

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

E.A. RENFROE & COMPANY,)	
INC,)	
)	
Plaintiff,)	
)	
v.)	CASE NO.:2:06-CV-01752-WMA
)	
CORI RIGSBY MORAN and KERRI)	
RIGSBY,)	
)	
Defendants.)	

MOTION TO RELEASE SECURITY TO SATISFY JUDGMENT

COME NOW, non-parties Richard F. Scruggs and The Scruggs Law Firm, P.A. (collectively, "Scruggs") and, without waiving their objections to the jurisdiction of this Court over Scruggs, pursuant to 28 U.S.C. §§ 2041, 2042 and Rule 67 of the Federal Rules of Civil Procedure, move that this Court direct the Clerk to release the cash deposited with the Clerk as security pending appeal to E.A. Renfroe & Co., Inc. ("Renfroe") in satisfaction of the civil contempt sanctions entered against Scruggs and the defendants in this Court's June 5, 2008 Order. In support of this motion, Scruggs states as follows:

1. On June 5, 2008, this Court found Scruggs and the defendants, Cori and Kerri Rigsby, in civil contempt and ordered Scruggs and the defendants, jointly and

severally, to remit payment of civil contempt sanctions, in the amount of \$65,000, to counsel for Renfroe within 30 days. (June 5, 2008 Order, Doc. #339).

2. On June 26, 2008, Scruggs requested permission to deposit cash in lieu of a supersedeas bond with the Clerk to serve as security for the civil contempt judgment pending appeal. (Motion for Approval of Cash in Lieu of Bond, Doc. #366). On that same date, Scruggs deposited cash in the amount of \$65,000 with the Clerk.

3. In its June 27, 2008 Order, the Court directed that upon Scruggs's deposit of an additional \$5,000 with the Clerk, the Court would approve the security. (June 27, 2008 Order, Doc. #368). Scruggs deposited the additional \$5,000 on July 1, 2008.

4. In order to prevent the accumulation of any additional interest on the judgment, without waiver of the pending appeals and solely to pay the civil contempt sanction awarded in this action, Scruggs requests that the Court direct the Clerk to release to Renfroe the amount of \$65,000, plus the interest having already accrued at the interest rate of 2.15% per year (as set out by this Court in the June 27, 2008 Order) from the date of the judgment until today, and release the remainder of the funds back to the Bainbridge, Mims, Rogers & Smith, LLP Trust Account.

5. Although Scruggs will comply with the Court's order that the civil contempt judgment be satisfied immediately, Scruggs expressly reserves the right to

prosecute its pending appeals of the civil contempt judgment to the Eleventh Circuit Court of Appeals, and does not waive any of its defenses. *See, e.g., Graddick v. Newman*, 453 U.S. 928, 945 n.1 (1981) (“Since property transferred or money paid involuntarily pursuant to a judgment can be recovered, execution of the lower court’s judgment pending appeal normally does not render the case moot. These cases represent merely a particularization of the rule that issuance of a court’s mandate or obedience to its judgment does not bar timely appellate review.”); *County of Dakota v. Glidden*, 113 U.S. 222, 224-25 (1885) (“There can be no question that a debtor against whom a judgment for money is recovered, may pay that judgment, and bring a writ of error to reverse it, and if reversed can recover back his money.”); *Ferrell v. Trailmobile, Inc.*, 223 F.2d 697, 698 (5th Cir. 1955) (“We think that the rule has long been established in the federal courts that payment of a judgment, of itself, does not cut off the payor’s right of appeal.”).

Respectfully submitted,

/s/ John W. Keker

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CERTIFICATE OF SERVICE

I hereby certify that on July 24, 2008, I electronically filed the foregoing document using the CM/ECF system which will send notification of such filing, as well as provided the district court clerk with sufficient copies of this notice, pursuant to Rule 3(d)(1) of the Federal Rules of Appellate Procedure, to provide notice to the following by U.S. Mail:

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