

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

UNITED STATES OF AMERICA *ex rel.*  
CORI RIGSBY and KERRI RIGSBY

RELATORS/COUNTER-DEFENDANTS

v.

CASE NO. 1:06cv433-LTS-RHW

STATE FARM MUTUAL INSURANCE COMPANY DEFENDANT/COUNTER-PLAINTIFF

and

FORENSIC ANALYSIS ENGINEERING CORPORATION;  
EXPONENT, INC.; HAAG ENGINEERING CO.;  
JADE ENGINEERING; RIMKUS CONSULTING GROUP INC.;  
STRUCTURES GROUP; E. A. RENFROE, INC.;  
JANA RENFROE; GENE RENFROE; and  
ALEXIS KING

DEFENDANTS

**STATE FARM FIRE AND CASUALTY COMPANY'S  
RESPONSE TO  
[206] "RELATORS' LOCAL RULE 7.2(h) MOTION  
FOR CLARIFICATION OF THIS COURT'S  
APRIL 4, 2008 ORDER IN *McINTOSH*"**

Defendant/Counter-Plaintiff State Farm Fire and Casualty Company, improperly denominated in the First Amended Complaint as "State Farm Mutual Insurance Company" ("State Farm"), respectfully submits this Response to [206] "Relators' Local Rule 7.2(h) Motion for Leave for Clarification of this Court's April 4, 2008 Order in *McIntosh*." ("Motion for Clarification"). State Farm would show:

1. The Rigsbys' Motion for Clarification asks this Court "to clarify the *McIntosh* Order<sup>1</sup> by confirming that it does not preclude the Relators from testifying in this case." ([206] at 4.)

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<sup>1</sup> ([1173]) in *Thomas C. McIntosh and Pamela McIntosh v. State Farm Fire & Casualty Co., et al.*; in the United States District Court for the Southern District of Mississippi, Southern Division, No. 1:06cv1080-LTS-RHW ("*McIntosh*").

2. The Rigsbys' Motion for Clarification [206] is equivalent to the Rigsbys' "Local Rule 7.2(h) Emergency Motion for Leave to Obtain Documents and Other Information from Former Counsel" [204], which this Court yesterday denied on the basis that it essentially sought an advisory opinion:

I am going to decline the invitation of the Relators to pre-approve any of their proposed trial preparation strategy, and I am going to decline the invitation of State Farm to set boundaries that are impossible to effectively monitor and enforce. I am going to rely on the new attorneys for the Relators to discharge their duties in a manner consistent with the highest ethical standards....

....

Accordingly, the Relators' motion [204] for leave to take possession of Relators' files and for leave to confer with disqualified counsel is hereby **DENIED** on the grounds that it seeks an advisory opinion. Counsel are free to prepare this case as they see fit, and the Court will take up, in due course, any justiciable controversy that may arise as this case proceeds to a resolution on its merits.

([210] at 3-4.)

3. For the same reasons set forth by the Court in its August 14, 2008 Order [210], State Farm submits that it is premature to preemptively determine what testimony the Rigsbys might properly - or improperly - attempt to offer in this Action. Thus, State Farm submits that the Motion for Clarification should be denied without prejudice, with State Farm permitted to reserve any objections to any proffered evidence for assertion at the appropriate time, with the Court then taking up, "in due course, any justiciable controversy that may arise as this case proceeds to a resolution on its merits." ([210] at 4.)

4. Due to the short nature of this Response and the lack of case citations herein, State Farm respectfully requests the Court to waive Miss. Unif. Dist. Ct. R. 7.2(D)'s requirement for a separate response memorandum of authorities.

WHEREFORE, PREMISES CONSIDERED, for all the foregoing reasons, State Farm respectfully requests the Court to deny the Rigsbys' Motion for Clarification without prejudice,

with State Farm permitted to reserve any objections to any proffered evidence for assertion at the appropriate time, with the Court then taking up, "in due course, any justiciable controversy that may arise as this case proceeds to a resolution on its merits." ([210] at 4.) State Farm also prays for such supplemental, alternative or further relief as may be appropriate in the premises.

This the 15<sup>th</sup> day of August, 2008.

Respectfully submitted,

STATE FARM FIRE AND CASUALTY COMPANY

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*PRO HAC VICE*

**CERTIFICATE OF SERVICE**

I, E. Barney Robinson III, one of the attorneys for State Farm Fire and Casualty Company, do hereby certify that I have this day caused a true and correct copy of the foregoing instrument to be delivered to the following, via the means directed by the Court's Electronic Filing System or as otherwise set forth below:

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THIS the 15<sup>th</sup> day of August, 2008.

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