

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 FIRE AND CASUALTY COMPANY DEFENDANT/COUNTER-PLAINTIFF

and

HAAG ENGINEERING CO.; and ALEXIS KING

DEFENDANTS

**DEFENDANT ALEXIS KING'S  
RULE 4(m) and 12(b)(5) MOTION TO DISMISS**

Alexis King ("Ms. King") respectfully submits this motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(5) for failure to timely serve her with summons and complaint as required by Federal Rule of Civil Procedure 4(m). Despite ample opportunity to personally serve Ms. King, Relators have failed to do so for over two years. As demonstrated by the record in this case, there is a complete absence of good cause for Relators' delay. Accordingly, Relators' claims against Ms. King should be dismissed.

1. Ms. King incorporates by reference her concomitant memorandum of authorities filed in support of this motion, including all arguments, authorities and evidence therein. Ms. King further incorporates her 28 U.S.C. § 1746 Declaration, attached hereto as Exhibit A.

WHEREFORE, PREMISES CONSIDERED, for the foregoing reasons, despite ample opportunity to achieve personal service on Ms. King, Relators have made no good faith attempt to comply with the service requirements of Federal Rule of Civil Procedure 4(e). Relators' delay cannot be justified by "inadvertence or mistake of counsel or ignorance of the rules". Because of Relators' inexcusable conduct, there has been a "significant period" of over two-years with no activity in this case as to Ms. King. This complex matter is now approaching trial.

Ms. King would be irreversibly prejudiced if called upon to defend herself in this matter where the other parties have had over two-years to develop their case. Relators' claims against Ms. King should be dismissed under Rule 12(b)(5) and Rule 4(m).

This the 16<sup>th</sup> day of August, 2010.

Respectfully submitted,

ALEXIS KING

By: *s/ Joseph M. Hollomon*  
JOSEPH M. HOLLOMON (MSB # [REDACTED])

Joe Hollomon & Associates  
107 North State Street  
Jackson, MS 39201  
(601) 353-1300  
FAX (601) 353-1308

ATTORNEY FOR ALEXIS KING

**CERTIFICATE OF SERVICE**

I, Joseph M. Hollomon, attorney for Alexis King, 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 CM/ECF system:

C. Maison Heidelberg  
Ginny Y. Kennedy  
HEIDELBERG HARMON, PLLC  
795 Woodlands Parkway, Suite 220  
Ridgeland, MS 39157  
(P) (601) 351-3333  
(F) (601) 956-2090  
(E) [maison@heidlebergharmon.com](mailto:maison@heidlebergharmon.com)  
(E) [gkennedy@heidelbergharmon.com](mailto:gkennedy@heidelbergharmon.com)

August J. Matteis, Jr.  
Craig J. Litherland  
Benjamin R. Davidson  
GILBERT LLP  
11 New York Avenue, NW  
Suite 700  
Washington, DC 20005  
(E) [matteisa@gotofirm.com](mailto:matteisa@gotofirm.com)  
(E) [litherlandc@gotofirm.com](mailto:litherlandc@gotofirm.com)  
(E) [davidsonb@gotofirm.com](mailto:davidsonb@gotofirm.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  
(E) [joyce.branda@usdoj.gov](mailto:joyce.branda@usdoj.gov)  
(E) [patricia.davis@usdoj.gov](mailto:patricia.davis@usdoj.gov)  
(E) [jay.majors@usdoj.gov](mailto:jay.majors@usdoj.gov)

Stan Harris  
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  
(E) [felicia.adams@usdoj.gov](mailto:felicia.adams@usdoj.gov)

ATTORNEYS FOR THE UNITED STATES

Larry G. Canada  
Kathryn Breard Platt  
GALLOWAY, JOHNSON, TOMPKINS, BURR & SMITH, A PLC  
2510 14th Street, Suite 910  
Gulfport, MS 39501  
(P) (228) 214-4250  
(F) (228) 214-9650  
(E) [lcanada@gitbs.com](mailto:lcanada@gitbs.com)  
(E) [kplatt@gitbs.com](mailto:kplatt@gitbs.com)

ATTORNEYS FOR HAAG ENGINEERING CO.

Robert C. Galloway  
Jeffrey A. Walker  
E. Barney Robinson III  
Benjamin M. Watson  
Amanda B. Barbour  
BUTLER, SNOW, O'MARA, STEVENS & CANNADA, PLLC  
Suite 1400  
1020 Highland Colony Parkway  
P.O. Box 6010  
Ridgeland, MS 39158-6010  
(P) (601) 948-5711  
(F) (601) 985-4500  
(E) [bob.galloway@butlersnow.com](mailto:bob.galloway@butlersnow.com)  
(E) [jeff.walker@butlersnow.com](mailto:jeff.walker@butlersnow.com)  
(E) [barney.robinson@butlersnow.com](mailto:barney.robinson@butlersnow.com)  
(E) [ben.watson@butlersnow.com](mailto:ben.watson@butlersnow.com)  
(E) [amanda.barbour@butlersnow.com](mailto:amanda.barbour@butlersnow.com)

ATTORNEYS FOR STATE FARM FIRE AND CASUALTY COMPANY

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ALEXIS KING

DEFENDANTS

**DECLARATION UNDER PENALTY OF PERJURY  
(PURSUANT TO 28 U.S.C. § 1746)  
OF ALEXIS KING**

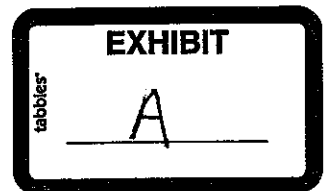
Alexis King deposes and says:

1. My name is Alexis King. I am over twenty-one years of age and of sound mind. I am competent to testify about all of the matters set out in this Declaration Under Penalty of Perjury.

2. As of the date of execution of this Declaration, no one acting on behalf of Relators (or otherwise) has personally served me with a copy of a Summons and Complaint or a Summons and First Amended Complaint in the above-captioned action.

3. I have never appointed State Farm Fire and Casualty Company or Cassandra Arbuckle as my agent for service of process, nor have I appointed any other person or entity as my agent for service of process with respect to this or any other Action.

4. I have not attempt to evade service of process in this Action. No one served me with process when I appeared for deposition in this Action.

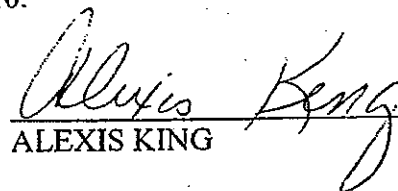


5. I am not domiciled in the State of Illinois. I have not resided in the State of Illinois since my childhood, many years ago and well prior to the filing of this suit in 2006.

6. Cori Rigsby visited me in February 2006 in connection with me setting up my residence in Pensacola Florida. That residence is one and the same as the house in which I currently reside. Accordingly, the Rigsbys unquestionably know where I reside.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed on this the 16<sup>th</sup> day of August, 2010.

  
ALEXIS KING