

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

**THOMAS C. McINTOSH and
PAMELA McINTOSH**

PLAINTIFFS

VERSUS

CIVIL ACTION NO. 1:06cv1080-LTS-RHW

**STATE FARM FIRE AND CASUALTY
INSURANCE COMPANY, *et al.***

DEFENDANTS

ORDER

Before the Court are [1239] and [1240], State Farm’s motions to compel Richard Scruggs and Zach Scruggs, respectively, to answer all questions which they refused to answer during their July 2008 depositions. After stating their names, Richard and Zach Scruggs invoked their Fifth Amendment privileges and declined to answer every question asked of them in the depositions. The Court reviewed the depositions, and finds that although counsel representing the Scruggses objected to questions on grounds of various privileges (attorney-client, work product, *etc.*), Richard and Zach Scruggs declined to answer questions based upon their Fifth Amendment privileges. The Court can understand State Farm’s pique at the Scruggses “across the board” invocation of the privilege, even as to such inconsequential inquiries as deponents’ addresses, ages, whether they had ever been admitted to practice law, whether they had previously given depositions, or been convicted of felonies, *etc.* However, the Court finds the relief requested by State Farm – an order requiring the Scruggses to answer every question put to them in the depositions – is equally untenable. This Court cannot hold, as a matter of law, that

Richard and Zach Scruggs have no Fifth Amendment privilege against answering Defendants' substantive questions. It is therefore,

ORDERED that the motions to compel are denied, this the 27th day of August, 2008.

/s/ Robert H. Walker

ROBERT H. WALKER
UNITED STATES MAGISTRATE JUDGE