

Nellie Williams - October 12, 2007
McIntosh vs. State Farm Fire & Casualty Company

Page 1

Civil Action No.: 1:06-cv-1080-LTS-RHW

CONDENSED

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

-oOo-

THOMAS C. and PAMELA McINTOSH,
Plaintiffs,

vs.

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

Defendants.

DEPOSITION OF NELLIE WILLIAMS

Taken on behalf of counsel for Plaintiffs,
Pursuant to Notice, at 1 East Liberty Street,
6th Floor, Reno, Nevada, at 9:00 a.m., Friday,
October 12, 2007, before Marcia L. Ferrell, a
notary public.

APPEARANCES: (See Separate Page)

Reported by: Marcia L. Ferrell, CCR #797, RMR

Nellie Williams - October 12, 2007
 McIntosh vs. State Farm Fire & Casualty Company

Page 2

1 APPEARANCES
 2 For the Plaintiffs:
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 BRYAN, NELSON, SCHROEDER, CASTIGLIOLA &
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 And MATTHEW E. PERKINS (Telephonically)
 1103 Jackson Avenue
 Pascagoula, Mississippi 39568-1529
 Also Present: JANA RENFROE (Telephonically)

Page 4

1 RENO, NEVADA, FRIDAY, OCTOBER 12, 2007, 9:00 a.m.
 2 --o0o--
 3 NELLIE WILLIAMS
 4 Having been first duly sworn, testified as follows:
 5 (Marked Exhibit No. 1.)
 6 VIDEOGRAPHER: Going on the record. This is tape
 7 number one of the videotaped deposition of Nellie Williams
 8 taken in the matter of Thomas C. and Pamela McIntosh versus
 9 State Farm Fire and Casualty Company, et al. Civil action
 10 number 1:06-CV-1080LTS-RHW in the United States District
 11 Court for the Southern District of Mississippi, Southern
 12 Division.
 13 This deposition is being held at 1 East Liberty
 14 Street, Reno, Nevada. The date is October 12th, 2007, and
 15 the time is approximately 9:21 a.m. My name is Larry
 16 Lavelle, I'm the videographer, I work for Signet Media, Post
 17 Office Box 60838, Reno, Nevada. The court reporter today is
 18 Marcia Ferrell, she is representing Laurie Webb and
 19 Associates, 1 East Liberty Street, Reno, Nevada.
 20 Also appearing via speaker phone is John Banahan,
 21 Matt Perkins, and Jana Renfroe.
 22 Counsel will now introduce themselves.
 23 MR. WYATT: I'm Derek Wyatt and I represent Thomas
 24 C. and Pamela McIntosh.
 25 MS. McALISTER: Meg McAlister representing the

Page 3

1 INDEX
 2 EXAMINATION:
 3 By Mr. Wyatt 7
 4 EXHIBITS
 5
 6 No. Page
 7 1 Notice of Videotape Deposition 4
 8 2 Photocopy of two business cards 15
 9 3 Subpoena to Testify before Grand Jury 16
 10 4 Handwritten list of names 26
 11 5 Documents taken from CDs produced 12/14/06 104
 12 6 Case Logs CD from Adam 151
 13 7 10/4/05 E-Mail with attached Job Assignment
 14 Information Sheet 152
 15 8 10/13/05 E-mail re Invoice 530-0088-05-25
 16 with attachments 153
 17 9 1/5/06 E-mail re 530-0002 247
 18 10 1/27/06 E-mail from J Kelly re
 19 FAEC Case 0012 249
 20 11 1/30/06 E-mail from J Kelly re Job 0088 255
 21 12 2/28 E-mail from Bob Kochan re Job 0027 265
 22 13 10/18/05 E-mail re Status of our site
 23 revisiting efforts as promised 254
 24 14 Nellie Williams Disk Printout 259
 25 15 Jack Kelly Disk Printout 270
 16 16 McIntosh v. State Farm Subpoena 271
 17 17 McIntosh v. State Farm Affidavit
 18 Of Service 272
 19 18 Non-party Nellie Williams' Motion
 20 For Protective Order 280
 21 19 Memorandum in Support of Motion for
 22 Protective Order 280
 23
 24
 25

Page 5

1 McIntoshes.
 2 MS. PLATT: Kathryn Platt representing Forensic
 3 Analysis and Engineering Corporation and Nellie Williams.
 4 MR. NORRIS: David Norris representing E.A.
 5 Renfroe Company. My client, Jana Renfroe, is also on the
 6 line.
 7 MR. BANAHAN: John Banahan representing State Farm.
 8 MR. PERKINS: Matt Perkins also representing State
 9 Farm.
 10 VIDEOGRAPHER: Will you swear in the witness,
 11 please.
 12 (Witness sworn.)
 13 MR. WYATT: John, did you have an objection you
 14 wanted to make on the record first?
 15 MR. BANAHAN: Yes, thank you. Before we get
 16 started I just want to state an objection in the record. At
 17 some point today we hope to be filing a motion on this.
 18 Judge Walker on May 31st amended the case management order by
 19 allowing ten fact depositions in this case as opposed to
 20 five, which the original case management order allowed for.
 21 Poor math on my part, perhaps, but we realized
 22 Ms. Williams's deposition is the eleventh fact deposition
 23 that's being taken by the plaintiffs.
 24 We want to object for the record. I'm not asking
 25 that the deposition be stopped, in light of everyone's

Nellie Williams - October 12, 2007
McIntosh vs. State Farm Fire & Casualty Company

Page 270

1 **r-e-v** means reviewed.
 2 A. That's correct.
 3 **Q. Okay. So if you have a report listed on your**
 4 **directory there that would say final, or that doesn't say**
 5 **r-e-v, but you show it over here in your cat case log as**
 6 **being delivered to State Farm, one of two things, either you**
 7 **were delivering a report that was not peer reviewed to State**
 8 **Farm - is that true?**
 9 A. Not necessarily. Or somebody forgot to put the
 10 r-e-v on here. That was a separate procedure.
 11 **Q. Well, they forgot to put it on all of those that**
 12 **don't have it?**
 13 A. Are there a lot of them?
 14 **Q. Are there more that have the r-e-v than don't,**
 15 **looking at that?**
 16 A. Yes. Yes.
 17 **Q. May I see that?**
 18 A. Yes.
 19 **Q. Let me hand you what came off of Jack Kelly's**
 20 **directory, this document here. I'll mark it as Exhibit 15, I**
 21 **guess.**
 22 (Marked Exhibit No. 15.)
 23 **BY MR. WYATT:**
 24 **Q. This is the same kind of directory that you have,**
 25 **it's a D drive directory. And it's a print off of the**

Page 271

1 **directory. And here's yours back. The two of them. That**
 2 **one is marked as Exhibit - what, 15 you've got?**
 3 A. Yes.
 4 **Q. And yours is marked as 14.**
 5 MR. NORRIS: You're representing that came from
 6 Jack Kelly's --
 7 MR. WYATT: Jack Kelly's disk, uh-huh.
 8 **BY MR. WYATT:**
 9 **Q. But compare these two for me, if you would. Let's**
 10 **set them down side-by-side for a second. Excuse me one**
 11 **second, I've got to get a copy off of here for myself.**
 12 TELEPHONE OPERATOR: If you'd like to make a call,
 13 please hang up and try again.
 14 VIDEOGRAPHER: Did you want to go off the record?
 15 MR. WYATT: I guess so.
 16 VIDEOGRAPHER: The time going off record
 17 approximately 4:40 and 48 seconds.
 18 (Recess.)
 19 VIDEOGRAPHER: The time going back on record
 20 approximately 4:59 and 28 seconds.
 21 (Marked Exhibit No. 16.)
 22 **BY MR. WYATT:**
 23 **Q. Ms. Williams, I'm handing you a copy of a subpoena**
 24 **that's marked as Exhibit 16, and take a moment and look at**
 25 **that. Particularly at the top, you see it's a subpoena**

Page 272

1 **issued out of the Nevada federal court?**
 2 A. Yes.
 3 **Q. See up there at the top right? And you see that it**
 4 **commands you to produce the documents and things marked on -**
 5 **attached on Exhibit A, do you see that?**
 6 A. Yes.
 7 **Q. And do you recall receiving this subpoena?**
 8 A. Yes.
 9 **Q. By personal service?**
 10 A. Yes.
 11 (Marked Exhibit No. 17.)
 12 **BY MR. WYATT:**
 13 **Q. And I'm handing you what is marked as Exhibit 17,**
 14 **and that is an affidavit of service regarding that same**
 15 **subpoena. Do you recall that you were personally served with**
 16 **that?**
 17 A. I believe so.
 18 **Q. And that was at your home, is that right?**
 19 A. Yes.
 20 **Q. At Mugo Pine?**
 21 A. Yes.
 22 **Q. And after you were served with the subpoena, what**
 23 **happened next as far as anything produced under that**
 24 **subpoena? And I'm not interested in content, I'm just asking**
 25 **what occurred.**

Page 273

1 A. I hand-carried my computer, the entire computer, to
 2 the address that was listed, Friendly Computers in Reno, and
 3 presented it at 9 o'clock as indicated on July 18th. Gave it
 4 to the gentleman who was there, he removed the hard drive,
 5 boxed it up, signed a transfer of custody form, gave it back
 6 to me, and told me I was supposed to mail it. And I did.
 7 **Q. And you mailed it.**
 8 A. Yes. I took it to a PostNet, he told me to take it
 9 to a PostNet. And he had affixed the labels and everything,
 10 and I delivered it to PostNet.
 11 **Q. Okay. And was there - did you have any reason to**
 12 **not want to do that? Was there anything about that that made**
 13 **you not want to do this?**
 14 A. Yes.
 15 **Q. What was that?**
 16 A. That was my home computer. My banking records, my
 17 personal records, my -- all my stuff was on there.
 18 **Q. Okay. And so I take it, then, that you communicated**
 19 **with someone for purposes of objecting to the process, is**
 20 **that right?**
 21 A. At the time?
 22 **Q. Yes.**
 23 A. No.
 24 **Q. Well, were you concerned at the time that this -**
 25 **A. I was concerned at the time, I just didn't know who**

Nellie Williams - October 12, 2007
McIntosh vs. State Farm Fire & Casualty Company

Page 274	Page 276
<p>1 I was supposed to talk to.</p> <p>2 Q. But did you talk to anyone?</p> <p>3 A. No.</p> <p>4 Q. So is it your testimony that you did not communicate</p> <p>5 the fact that you had been served with that subpoena, you did</p> <p>6 not communicate that to any other person?</p> <p>7 A. I probably mentioned it to Randy. Down.</p> <p>8 Q. You probably mentioned it to Randy, uh-huh.</p> <p>9 A. We talk about pretty much everything now, since</p> <p>10 we're partners.</p> <p>11 Q. How quickly did you probably mention that to Randy?</p> <p>12 A. I don't know.</p> <p>13 Q. How did you mention it to Randy, in what form?</p> <p>14 A. In a phone call, I'm sure. In one of our regular --</p> <p>15 Q. Did you e-mail Mr. Down about this?</p> <p>16 A. I don't think so.</p> <p>17 Q. Did you e-mail anyone about it?</p> <p>18 A. No.</p> <p>19 Q. What did Mr. Down tell you?</p> <p>20 A. He didn't tell me anything, he said "I'm sorry."</p> <p>21 Q. So you communicated to him your grave concern about</p> <p>22 your personal banking records and all of that, you told him</p> <p>23 all that, and -- but he told you he's sorry. That's right,</p> <p>24 is that what happened?</p> <p>25 A. Well, we didn't have anything to do. That was just</p>	<p>1 deposition when I called upon you to produce them, right?</p> <p>2 A. I believe I gave it to him during the deposition,</p> <p>3 during the first break.</p> <p>4 Q. And so the first time I asked you to produce that,</p> <p>5 you told me that he had them, that you had given them to</p> <p>6 Mr. Canada.</p> <p>7 A. They were on the table in front of him right next to</p> <p>8 me.</p> <p>9 Q. Okay, and you were reluctant to produce them, you</p> <p>10 didn't want to produce them, and we had to go through a</p> <p>11 little process of explaining what the consequences were to</p> <p>12 not complying with the subpoena. Do you remember that?</p> <p>13 A. Yes.</p> <p>14 Q. So you knew about all of that when this subpoena</p> <p>15 came, this one here that came in July of 2007. You already</p> <p>16 knew about the procedure for the subpoena and everything, and</p> <p>17 what you could do and couldn't do and so forth, right?</p> <p>18 MR. NORRIS: Object to form.</p> <p>19 A. As far as complying with what was said on the</p> <p>20 subpoena?</p> <p>21 BY MR. WYATT:</p> <p>22 Q. Complying, or not complying, or complaining, or</p> <p>23 doing anything you wanted to do, right?</p> <p>24 A. Well, complaining didn't enter into it, but I knew I</p> <p>25 had to turn it in as per the subpoena.</p>
Page 275	Page 277
<p>1 it. I was venting, he said he was sorry, and it was done.</p> <p>2 Q. You didn't call me, did you, about this?</p> <p>3 A. No.</p> <p>4 Q. Or complain ever to me that you felt this was</p> <p>5 invasive of your privacy or anything like that, is that</p> <p>6 right?</p> <p>7 A. I didn't know that was an option.</p> <p>8 Q. Whether it was or not, you didn't do it.</p> <p>9 A. No.</p> <p>10 Q. And when you were served the previous subpoena back</p> <p>11 in December of 2006, you didn't do it then, either, did you?</p> <p>12 A. Didn't do what?</p> <p>13 Q. You didn't complain about the subpoena, you didn't</p> <p>14 seek counsel to intervene in the process?</p> <p>15 A. No.</p> <p>16 Q. Or you didn't -- you didn't communicate to the Nutt</p> <p>17 McAlister firm any concerns about subpoena or anything,</p> <p>18 right?</p> <p>19 A. No.</p> <p>20 Q. And that was the occasion when Mr. Canada, you had</p> <p>21 handed the disk to him before I asked you for them in the</p> <p>22 deposition, right? Do you remember that, here in Reno?</p> <p>23 A. That's two different things, I'm sorry.</p> <p>24 Q. It certainly is, but on that occasion you had given</p> <p>25 these five disks to Mr. Canada before the time in the</p>	<p>1 Q. Okay. And you had already gotten another federal</p> <p>2 grand jury subpoena even before the one I sent you in</p> <p>3 December of 2006, right?</p> <p>4 A. Yes.</p> <p>5 Q. And did you do anything particularly to complain</p> <p>6 about that, or disrupt that process, or object, or --</p> <p>7 A. No.</p> <p>8 Q. I see. So now, on this occasion, though, when you</p> <p>9 got the subpoena in July for your home computer, and you</p> <p>10 produced the computer and the gentleman took the hard drive</p> <p>11 and it was mailed off, and so forth, in all those days</p> <p>12 following up until the date when Ms. Platt became your</p> <p>13 attorney -- and I believe you testified earlier that that was</p> <p>14 at your request, is that right?</p> <p>15 A. Yes.</p> <p>16 Q. You called her up to ask if she would be your</p> <p>17 attorney, and if Forensic would provide the cost for that.</p> <p>18 A. I asked her that in the process of conversation, I</p> <p>19 don't know if I called her or she called me.</p> <p>20 Q. Wait a minute now, I understood you earlier today to</p> <p>21 say that you initiated that process. Am I wrong about that?</p> <p>22 A. I initiated the process of asking.</p> <p>23 Q. Asking what?</p> <p>24 A. If I would be represented.</p> <p>25 Q. For the deposition.</p>

Nellie Williams - October 12, 2007
McIntosh vs. State Farm Fire & Casualty Company

Page 278

1 A. For the deposition.
 2 **Q. Not about the subpoena, right?**
 3 A. I wanted to be represented in this case, in the
 4 cases against FAEC, in Katrina.
 5 **Q. Uh-huh, but you told me that was because you feared**
 6 **that I might be deposing you again, isn't that what you said**
 7 **earlier?**
 8 A. No, I didn't fear that you were going to be
 9 deposing. After the last deposition, I didn't want to be
 10 left out there like I was last time.
 11 **Q. I understand. But I think you told me earlier**
 12 **today, and just correct me if I'm wrong.**
 13 A. Yeah.
 14 **Q. You said that it was personal, that you were**
 15 **concerned that I would be deposing you, and so you wanted an**
 16 **attorney.**
 17 A. No, I said that you were the reason I sought to have
 18 representation.
 19 **Q. And that was after you learned you were going to be**
 20 **deposed.**
 21 A. Yes.
 22 **Q. So it didn't have anything to do with the subpoena,**
 23 **did it?**
 24 A. No. I made the assumption that the subpoena was
 25 already -- a copy of it was already in FAEC's attorney's

Page 279

1 office. I figured if there was a problem with that, they
 2 would notify me.
 3 **Q. I see. So when you talked to them you assumed,**
 4 **then, that they had the subpoena, is that right?**
 5 A. Yes.
 6 **Q. I see. And so eventually, when this motion was**
 7 **filed for a protective order, alleging all these horrendous**
 8 **invasion of your privacy and so forth that Ms. Platt has**
 9 **alleged in this document, all that was news to you totally,**
 10 **is that right? That -- you had no idea that Forensic's**
 11 **attorneys didn't have the copy of this subpoena, is that**
 12 **correct?**
 13 A. That's right.
 14 **Q. It was a complete surprise to you, right?**
 15 A. That they did not have a copy of it, yes, that was a
 16 surprise.
 17 **Q. And if you had not talked to them, you were going to**
 18 **also secure counsel somewhere else to challenge the subpoena**
 19 **and allege that your privacy was invaded and so forth, is**
 20 **that right?**
 21 A. Probably.
 22 **Q. So --**
 23 A. That didn't -- I hadn't thought about going
 24 someplace else.
 25 **Q. So you were or were not going to do that? Had you**

Page 280

1 **not talked to Mr. Canada's office, were you going to do that**
 2 **otherwise? Secure an attorney, and file a motion alleging**
 3 **that your privacy had been invaded and so forth?**
 4 A. Very possibly. That bothered me tremendously.
 5 **Q. Did you contact anyone else about that at all?**
 6 A. No. I didn't know I could.
 7 **Q. I see. But did anyone tell you you couldn't do**
 8 **that?**
 9 A. Nobody told me I could.
 10 **Q. I see. So you waited for --**
 11 A. I'm sorry, I don't know the legal process very well.
 12 So it bothered me tremendously to give that hard drive up. I
 13 said my bank records are on there, my passwords are on there,
 14 everything.
 15 **Q. Uh-huh. I understand how it might bother you, I do.**
 16 A. Yeah.
 17 **Q. Not for the reasons that you're relating, though.**
 18 **(Marked Exhibit Nos. 18-19.)**
 19 **BY MR. WYATT:**
 20 **Q. Did you authorize the filing of -- I'm going to**
 21 **hand you what's marked as Exhibits 18 and 19. And these are**
 22 **the two documents that Ms. Platt signed as your attorney and**
 23 **filed under Rule 11 in federal court in Mississippi. Did you**
 24 **authorize the filing of those two pleadings?**
 25 A. Yes.

Page 281

1 **Q. And it was specifically done with your knowledge and**
 2 **consent in every way, is that right?**
 3 A. Yes.
 4 **Q. And that's before they were filed, right?**
 5 A. I assume so.
 6 **Q. Okay.**
 7 A. We had a conversation about it before they were
 8 filed.
 9 **Q. Okay. I don't need to know the conversation.**
 10 A. No.
 11 **Q. Just that you did authorize it.**
 12 A. Yes.
 13 **Q. Okay. That's great, that's all I've got. I told**
 14 **you 10 minutes, I'm going to live up to it.**
 15 A. I'm so out of here.
 16 VIDEOGRAPHER: This concludes tape number 3 of the
 17 videotape deposition of Nellie Williams.
 18 MR. WYATT: Wait just a moment, hold on. We have
 19 to recess the deposition formally before we -- sorry, I
 20 didn't mean to mislead you there. Are we back on?
 21 VIDEOGRAPHER: We are on.
 22 MR. WYATT: Okay. We have agreed, all counsel have
 23 agreed, due to a number of circumstances which involve
 24 Mr. Norris's travel plans and the witness's -- it's a long
 25 day, it's been a long day for her, she's tired, everybody is

Nellie Williams - October 12, 2007
McIntosh vs. State Farm Fire & Casualty Company

Page 286

1 MR. NORRIS: On all that I'm fine. As long as
 2 Ms. Williams is okay with it, I'm okay with it.
 3 THE WITNESS: I have a question. Am I getting paid
 4 today?
 5 MR. WYATT: That's a very common question of
 6 witnesses, but your own counsel will have to respond to that
 7 one. There is a very good reason why witnesses can't be
 8 paid.
 9 THE WITNESS: Hey, last time I think you paid me 20
 10 bucks.
 11 MR. WYATT: There you go. John, we're going to let
 12 you guys go, okay?
 13 MS. PLATT: I'm just going to join into what other
 14 counsel said.
 15 MS. RENFROE: Thank you.
 16 MR. WYATT: Okay. All right, Ms. Renfroe.
 17 MS. RENFROE: Bye-bye.
 18 MR. NORRIS: Sounds good, thank you.
 19 VIDEOGRAPHER: Okay, this concludes tape number 3
 20 of the videotape deposition of Nellie Williams. The date is
 21 October 12th, 2007, the time going off record approximately
 22 5:16 and four seconds.
 23 (Deposition concluded at 5:16 p.m.)
 24 -o0o-
 25

Page 288

STATE OF NEVADA)
) ss.
 COUNTY OF LYON)

I, MARCIA L. FERRELL, a Certified Court Reporter in
 and for the County of Lyon, State of Nevada, do hereby
 certify:
 That on October 12, 2007 at 1 East Liberty Street,
 Reno, Nevada, I was present and took verbatim stenotype notes
 of the deposition of Nellie Williams, who personally appeared
 and was duly sworn by me and was deposed in the matter
 entitled herein; and thereafter transcribed the same into
 typewriting as herein appears;
 That the foregoing transcript is a full, true and
 correct transcription of my stenotype notes of said
 deposition.
 Dated at Fernley, Nevada, this _____ day of
 _____, 2007.

 Marcia L. Ferrell, CSR #797

Page 287

1
 2
 3
 4
 5
 6
 7
 8 I, _____, do hereby swear or
 9 affirm under penalty of perjury that the assertions and/or
 10 answers of this affidavit/deposition are true.
 11
 12
 13 _____
 14 NELLIE WILLIAMS
 15
 16 Subscribed and sworn to before me
 17 this ____ day of _____, 2007.
 18
 19
 20 _____
 21 NOTARY PUBLIC
 22
 23
 24
 25

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