

**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. 1:06-cv-433-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

NOTICE OF ISSUANCE OF SUBPOENA DUCES TECUM

PLEASE TAKE NOTICE that the undersigned counsel for Relators Kerri Rigsby and Cori Rigsby (the "Relators") has issued and will serve the subpoena duces tecum attached hereto as Exhibit 1 on the Federal Emergency Management Agency.

THIS the 15th of April, 2010

Respectfully submitted,

 /s/ C. Maison Heidelberg
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Attorneys for Kerri Rigsby and Cori Rigsby

CERTIFICATE OF SERVICE

I, C. Maison Heidelberg, attorney for Cori Rigsby and Kerri Rigsby, do hereby certify that I have this day caused the foregoing document to be filed with the Court's CM/ECF system, which will cause notice to be delivered to all counsel of record.

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/s/ C. Maison Heidelberg

AO 88A (Rev. 06/09) Subpoena to Testify at a Deposition in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of Columbia

United States of America ex rel Rigsby

Plaintiff

v.

State Farm Mutual Insurance Company et al

Defendant

Civil Action No. 1:06-cv-433-LTS-RHW

(If the action is pending in another district, state where: Southern District of Mississippi)

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To: Federal Emergency Management Agency
500 C Street SW, Washington, DC 20472

Testimony: YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization that is not a party in this case, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

See Attachment A

Table with 2 columns: Place (Gilbert LLP, 1100 New York Avenue NW, Suite 700, Washington, DC 20005) and Date and Time (05/11/2010 10:00 am)

The deposition will be recorded by this method: Stenographic, audio, and/or visual

Production: You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material:

See Attachment B

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 04/15/2010

CLERK OF COURT

Signature of Clerk or Deputy Clerk

OR August J. Matteis, Jr. Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party) Relators, Kerri and Cori Rigsby, who issues or requests this subpoena, are:

August J. Matteis, Jr.
Gilbert LLP 1100 New York Avenue NW, Suite 700 Washington, DC 20005
Tel: 202-772-2200 Email: matteisa@gotofirm.com

AO 88A (Rev. 06/09) Subpoena to Testify at a Deposition in a Civil Action (Page 2)

Civil Action No. 1:06-cv-433-LTS-RHW

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

This subpoena for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I served the subpoena by delivering a copy to the named individual as follows: _____
_____ on *(date)* _____; or

I returned the subpoena unexecuted because: _____
_____.

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Federal Rule of Civil Procedure 45 (c), (d), and (e) (Effective 12/1/07)**(c) Protecting a Person Subject to a Subpoena.**

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) When Required. On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) When Permitted. To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(d) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) Form for Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) Contempt. The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

Exhibit A

Topics upon which testimony will be taken:

1. The procedures, regulations, or other rules to adjust flood claims caused by Hurricane Katrina. This topic includes the procedures set forth in the Adjusters Claims Manual and the modifications of those procedures set forth in FEMA MEMORANDA W-5038, dated August 29, 2005; W-5040, dated August 31, 2005; W-5042, dated September 1, 2005; W-5054, dated September 21, 2005, W-5056, dated October 14, 2005; W-5066, dated October 14, 2005; W-5071, dated October 21, 2005; and W-5076, dated October 31, 2005 (collectively, the "Katrina Memos")
2. The development of procedures, regulations, or other rules to adjust flood claims caused by Hurricane Katrina, including the Katrina Memos. This topic would include any role played by insurers such as State Farm Fire & Casualty Company, State Farm Mutual Insurance Company, or any entity relating to those entities (collectively, "State Farm") in developing those procedures.
3. FEMA's procedures for communicating with Write-Your Own ("WYO") Carriers, including the type of information FEMA officials provide carriers on a verbal basis and whether any FEMA official could or would verbally authorize a carrier to deviate from written FEMA procedures or requirements.
4. Any communications with State Farm relating to the adjustment of flood claims following Hurricane Katrina. This request includes any communications explaining, interpreting, or authorizing variations from the written FEMA procedures.
5. FEMA's procedures for making payments under flood policies. This topic includes, the authorization needed to support a flood claim payment, and how FEMA coordinates payments with WYO carriers.
6. FEMA's procedures for seeking reimbursement from WYO Carriers for incorrect flood payments made following Hurricane Katrina.
7. FEMA's procedures for authorizing adjusting flood claims using particular software tools, including when a software tool that would create an itemized assessment (such as Xactimate) was permissible and when a software tool that would create a square foot value determination (such as Xact Total) was permissible.
8. FEMA's authorization for adjusting flood claims following Hurricane Katrina based on square foot value determination methods such as Xact Total.
9. Whether FEMA authorized insurers adjusting flood claims following Hurricane Katrina to presume that certain types of damage was caused by flood rather than making damage determinations on an individual claim basis.

Exhibit B

Documents Requested

1. All communications with State Farm Fire & Casualty Company, State Farm Mutual Insurance Company, or any entity related to those entities (collectively, "State Farm") relating to the development of procedures for handling NFIP claims for Hurricane Katrina. The request includes any communications related to the Katrina Expedited Claim Handling Procedures announced on September 21, 2005, in memorandum W-5054.
2. All communications with State Farm relating to the adjustment of flood claims caused by Hurricane Katrina. This request includes any communications analyzing, explaining, or interpreting NFIP policies and requirements, as well as any communications discussing or authorizing variations from the written FEMA procedures.
3. All communications with State Farm relating to reimbursement for incorrect flood claim payments made following Hurricane Katrina.
4. All communications with State Farm relating to authorization for adjusting Hurricane Katrina flood claims based on square foot value determination methods such as Xact Total.
5. All communications with State Farm authorizing State Farm to presume that certain types of damage were caused by flood following Hurricane Katrina.