

**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**

**REPLY IN SUPPORT OF [73] MOTION FOR SANCTIONS UNDER  
RULE 37(b) FOR FAILURE TO COMPLY WITH COURT ORDER**

COMES NOW the Plaintiff, by and through undersigned counsel, and files herewith his Reply in Support of [73] Motion for Sanctions Under Rule 37(b) for Failure to Comply with Court Order and would show unto this Honorable Court the following:

1.

Reminiscent of the scene from the Wizard of Oz where Toto exposes the “great and powerful Oz” to be nothing more than a frail man hiding behind a curtain, counsel for State Farm implores the Court to “pay no attention” to its failure to comply with yet another court order. Offering no legitimate excuse for its non-compliance, State Farm makes yet another *in camera* document dump of over 1,000 pages.<sup>1</sup> State Farm’s response establishes its violation of the Court’s order. Substantial sanctions must be awarded.

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<sup>1</sup>This third *in camera* document dump is in contrast to State Farm’s insistence that its actions have been taken “to avoid taxing this Court’s time and resources.”

2.

State Farm's attempt to deflect attention from its wrongdoing by blaming Plaintiff for not telling State Farm which of State Farm's documents it has not produced is nonsensical. As the record reflects, Plaintiff has conferred, cajoled, and begged State Farm for documents in discovery. Sometimes, after multiple requests, State Farm would ultimately produce some documents. For example, Shellie Leverett's re-evaluation report was finally produced three days following her deposition. (See Exhibit 1). A statement State Farm took of Joseph Ziz on May 11, 2009, was produced on July 8, 2009, (the day before Mr. Ziz's deposition) although the attached map was not produced until the day after his deposition. (Exhibit 2). Some requests have never been fulfilled. For example, State Farm produced only part of the underwriting file and has ignored requests for the rest. (Exhibit 3).<sup>2</sup>

3.

Along the way, on March 20, 2009, Plaintiff filed a [33] Motion to Compel some documents which resulted in an ORDER from the Court for the documents in question. Counsel for Plaintiff brought the issues of noncompliance to State

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<sup>2</sup>Because time is a limited commodity for all, it would be impossible for Plaintiff's counsel to file motions on every failure to produce.

Farm's attention and was rebuked.<sup>3</sup> Under these circumstances, nothing further can be required from Plaintiff. *See, Norman v. Wayne Farms, LLC*, 2008 WL 4793748 at \*1 (S.D. Miss. 2008) (good faith certificate not necessary prior to sanctions motion for noncompliance with court order).<sup>4</sup>

4.

While State Farm's "chart" fails to address all of the documents specifically referenced in Plaintiff's motion, the following is inclusive of the entirety of the documents specifically mentioned.

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<sup>3</sup>Even when Plaintiff's counsel advises State Farm of omissions or errors and even when State Farm's counsel promises to fix same, nothing happens. For example, in the [56] Response in Opposition to Supplemental Memorandum in Support of Motion to Compel, State Farm averred it had produced claims files on 23 properties. While admitting that was in error and vowing to correct same, the mistake was never acknowledged to the Court which relied on it in its order [59]. (Exhibit 4 ) State Farm once again failed to correct this error when it filed its [63] Response in Opposition to Plaintiff's Application for Review.

<sup>4</sup>Of course, State Farm was not ordered to produce only documents known by Plaintiff to exist. Nor was it ordered to produce only documents not provided to Plaintiff in some other case. Instead, State Farm was ordered to produce "those documents containing State Farm directives, guidelines, policies and procedures for handling Hurricane Katrina claims in general or Plaintiff's claim specifically." [ECF 59 at 6] State Farm's response does nothing to indicate that it made any effort, much less a good faith effort, to comply with this order.

<b><u>Document</u></b>	<b><u>SF Description in Lizana</u></b> <sup>5</sup>	<b><u>SF Response in Bossier</u></b>
2005 Hurricane Katrina Adjuster Training	Specific issues related to handling of wind/hail claims	None <sup>6</sup>
2005 Hurricane Katrina Adjuster Training; Induction Center Flood Training Powerpoint	Specific issues related to Hurricane Katrina adjuster training	None (see footnote 6)
2005 Hurricane Katrina Adjuster Training - Louisiana; Central Consulting Services	Specific issues related to Hurricane Katrina adjuster training	None (see footnote 6)
Request for Responsive Documents 8/2006; Hurricane Sweep	Specific instructions/training related to handling of Hurricane Katrina claims	None (see footnote 6)
Dave Randel's Desk File Pertaining to Research Compiled to Manage Hurricane Catastrophe	Specific issues related to handling of hurricane claims	None (see footnote 6)
Terry Blalock's Desk File Pertaining to Research Compiled to Manage Hurricane Catastrophe	Specific issues related to handling of hurricane claims	None (see footnote 6)
Lansing Vargo's Working File Relating to Hurricane Katrina	Specific issues related to handling of hurricane claims	None (see footnote 6)

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<sup>5</sup>*Lizana v. State Farm*, 1:08-cv-501-LTS-MTP at [30].

<sup>6</sup>While State Farm generically maintains it “produced numerous documents that, in his motion, Plaintiff wrongfully claims have not been produced”, it has failed to identify any specific document as having been produced among the 9,000 pages contained on two unlabeled, unindexed CD’s produced in discovery. A lack of such identification obviously fails to establish that any particular document was, in fact, produced in this case and constitutes an admission by omission.

<u>Document</u>	<u>SF Description in Lizana</u>	<u>SF Response in Bossier</u>
OG 70-50, Supervising Litigation Write Your Own Litigation Guidelines (Flood) (“linked” (for electronic access with the click of a button) in State Farm’s “Flood Claim Processing” Operation Guide, OG 71-06)	NA <sup>7</sup>	Related to supervising litigation, not handling Hurricane Katrina claims in general or Plaintiff’s claim specifically. Produced to the Court <i>in camera</i> .
OG 70-135, CASE System Management	NA (see footnote 7)	Related to license and maintenance of software, not handling Hurricane Katrina claims in general or Plaintiff’s claim specifically. Produced to the Court <i>in camera</i> .
OG 70-251, Integrity Danger Signs	NA (see footnote 7)	Related to reviewing conduct by State Farm adjusters, not handling Hurricane Katrina claims in general or Plaintiff’s claim specifically. Produced to the Court <i>in camera</i> .
OG 71-040, State Farm Premier Service Program	NA (see footnote 7)	Trade secret <sup>8</sup>
OG 79-001, Catastrophe Program - General Principles	NA (see footnote 7)	Related to administration, not handling Hurricane Katrina claims in general or Plaintiff’s claim specifically. Produced to the Court <i>in camera</i> .
OG 79-003, Catastrophe Program - Independent Adjuster Drafts	NA (see footnote 7)	Related to administration, not handling Hurricane Katrina claims in general or Plaintiff’s claim specifically. Produced to the Court <i>in camera</i> .

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<sup>7</sup>This document is not contained on State Farm’s privilege log in the *Lizana v. State Farm* case.

<sup>8</sup>It is unclear whether this document was produced *in camera*.

<b><u>Document</u></b>	<b><u>SF Description in Lizana</u></b>	<b><u>SF Response in Bossier</u></b>
OG 79-007, National Catastrophe Program Claim and Catastrophe section Manager- F&C Responsibilities	NA (see footnote 7)	Related to administration, not handling Hurricane Katrina claims in general or Plaintiff's claim specifically. Produced to the Court <i>in camera</i> .
OG-79-008, Catastrophe Team Manager	NA (see footnote 7)	Related to administration, not handling Hurricane Katrina claims in general or Plaintiff's claim specifically. Produced to the Court <i>in camera</i> .
OG 79-009, National Catastrophe Team Members and Regional Catastrophe Volunteers	NA (see footnote 7)	Related to administration, not handling Hurricane Katrina claims in general or Plaintiff's claim specifically. Produced to the Court <i>in camera</i> .
OG 79-011, Regional Catastrophe Coordinator	NA (see footnote 7)	Related to administration, not handling Hurricane Katrina claims in general or Plaintiff's claim specifically. Produced to the Court <i>in camera</i> .
OG 79-012, Catastrophe Program - Agent Loss Reporting	NA (see footnote 7)	Related to administration, not handling Hurricane Katrina claims in general or Plaintiff's claim specifically. Produced to the Court <i>in camera</i> .
OG 79-014, Catastrophe Office Claim Processing Procedure	NA (see footnote 7)	Related to administration, not handling Hurricane Katrina claims in general or Plaintiff's claim specifically. Produced to the Court <i>in camera</i> .
OG 79-021, Special Catastrophe Operations	NA (see footnote 7)	Trade secret. <sup>9</sup>

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<sup>9</sup>Anything relating to the Special Investigative Unit is critical in this case as this claim was reviewed by said unit prior to the filing of litigation. It is unclear whether this document has been produced *in camera*.

<b><u>Document</u></b>	<b><u>SF Description in Lizana</u></b>	<b><u>SF Response in Bossier</u></b>
OG 781-170, Estimates and Reports	NA (see footnote 7)	Did not apply to Hurricane Katrina and, therefore, not related to the handling Hurricane Katrina claims in general or Plaintiff's claim specifically. Produced to the Court <i>in camera</i> . <sup>10</sup>
OG 795-120, Catastrophe Management Structure	NA (see footnote 7)	Related to administration, not handling Hurricane Katrina claims in general or Plaintiff's claim specifically. Produced to the Court <i>in camera</i> .
State Farm's Fire Claim Code Manual (referred to by Payments and Coding Operation Guide, OG 74-04)	NA (see footnote 7)	Related to administration, not handling Hurricane Katrina claims in general or Plaintiff's claim specifically. Produced to the Court <i>in camera</i> .
Catastrophe Induction Manual	NA (see footnote 7)	Defendant only states, in footnote 1, that "as shown in the chart, the document Plaintiff obtained from the internet, [73] at 4 & n.4, was already obsolete before Hurricane Katrina in or about July 2001 and, therefore, not related to handling Hurricane Katrina claims in general or Plaintiff's claim specifically." (See footnote 10)
The State Farm "Employee Manual" expressly referred to in the 2004 State Farm "Code of Conduct"	NA (see footnote 7)	Related to employment with State Farm, not handling Hurricane Katrina claims in general or Plaintiff's claim specifically. Produced to the Court <i>in camera</i> .

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<sup>10</sup>Nothing is provided to establish this OG's inapplicability to Hurricane Katrina claims. Any documents in existence stating it does not apply to Hurricane Katrina claims would fall within the Court's order.

<b><u>Document</u></b>	<b><u>SF Description in Lizana</u></b>	<b><u>SF Response in Bossier</u></b>
Steve Burke notes	NA (see footnote 7)	“For some such documents already in Plaintiff’s possession, such as the ‘Rick Moore file’ that Plaintiff produced to State Farm, it is clear on the face of the documents that Plaintiff’s counsel obtained them from other Hurricane Katrina litigation.”
Rick Moore file containing emails giving directives to team managers for the handling of Hurricane Katrina claims	NA (see footnote 7)	“For some such documents already in Plaintiff’s possession, such as the ‘Rick Moore file’ that Plaintiff produced to State Farm, it is clear on the face of the documents that Plaintiff’s counsel obtained them from other Hurricane Katrina litigation.”

5.

The documents described in Plaintiff’s motion and in the above referenced table as being listed in the *Lizana* case have not been shown by State Farm to be beyond the scope of the Court’s order. Instead, State Farm seeks to deflect the irrefutable proof of its wrongdoing by baselessly accusing Plaintiff’s counsel of not reading the more than 9,000 pages of documents previously produced.<sup>11</sup> State Farm then maintains that in that haystack somewhere are “numerous documents”

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<sup>11</sup>Presumably State Farm’s counsel is referring to some of the documents listed in the *Lizana* privilege log. It is significant that State Farm does not claim to have produced all of these documents, thus, it is uncontradicted that at least some of the *Lizana* documents listed by Plaintiff have not been produced contrary to the Court’s order. It is up to us to guess as to which documents those are, since State Farm claims some have been produced. Counsel for Plaintiff states as an officer of the Court that no documents produced by State Farm in this case bear any title or description as contained on the *Lizana* privilege log.



claimed by Plaintiff not to have been produced. State Farm does not maintain, even generally, that all the *Lizana* documents have been produced. One can only assume that counsel for State Farm deliberately chose not to identify any of the alleged “numerous documents” nor to show where in the bates numbered documents previously produced said “numerous documents” could be found. Certainly, a strong inference exists that the documents identified in the *Lizana* privilege log have not been produced here.<sup>12</sup>

6.

Moreover, State Farm does not maintain that any of the *Lizana* documents are not responsive to the Court’s prior order. Indeed, it cannot take that position given the description its counsel provided for the documents in the *Lizana* privilege log. State Farm has not attempted to cure this deficiency by making a belated document production and remains in violation of the Court’s order.

7.

State Farm claims it has failed to produce some documents because they are “trade secrets”. State Farm response ECF 97 at 7. We are beyond the objections phase. State Farm’s weak “trade secrets” objection was overruled when the Court ordered the documents produced. The “trade secrets” excuse used by State Farm relates to OG 70-135, OG 70-251, OG 71-040, OG 79-001, OG 79-

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<sup>12</sup>State Farm has also failed to address issues raised by counsel for Plaintiff concerning operation guide 70-21. The guide with that number listed on the privilege log in the *Lizana* case identified it as addressing “specific claim adjustment issues related to Hurricane Katrina.” The guide 70-21 produced in this case is dated August 25, 2004, more than a year prior to Hurricane Katrina.

003, OG 79-007, OG 79-008, OG 79-009, OG 79-011, OG 79-012, OG 79-014, OG 79-21, OG 781-170 and OG 795-120.<sup>13</sup>

8.

State Farm maintains that a number of the “OG” omitted documents do not relate to “handling Hurricane Katrina claims in general or Plaintiff’s claim specifically.” This excuse is without merit. State Farm has produced in this case 57 different OG sections (see Exhibit 5) dealing with such matters as “statements”, “defamation and the claim representative”, “avoiding complaints”, “crime coverages”, and “subrogation.” No explanation is given concerning why the withheld “catastrophe” guidelines are subject to a different standard for discovery than others. While State Farm attempts to couch certain OG’s as relating to “administration” not “handling Hurricane Katrina claims” such hairsplitting is to no avail. Obviously, State Farm guidelines relating to such matters as “catastrophe office claim processing procedure” and “catastrophe team manager” certainly relate to the handling of all catastrophe claims, including those arising from Hurricane Katrina.

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<sup>13</sup>Providing these documents to the Court *in camera* accomplishes nothing but further delay. Numerous documents have been produced by State Farm under the protective order despite its “trade secret” claim. Plaintiff’s counsel is in a far better position than the Court to review the subject documents and determine their application to the facts of this case, and there is no justification for not producing those documents under the protective order, just as it produced the other OG’s.

9.

State Farm's written guidelines relating to catastrophe services all fall within the Court's prior order that State Farm produce "documents containing State Farm directives, guidelines, policies and procedures for handling Hurricane Katrina claims in general or Plaintiff's claim specifically." State Farm has not shown a good faith basis for believing the OG's did not fall within said order nor has it shown any other reason for excusing the violations.

10.

State Farm also failed to produce other documents responsive to the Court's order, including but not limited to the Catastrophe Induction Manual, the Steve Burke notes, and the Rick Moore file. State Farm does not contest that the Rick Moore (and presumably Steve Burke) documents are responsive to the Court's order. Moreover, State Farm offers no reason for not producing said documents in this case. Instead, after suggesting that some type of misconduct exists by Plaintiff's production of State Farm's documents to State Farm, defense counsel states only that "Plaintiff's counsel obtained them from other Hurricane Katrina litigation." This is no justification for failing to comply with the Court's order. Indeed, State Farm's disapproving tone for Plaintiff's use of documents obtained in other litigation establishes precisely why it is necessary, in case after case, for State Farm to produce many of the same documents over and over again.<sup>14</sup>

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<sup>14</sup>The CD's of State Farm discovery are routinely produced in each case. Never has State Farm withheld production based on documents being obtained in other litigation. Moreover, the Court's order contains no such limitation.

11.

As to the Catastrophe Induction Manual, State Farm states in footnote 1 that “as shown in the chart, the document Plaintiff obtained from the Internet, [73] at 4 & n.4, was already obsolete before Hurricane Katrina in or about July 2001 and, therefore, not related to handling Hurricane Katrina claims in general or Plaintiff’s claim specifically.” Such a statement is incomprehensible. The Catastrophe Induction Manual is not shown in the chart, there is nothing indicating it was obsolete before Hurricane Katrina, the July 2001 date appears to hold no significance, and the purported excuse itself is on its face unreasonable. Moreover, any documents indicating the manual did not apply to Hurricane Katrina claims have not been produced and would fall under the Court’s order.

12.

Rule 37 provides a panoply of sanctions that may be imposed for violation of court order. It is this Honorable Court’s responsibility to determine which among the various sanctions fits any given situation. The standards for various available sanctions differ in some particulars.

13.

With regard to civil contempt, the Fifth Circuit described the standard in *American Airlines v. Allied Pilots Association*, 228 F.3d 574, 581 (5<sup>th</sup> Cir. 2000), as follows:

A movant in a civil contempt proceeding bears the burden of establishing by clear and convincing evidence: 1) that a court order

was in effect, 2) that the order required certain conduct by the respondent, and 3) that the respondent failed to comply with the court's order.

A finding of bad faith is not necessary. The Fifth Circuit has held that the "contemptuous actions need not be willful so long as the contemnor actually failed to comply with the court's order." *See also, McComb v. Jacksonville Paper Co.*, 336 U.S. 187, 69 S.Ct. 497, 93 L.Ed. 599 (1949) (intent of defendant irrelevant).

14.

The standard for imposing a dismissal of a plaintiff's claim or default judgment against a defendant as a sanction under Rule 37(b)(2)(C) is authorized "when the failure to comply with the Court's order results from wilfulness or bad faith . . . [and] where the deterrent value of Rule 37 cannot be substantially achieved by the use of less drastic sanctions." *Bluitt v. Arco Chem. Co.*, 777 F.2d 188, 190 (5<sup>th</sup> Cir. 1985). However, the requirement of "bad faith" and/or "willfulness" is not imposed to reserve the sanction only for those with a subjective bad intent. Instead, the limitation on the use of default "applies to protect those who, through no fault of their own, are unable to comply with court orders." *Emerick v. Fenick Industries Inc.*, 539 F.2d 1379, 1381 (5<sup>th</sup> Cir. 1976). *See also, Societe Internationale Pour Participations Industrielles Et Commerciales, S.A. v. Rogers*, 357 U.S. 197, 78 S.Ct. 1087, 2 L.Ed.2d 1255 (1958) (Rule 37's phrase "refuses to obey" is met when party fails to comply with an order). *Id.* at 1094.

15.

While death knell sanctions are awarded with caution, “over-leniency is to be avoided where it results in inadequate protection of discovery.” *Diaz v. Southern Drilling Corp.*, 427 F.2d 1118, 1126 (5<sup>th</sup> Cir. 1970), *cert. denied*, 400 U.S. 878, 91 S.Ct. 118, 27 L.Ed.2d 115. “[W]hen a [party] demonstrates flagrant bad faith and callous disregard of its responsibilities, the district court’s choice of the extreme sanction is not an abuse of discretion.” *Emerick, supra*, at 1381. *See also, Prestia v. USF&G*, No. 1:08-cv-1432-LG-RWH, where this Honorable Court dismissed a plaintiff’s case with prejudice for failing to comply with a discovery order.

16.

Substantial sanctions, including but not limited to civil contempt and/or entry of a default judgment, are necessitated in this case. The record well reflects the substantial time and effort of Plaintiff’s counsel in obtaining appropriate discovery, spanning a period of over six months. The subject motion is but a small part of that effort. As the record reflects, before and after filing the original motion to compel, counsel for Plaintiff expended significant resources to obtain the production of basic, non-controversial documents including those from the claims file and/or referred to in the claims file. As but one example, State Farm produced Shellie Leverett’s re-evaluation report only after her deposition was taken. (See ¶2 above). Even after producing it to Plaintiff, State Farm included

the report in documents submitted to the Court *in camera*, claiming protection.<sup>15</sup> See, BOSR00000010EM through BOSR00000019EM. State Farm documents relating to the re-evaluation of Mr. Bossier's claim as ordered by the Department of Insurance were required to be subpoenaed from a third party. (See, [47] subpoena to Epiq). State Farm never produced same.

17.

Even now, State Farm offers no explanation for its non-compliance with the Court's order. Also conspicuously absent is any attempt to describe any efforts by it whatsoever to ensure compliance with the Court's order, much less Plaintiff's discovery. State Farm maintains only that some of the documents claimed by Plaintiff to be not produced have in fact, been produced, but fails to identify which or to provide others. More importantly, there is no assurance whatsoever, given State Farm's conduct in this case, that multitudes of other documents responsive to discovery and the Court's order have not been produced.<sup>16</sup>

18.

State Farm's *modus operandi* in this case has been to produce only those documents about which counsel for Plaintiff is already aware. To achieve this

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<sup>15</sup>State Farm had no reason to waste the Court's time reviewing non-privileged documents such as the re-evaluation report. Indeed, State Farm even claimed privilege as to letters and emails sent by counsel for Plaintiff to State Farm, wasting more time of the Court and Plaintiff's counsel.

<sup>16</sup>There is no doubt but that other such documents exists. For example, team manager Tip Pupua testified he returned numerous documents he relied on to deny Plaintiff's claim back to State Farm at their insistence. His file has not been produced.

goal, it requires Plaintiff to identify documents prior to producing them. This strategy stands the concept of discovery on its head. After all, discovery relates to the process by which one party “discovers” information and documents in the possession of the other party. If Plaintiff can obtain only those documents about which he is already aware, then no discovery takes place and the purpose of the rules is thwarted.

19.

Discovery has now expired. The motions deadline is passed. It is four years after Mr. Bossier’s hurricane loss. Under the unique circumstances of this case, the most appropriate sanction is the rendering of a default judgment against State Farm. At this point and time, there is simply no way to otherwise put Humpty Dumpty back together again.

20.

A finding of civil contempt would likewise be appropriate, with substantial fines awarded to State Farm in favor of Plaintiff.

21.

Plaintiff is likewise entitled to substantial attorney’s fees and expenses for the massive effort required of his counsel to obtain basic discovery.

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully requests this Honorable Court enter its order ordering sanctions under Rule 37(b), Fed. R. Civ. P. and such other and further relief, including an award of attorney’s fees and expenses may be deemed appropriate.



THIS the 21<sup>st</sup> 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.  
P. O. Box 1919  
Biloxi, MS 39533-1919  
Telephone: (228) 374-9787  
Facsimile: (228) 374-9436

**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 21<sup>st</sup> day of August, 2009.

*s/Judy M. Guice*

JUDY M. GUICE (MSB #5057)

## Rachel Poulos

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**From:** Judy Guice [judy@judyguice.com]  
**Sent:** Wednesday, April 15, 2009 7:49 AM  
**To:** ben@bnsch.com  
**Cc:** Rachel Poulos  
**Subject:** bossier

Ben--After the depo yesterday we recapped some of the documents that were revealed to be missing and that you promised to produce, including Shellie's evaluation report (draft and final) and any SHU files/documents, as well as the other documents that were discussed during the deposition. In addition to those that we discussed, please also check on Epiq documents, specifically documents showing what was provided to Epiq during the reevaluation process, emails to and from SF about the re-evaluation, Epiq's written proposed "offer", etc. Also, in addition to the neighboring claim file documents you gave me yesterday, It's my understanding that additional files on additional properties will be produced. Thanks.

Judy M. Guice  
[judy@judyguice.com](mailto:judy@judyguice.com)  
P.O. Box 1919  
Biloxi, MS 39533  
228-374-9787



## Rachel Poulos

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**From:** Layna Lassiter [layna@bnsch.com]  
**Sent:** Friday, April 17, 2009 10:59 AM  
**To:** Judy Guice  
**Cc:** Rachel Poulos; Ben Mullen  
**Subject:** Bossier v. State Farm  
**Attachments:** Notice of Service of Second Supp. Rule 26 Pre Discovery Disclosures.pdf; Second Supp Rule 26 Pre Discovery Disclosure Document.pdf; Second Supp Disclosure Docs.pdf

Please see the attached filed today in the above matter. These are also being sent via U.S. mail.

**Layna Lassiter, Paralegal**  
**Bryan, Nelson, Schroeder, Castigliola & Banahan**  
P.O. Drawer 1529  
Pascagoula, MS 39568  
(228) 762-6631  
(228) 769-6392 (fax)

## Rachel Poulos

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**From:** Layna Lassiter [layna@bnsch.com]  
**Sent:** Wednesday, July 08, 2009 10:58 AM  
**To:** Judy Guice  
**Cc:** Rachel Poulos; Ben Mullen  
**Subject:** Bossier v. State Farm  
**Attachments:** Supp Responses to Request for Production-7.8.09.pdf; Statement of Joseph F. Ziz, Sr..pdf

Please see the attached supplemental discovery responses just filed in the above matter.

**Layna Lassiter, Paralegal**  
**Bryan, Nelson, Schroeder, Castigliola & Banahan**  
P.O. Drawer 1529  
Pascagoula, MS 39568  
(228) 762-6631  
(228) 769-6392 (fax)



## Rachel Poulos

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**From:** Judy Guice [judy@judyguice.com]  
**Sent:** Monday, July 13, 2009 12:19 PM  
**To:** Layna Lassiter  
**Cc:** Rachel Poulos; Ben Mullen  
**Subject:** Re: Bossier v. SF

Gee too bad the depo is over. thanks.

Judy M. Guice  
228-374-9787  
[judy@judyguice.com](mailto:judy@judyguice.com)  
<http://pages.teamintraining.org/ms/nikesf09/jguice>

----- Original Message -----

**From:** [Layna Lassiter](#)  
**To:** [Judy Guice](#)  
**Cc:** [Rachel Poulos](#) ; [Ben Mullen](#)  
**Sent:** Monday, July 13, 2009 9:58 AM  
**Subject:** Bossier v. SF

Per your request, attached please find the maps that went along with Mr. Ziz's statement.

**Layna Lassiter, Paralegal**  
**Bryan, Nelson, Schroeder, Castigliola & Banahan**  
P.O. Drawer 1529  
Pascagoula, MS 39568  
(228) 762-6631  
(228) 769-6392 (fax)

## Rachel Poulos

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**From:** Judy Guice [judy@judyguice.com]  
**Sent:** Friday, July 10, 2009 9:10 AM  
**To:** ben@bnsch.com; john@bnsch.com; Layna Lassiter; Rachel Poulos  
**Subject:** bossier

Ben--We received some underwriting documents from you in discovery, including the cover letter from Bill Lovell dated 9/17/08, but they are incomplete. Indeed, Bill's letter only refers to "copies from underwriting file". (These documents are not numbered.) We need the complete underwriting file. For example, the docs produced do not include underwriting photos or documentation concerning the increase in dwelling extension coverage beyond the customary 10%. Would you please produce the entire underwriting file? Thanks.

Judy M. Guice  
228-374-9787  
[judy@judyguice.com](mailto:judy@judyguice.com)  
<http://pages.teamintraining.org/ms/nikesf09/jguice>



## Rachel Poulos

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**From:** Judy Guice [judy@judyguice.com]  
**Sent:** Friday, July 17, 2009 9:14 AM  
**To:** ben@bnsqb.com; john@bnsqb.com; Layna Lassiter; Rachel Poulos  
**Subject:** bossier

Ben--As I recall, we agreed that item #6 in the 30b6 would be met with the deposition testimony of Steve Burke in Guice and Marion. Item #5 would be met with the deposition testimony of Hinkle in Guice. Am I remembering right? Please let me know this ASAP.

Also, I am still waiting for some kind of official commitment that you have complied with the order compelling production regarding training materials etc., as well as a response on my request for the complete underwriting file and my request for stipulations on value. Please let me hear from you.

Judy M. Guice  
228-374-9787  
[judy@judyguice.com](mailto:judy@judyguice.com)  
<http://pages.teamintraining.org/ms/nikesf09/jguice>

## Rachel Poulos

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**From:** Judy Guice [judy@judyguice.com]  
**Sent:** Thursday, July 23, 2009 7:32 AM  
**To:** Judy Guice; ben@bns cb.com; john@bns cb.com; Layna Lassiter; Rachel Poulos  
**Subject:** Re: bossier--discovery; 30b6

Ben--Having heard nothing from you, I am assuming a designee will be produced next week for all areas of inquiry, as opposed to some being complied with by prior deposition testimony as we previously discussed.

As to the other matters listed below, I am assuming you are intentionally ignoring same, and plan to do nothing.

If either of the above assumptions is incorrect please let me know by the end of the day. Otherwise I will move forward as appropriate.

Judy M. Guice  
228-374-9787  
[judy@judyguice.com](mailto:judy@judyguice.com)  
<http://pages.teamintraining.org/ms/nikesf09/jguice>

----- Original Message -----

**From:** Judy Guice  
**To:** [ben@bns cb.com](mailto:ben@bns cb.com) ; [john@bns cb.com](mailto:john@bns cb.com) ; Layna Lassiter ; [Rachel Poulos](mailto:Rachel Poulos)  
**Sent:** Friday, July 17, 2009 9:14 AM  
**Subject:** bossier

Ben--As I recall, we agreed that item #6 in the 30b6 would be met with the deposition testimony of Steve Burke in Guice and Marion. Item #5 would be met with the deposition testimony of Hinkle in Guice. Am I remembering right? Please let me know this ASAP.

Also, I am still waiting for some kind of official commitment that you have complied with the order compelling production regarding training materials etc., as well as a response on my request for the complete underwriting file and my request for stipulations on value. Please let me hear from you.

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228-374-9787  
[judy@judyguice.com](mailto:judy@judyguice.com)  
<http://pages.teamintraining.org/ms/nikesf09/jguice>



## Rachel Poulos

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**From:** Ben Mullen [ben@bnsccb.com]  
**Sent:** Tuesday, May 19, 2009 11:12 AM  
**To:** Rachel Poulos; Layna Lassiter  
**Cc:** Judy Guice  
**Subject:** RE: Bossier - neighboring properties

Let me look at it.

H. Benjamin Mullen, Esq.  
BRYAN, NELSON, SCHROEDER,  
CASTIGLIOLA & BANAHAN, PLLC  
Post Office Drawer 1529  
1103 Jackson Avenue  
Pascagoula, MS 39568-1529  
Tel.: 228.762.6631  
Fax: 228.769.6392

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**From:** Rachel Poulos [mailto:rachel@judyguice.com]  
**Sent:** Tuesday, May 19, 2009 11:12 AM  
**To:** Ben Mullen; Layna Lassiter  
**Cc:** 'Judy Guice'  
**Subject:** RE: Bossier - neighboring properties

We only received 18 claims files (including Mr. Bossier's).

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Rachel Poulos, Legal Assistant  
Judy M. Guice, P.A.  
P. O. Box 1919  
Biloxi, MS 39533  
Telephone: (228) 374-9787  
Facsimile: (228) 374-9436  
[rachel@judyguice.com](mailto:rachel@judyguice.com)

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**From:** Ben Mullen [mailto:ben@bnsccb.com]  
**Sent:** Tuesday, May 19, 2009 11:04 AM  
**To:** Rachel Poulos; Layna Lassiter  
**Cc:** Judy Guice  
**Subject:** RE: Bossier - neighboring properties

Actually it was 17 properties, 23 claim files because some had flood insurance claim files. So, it should have read "23 claim files." I'll correct that. I meant to catch it from the previous response.

H. Benjamin Mullen, Esq.  
BRYAN, NELSON, SCHROEDER,  
CASTIGLIOLA & BANAHAN, PLLC  
Post Office Drawer 1529  
1103 Jackson Avenue  
Pascagoula, MS 39568-1529  
Tel.: 228.762.6631  
Fax: 228.769.6392

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**From:** Rachel Poulos [mailto:rachel@judyguice.com]  
**Sent:** Tuesday, May 19, 2009 10:40 AM



**To:** Layna Lassiter  
**Cc:** Ben Mullen; Judy Guice  
**Subject:** Bossier - neighboring properties  
**Importance:** High

In the Response filed yesterday (ECF #56) to our Supplemental Memo in Support of Motion to Compel, it references that 23 properties were provided to us. However, we only have received 17 properties (which included a redacted copy of the Bossier claim). Were there other neighboring claims files that we were supposed to receive? If so, please send to us as soon as possible. Thank you.

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Rachel Poulos, Legal Assistant  
Judy M. Guice, P.A.  
P. O. Box 1919  
Biloxi, MS 39533  
Telephone: (228) 374-9787  
Facsimile: (228) 374-9436  
[rachel@judyguice.com](mailto:rachel@judyguice.com)

**OG'S PRODUCED BY STATE FARM**

1. OG 70-21 Claim Settlement Authority (8/25/04)
2. OG 71-06 Flood Claim Processing (3/7/07)
3. OG 71-06 Flood Claim Processing (2/23/05)
4. OG 71-07 Flood Reformation (8/9/06)
5. OG 71-07 Flood Reformation (8/18/04)
6. OG 71-08 Flood Reports (3/29/06)
7. OG 71-08 Flood Reports (8/18/04)
8. OG 74-03 Guidelines for Claim Representatives (6/3/91)
9. OG 74-04 Payments and Coding (6/2/04)
10. OG 74-07 Claim Draft Acceptability 4/10/02
11. OG 74-09 Claim Interpretations - Definitions (11/19/03)
12. OG 74-10 External Loss Reports (2/23/05)
13. OG 74-20 Coverage Question Procedures (5/22/02)
14. OG 74-21 Statements (7/12/00)
15. OG 74-51 Other Insurance (4/6/05)
16. OG 74-53 Defamation and the Claim Representative (4/6/05)
17. OG 745-120 Cause of Loss - Cause of Loss - Flood Screen and Flood Information Screen (8/18/04)
18. OG 75-01 Claim Procedures First Party (11/17/04)
19. OG 75-01 Claim Procedures First Party (3/28/07)



20. OG 75-04 Claim Representative Estimates (8/22/07)
21. OG 75-04 Claim Representative Estimates (6/15/99)
22. OG 75-06 Documentation of Personal Property Loss (4/6/05)
23. OG 75-06 Documentation of Personal Property Loss (4/25/07)
24. OG 75-07 File Requirements - First Party Claims (9/24/03)
25. OG 75-08 Avoiding Complaints (11/23/90)
26. OG 75-100 Claim Interpretations - Losses Insured - First Party (7/13/05)
27. OG 75-100 Claim Interpretations - Losses Insured - First Party (7/3/07)
28. OG 75-101 Additional Coverages (11/7/01)
29. OG 75-102 Loss of Use Coverage - Additional Living Expense, Fair Rental Value, and Prohibited Use: Homeowners Policy (8/23/06)
30. OG 75-102 Loss of Use Coverage - Additional Living Expense, Fair Rental Value, and Prohibited Use: Homeowners Policy (6/23/04)
31. OG 75-104 Claim Interpretations - Losses Not Insured Homeowners 9000 Series and Commercial Policies (11/7/01)
32. OG 75-105 Claim Interpretations - Losses Not Insured Single Homeowners Policy and Commercial Policies (11/16/05)
33. OG 75-105 Claim Interpretations - Losses Not Insured Single Homeowners Policy and Commercial Policies (9/29/04)
34. OG 75-110 Mold, Mildew and Other Fungi (7/30/03)
35. OG 75-160 Roofing Guidelines (7/19/06)
36. OG 75-160 Roofing Guidelines (8/16/06)
37. OG 75-160 Roofing Guidelines (9/27/06)

38. OG 75-160 Roofing Guidelines (10/18/06)
39. OG 75-160 Roofing Guidelines (6/26/02)
40. OG 75-20 Water Damage Losses (3/9/05)
41. OG 75-21 Lightning Claims (6/27/01)
42. OG 75-26 Crime Coverages (7/13/05)
43. OG 75-50 Betterment and Actual Cash Value (1/18/06)
44. OG 75-50 Betterment and Actual Cash Value (5/14/03)
45. OG 75-51 Replacement Cost - Building (4/19/06)
46. OG 75-51 Replacement Cost - Building (7/3/07)
47. OG 75-51 Replacement Cost - Building (7/28/93)
48. OG 75-52 Replacement Cost Coverage on Personal Property (8/18/04)
49. OG 75-53 Deductibles (11/16/05)
50. OG 75-53 Deductibles (1/7/04)
51. OG 75-54 Subrogation (1/12/05)
52. OG 75-54 Subrogation (7/5/06)
53. OG 75-54 Subrogation (10/12/05)
54. OG 75-55 Salvage (9/28/05)
55. OG 75-56 Coinsurance (4/25/07)
56. OG 75-56 Coninsurance (4/11/01)
57. OG 705-420 Claim Procedures Coverage Information - PACE (12/8/97  
(produced at Pupua deposition))