

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

THOMAS C. and PAMELA McINTOSH

PLAINTIFFS

VS

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

**STATE FARM FIRE & CASUALTY COMPANY,
FORENSIC ANALYSIS & ENGINEERING
CORPORATION, and E. A. RENFROE &
COMPANY, INC. and DOES 1 THROUGH 10**

DEFENDANTS

E. A. RENFROE & COMPANY, INC.’S RESPONSE TO PLAINTIFFS’ MOTION *IN LIMINE* TO PRECLUDE ANY TESTIMONY, REFERENCE OR MENTION OF ALLEGED “STOLEN” DOCUMENTS OR THE DISQUALIFICATION OF PLAINTIFFS’ FORMER COUNSEL [DOCKET NO. 1295]

E. A. RENFROE & COMPANY, INC. (“Renfroe”) files this *Response to Plaintiffs’ Motion in Limine to Preclude any Testimony, Reference or Mention of Alleged “Stolen” documents or the Disqualification of Plaintiffs’ Former Counsel* [Docket No. 1295].

Plaintiffs have filed a motion seeking to preclude counsel for the Defendants from making any reference to the documents stolen from State Farm by Cori or Kerri Rigsby or the disqualification of Plaintiffs’ former counsel. Plaintiffs argue that those issues are not relevant, and that any reference to the documents or the disqualification of their former counsel would be unduly prejudicial.

At the upcoming trial of this matter, given the lack of clarity as to what Plaintiffs actually plan to prove, Renfroe can only guess as to how Plaintiffs will attempt to meet their burden of proof against Renfroe. As a result, Renfroe cannot possibly identify every single occasion that might conceivably arise at the trial of this matter that could potentially require Renfroe to reference the documents that were stolen by the Rigsbys or the fact that the McIntoshes’ former counsel were disqualified by this Court. That said, if Plaintiffs attempt to proffer evidence against Renfroe which in any way relates to or can be rebutted or explained by reference to any

of the stolen documents or the fact that the documents were, in fact, stolen, Renfroe should not be precluded from the use of that evidence or testimony. The same arguments apply to references to disqualified former counsel of Plaintiffs. The determination of what will be necessary for Renfroe's defense is entirely dependant upon Plaintiffs' case in chief.

This Court's Order dated April 4, 2008 [Docket No. 1173] disqualified the "Scruggs Katrina Group" and its successor entity, the "Katrina Litigation Group," the attorneys who formerly represented Plaintiffs in this litigation and all "associated counsel." This Court's Order also disqualified both Cori and Kerri Rigsby as witnesses in all actions pending before this Court. The Order further provided that any documents supplied by the Rigsby sisters to the SKG or the KLG shall be excluded from evidence, unless Plaintiffs can show that the documents were obtained through ordinary methods of discovery.

Consistent with that Order, on April 14, 2008 [Docket No. 1080] this Court granted Renfroe's *Motion in Limine No. 1 to Exclude Use of or Reference to Exhibit "C" to First Amended Complaint* (the "sticky note document") [Docket No. 1030], and denied without prejudice Plaintiff's *Motion to Use "Exhibit C" to First Amended Complaint* [Docket No 540], subject to the same qualification. Although the Plaintiffs have listed the "sticky note document" in their portion of the proposed Pretrial Order provided to the Defendants, the Plaintiffs have not demonstrated that the document has been obtained through ordinary methods of discovery; therefore, it is and continues to be excluded from evidence.

At this time and based on the current state of the record, Renfroe does not anticipate that it will attempt to introduce testimony by either Cori or Kerri Rigsby at trial. Nor does Renfroe intend, based on the current state of the record, to introduce or rely on any documents which Cori or Kerri Rigsby are believed to have stolen from Renfroe or State Farm. Further, assuming neither the Rigsbys nor the stolen documents are referenced or relied upon by any other party in any way at trial, Renfroe does not intend to make reference to the Rigsbys, their stealing of

documents, the stolen documents themselves, or the disqualification of Plaintiffs' former counsel.

However, should Plaintiffs attempt to, in any way, rely on any testimony or statements of Cori or Kerri Rigsby at trial, or introduce, make reference to or otherwise rely on the stolen "sticky note document," or any other prohibited document at trial, Renfroe should have the right to make whatever statements are necessary to oppose such reliance, whether before the Court or the jury, including any necessary reference to Plaintiffs' former counsel in order to place the testimony or documents in context. Renfroe also reserves the right to respond as necessary to the introduction of or reference to the Rigsbys, the "sticky note document" or other excluded documents by any party at trial. Likewise, if Plaintiffs open the door by attempting to introduce evidence or induce testimony which Renfroe can rebut or explain with reference to the stealing of documents, excluded documents themselves or Plaintiffs' former counsel, Renfroe reserves the right to do so. This Court should not grant Plaintiffs' proposed across-the-board ban on documents or testimony that could potentially become necessary to Renfroe's defense.

WHEREFORE, PREMISES CONSIDERED, Renfroe respectfully requests that the *Plaintiffs' Motion In Limine To Preclude Any Testimony, Reference Or Mention Of Alleged "Stolen" Documents Or The Disqualification Of Plaintiffs' Former Counsel* [Docket No. 1295] be denied in its entirety.

THIS, the 4th day of September, 2008.

Respectfully submitted,

E. A. RENFROE & COMPANY, INC.

BY: s/ H. Hunter Twiford, III
H. Hunter Twiford, III
One of its Attorneys

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CERTIFICATE OF SERVICE

I, the undersigned H. Hunter Twiford, III, McGlinchey Stafford PLLC, hereby certify that on this day, I electronically filed the foregoing with the Clerk of the Court using the ECF system, which sent notification of such filing to all counsel of record.

THIS, the 4th day of September, 2008.

s/ H. Hunter Twiford, III
H. HUNTER TWIFORD, III

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