

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 IN OPPOSITION TO
[230] "RELATORS' MOTION FOR LEAVE TO TAKE
DISCOVERY BEFORE RESPONDING TO DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT"**

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 in Opposition to [230] "Relators' Motion for Leave to Take Discovery Before Responding to Defendant's Motion for Summary Judgment."

1. The Rigsbys' motion is not properly supported and does not comport with the Federal Rules of Civil Procedure. State Farm's motion for summary judgment as to the Rigsbys' claim for retaliatory discharge [96] should proceed to decision in the course outlined in State Farm's September 16, 2008 request for clarification [230-2].

2. The Rigsbys' request is deficient under Federal Rule of Civil Procedure 56. State Farm's motion for summary judgment was properly filed under Rule 56(b). In those instances where nonmovants believe they require certain discovery to enable them to respond to a summary judgment motion, the sole remedy available to them is Rule 56(f).

3. For the reasons set forth in State Farm's concomitant Response Memorandum in Opposition to [230] "Relators' Motion for Leave to Take Discovery Before Responding to Defendant's Motion for Summary Judgment" (incorporated herein by reference), the Rigsbys' motion woefully fails to satisfy the requirements of Rule 56(f) and should be denied.

WHEREFORE, PREMISES CONSIDERED, for the foregoing reasons, this Court should deny the Rigsbys' motion and set a date for them to respond to State Farm's motion for summary judgment on the retaliatory discharge claim. In accordance with the Court's August 8, 2008 Order, State Farm respectfully requests ten days from the Rigsbys' response deadline by which to submit its rebuttal. *See* ([205] at 1.)

This the 25th day of September, 2008.

Respectfully submitted,

STATE FARM FIRE AND CASUALTY COMPANY

By: s/E. Barney Robinson III (MSB # 09432)
Robert C. Galloway (MSB # 4388)
Jeffrey A. Walker (MSB # 6879)
E. Barney Robinson III (MSB # 09432)
Benjamin M. Watson (MSB # 100078)

ITS ATTORNEYS

BUTLER, SNOW, O'MARA, STEVENS & CANNADA, PLLC
17th Floor, Regions Plaza
Post Office Box 22567
Jackson, Mississippi 39225-2567
(P) (601) 948-5711
(F) (601) 985-4500
(E) bob.galloway@butlersnow.com
(E) jeff.walker@butlersnow.com
(E) barney.robinson@butlersnow.com
(E) ben.watson@butlersnow.com

Michael B. Beers (ASB-4992-S80M)
BEERS, ANDERSON, JACKSON, PATTY & FAWAL, P.C.
Post Office Box 1988
Suite 100
250 Commerce Street (36104)
Montgomery, Alabama 36102
(P) (334) 834-5311
(F) (334) 834-5362
(E) mbeers@beersanderson.com

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:

C. Maison Heidelberg
Ginny Y. Kennedy
MAISON HEIDELBERG P.A.
795 Woodlands Parkway, Suite 220
Ridgeland, MS 39157
(P) (601) 351-3333
(F) (601) 956-2090
(E) maison@heidlebergpa.com

August J. Matteis, Jr.
Craig J. Litherland
Benjamin R. Davidson
GILBERT RANDOLPH, LLP
11 New York Avenue, NW
Suite 700
Washington, DC 20005
(E) matteisa@gilbertrandolph.com
(E) litherlandc@gilbertrandolph.com
(E) davidsonb@gilbertrandolph.com

COUNSEL FOR CORI RIGSBY AND KERRI RIGSBY

Jeffrey S. Bucholtz
Joyce R. Branda
Patricia R. Davis
Jay D. Majors
UNITED STATES DEPARTMENT OF JUSTICE
Civil Division
P.O. Box 261
Ben Franklin Station
Washington, DC 20044
(P) (202) 307-0264
(F) (202) 514-0280

Dunnica O. Lampton
Alfred B. Jernigan, Jr.
Felicia C. Adams
UNITED STATES ATTORNEY'S OFFICE
Southern District of Mississippi
Suite 500
188 East Capitol Street
Jackson, MS 39201
(P) (601) 965-4480
(F) (601) 965-4409

ATTORNEYS FOR THE UNITED STATES

H. Hunter Twiford III
Stephen F. Schelver
Candy Burnette
MCGLINCHEY STAFFORD, PLLC
Suite 1100, City Centre South
200 South Lamar Street (39201)
P.O. Box 22949
Jackson, MS 39225-2949
(P) (601) 960-8400
(F) (601) 960-8432

John T. Boese
Beth C. McClain
FRIED, FRANK, HARRIS, SHRIVER & JACOBSON, LLP
1001 Pennsylvania Avenue, NW
Suite 800
Washington, DC 20004-2505
(P) (202) 639-7220

ATTORNEYS FOR DEFENDANTS E.A. RENFROE & COMPANY, INC.
GENE RENFROE AND JANA RENFROE

Larry G. Canada
Kathryn Breard Platt
GALLOWAY, JOHNSON, TOMPKINS, BURR & SMITH
701 Poydras Street
Suite 4040
New Orleans, LA 70139
(P) (504) 525-6802
(F) (504) 525-2456

ATTORNEYS FOR HAAG ENGINEERING CO.

William C. Bell
WILLIAM C. BELL, ATTORNEY
Post Office Box 1876
Ridgeland, MS 39157
(P) (601) 956-0360

ATTORNEY FOR JADE ENGINEERING

James C. Simpson, Jr.
MONTGOMERY, BARNETT, BROWN, READ, HAMMOND & MINTZ, LLP
2310 19th Street
Gulfport, MS 39501
(P) (228) 863-6534
(F) (228) 367-1084

ATTORNEY FOR RIMKUS CONSULTING GROUP, INC.

Frank W. Trapp
Kelly R. Blackwood
PHELPS DUNBAR, LLP
P.O. Box 23066
Jackson, MS 39225-3066
(P) (601) 352-2300
(F) (601) 360-9777

ATTORNEYS FOR STRUCTURES GROUP

Philip Williams Thomas
PHILIP W. THOMAS, P.A.
Post Office Box 24464
Jackson, MS 39225-4464
(P) (601) 714-5660
(F) (601) 714-5659

ATTORNEY FOR EXPONENT, INC.

Via U.S. Mail, Non-CM/ECF Participant

Robert K. Kochan, President
3401 Atlantic Avenue, Suite 101
Raleigh, NC 27604

FORENSIC ANALYSIS ENGINEERING CORPORATION, PRO SE

THIS the 25th day of September, 2008.

s/ E. Barney Robinson III (MSB # 09432)
E. Barney Robinson III (MSB # 09432)