

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

REGINALD EDWIN BOSSIER

PLAINTIFF

VERSUS

CAUSE NO. 1:08-cv-408-LTS-RHW

STATE FARM FIRE AND CASUALTY COMPANY

DEFENDANT

**MOTION FOR ORDER TO SHOW CAUSE
FOR FAILURE TO COMPLY WITH COURT ORDER**

COMES NOW the Plaintiff, by and through undersigned counsel, and files herewith his Motion for Order to Show Cause for Failure to Comply With Court Order and would show unto this Honorable Court the following:

1.

On March 20, 2009, Plaintiff filed a Motion to Compel [33] concerning discovery. Exhibit "B" to said motion provided this Honorable Court with emails withheld under a claim of privilege, which Plaintiff was seeking in the Motion to Compel. (Another copy of same is attached hereto as Exhibit "1"). Said exhibit referenced the following withheld e-mails:

Supplemental Privilege Log - Bossier v. State Farm

Name	Description	Date(s)	Author(s)	Recipient	Privilege
0456-HO-0511HO	Emails between outside counsel and State Farm	3/10/08-4/25/08	Terry Blalock, Lewis Goodloe, Dannye Smith, Matt Perkins, Scot Spragins	Terry Blalock, Lewis Goodloe, Dannye Smith, Matt Perkins, Scot Spragins	Attorney-client and work product

PRIVILEGE LOG:

Name	Description	Date(s)	Author(s)	Recipient(s)	Privilege
BOSR10EM-BOSR35EM	Emails	5/7/08-5/9/08	Shellie Leverett	Daphne Flowers	Anticipation of litigation
BOSR45EM-BOSR50EM	Emails	4/12/08-6/12/08	Terry Blalock, Martha Montgomery Tiffany Cuevas, Matt Janssen	Danny Smith, Tiffany Cuevas, Martha Montgomery	Anticipation of litigation
BOSR1PRIV-BOSR48PRIV	Emails	3/6/08-6/19/08	Dannye Smith, Terry Blalock, Walt Hugh, Scot Spragins, Mike Sebald, Judy Guice, Martha Montgomery Jim Mikesh	Martha Montgomery, Daphne Flowers, Dannye Smith, Terry Blalock, Mike Sebald, Goodloe Lewis, Scot Spragins, Maxcine Deloach, Judy Guice	Anticipation of litigation

2.

Subsequently, Plaintiff filed a Supplemental Memorandum in Support of Motion to Compel [54]. Exhibit "C" to said Memorandum was the subject privilege logs being challenged, including the identical emails referenced above.

3.

In its [59] Order dated June 5, 2009, this Honorable Court required "State Farm to produce to the Court for *in camera* review the emails withheld under claim of privilege."¹

4.

On July 31, 2009, this Honorable Court entered its [74] Order Regarding Documents Reviewed *in Camera*. That order provides in part as follows:

In accordance with [59] the Court's order of June 5, 2009, the Court has reviewed *in camera* certain emails withheld from production by State Farm on grounds of privilege. The pages of emails are sequentially numbered BOSR00000001PRIV through BOSR00000048; BOSR00000010EM through BOSR00000035EM; and BOSR00000045EM through BOSR00000050EM. The Court will first take the opportunity to advise counsel that any time documents claimed to be privileged are ordered produced for *in camera* inspection, the privilege log asserting the privilege claimed should accompany the documents delivered to the Court. In the present case, searching through other documents filed with the Court yielded the pertinent privilege log attached as an exhibit to another pleading.

¹The cover letter from State Farm's counsel to the Court (Exhibit "2") transmitting the emails for *in camera* inspection did not list bates numbers so Plaintiff had no way of knowing what was produced to the Court.

5.

According to the Court's order, State Farm failed to produce for *in camera* inspection those emails bates numbered 0456-HO through 0511-HO.

6.

Plaintiff requests that this Honorable Court enter an order to State Farm requiring it to show cause why it should not be held in contempt of Court or otherwise sanctioned for the failure to produce the ordered emails numbered 0456-HO through 0511-HO.

7.

Plaintiff requests that he be relieved of the requirement of filing a separate memorandum in support of this motion.

8.

Plaintiff reserves the right to request additional sanctions following the show cause hearing.

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully requests this Honorable Court enter an Order requiring State Farm to show cause why it should not be held in contempt of Court or otherwise sanctioned for the failure to produce the ordered emails for *in camera* inspection and ordering the Defendant to pay costs and expenses, including reasonable attorneys' fees, incurred in bringing this Motion before the Court, together with any and all additional relief in favor of the Plaintiff deemed appropriate by the Court.

THIS the 3rd day of August, 2009.

Respectfully submitted,

REGINALD EDWIN BOSSIER

BY: */s/ Judy M. Guice*

JUDY M. GUICE (#5057)

Judy M. Guice (MSB #5057)
JUDY M. GUICE, P.A.
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Biloxi, MS 39533-1919
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CERTIFICATE OF SERVICE

I, Judy M. Guice, counsel for Plaintiff, do hereby certify that I have this day electronically filed the foregoing with the Clerk of this Court using the ECF system which sent notification of such filing to the following:

H. Benjamin Mullen, Esquire
John A. Banahan, Esquire
Bryan, Nelson, Schroeder, Castigliola & Banahan, PLLC
P. O. Drawer 1529
Pascagoula, MS 39568

This the 3rd day of August, 2009.

s/Judy M. Guice
JUDY M. GUICE (MSB #5057)

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

REGINALD EDWIN BOSSIER **PLAINTIFF**

VERSUS **CIVIL ACTION NO.: 1:08-CV-00408-LTS-RHW**

STATE FARM FIRE AND CASUALTY COMPANY **DEFENDANT**

SUPPLEMENTAL RULE 26 PRE-DISCOVERY DISCLOSURES

COMES NOW the Defendant, **STATE FARM FIRE AND CASUALTY COMPANY**, and hereby makes the following Supplemental Rule 26 Pre-discovery Disclosures in compliance with the Federal Rules of Civil Procedure:

To: Judy M. Guice, Esq.
JUDY M. GUICE, P.A.
Post Office Box 1919
Biloxi, MS 39533-1919

2. 26(a)(1)(B) DOCUMENTS

State Farm identifies the following documents by bates number which are privileged and described below on the following supplemental privilege log:

Supplemental Privilege Log-Bossier v. State Farm

Name	Description	Date(s)	Author(s)	Recipient	Privilege
0456-HO-0511HO	Emails between outside counsel and State Farm	3/10/08-4/25/08	Terry Blalock, Lewis Goodloe, Dannye Smith, Matt Perkins, Scot Spragins	Terry Blalock, Lewis Goodloe, Dannye Smith, Matt Perkins, Scot Spragins	Attorney-client and work product

State Farm reserves the right to use any of the documents provided by the Plaintiffs during the pendency of their claim and in discovery herein.



Respectfully submitted,

BRYAN, NELSON, SCHROEDER,
CASTIGLIOLA & BANAHAN, PLLC
Attorneys for Defendant,
**STATE FARM FIRE & CASUALTY
COMPANY**

BY: /s/ H. Benjamin Mullen
H. BENJAMIN MULLEN

CERTIFICATE OF SERVICE

I, **H. BENJAMIN MULLEN**, one of the attorneys for the Defendant, **STATE FARM FIRE & CASUALTY COMPANY**, do hereby certify that I have this date electronically filed the foregoing Supplemental Rule 26 Pre-Discovery Disclosures with the Clerk of Court using the ECF system which sent notification of such filing to the following and further that I this day mailed, postage prepaid, a true and correct copy of the foregoing Rule 26 Pre-Discovery

Disclosures to:

Judy M. Guice, Esq.
JUDY M. GUICE, P.A.
Post Office Box 1919
Biloxi, MS 39533-1919

DATED, this the 7th day of November, 2008.

/s/ H. Benjamin Mullen
H. BENJAMIN MULLEN

H. BENJAMIN MULLEN (9077)
JOHN A. BANAHAN (1731)

BRYAN, NELSON, SCHROEDER,
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PRIVILEGE LOG:**BOSSIER v. STATE FARM FIRE & CASUALTY COMPANY**

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BOSR10EM- BOSR35EM	Emails	5/7/08-5/9/08	Shellie Leverett	Daphne Flowers	Anticipation of litigation
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BOSR1PRIV- BOSR48PRIV	Emails	3/6/08-6/19/08	Dannye Smith Terry Blalock Walt Hugh Scot Spragins Mike Sebald Judy Guice Martha Montgomery Jim Mikesh	Martha Montgomery Daphne Flowers Dannye Smith Terry Blalock Mike Sebald Goodloe Lewis Scot Spragins Maxcine Deloach Judy Guice	Anticipation of litigation

**BRYAN, NELSON, SCHROEDER,
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JOHN F. BRYAN, III
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*Also Admitted in Alabama

June 5, 2009

Hon. Magistrate Robert H. Walker
United States District Court
2012 15th Street, Suite 672
Gulfport, MS 39501

Re: Bossier v. State Farm
Cause No.: 1:08cv408

Dear Judge Walker:

Pursuant to this Court's Order of June 5, 2009, please find enclosed the emails referenced in said Order for your *in camera* review.

With kindest regards, I remain

Sincerely yours,



H. Benjamin Mullen

HBM/lml
Enclosures

cc: Judy Guice, Esq. (w/o enclosures)

