

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

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THOMAS C. and PAMELA McINTOSH, :

Plaintiffs, :

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

- against - :

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

Defendants. :

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**STATE FARM'S RENEWED EMERGENCY MOTION FOR TEMPORARY INTERIM RELIEF
TO FILE MOTIONS TO COMPEL ZACH AND RICHARD SCRUGGS UNDER SEAL**

State Farm Fire and Casualty Company respectfully moves this Court, pursuant to Local Rule 7.2(H), for an immediate order, for temporary interim relief, allowing State Farm to file under seal its motions to compel Zach and Richard Scruggs, pending this Court's ruling on the Scruggses' motion to seal their deposition transcripts. In support thereof, State Farm states as follows:

1. State Farm respectfully seeks emergent interim relief from this Court to file under seal its motions to compel the Scruggses, pending this Court's ruling on the Scruggses' motion to seal their deposition transcripts. State Farm wishes to emphasize that it only seeks *temporary interim* relief. In the event this Court denies the Scruggses' motion, then State Farm's motions to compel can and will be promptly posted to this Court's electronic docket. In the event the Court grants the Scruggses' motion, then State Farm's motions to compel will be subject to such an order and will remain under seal.

2. During the Scruggses' depositions on July 21 and 22, 2008, counsel for the Scruggses stated that they intended to move this Court to seal the Scruggses' deposition transcripts and, upon the request of the Scruggses' counsel, and as a courtesy to them, State Farm's counsel agreed to treat the transcripts as sealed until the Court ruled on the Scruggses' motion.

3. State Farm's counsel seeks to uphold its interim agreement with the Scruggses' counsel and to file emergent motions to compel the Scruggses. Good cause exists to allow those emergent motions to compel to be filed under seal on a temporary interim basis.

4. Richard Scruggs is set to be remanded to federal prison on August 4, 2008. Zach Scruggs is set to be remanded to federal prison on August 15, 2008. Attempting to schedule and take the Scruggses' depositions after they are incarcerated will be very difficult due to the complications, demands, and restrictions imposed by the U.S. prison system, especially with respect to newly-incarcerated felons who are in the process of being assigned and oriented to the federal penitentiary system, and will only add needless delay to the completion of this discovery and to the ultimate resolution of this matter. Thus, the time to take and complete this discovery is before the Scruggses are remanded to prison. Hence, the emergent nature of these motions.

5. This Court's July 24, 2008 Order (Doc. 1231), which denied State Farm's initial emergency motions for leave to file the motions to compel under seal (Docs. 1228, 1229), stated that "Since the Court has been presented no request to seal the Scruggses' depositions, and the present motions for leave to file under seal present no substantive reason to seal the motions to compel, the Court has insufficient basis for granting leave to file the documents under seal." Doc. 1231 at 1. Those omissions have now been cured. The Scruggses have since filed their motion requesting this Court to seal their deposition transcripts. The substantive reasons that State Farms seeks a temporary interim order to seal its motions to compel are so that it can honor its interim agreement with the Scruggses' counsel, so that the relief that the Scruggses seek will not be frustrated and rendered moot by State Farm's motions to compel, and so that the emergent nature of the relief being sought by State Farm's motions to compel will not be compromised by the pendency of the Scruggses' motion to seal.

6. The instant motion, which seeks temporary interim relief only, is made without prejudice to, and without waiver of, any position State Farm may take on the Scruggses' motion to seal.

WHEREFORE, for the foregoing reasons, State Farm respectfully requests that this Court permit it to file its emergent motions to compel the Scruggses under seal, on a temporary interim basis, until such time as this Court rules on the Scruggses' motion to seal their deposition transcripts.

Dated: July 24, 2008

Respectfully submitted,

/s/ John A. Banahan

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CERTIFICATE OF SERVICE

I, **JOHN A. BANAHAH**, one of the attorneys for the Defendant, **STATE FARM FIRE & CASUALTY COMPANY**, do hereby certify that I have on this date electronically filed the foregoing document with the Clerk of Court using the ECF system which sent notification of such filing to all counsel of record:

DATED, this the 25th day of July, 2008.

/s/ John A. Banahan
JOHN A. BANAHAH

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