

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

E. A. RENFROE & COMPANY, INC.,)	
)	
Plaintiff,)	
)	
-vs-)	CIVIL ACTION
)	NO 2:06-CV-1752-WMA
)	
CORI RIGSBY MORAN and)	
KERRI RIGSBY)	
)	
Defendants.)	
_____)	

**RENFROE’S RESPONSE AND OPPOSITION
TO SCRUGGS’ MOTION TO RELEASE SECURITY
TO SATISFY JUDGMENT**

Plaintiff E. A. Renfroe & Company, Inc. (“Renfroe”) opposes the illusory Motion to Release Security to Satisfy Judgment filed by non-parties Richard F. Scruggs and The Scruggs Law Firm, P.A. (collectively, “Scruggs”) for the reasons stated below:

1. In his Motion [Dkt. 386] Scruggs seeks to satisfy the joint and several judgment against him and Defendants Cori Rigsby (Moran) and Kerri Rigsby (“Defendants”) for civil contempt sanctions by the conditional and non-final release of \$65,000 plus interest held by this Court as security against Scruggs’ pending appeal of those civil contempt sanctions.

2. Defendants did not appeal the contempt sanctions, and the judgment against them for \$65,000 plus interest became final against them on July 5, 2008. [Dkt. 339 and 378].

3. On July 10, 2008, this Court ordered Defendants to pay the contempt sanctions that were final against them by July 24, 2008 or face additional sanctions. [Dkt. 378].

4. On July 24, 2008, Scruggs filed this Motion purportedly seeking to satisfy the joint and several judgment on the condition that he gets his money back if he wins his appeal. [Dkt. 386 at ¶ 5].

5. Scruggs' carefully timed attempt to satisfy the judgment by releasing the deposited funds to Renfroe is illusory because it is conditional. The illusory, temporary payment by Scruggs would not satisfy the Defendants' judgment because it is conditional and not a permanent payment to which Renfroe is entitled. Should, *arguendo*, Scruggs win his appeal, Renfroe would have no satisfaction from the Defendants, against whom the judgment is final and owing. Renfroe would be unfairly deprived of its justly won award against the Defendants.

6. Whether or not Scruggs prevails on his appeal of the civil contempt sanctions, the Defendants' obligation to pay 100% of the sanction is final. Defendants' payment of the sanctions in full is due and owing

without conditions on July 24, 2008. That is today. Scruggs' conditional release of the deposited funds while preserving the option to take the money back at some future date does not satisfy the judgment against the Defendants.

7. The judgment as to the Defendants would only be satisfied if Scruggs releases the deposited funds to Renfroe today without any conditions or strings attached.

ACCORDINGLY, for the reasons stated above, Renfroe opposes releasing the judgment as to the Defendants on Scruggs' conditional, non-final release of the deposited funds because the alleged satisfaction of the judgment would be illusory. Renfroe therefore respectfully requests that this Court deny Scruggs' Motion to Release Security to Satisfy Judgment.

Respectfully submitted this 24th day of July, 2008.

By: /s/ Jack E. Held

Jack E. Held

Alabama Bar No. 6188-H65J

jackheld@sirote.com

/s/ J. Rushton McClees

J. Rushton McClees

Alabama Bar No. ASB-8805-C39J

rmcclees@sirote.com

SIROTE & PERMUTT, P.C.

2311 Highland Avenue South

Birmingham, Alabama 35205

205-930-5100

205-930-5101

And

By: /s/ Barbara Ellis Stanley

Barbara Ellis Stanley

Admitted Pro Hac Vice

Texas Bar No.: 19043800

bstanley@helmsgreene.com

HELMS & GREENE, LLC

One City Centre, Suite 1290

1021 Main Street

Houston, Texas 77002

713-651-0277

713-651-0288 (Fax)

bstanley@helmsgreene.com

ADDITIONAL CO-COUNSEL FOR PLAINTIFF:

Victoria L. Helms, Esq.

(Admitted to Practice *Pro Hac Vice*)

Georgia Bar No. 344228

vhelms@helmsgreene.com

Steven S. Greene, Esq.

(Admitted to Practice *Pro Hac Vice*)

Georgia Bar No. 308715

sgreene@helmsgreene.com

Helms & Greene, LLC

115 Perimeter Center Place

Suite 635

Atlanta, GA 30346

tel: (770) 206-3371

fax: (770) 206-3381

CERTIFICATE OF SERVICE

I hereby certify that on this the 24th day of July, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following counsel of record:

Robert E. Battle, Esq. / rbattle@bfgwc.com
Harlan F. Winn, III, Esq. / hwinn@bfgwc.com
Jon H. Patterson, Esq. / jpatterson@bfgwc.com
Battle Fleenor Green Winn & Clemmer LLP
The Financial Center
505 North 20th Street
Suite 1150
Birmingham, AL 35203

Frank M. Bainbridge, Esq. / fbainbridge@bainbridgemims.com
Bruce F. Rogers, Esq. / brogers@bainbridgemims.com
Bainbridge, Mims, Rogers & Smith, LLP
Post Office Box 530886
Birmingham, AL 35253

John W. Keker, Esq. / jwk@kvn.com
Brook Dooley, Esq. / bdooley@kvn.com
Keker & Van Nest, LLP
710 Sansome Street
San Francisco, CA 94111-1704

/s/ Barbara Ellis Stanley