familiar with that</p> <p>15 reporting requirement that requires</p> <p>16 candidates to list the occupation of donors?</p> <p>17 A. No, sir.</p> <p>18 Q. You are not familiar with that?</p> <p>19 A. No, sir.</p> <p>20 Q. Well, let me ask it another way.</p> <p>21 Were you aware before today that that was a</p> <p>22 requirement to the Secretary of State's</p> <p>23 office, to list the occupation of donors?</p> <p>24 A. I've never seen that document.</p> <p>25 Q. Well, I understand. I'm just</p>

<p style="text-align: right;">Page 409</p> <p>1 speaking in generalities. 2 A. Yes. In general, yes. 3 Q. You understood that that was 4 something the candidate was required to do, 5 is list the occupation of his donors? 6 A. My understanding, yes, sir. 7 Q. Let's go back to Exhibit 32. If 8 you could turn with me to page, I believe 9 it's 4 of 6. And for the record, this was 10 printed off the Secretary of State's web 11 site on the reporting of contributions in 12 George Dale's election, reelection for the 13 2006 period. 14 If you scroll down a little bit, 15 it's in alphabetical order, to Barry and 16 Beverly Mitchell. Do you see that name? 17 A. Okay. 18 Q. Do you know who those people are? 19 A. I know a Barry Mitchell. 20 Q. Right. And how do you know Barry 21 Mitchell? 22 A. He's a -- in some type of 23 insurance arena in south Louisiana. 24 Q. Would it be fair to say he owns a 25 Louisiana insurance company?</p>	<p style="text-align: right;">Page 411</p> <p>1 A. Okay. 2 Q. Do you know who Stephen Rutledge 3 is? 4 A. No, sir. 5 Q. If I told you he was the chief 6 financial officer of Alpha Insurance, would 7 you have any reason to doubt that? 8 A. I don't know. 9 Q. What occupation is listed by 10 Stephen and Amy Rutledge? 11 A. Unknown. 12 MR. WEBB: 13 Same objection. 14 MR. SCRUGGS: 15 Q. Scroll down to where it says 16 Safeco Corporation. Do you see that? 17 MR. WEBB: 18 Before you answer that question, 19 just to keep from having to do this over and 20 over, as to questions about this exhibit, I 21 just interpose a continuing objection, based 22 on improper redirect, and move to strike for 23 the record. 24 MR. JERNIGAN: 25 Zach, how much more have you got?</p>
<p style="text-align: right;">Page 410</p> <p>1 A. I don't know. 2 Q. But he's involved in insurance in 3 Louisiana? 4 A. In some capacity. 5 Q. If you will look over one column 6 to where it says occupation or business, 7 what does it say for Mr. Mitchell? 8 A. It says, unknown. 9 Q. But you are aware that he is 10 involved in some capacity in the insurance 11 business; is that correct? 12 A. That's my understanding of what he 13 does. 14 Q. That's right. But, yet, the 15 filing form that was filed with the 16 Secretary of State's office lists his 17 occupation as unknown; is that correct? 18 A. Yes. 19 MR. WEBB: 20 Objection to the form and 21 objection as improper redirect. 22 MR. SCRUGGS: 23 Q. If you scroll down to Stephen and 24 Amy Rutledge, down at the bottom of that 25 page, do you see their name?</p>	<p style="text-align: right;">Page 412</p> <p>1 MR. SCRUGGS: 2 A little bit. 3 MR. JERNIGAN: 4 Can you quantify it for me in some 5 fashion, if possible? 6 MR. SCRUGGS: 7 30 minutes. 8 MR. JERNIGAN: 9 He's -- with his prior deposition 10 and his deposition testimony today, we've 11 bumped up on the limit of what he's supposed 12 to sit, under the rules, for a deposition, 13 so if you've got about 30 minutes, we'll 14 finish up. 15 MR. SCRUGGS: 16 Well, given that it's disputed 17 whether they've even called a whole new 18 deposition for him, as opposed to a 19 continuance, and given the testimony he's 20 given today, I think I have a lot of 21 latitude, but I don't think I'm going to 22 need it. 23 Of course, I'm going to reserve 24 the right to depose this man again, with 25 exhibits, based on a lot of his testimony</p>

28 (Pages 409 to 412)

<p style="text-align: right;">Page 413</p> <p>1 here, too. I understand you will fight 2 that. But I don't want to leave any doubt 3 what we intend to do. 4 So, anyway, resuming. 5 Q. Safeco Corporation, do you see 6 that listed as a donor to George Dale's 7 reelection? 8 A. Yes, sir. 9 Q. What's the occupation listed for 10 Safeco? 11 A. Unknown. 12 Q. Safeco is an insurance company, 13 though, is it not? 14 A. There is an insurance company, 15 Safeway or Safe something. 16 Q. Safeco? Safeco is an insurance 17 company, isn't it? 18 MR. WEBB: 19 Objection. 20 A. I don't know. 21 MR. SCRUGGS: 22 Q. You don't know if Safeco is an 23 insurance company? 24 A. That's correct. 25 Q. If you could turn to Page 5 of 6.</p>	<p style="text-align: right;">Page 415</p> <p>1 Q. Does he work with insurance, in 2 the insurance business? 3 A. He's not in the insurance 4 business, no, sir. 5 Q. Does he lobby for insurance 6 companies? 7 A. At times. 8 Q. Are you familiar with Union 9 Standard Insurance Company? 10 A. I'm sorry. I think that there's 11 some kind of insurance company close to 12 that. I'm not sure what the name is. 13 Q. Do you know who the president of 14 that insurance company is? 15 A. No, sir. 16 (Exhibit 34 was marked.) 17 MR. SCRUGGS: 18 Q. Exhibit 34 is a disclosure form -- 19 Exhibit 34 is a similar reporting, financial 20 reporting form for the May -- excuse me, 21 from the January 2007 to April 30 of 2007 22 time period. And, Mr. Dale (sic), if you 23 could turn to the second page of that. 24 MR. WEBB: 25 And for the record, as to this</p>
<p style="text-align: right;">Page 414</p> <p>1 Loyd Shaw, do you know who that is? 2 A. No, sir. 3 Q. What about Joseph Skruck, do you 4 know who he is? 5 A. No, sir. 6 Q. Craig Sparks, do you know who he 7 is? 8 A. No, sir. 9 Q. Bob Trippel, do you know who he 10 is? 11 A. I've heard of him. I don't know 12 who he is. 13 Q. If I told you that Bob Trippel was 14 a senior vice president with State Farm 15 Insurance, would that ring a bell? 16 A. No, sir. 17 Q. It wouldn't? Okay. Mike Weaver, 18 do you know who he is? 19 A. Yes, sir. 20 Q. Who is he? 21 A. He used to be Commissioner of 22 Insurance in Alabama. 23 Q. Okay. And what does he do now? 24 A. He's a consultant. I don't know 25 what he does.</p>	<p style="text-align: right;">Page 416</p> <p>1 exhibit, I'll interpose the same continuing 2 objection and motion to strike. Please 3 proceed. 4 MR. SCRUGGS: 5 Q. Gregory Ator, do you know who that 6 is? 7 A. I don't know him. 8 Q. You don't know who he is? 9 A. No, sir. 10 Q. What about Billy Hewes, do you 11 know who he is? 12 A. I know a Billy Hewes. 13 Q. And what does the Billy Hewes you 14 know do? 15 A. He's a state Senator. 16 Q. Is he also a Nationwide Insurance 17 agent? 18 A. I don't know. 19 Q. You don't know if Billy Hewes is a 20 Nationwide agent or not? 21 A. I don't know. 22 Q. The department regulates insurance 23 agents, as well as insurance companies, 24 though, does it not? 25 A. Yes, sir.</p>

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1 Q. If I told you that Billy Hewes is
2 a Nationwide agent, would you have any
3 reason to doubt that?
4 A. If you say he is.
5 Q. What is it listed by Billy Hewes'
6 occupation?
7 A. Billy Hewes Real Estate?
8 Q. Yes. What does it say?
9 A. It says unknown.
10 Q. Joellen Cashion, do you know who
11 that is?
12 A. No, sir.
13 Q. Have you ever heard of the company
14 American Health Underwriters?
15 A. No, sir.
16 Q. Mark Gordon, do you know who that
17 is?
18 A. No, sir.
19 Q. Do you know who Shaw Johnson is?
20 A. No, sir.
21 Q. What about Walden Little, do you
22 know who he is?
23 A. No, sir.
24 Q. Tom Quaka?
25 A. I know a Tom Quaka.

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1 Q. What does the Tom Quaka you know
2 do for a living?
3 A. The one I know is the president of
4 an insurance agency.
5 Q. Is it Briarfield Insurance; does
6 that sound right?
7 A. NIM something.
8 Q. What is the occupation listed by
9 Mr. Quaka on this campaign contribution
10 form?
11 A. Unknown.
12 Q. But you do know that he owns some
13 kind of insurance agency or company, right?
14 A. I know there's one that owns --
15 it's my understanding, he runs it. I don't
16 know if it's this one.
17 Q. Turn the page for me, if you don't
18 mind. Sam Seay, do you know who he is?
19 A. I know a Sam Seay.
20 Q. And what does the Sam Seay that
21 you know do for a living?
22 A. I don't know.
23 Q. Did you ever know?
24 A. At one time, several years ago, he
25 was involved with some insurance agency, but

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1 I don't think he's there anymore.
2 Q. What is the occupation listed down
3 by Mr. Seay?
4 A. Unknown.
5 Q. Do you know Ken Shearer?
6 A. No.
7 (Exhibit 35 was marked.)
8 MR. SCRUGGS:
9 Q. Exhibit 35 is a similar candidate
10 report form for the period of May 1, '07
11 through May 31, '07. Could you turn to the
12 second page of that for me, Mr. Harrell,
13 when you get a chance?
14 MR. WEBB:
15 And I'll impose the same
16 objections and motions as exhibits before.
17 MR. SCRUGGS:
18 Q. Do you know Kimberly or Craig
19 Sparks?
20 A. No.
21 Q. Do you know Doyle Kelly?
22 A. No.
23 Q. Are you familiar with C&L
24 Insurance?
25 A. No, sir.

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1 Q. If I told you that Mr. Doyle was
2 president of C&L Insurance, would you have
3 any reason to dispute that?
4 A. I don't know.
5 Q. And if I told you that Mr. Sparks
6 is president of Union Standard Insurance
7 Company, would you have any reason to doubt
8 that?
9 A. I don't know.
10 Q. What's listed by the occupations
11 of Mr. Doyle and Mr. Sparks?
12 A. Unknown for Mr. Doyle. And what
13 was the second name?
14 Q. Sparks.
15 A. Unknown.
16 Q. Pat McGraw, do you know who that
17 is?
18 A. No, sir.
19 Q. What about Dick Williams down
20 there?
21 A. No, sir.
22 (Exhibit 36 was marked.)
23 MR. SCRUGGS:
24 Q. Exhibit 36 is a -- I'm marking as
25 Exhibit 36 is a candidate report form for

30 (Pages 417 to 420)

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1 the period of June 1, '07 to June 30th, '07.
2 MR. WEBB:
3 Same objections and motions as to
4 this exhibit, as well.
5 MR. SCRUGGS:
6 Q. Do you know who Jack Ikenaga is,
7 I-k-e-n-a-g-a?
8 A. I know a Jack, however you
9 pronounce that last name.
10 Q. What does he do?
11 A. The one I know works for some kind
12 of insurance company out of Texas somewhere.
13 Q. And what's the occupation for the
14 Jack Ikenaga listed on this campaign finance
15 form?
16 A. Unknown.
17 Q. And how much did Mr. Ikenaga give
18 George Dale on June 11, 2007?
19 A. It appears to be \$5,000.
20 Q. And if you go down, Lucedale
21 Insurance Agency, Inc., do you see that?
22 A. Okay.
23 Q. And what's the occupation for that
24 agency?
25 A. Unknown.

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1 (Exhibit 37 was marked.)
2 MR. SCRUGGS:
3 Q. Exhibit 37 is an election report,
4 finance report for the period of July 1, '07
5 through September 30th, '07 that was filed
6 by George Dale with the Secretary of State's
7 office.
8 MR. WEBB:
9 Same objections and motions, for
10 the record.
11 MR. SCRUGGS:
12 Q. If you could look down and report
13 to the court the total amount of
14 contributions Mr. Dale had received calendar
15 year-to-date.
16 A. The total amount of contributions?
17 Q. Yes, calendar year-to-date.
18 A. Is that the far right-hand side?
19 Q. Yes, sir.
20 A. It would appear to be \$461,155.47.
21 Q. And what were the total amount of
22 distributions made by the George Dale
23 reelection campaign for the calendar
24 year-to-date?
25 A. They appear to be \$642,587.73.

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1 Q. Thank you. Now, if you will turn
2 the page of that document. It's kind of
3 small print. Do you know who Mike Cappaert
4 is, from Vicksburg, Mississippi?
5 A. There's a Cappaert over there that
6 owns some kind of manufactured housing
7 plant.
8 Q. Is that Mike Cappaert?
9 A. Don't know.
10 Q. Do you know James Dale Creech?
11 A. No, sir.
12 Q. Are you familiar with the company
13 Crawford & Company?
14 A. No, sir.
15 Q. You are not familiar that's an
16 adjusting, insurance adjusting firm?
17 A. No, sir.
18 Q. How about William Berkley, do you
19 know who that is?
20 A. I know Bill Berkley.
21 Q. Who is the Bill Berkley you know?
22 What does he do?
23 A. He's the chairman of some kind of
24 holding company in New York.
25 Q. What kind of holding company?

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1 A. They own some insurance companies
2 and other holdings.
3 Q. What is listed by Mr. Berkley's
4 occupation?
5 A. It appears to be a William R.
6 Berkley, unknown.
7 Q. And how much did William R.
8 Berkley give George Dale's election campaign
9 in June '07?
10 A. It appears to be \$2,500.
11 Q. Do you know Lisa or Robert
12 Arowood?
13 A. No.
14 Q. Are you familiar with the company
15 American Insurance Marketing Corp.?
16 A. No, sir.
17 Q. Are you familiar with a Richard or
18 Vicki Hammer, H-a-m-m-e-r?
19 A. No, sir.
20 Q. How about Mike Heflin, do you know
21 who that is?
22 A. No, sir.
23 Q. Are you aware that Mike Heflin was
24 a Nationwide Insurance agent down on the
25 coast?

31 (Pages 421 to 424)

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1 A. No, sir.
 2 Q. You didn't know that?
 3 A. No, sir.
 4 Q. Are you familiar with a gentleman
 5 named Gary Jarnigan?
 6 A. How do you pronounce it?
 7 Q. J-a-r-n-i-g-a-n.
 8 A. No, sir.
 9 Q. You can turn the page for me, sir.
 10 Larry Lewis, are you familiar with him?
 11 A. I know a Larry Lewis.
 12 Q. I'm sorry, sir.
 13 A. I know a Larry Lewis.
 14 Q. What does the Larry Lewis you know
 15 do?
 16 A. I don't know.
 17 Q. Do you know a William or Christine
 18 McCartney?
 19 A. No.
 20 Q. McGlinchey Stafford, are you
 21 familiar with that?
 22 A. I know of a law firm by that name.
 23 Q. Were you aware that law firm was
 24 represented here today by Mr. Norris, who is
 25 sitting here?

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1 A. No, sir.
 2 Q. Let me ask an even better
 3 question. Are you aware that that law firm
 4 is representing Renfroe Adjusting Company in
 5 this lawsuit?
 6 A. No, sir.
 7 Q. Mack Robinson, do you know who
 8 that is?
 9 A. I just know the name. I don't
 10 know him.
 11 Q. Do you know what he does?
 12 A. No, sir.
 13 Q. If you will turn the page for me.
 14 Douglas Sizemore, do you know who that is?
 15 Doug Sizemore, Douglas Sizemore?
 16 A. I know a Doug Sizemore.
 17 Q. What does the Doug Sizemore that
 18 you know do?
 19 A. He used to be Commissioner of
 20 Insurance in Tennessee.
 21 Q. Do you know what he does now?
 22 A. Consulting work.
 23 Q. For insurance companies?
 24 A. I've dealt with him with insurance
 25 companies. I don't know who else he

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1 represents.
 2 Q. But you've dealt with him in the
 3 insurance company capacity, right?
 4 A. Yes, sir.
 5 Q. And what is the occupation listed
 6 by Mr. Sizemore?
 7 A. Unknown.
 8 Q. And how much did Mr. Sizemore give
 9 to George Dale's reelection campaign?
 10 MR. JERNIGAN:
 11 Obviously not enough.
 12 A. \$5,000.
 13 MR. SCRUGGS:
 14 Q. Fletcher Songe, the next name on
 15 the list, do you know who that is?
 16 A. No, sir.
 17 Q. Were you aware that Mr. Songe was
 18 a Nationwide insurance agent down on the
 19 coast?
 20 A. No, sir.
 21 Q. Sonnenschein, Nath & Rosenthal law
 22 firm, do you see that? Are you familiar
 23 with that firm?
 24 A. I know their law firm.
 25 Q. Are you aware that they represent

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1 Allstate?
 2 A. No, sir.
 3 Q. We can go further. Were you aware
 4 they represent Allstate in Hurricane Katrina
 5 claims on the Mississippi Gulf Coast?
 6 A. No, sir.
 7 Q. Is the Department of Insurance
 8 conducting any kind of Market Conduct Exam
 9 into Allstate, as we speak?
 10 A. No, sir.
 11 Q. Nathan Starks, do you know who
 12 that is?
 13 A. No, sir.
 14 Q. State Mutual Insurance Company, do
 15 you know who that is?
 16 A. No, sir.
 17 Q. Lawrence Slumbaugh, do you know
 18 who that is?
 19 A. I don't know a Lawrence Slumbaugh.
 20 Q. Do you know a Larry Slumbaugh?
 21 A. No, sir.
 22 Q. Do you know any Slumbaugh's?
 23 A. I know a Bud Slumbaugh.
 24 Q. What does Bud Slumbaugh do?
 25 A. He used to be, like, Lieutenant

32 (Pages 425 to 428)

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<p>1 Governor or something of the State of 2 Georgia. 3 Q. Do you know what he does now? 4 A. He works in some capacity as a 5 consultant. 6 Q. A consultant for who? 7 A. The time I dealt with him, he was 8 representing an insurance company. 9 Q. How much does the Lawrence -- 10 excuse me, what is the occupation listed by 11 the Lawrence Slumbaugh, as appears on this 12 campaign finance form? 13 A. Unknown. 14 Q. And how much did Mr. Slumbaugh 15 give the George Dale reelection campaign on 16 July 9th, 2007? 17 A. It appears to be \$2,500. 18 Q. Are you familiar with the 31 Club? 19 A. No, sir. 20 Q. Okay. Do you know why the 31 Club 21 would have given \$20,000 to George Dale's 22 reelection campaign? 23 A. No, sir. 24 Q. Charter Oak Fire Insurance 25 Company, are you familiar with that company?</p>	<p>1 George Dale in his reelection campaign? 2 A. Yes, sir. 3 Q. Going back to the first page of 4 this campaign finance form, it lists a total 5 amount of cash on hand at 124,422; in other 6 words, \$124,422; is that correct? 7 A. Yes, sir. 8 Q. Do you know what Mr. Dale or his 9 campaign plan to do with that money? 10 A. No, sir. 11 Q. Has Mr. Dale made any promises to 12 you or assurances or representations to you 13 after that campaign, either before or after 14 the election, to provide you with any money? 15 A. No, sir. 16 Q. One final question. We're back to 17 Exhibit 33. Under the term Fines and 18 Penalties, Criminal Penalties, if you could 19 read for me just the highlighted part on the 20 bottom of this page. 21 MR. WEBB: 22 Objection to form. Move to 23 strike. 24 A. "Fines and Penalties, Criminal 25 Penalties. An intentional violation of the</p>
Page 430	Page 432
<p>1 A. No, sir. 2 Q. Travelers Casualty and Commercial 3 Insurance Company is listed down there. Are 4 you familiar with those? 5 A. Yes, sir. 6 Q. Are you aware who represents 7 Travelers in legal disputes involving 8 Hurricane Katrina? 9 A. No, sir. 10 Q. Wayne Tisdale, do you know who 11 that is? 12 A. No. 13 Q. USAA, various USAA insurance 14 companies listed down here, are you familiar 15 with those companies? 16 A. I'm familiar with the USAA 17 Insurance Company. 18 Q. Do you know who represents USAA 19 Insurance in legal disputes in Hurricane 20 Katrina? 21 A. I do now. 22 Q. Who? 23 A. One of the lawyers is Greg 24 Copeland. 25 Q. Right. Did Greg Copeland assist</p>	<p>1 campaign finance disclosure law is a 2 misdemeanor with a maximum penalty of \$3,000 3 and six months imprisonment. 4 Mississippi Code Annotated 5 23-15-811 (1972) states: Any candidate or 6 other person who shall willfully and 7 deliberately and substantially violate the 8 provisions and prohibitions of this article 9 shall be guilty of a misdemeanor and upon 10 conviction thereof shall be punished by a 11 fine and sum not to exceed \$3,000 or 12 imprisoned for not longer than six months or 13 by both fine and imprisonment." 14 MR. SCRUGGS: 15 No further questions. 16 MR. NORRIS: 17 I've got a few. Can we just take 18 a quick break? 19 (Off the record.) 20 MR. SCRUGGS: 21 This is Zach Scruggs for the 22 plaintiff. Subject to continuing this 23 deposition after certain motions that we may 24 or may not file, I guess it's recessed 25 again, from our point of view, anyhow.</p>

1 MR. NORRIS:
 2 Nothing.
 3 MR. WEBB:
 4 I have --
 5 MR. NORRIS:
 6 Other than if it's -- if the
 7 plaintiffs resume the deposition, we would
 8 reserve the right to ask questions
 9 thereafter.
 10 MR. WEBB:
 11 On behalf of State Farm, I don't
 12 have any further questions at this time,
 13 making the same reservation as stated by
 14 counsel, in the event the deposition is
 15 reconvened.
 16 MR. SCRUGGS:
 17 You are sure you are not going to
 18 notice it again if you think of some more
 19 stuff to ask him?
 20 MR. JERNIGAN:
 21 Okay. Thank you all.
 22 (Deposition concluded at 12:40 p.m.)
 23
 24
 25

1 ERRATA SHEET
 I, DAVID LEE HARRELL, do solemnly
 2 swear that I have read the foregoing pages
 303 - 434, and that the same is a true and
 3 correct transcript of the testimony given by
 me at the time and place hereinbefore set
 4 forth, with the following corrections:
 5 Page: Line: Correction:
 6 _____
 7 _____
 8 _____
 9 _____
 10 _____
 11 _____
 12 _____
 13 _____
 14 _____
 15 _____
 16 DAVID LEE HARRELL
 17 NOTARIZATION
 18 I, _____, notary public
 19 for the State of Mississippi, _____
 20 County, do hereby certify that D.L. Harrell
 21 personally appeared before me this ____ day
 22 of _____, 2007, at _____,
 23 Mississippi.
 24 My Commission Expires: _____
 25 (NOTARY PUBLIC)

1 CERTIFICATE OF COURT REPORTER
 2 I, MONICA SCHROEDER, Court Reporter and
 3 Notary Public, in and for the County of
 4 Jackson, State of Mississippi, hereby
 5 certify that the foregoing pages, and
 6 including this page, contain a true and
 7 correct transcript of the testimony of the
 8 witness as taken by me at the time and place
 9 heretofore stated, and later reduced to
 10 typewritten form by computer-aided
 11 transcription under my supervision, to the
 12 best of my skill and ability.
 13 I further certify that I placed the
 14 witness under oath to truthfully answer all
 15 questions in this matter under the authority
 16 vested in me by the State of Mississippi.
 17 I further certify that I am not in the
 18 employ of, or related to, any counsel or
 19 party in this matter, and have no interest,
 20 monetary or otherwise, in the final outcome
 21 of the proceedings.
 22 Witness my signature and seal, this
 23 the ____ day of _____, 2007.
 24
 25 _____
 Monica Schroeder, RPR, CRR, CSR #1285