

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

THOMAS C. and PAMELA McINTOSH

PLAINTIFFS

VERSUS

CIVIL ACTION NO. 1:06CV1080

STATE FARM FIRE & CASUALTY COMPANY, and
FORENSIC ANALYSIS ENGINEERING CO., and
E.A. RENFROE & COMPANY, INC.

DEFENDANTS

MOTION FOR CLARIFICATION OF DISQUALIFICATION ORDER

COMES NOW, the law firm of Lumpkin & Reeves, PLLC, pursuant to Uniform Local Rule 7.2(h) and states as follows unto the Court:

1. By Order dated April 4, 2008, this Court granted the motion of State Farm Fire & Casualty Company ("State Fam") and the motion of E.A. Renfroe & Company ("Renfroe") to disqualify the attorneys and law firms of the former Scruggs Katrina Group ("SKG") and the associated firm of Hesse & Butterworth P.L.L.C. "and other attorneys associated as counsel for the Plaintiffs by these firms" from representing the Plaintiffs in this action.

2. Undersigned Counsel was contacted about being associate local counsel with regard to potential Katrina insurance claims that are not encompassed in this Court's April 14, 2008 Order. The Lumpkin & Reeves firm had some preliminary discussions with the Katrina Litigation Group ("KLG") and, therefore, seeks clarification of the April 4, 2008, Order of Disqualification as it applies to "associated attorneys" and "subsequent attorneys." Specifically, counsel seeks to ascertain if the term "associated attorneys" or "subsequent attorneys" applies to the firm of Lumpkin & Reeves, PLLC.

3. Lumpkin & Reeves has represented and currently represents several

policyholders in lawsuits and claims against State Farm arising out of Hurricane Katrina claims.¹ State Farm has never objected to Lumpkin & Reeves' involvement in those cases.

4. The Katrina Litigation Group ("KLG"), via Don Barrett, approached the firm of Lumpkin & Reeves in January, 2008 to ascertain if the firm would be interested in providing local association with several Katrina related insurance claims. No agreement was entered between the KLG and Lumpkin & Reeves regarding these cases. (See Affidavit of Mark D. Lumpkin attached as Exhibit "A" and James R. Reeves, Jr. attached as Exhibit "B").

5. On or about January 30, 2008, Mark D. Lumpkin attended a deposition of one of KLG's clients, Ronald Nugent. The purpose was to observe the deposition to make an informed assessment of the time commitments that this litigation would require. No entry of appearance was submitted. In February 2008, Lumpkin & Reeves participated in one or two telephone conferences with Don Barrett and other KLG attorneys in which Lumpkin & Reeves was asked to assist in Katrina related matters.

6. On March 11, 2008, Mark D. Lumpkin and James R. Reeves, Jr. attended a meeting in Jackson, Mississippi with KLG group members, Derek Wyatt and Meg McAllister (no other KLG members were present) to discuss their potential role with regard to these matters and to assess the status of these cases and what time and financial commitments would be required. Lumpkin & Reeves committed to work on non-State Farm cases involving the MS windpool. However, after KLG was disqualified from the State Farm

¹ *Balius vs. State Farm*, United States District Court, Southern District of Mississippi, Civil Action No. 1:07cv674; *Mangano vs. State Farm*, Circuit Court of Harrison County, Case No. A2401-06-198; and *Donaldson vs. State Farm*, Circuit Court of Hancock County, Cause No. 06-0343. Lumpkin & Reeves also represented *Brennan vs. State Farm* and currently represents *Jim Lepoma, et al. vs. State Farm* with regard to their claims. Suit has not been filed.

cases, L&R's assistance was no longer required.

7. At the time of this Court's disqualification order, Lumpkin & Reeves had never been associated by KLG in any case encompassed by the Court's April 4th Order². (See Exhibits "A" and "B"). Further, neither Mr. Lumpkin, Mr. Reeves nor Lumpkin & Reeves have entered into any type of agreement with KLG concerning any case encompassed by this Order. Neither Mr. Lumpkin nor Mr. Reeves have performed any legal services on any KLG cases encompassed by this Court's Order.

8. Mr. Lumpkin and Mr. Reeves have no knowledge of any KLG activity as it relates to the Rigsby sisters or the Scruggs Firm, its members and/or associates outside the general comments in the legal community or reports that may have been in newspapers or on television. Most importantly, Lumpkin & Reeves have not acquired any knowledge from their limited discussions with KLG. In fact, Lumpkin & Reeves was not even approached by the KLG until after Defendants submitted their Motion for Disqualification to this Court (which resulted in the Court's April 4th Order) and well after the Scruggs firm had already been disqualified. (See Exhibit "A" and "B").

9. The Court cited MRPC 5.1(c) when addressing why "subsequent firms" should be disqualified from any further State Farm/Katrina litigation (encompassed by the Court's April 4th Order). As the Court noted, Miss. R. Prof. Cond. 5.1(c) states that "[a] lawyer shall be responsible for another's lawyer's violation of the rules of professional conduct if: (1) the

² Lumpkin & Reeves was associated by attorney Matt Dowd of the Wells, Marble & Hurst firm to work on his relative's case styled Mangano vs. State Farm, etc., in the Circuit Court of Harrison County, Case No. A2401-06-198. KLG was previously associated by Mr. Dowd in that case but was discharged. State Farm has not objected to Lumpkin & Reeves' representation in that case.

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CERTIFICATE OF SERVICE

I, the undersigned counsel, do hereby certify that I have this day mailed by United States Mail, postage prepaid, a true and correct copy of the foregoing Entry of Appearance to the following counsel of record:

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This the 1st day of May, 2008

/s/ Mark D. Lumpkin
