

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

THOMAS C. and PAMELA McINTOSH

PLAINTIFFS

V.

NO. 1:06cv1080-LTS-RHW

STATE FARM FIRE & CASUALTY COMPANY,
FORENSIC ANALYSIS & ENGINEERING CORPORATION,
and E. A. RENFROE & COMPANY, INC. and
DOES 1 THROUGH 10

DEFENDANTS

**MOTION OF NON-PARTIES RICHARD F. SCRUGGS AND D. ZACHARY
SCRUGGS FOR STAY OF MAGISTRATE JUDGE'S ORDER [Docket No. 1194]
AND REQUEST FOR EXPEDITED CONSIDERATION**

Non-parties Richard F. Scruggs and D. Zachary Scruggs (“the Scruggses”) request this Court to stay those portions of its Order of May 15, 2008 [Docket No. 1194] (“the Order”) requiring the Scruggses to produce certain documents by May 30, 2008. Because of the short time frame involved, the Scruggses request expedited consideration of this Motion. In support of their Motion, the Scruggses state as follows:

1. In its Order, the Court noted that State Farm had informed the Court as to the remaining discovery it seeks to obtain from the Scruggses. Order, at 8-9. Apparently in response to a request by the Court, State Farm sent a letter to the Court dated May 9, 2008 detailing the remaining discovery it wished to have from the Scruggses (attached as Exhibit “A”).

2. It appears that the Scruggses’ new counsel, who entered appearances in late March, were inadvertently omitted from a distribution list in the office of State Farm’s counsel (*See* e-mail exchange between Mullen, Watkins, attached as Exhibit “B”), and the Scruggses did not receive a copy of the letter until May 27, 2008. Because they were not aware of the communications between

counsel for State Farm and the Court, the Scruggses were not aware that the Court would consider any further briefing or argument as to the relevance of the document requests.

3. Because they did not have an opportunity to present the Court with updated arguments as to the relevance of State Farm's remaining requests and because the Court did not consider certain of the Scruggses' arguments, the Scruggses are today filing an Objection to the Order.

4. Without a stay, the Scruggses may be required to comply with the Order before the Court hears and resolves their Objection.

5. The Scruggses will be prejudiced and unduly burdened by having to complete an exhaustive document search while the Court considers their Objection.

6. The Scruggses will be severely prejudiced if they are forced to produce any responsive documents while their Objection is being considered because their constitutional privileges may be waived upon such production.

7. State Farm will suffer no prejudice if the Scruggses are granted an additional fifteen days from the date of the Court's ruling on their Objection to produce documents, if such production is still required by the Court.

WHEREFORE, PREMISES CONSIDERED, non-parties Richard F. Scruggs and D. Zachary Scruggs respectfully request this Court to stay the effect of its May 15 Order to the extent that it compels the production of certain documents by the Scruggses by May 30, 2008, pending resolution of the Scruggses' Objection by the District Judge. The Scruggses seek such other relief as the Court deems appropriate.

THIS, the 28th day of May, 2008.

Respectfully submitted,

RICHARD F. SCRUGGS AND ZACHARY SCRUGGS

Paul B. Watkins, Jr.

J. CAL MAYO, JR. (MB NO. 8492)

POPE S. MALLETTE (MB NO. 9836)

PAUL B. WATKINS, JR. (MB NO. 102348)

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CERTIFICATE OF SERVICE

I, Paul B. Watkins, Jr., one of the attorneys for non-parties Richard F. Scruggs and D. Zachary Scruggs, hereby certify that I have this date electronically filed the foregoing document with the Clerk of the Court using the ECF system, which sent notification of such filing to all counsel of record.

THIS, the 28th day of May, 2008.

Paul B. Watkins, Jr.

PAUL B. WATKINS, JR.