

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION

E.A. RENFROE & COMPANY, INC.,	}	
	}	
Plaintiff,	}	
	}	CIVIL ACTION NO.
v.	}	06-AR-1752-S
	}	
CORI RIGSBY MORAN, et al.,	}	
	}	
Defendants.	}	

**ORDER**

The responses filed by the parties on January 26, 2009, to the questions posed to them by the court on January 20, 2009, make it plain that both plaintiff and defendants waive their right to a trial *ore tenus* on the questions surrounding the claim for attorneys' fees as part of the damages plaintiff claims for breach of contract. The court has never before conducted a trial by affidavit on a question of damages. The court is, of course, familiar with the determination by affidavit of a claim for the reasonable attorneys' fees that are provided to a prevailing party by certain statutes. Nevertheless, the court ACCEPTS the parties' express waiver, and will proceed accordingly.

Plaintiff shall file an affidavit or affidavits for the purpose of proving the attorneys' fees it incurred as a result of defendants' breach of contract. Plaintiff's affidavit or affidavits shall include proof of proximate causation, proof of the reasonableness of lawyer-hours spent, proof of the reasonableness of hourly rates, and proof of expenses attributable to the breach.

Plaintiff's affidavit or affidavits shall also distinguish between lawyer-hours spent in obtaining compliance with the injunction (hours that have already been claimed and paid for), and the lawyer-hours still allegedly compensable. Any such affidavit or affidavits shall be filed **by 4:30 p.m., February 13, 2009**, together with any brief in support of plaintiff's claims for damages. Thereafter, if defendants desire to respond, they shall do so by affidavit or affidavits and brief, including any evidentiary objections, filed **by 4:30 p.m., February 27, 2009**, after which plaintiff shall respond, if it desires to do so, **within seven (7) calendar days**. The court will then take all unresolved matters, including questions of fact and law, under submission without oral argument unless the court, after reviewing the materials filed, decides that oral argument would be helpful.

The Clerk need no longer send copies of any orders, including this one, to counsel for non-parties, Richard Scruggs, and The Scruggs Law Firm.

DONE this 28th day of January, 2009.

  
WILLIAM M. ACKER, JR.  
UNITED STATES DISTRICT JUDGE