

AO88 (Rev. 12/06) Subpoena in a Civil Case

**Issued by the  
UNITED STATES DISTRICT COURT**

SOUTHERN

DISTRICT OF

MISSISSIPPI

THOMAS C. AND PAMELA MCINTOSH

**SUBPOENA IN A CIVIL CASE**

V.

STATE FARM FIRE AND CASUALTY COMPANY

Case Number:<sup>1</sup> 1:06CV1080

TO: Zach Scruggs  
c/o his counsel, John Kecker  
710 Sansome Street  
San Francisco, CA 94111

YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY United States District Court for the Southern District 2012 15th Street Gulfport, MS 39501	COURTROOM Courtroom 506 (Judge Senter)
DATE AND TIME 2/25/2008 10:00 am	

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME
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YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):  
See attached Exhibit "A"

PLACE United States District Court for the Southern District 2012 15th Street, Gulfport, MS 39501	DATE AND TIME 2/25/2008 10:00 am
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YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME
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Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT) Attorney for Defendant, State Farm	DATE 1/3/08
ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER H. Benjamin Mullen, 1103 Jackson Ave., Pascagoula, MS 39567 (228) 762-6631	

(See Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), on next page)

<sup>1</sup> If action is pending in district other than district of issuance, state district under case number.

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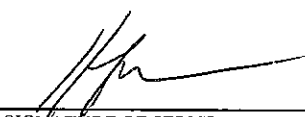
PROOF OF SERVICE

DATE	PLACE
SERVED Travis LeBlanc & John Kekeo 1/3/08	Personal at 710 Sansome Street San Francisco, CA
SERVED ON (PRINT NAME) (sent via email per agreement between counsel for Zach Scruggs and counsel for State Farm)	MANNER OF SERVICE
SERVED BY (PRINT NAME) H. Benjamin Mullen	TITLE Attorney

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on 1/4/08  
DATE

  
SIGNATURE OF SERVER  
P.O. Drawer 1529  
ADDRESS OF SERVER  
Pascagoula, MS 39568-1529

Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), as amended on December 1, 2006:

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection, copying, testing, or sampling of designated electronically stored information, books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection, copying, testing, or sampling may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to producing any or all of the designated materials or inspection of the premises — or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect, copy, test, or sample the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production, inspection, copying, testing, or sampling. Such an order to compel shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection, copying, testing, or sampling commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

- (i) fails to allow reasonable time for compliance;
- (ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held;
- (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) If a subpoena

- (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- (iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject

to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

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

(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which the person ordinarily maintains it or in a form or forms that are reasonably usable.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena 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 to quash, the person from whom discovery is sought must show that the information sought 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) (A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial-preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information is produced in response to a subpoena that 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 and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, it must take reasonable steps to retrieve it. The person who produced the information must preserve the information until the claim is resolved.

(e) CONTEMPT. Failure of any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued. An adequate cause for failure to obey exists when a subpoena purports to require a nonparty to attend or produce at a place not within the limits provided by clause (ii) of subparagraph (c)(3)(A).

## Exhibit "A"

### DEFINITIONS

As used in these requests, the term "documents" includes but is not limited to all handwritten, typed, printed or photostated matter, and drafts, duplicates, carbon copies or any other copies thereof, in the possession, custody or control of the witness or witness's counsel, including without limiting the generality of the definition: all letters, correspondence, emails, memoranda, notes, reports, statements, paraphrases of statements, drawings, tape recordings, graphs and charts, printouts and communications, work papers, studies, agreements, contracts, records of telephone calls, video tapes or discs or other electronic recording devices, audio tape or discs or other such electronic recording devices, photographs or other images, and in all cases copies in the possession, control or custody of witness or their attorneys, representative, agents, or anyone acting for or on the witness's behalf in addition to the originals.

As used in these requests, the term "you" includes but is not limited to you, Scruggs Law Firm, Scruggs Katrina Group (hereinafter "SKG"), their agents, attorneys or staff and any other law firms/entities.

Wherever the production of documents is requested herein, this means that Defendant requests that the witness provide legible, genuine copies of said documents.

**NO. 1:** For the period from August 2005 to the present, please produce any and all documents constituting or referring to communications in any form between "you" and the following:

- Kerri Rigsby
- Cori Rigsby
- Patricia Lobrano (Cori and Kerri Rigby's mother)
- Mississippi Attorney General's Office including but not limited to, the Attorney General himself

- American Broadcast Company (ABC Network)
- United States Attorney's Office
- The Federal Bureau of Investigation
- Any representative of the U.S. Government
- Brian Ford
- Manny Manon
- Nellie Williams
- Any adjuster who performed services for a company hired by State Farm to work on Katrina claims
- Any engineer who performed services for a company hired by State Farm to work on Katrina claims
- Any employee of a company which performed engineering or adjusting services for State Farm on Katrina claims
- Any employee of State Farm who worked on Katrina claims
- Joe Rhee
- CBS News
- Anita Lee
- Any other media outlet
- Carron Rockco
- Heidi Fisher
- Michelle Lee

**NO. 2:** For the period from August 2005 to the present, please produce any and all documents received by "you" from or provided by "you" to the following:

- Kerri Rigsby
- Cori Rigsby
- Patricia Lobrano (Cori and Kerri Rigby's mother)
- Mississippi Attorney General's Office including but not limited to, the Attorney General himself
- United States Attorney's Office
- The Federal Bureau of Investigation
- Any representative of the U.S. Government
- Brian Ford
- Manny Manon
- Nellie Williams
- Any adjuster who performed services for a company hired by State Farm to work on Katrina claims
- Any engineer who performed services for a company hired by State Farm to work on Katrina claims
- Any employee of a company which performed engineering or adjusting services for State Farm on Katrina claims
- Any employee of State Farm who worked on Katrina claims
- Joe Rhee

- CBS News
- Anita Lee
- Any other media outlet
- Carron Rockco
- Heidi Fisher
- Michelle Lee

In the event that you contend that any of the documents requested herein are subject to the Preliminary Injunction issued by Judge William Acker in the case styled *E. A. Renfro v. Kerri Rigsby, et al.*, it is requested that you forward those documents to Judge Acker's office for review and provide a privilege log identifying those documents sufficient to allow an appropriate motion to compel with reference thereto. Any documents that are not subject to the aforesaid Preliminary Injunction should be produced.

**NO. 3:** Please produce any and all documents which were represented to "you" to have been downloaded or removed from State Farm's system or removed from any State Farm office and include in your response any documents in any form evidencing any type of compensation paid or promised for such documents.

**NO. 4:** For the period from August 2005 to the present, please produce or provide access to your personal and business computer hard drives/or other electronic storage devices which may contain any of the documents or communications responsive to the above requests. This request specifically excludes any and all other information stored thereon which is not responsive to those requests.

**NO. 5:** For the period from August 2005 to the present, please produce any and all employment records of Kerri Rigsby and Cori Rigsby, including contracts and documents showing dates of hire and compensation in any form, as well as any confidentiality agreements signed by them.

**NO. 6:** Please produce any and all documents or electronically stored information purporting to be State Farm documents or information that Scruggs Katrina Group, Scruggs Law Firm or any of the firms associated with it obtained from any other source other than State Farm.

**NO. 7:** Please produce the original October 12, 2005, engineer report purported to be prepared by Forensic Analysis & Engineering Company regarding 2558 S. Shore Drive, Biloxi, MS.

**NO. 8:** Please produce the original sticky note on the October 12, 2005, engineer report referenced in Request No. 7.

**NO. 9:** Please produce any and all documents evidencing communications in any form with Attorneys Jeff Marr , John Wiggins, Chip Merlin, Christopher VanCleave, Buddy Gunn, Richard (Flip) Phillips or anyone in their respective offices regarding documents taken by the Rigsby sisters.

**NO. 10:** Please produce all notes or databases, electronic or otherwise prepared by you, Scruggs Law Firm, Scruggs Katrina Group (hereinafter "SKG"), their agents, attorneys or staff prepared after reviewing the documents taken from State Farm by the Rigsby sisters.

**NO. 11:** Please produce any and all documents evidencing communications in any form between you, Scruggs Law Firm, Scruggs Katrina Group (hereinafter "SKG"), their agents, attorneys or staff or Cori and Kerri Rigsby and Attorney Mike Moore from August 2005 to June 11, 2007, regarding State Farm.

**NO. 12:** Please produce any and all notes or databases in any form referring to or containing the information taken from State Farm by Kerri and/or Cori Rigsby.