

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

THOMAS C. and PAMELA McINTOSH

PLAINTIFFS

VERSUS

CIVIL ACTION NO. 1:06-CV-1080-LTS-RHW

**STATE FARM FIRE & CASUALTY CO. and
FORENSIC ANALYSIS & ENGINEERING
CO., et al**

DEFENDANTS

**REPLY TO DEFENDANT STATE FARM FIRE
AND CASUALTY COMPANY'S RESPONSE TO
NON-PARTY LUMPKIN & REEVES, PLLC'S
MOTION FOR CLARIFICATION OF DISQUALIFICATION ORDER**

COMES NOW, Lumpkin & Reeves, PLLC, and files this their Reply to Defendant State Farm Fire and Casualty Company's Response to Non-Party Lumpkin & Reeves, PLLC's Motion for Clarification of Disqualification Order, and would show unto the Court as follows:

Lumpkin & Reeves Is Not An Associated Firm

1. Using the broadest possible interpretation of the word "associated", the Lumpkin & Reeves firm is not and has never been associated with the Katrina Litigation Group ("KLG"). KLG has not associated with Lumpkin & Reeves on any State Farm case and, furthermore, no current association exists in any other Katrina-related litigation with any of the KLG attorneys or firms.

2. The entirety of the Lumpkin & Reeves conversations or communications with the KLG was to assess whether association on these cases was practical and economically feasible. KLG, basically, inquired if Lumpkin & Reeves was interested in working on Katrina related matters. Lumpkin & Reeves was interested but needed information

concerning anticipated time and economic commitments¹. Lumpkin & Reeves should not be disqualified from representing former KLG clients.

State Farm's Interpretation Is Far Too Expansive

3. State Farm's interpretation of this court's order is far too expansive to have any practical impact. The KLG group is large and encompasses dozen of attorneys and numerous law firms. Over the course of the litigation, it is certain that most of these attorneys have talked to other attorneys about a KLG case at least in some general context. State Farm's interpretation of this Court's order would require all attorneys who have discussed anything about any of the cases with KLG attorneys or staff to be deemed "associate counsel" and disqualified. Such a reading is absurd.

4. Mark Lumpkin appeared in a single deposition to observe only. Lumpkin & Reeves does not even have a copy of that deposition, but a review of it would indicate that Mr. Lumpkin asked no questions of any witness and posed no objections. The examination was undertaken by Ms. Bishop, Mr. Dummer, and Mr. Walker. Objections were made by Mary E. McAllister.

5. An attorney has a duty of candor to the tribunal. In that deposition, when State Farm's attorney misrepresented facts to the Court, Mr. Lumpkin had an absolute duty to bring that to the Court's attention. The instant Motion to Disqualify Lumpkin & Reeves is part of an apparent ongoing campaign by State Farm to prohibit its policyholders from having any legal representation in an effort to force settlements with former policyholders

¹ The nature of the conversations centered around the same generic questions any responsible, ethical attorney/firm would ask before agreeing to representation. This includes the number of pending cases, pending trial dates, the status of discovery, what time and financial commitments were contemplated, etc.

without legal representation. See Correspondence dated April 29, 2008 to Elaine Mangano attached as Exhibit "A". Ms. Mangano is an elderly client of Lumpkin & Reeves. State Farm has intentionally communicated with her after it knew Lumpkin & Reeves had appeared as counsel of record in her case. This is an intentional and unethical interference with a known contractual relationship which demonstrates State Farm's true motives, i.e. to take advantage of unrepresented hurricane victims.

6. Lumpkin & Reeves does not take Mr. Banahan's allegations of misconduct and malpractice lightly. If Mr. Banahan has such proof, he has a duty to disclose this information to the Bar and appropriate authorities. If he has no such proof, the allegations are defamatory.

7. Lumpkin & Reeves also takes issue with Banahan's assertion that the firm has ever been associated by KLG and demands strict proof of same. Mark Lumpkin appeared at one deposition and identified himself. Mr. Banahan, was not present and takes Mr. Lumpkin's involvement far out of context². In the course of that deposition, Mr. Lumpkin asked no questions and interposed no objections. Mr. Lumpkin took issue with misrepresentations made by State Farm's counsel to the Court and clarified the misrepresentation to the Court. The truth is that Lumpkin & Reeves has performed no legal service for KLG or on any of its cases. Lumpkin & Reeves is not nor has it been associated by any cases encompassed by this Court's Order.

8. Lumpkin & Reeves still has no knowledge of any ethical violations by KLG other than those reported allegations in the media and through courthouse gossip. If one follows

² The deposition lasted all day. Mark Lumpkin apparently addressed only the single issue identified by State Farm.

Mr. Banahan's distorted logic, virtually every law firm in the state would be disqualified. Surely, that was not the intent of this Court.

9. There has been no activity by Lumpkin & Reeves in any KLG deposition or other activity although, presumably, much discovery has been conducted since January 30, 2008 (over three months ago). This is further clear proof that Lumpkin & Reeves have never been associate counsel.

10. The clients that were formerly represented by the KLG have the right to hire the attorney of their choosing. The fact Lumpkin & Reeves conversed with KLG members about potentially working with them on cases is no reason to disqualify the firm. No substantive information was exchanged. Furthermore, neither the rules of ethics nor law disqualifies the firm.

WHEREFORE, PREMISES CONSIDERED, Lumpkin & Reeves, PLLC respectfully requests clarification as sought in the original Motion.

Respectfully submitted, this the 7th day of May, 2008.

BY: /s/ Mark D. Lumpkin
Mark D. Lumpkin (MSB #8864)

/s/ James R. Reeves, Jr.
James R. Reeves, Jr. (MSB #9519)

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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on this day, I electronically filed the foregoing with the Clerk of the Court using the ECF system, which sent notification of such filing to the following:

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This the 7th day of May, 2008

/s/ Mark D. Lumpkin

State Farm Insurance Companies



April 29, 2008

ELAINE MANGANO
360 WICKLOW CIRCLE
BRANDON MS 39047

Re: Claim Number: 24-Z455-368
Date of Loss: 8/30/2005

Dear Policyholder:

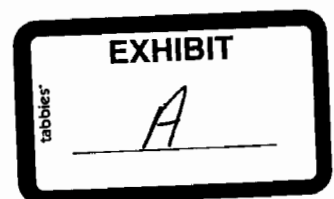
Your prior attorneys have been disqualified by an Order of the United States District Court. If you have retained a new attorney, please have your attorney contact Scot Spragins.

Hickman, Goza & Spragins
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We would like to see if we can resolve any remaining issues without the need for further litigation. Please call 228-385-3239 if you are interested.

Sincerely,

State Farm Fire & Casualty Company



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