

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 CO.

DEFENDANT/COUNTER-PLAINTIFF

and

FORENSIC ANALYSIS ENGINEERING CORP.;
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'S BENCH MEMORANDUM RE: JUDICIAL NOTICE

Federal Rule of Evidence 201 permits this Court to take judicial notice of the representations that the McIntoshes made to this Court last year when they dismissed their extra-contractual and punitive damages claims with prejudice in their suit against State Farm. *See (McIntosh v. State Farm Fire & Cas. Co., No. 1:06-cv-1080-LTS-RHW (S.D. Miss. Sept. 7, 2008) [1312])*. Those representations were made to this Court not only under Fed. R. Civ. P. 11, but also “[a]fter engaging in extensive discovery.” Granting the McIntoshes’ motion, this Court then dismissed their extra-contractual and punitive damages claims with prejudice. *See (Sept. 8, 2008 Order & Judgment of Dismissal, McIntosh [1315])*.

Those well-informed representations are the proper subject of judicial notice under Fed. R. Evid. 201(b). Indeed, “records of the court” have long been a well-recognized category of documents subject to judicial notice, Advisory Committee Notes to Rule 201(b), and courts routinely take judicial notice of “public court records,” *see, e.g., Bauer v. Texas*, 341 F.3d 352, 362 n.8 (5th Cir. 2003), *Landry v. Lynaugh*, 844 F.2d 1122, 1124 n.8 (5th Cir. 1988), including those showing prior representations to another court. *United States v. Capua*, 656 F.2d 1033, 1038 n.3 (5th Cir. 1981) (taking judicial notice of prior guilty plea and waiver of jury trial). So, too, “[a] court may ... take judicial notice of its own

records.” *ITT Rayonier, Inc. v. United States*, 651 F.2d 343, 345 n.2 (5th Cir. 1981). Here, this Court’s own records, whose accuracy cannot reasonably be questioned, indicate that the McIntoshes made their well-informed representations to this Court, *see (McIntosh [1312])*, and this Court should take judicial notice of the fact of those well-informed representations.

This the 21st day of May, 2009.

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:

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This the 21st day of May, 2009.

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