

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

**THOMAS C. McINTOSH and
PAMELA McINTOSH**

PLAINTIFFS

VERSUS

CIVIL ACTION NO. 1:06cv1080-LTS-RHW

**STATE FARM FIRE AND CASUALTY
INSURANCE COMPANY, *et al.***

DEFENDANTS

ORDER

Before the Court are [945] and [969], State Farm's motions, joined by Defendant Renfroe, seeking orders overruling certain deposition objections and compelling Cori and Kerri Rigsby (Rigsbys) to respond to questions they declined to answer, and compelling production of certain documents

In motion [945], Defendants ask the Court to compel the Rigsbys to each submit to one additional hour of deposition questioning and to compel the Rigsbys to fully respond to questions regarding their unauthorized use of State Farm laptop computers and the documents (including any copies or downloaded documents) which they took from State Farm and provided to the SKG. Defendants also request that the Court overrule the Rigsbys claims of attorney-client privilege and work product protection with respect to their meetings with SKG members at which third parties (*e.g.*, the Rigsbys' mother and step- father) were present. The Court finds that the Rigsbys may not claim attorney-client privilege with respect to such meetings, nor do they enjoy attorney-client or work product privileges/protections with respect to their unauthorized use of State Farm laptop computers or documents they took from State Farm and provided to the SKG. The Court will grant motion [945], but will not assess attorney's fees and costs as the

primary attorney instructing the Rigsbys not to answer Defendants' questions (Sid Backstrom) is no longer involved in this case, and the Rigsbys, who are neither attorneys nor parties in this action, relied upon advice of counsel in declining to answer the questions. Defendants may reconvene the deposition(s) of Cori and/or Kerri Rigsby for the purposes stated herein, but may want to consider waiting until the issues are resolved regarding Cori Rigsby's computer prior to re-opening her deposition, so that all matters involving her may be addressed at one time.

In motion [969], State Farm seeks another order compelling the Rigsbys to produce documents which the Court has already ordered them to produce, documents which they have repeatedly stated they do not have. For example, State Farm continues to demand production of the Rigsbys' calendars, diaries, dayplanners, etc., which include references to their employment with Renfroe, State Farm and/or SKG from August 2005 to the present. This demand apparently springs from Cori Rigsby's testimony that she kept a calendar on her computer, which she printed out at one time and gave it to SKG but did not keep a copy, and that the computer is the one which "crashed" in September 2007, which has been turned over to the Court for forensic examination. The Court sees no utility in re-ordering Cori and Kerri Rigsby to produce that which they claim they do not have. State Farm's contention that the Rigsbys' have failed to produce documentation of their incomes and sources of incomes apparently arises from Kerri Rigsby's testimony that she considered SKG's payment of her travel and legal expenses part of her compensation as an SKG consultant. The Rigsbys claim they have produced all documents responsive to State Farm's request. Since State Farm does not seek to compel production of the Rigsbys' state and federal tax returns, 1099 forms, paycheck stubs, etc., the Court assumes those documents were produced as required by Order [563]. The concluding phrase of State Farm's document request states for documents related to the Rigsbys' incomes states, "or any other

documents evidencing payments *to you* by any source from July 1, 2005, through the date of the deposition.” (emphasis supplied) Presumably, whatever attorney’s fees were paid *for* the Rigsbys were paid *to attorneys*, not to the Rigsbys. The Court finds the wording of the request might reasonably be interpreted in a manner which would not require production of the documents State Farm now seeks to compel. The Court will not order further production of documents regarding the Rigsbys incomes and sources of income. Finally, the Court notes that the Rigsbys have been disqualified as witnesses in this case, that the Court has authorized Defendants to depose Richard and Zach Scruggs, and has ordered production of documents by Richard and Zach Scruggs. Defendants are therefore in a position to discover the information they seek from the Scruggses (the payors) instead of the Rigsbys (the payees). For these reasons, the Court will deny motion [969]. It is therefore,

ORDERED:

1. That motion [945] is granted in part and denied in part.
2. That motion [969] is denied.

SO ORDERED, this the 23rd day of May, 2007.

/s/ Robert H. Walker

ROBERT H. WALKER
UNITED STATES MAGISTRATE JUDGE