

IN THE UNITED STATES DISTRICT COURT  
 FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
 OXFORD DIVISION

STATE FARM FIRE AND CASUALTY COMPANY and STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY	PLAINTIFFS
v.	CIVIL ACTION NO. 3:08cv11-MPM
JIM HOOD, IN HIS OFFICIAL CAPACITY AS ATTORNEY GENERAL OF THE STATE OF MISSISSIPPI	DEFENDANT

*Alias Proceeding To:*

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

STATE FARM FIRE AND CASUALTY COMPANY and STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY	PLAINTIFFS
v.	CIVIL ACTION NO. 2:07cv188-DCB-MTP
JIM HOOD, IN HIS OFFICIAL CAPACITY AS ATTORNEY GENERAL OF THE STATE OF MISSISSIPPI	DEFENDANT

**UNSWORN DECLARATION UNDER PENALTY OF PERJURY  
 (PURSUANT TO 28 U.S.C. § 1746)  
OF E. BARNEY ROBINSON III**

E. Barney Robinson III deposes and says:

1. My name is E. Barney Robinson III. I am over twenty-one years of age and of sound mind. I am competent to testify about all of the matters set out in this Unsworn Declaration Under Penalty of Perjury.

2. I am one of the counsel of record for Plaintiffs State Farm Fire and Casualty Company and State Farm Mutual Automobile Insurance Company (collectively "State Farm"), in this Action.

3. The following statements are based upon my personal knowledge and/or upon my review of certain business records and associated records and the information they contain. Those records are reports, records or data compilations, made at or near the time by, or from information transmitted by, persons with knowledge, and are kept in the normal course of my law firm's business. It is a regularly conducted business activity of my law firm to keep such business records. I have made a personal review of certain business records of my law firm.

4. Attached hereto as collective exhibit 1 are copies of certain e-mails between me and John Kecker, Esquire and/or Travis LeBlanc, Esquire, both of whom are attorneys representing nonparty Richard F. Scruggs. (I note that certain text lines are cropped in half when printed. This phenomenon is apparently the result of my conversion software and not as a result of any redaction by me). I have otherwise redacted the e-mails in part, and indicated those redactions on the documents.

5. My statements regarding this matter in the attached e-mails are accurate, to the best of my knowledge and belief.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on this the 3<sup>rd</sup> day of January, 2008.

s/E. Barney Robinson III (MSB #09432)  
E. Barney Robinson III (MSB #9432)

**From:** Barney Robinson  
**Sent:** Saturday, February 02, 2008 6:42 PM  
**To:** 'Travis LeBlanc'  
**Cc:** Bob Galloway; Jeff Walker; 'JRobie@romalaw.com'; 'chrisrobertson@scruggsfirm.com'; Ken Turner; 'MWOOD@ago.state.ms.us'; 'John Keke'; 'Brook Dooley'; 'HPIZZ@ago.state.ms.us'; 'lhester@pagekruger.com'; 'cgp@pgrwlaw.com'; 'bliston@listonlancaster.com'; 'decupit@aol.com'  
**Subject:** Court Ordered Trial Deposition of Richard F. Scruggs

Travis:

After the hearing on Friday, February 1, I asked you if State Farm could take Mr. Scruggs' deposition immediately -- or at least first thing Saturday morning, so we could get the matter behind us and further so the deposition timing would not interfere with Wednesday's preliminary injunction hearing and the Parties' preparation therefore. In response, you insisted -- without explanation -- that the deposition not take place before Sunday, February 3, *at the earliest*.

You also assured me you would call me on my cell phone "within two hours," with further information. You did call me a few hours later and indicated two things.

First, you told me that Mr. Scruggs might take an "appeal" of Chief Judge Mills' Order directing Mr. Scruggs to appear for deposition upon oral examination. Second, you told me that "if" Mr. Scruggs did appear for deposition, it could take place no earlier than Monday, February 4. Once again, you gave me no explanation as to why that was the case.

I asked you to please call me first thing this morning (Saturday) so you could confirm the time of the deposition. You failed to contact me all morning.

Having not heard from you, sometime after 11:00 a.m. this morning I noticed Mr. Scruggs' deposition for 8:00 a.m. CST this Monday, February 4, 2008 at Mr. Scruggs' office. I still received no contact from you until you called me at 1:51 p.m. this afternoon.

At 1:51 p.m. this afternoon you called me and indicated that Mr. Scruggs "could not" be deposed until 3 p.m. on Monday, February 4, 2008. I told you that -- having not heard from you -- I had already noticed the deposition for 8:00 a.m. You did not acknowledge or deny having previously seen that notice.

I further told you that I doubted 3 p.m. would provide enough time for us to complete the deposition and further told you that counsel had to depart immediately from the deposition to Natchez, Mississippi -- on the opposite end of the state - for final preparation for the Wednesday preliminary injunction hearing. I mentioned this fact as another reason why 3 p.m. was probably far too late in the day.

I asked you if Mr. Keke could not be present until 3 p.m., thinking that perhaps that was your justification for the time. You did not respond directly to my question, but rather said something to the effect that 3 p.m. was the only time convenient for counsel.

State Farm -- in an attempt to accommodate both Mr. Scruggs and his counsel -- has already let Friday afternoon the 1<sup>st</sup>, all of Saturday the 2<sup>nd</sup> and all of Sunday the 3<sup>rd</sup> go as times for Mr. Scruggs' deposition. State Farm did this as an accommodation and further to demonstrate that it wants to be reasonable and courteous. 8:00 a.m. on Monday, February 4<sup>th</sup> is a very reasonable compromise on State Farm's part. By your own admission, Mr. Keke will be back in the country no later than tomorrow and by Monday Mr. Scruggs will have had 10 days' time to prepare for his deposition -- a third of a month.

I request that you confirm for me tonight that Mr. Scruggs will appear for deposition at his office at 8:00 a.m. on

2/3/2008

Thank you for your call. State Farm's counsel look forward to appearing with Mr. Scruggs and his counsel at Mr. Scruggs' office for his deposition at 8:00 a.m. CST on Monday, February 4, 2008.

**E. Barney Robinson III**

Butler, Snow, O'Mara, Stevens & Cannada, PLLC  
Direct: (601) 985-4525  
Fax: (601) 985-4500

[barney.robinson@butlersnow.com](mailto:barney.robinson@butlersnow.com)

# BUTLER | SNOW

About Butler Snow

Bio

V-Card

210 East Capitol Street,  
17th Floor  
Jackson, MS 39201

P.O. Box 22567  
Jackson, MS 39225-2567

**From:** Travis LeBlanc [TLeBlanc@kvn.com]  
**Sent:** Sunday, February 03, 2008 3:49 PM  
**To:** Barney Robinson; John Kecker  
**Cc:** Bob Galloway; Jeff Walker; JRobie@romalaw.com; chrisrobertson@scruggsfirm.com; Ken Turner; MWOOD@ago.state.ms.us; Brook Dooley; HPIZZ@ago.state.ms.us; lhester@pagekruger.com; cgp@pgrwlaw.com; bliston@listonlancaster.com; decupit@aol.com; Jan Little  
**Subject:** RE: Court Ordered Trial Deposition of Richard F. Scruggs

Barney,

I was copied on your email to Mr. Kecker. As you know, Mr. Kecker is on a plane today returning to the United States, so he will likely not see your email until tonight at the earliest. And, as you know, he will not be available for the deposition to commence at 8am tomorrow. We believe that the Court's orders are clear that Mr. Scruggs is to "submit to deposition under seal by State Farm at some point prior to 5 p.m. on Monday, February 4, 2008." We do not believe the Court's orders need clarification, nor will we arrive in Mississippi by 8:00 a.m. tomorrow. We will file an opposition to your motion today.

Yours truly,

Travis LeBlanc

-----Original Message-----

**From:** Barney Robinson [mailto:Barney.Robinson@butlersnow.com]  
**Sent:** Sunday, February 03, 2008 9:47 AM  
**To:** John Kecker; Travis LeBlanc  
**Cc:** Bob Galloway; Jeff Walker; JRobie@romalaw.com; chrisrobertson@scruggsfirm.com; Ken Turner; MWOOD@ago.state.ms.us; Brook Dooley; HPIZZ@ago.state.ms.us; lhester@pagekruger.com; cgp@pgrwlaw.com; bliston@listonlancaster.com; decupit@aol.com  
**Subject:** RE: Court Ordered Trial Deposition of Richard F. Scruggs

John:

Thank you for your e-mail last night of 8:14 p.m. I'm sorry to hear about your upcoming medical procedure and hope that it goes well.

Mr. Scruggs' scheduling demands are placing State Farm in an untenable timing position, with respect to which I see no reasonable alternative to bringing it to the Court's attention for prompt resolution.

In order to bring clarity to the situation, State Farm will be filing shortly a motion for clarification with Chief Judge Mills, asking the Court to direct Mr. Scruggs to appear at 8:00 a.m., as noticed. Alternatively, State Farm will ask the Court to clarify that should Mr. Scruggs be permitted to commence his deposition at some point after 8:00 a.m., that State Farm will be permitted to conduct that deposition to its natural close; that is, when State Farm is fully completed with its questioning of Mr. Scruggs, whatever hour that may be.

We are going to notice the hearing for 8:00 a.m. tomorrow morning and request an audience with Chief Judge Mills on the motion as soon as one can be provided. Of course, I will ensure that prompt notice of all of this is provided to all counsel.

I'll pass your regards to my now retired partner Larry Franck, who I'm sure would return your greetings. I hope you have a safe trip back to the country today. I look forward to meeting you in person.

Barney

**E. Barney Robinson III**

Butler, Snow, O'Mara, Stevens & Cannada, PLLC  
Direct: (601) 985-4525  
Fax: (601) 985-4500

[barney.robinson@butlersnow.com](mailto:barney.robinson@butlersnow.com)

## BUTLER | SNOW

About Butler Snow

Bio

V-Card

210 East Capitol Street,  
17th Floor  
Jackson, MS 39201

P.O. Box 22567  
Jackson, MS 39225-2567

-----Original Message-----

**From:** John Keke [mailto:JKeker@KVN.com]

**Sent:** Saturday, February 02, 2008 8:14 PM

**To:** Barney Robinson; Travis LeBlanc

**Cc:** Bob Galloway; Jeff Walker; JRobie@romalaw.com; chrisrobertson@scruggsfirm.com; Ken Turner; MWOOD@ago.state.ms.us; Brook Dooley; HPIZZ@ago.state.ms.us; lhester@pagekruger.com; cgp@pgrwlaw.com; bliston@listonlancaster.com; decupit@aol.com

**Subject:** Re: Court Ordered Trial Deposition of Richard F. Scruggs

Dear Barney,

I can't wait to meet you. I tried a case in 1980 in federal court in Jackson against Larry Franck and Allen Perry of your firm, and found them worthy adversaries, not silly people who wasted time.

Not that it is any of your business, but I will return from out of the country late Sunday (missing the SuperBowl I am afraid) then undergo a minor operation that requires full anesthetic at 6:30 am, and (I trust) be able to advise Dick Scruggs to invoke constitutional rights and not answer any of your questions by 1 pm my time, 3 pm yours. Why you are in a big hurry to have a deposition that you know will result in no testimony is a mystery to me, but since J Mills said we had until 5 pm on Monday to participate in this deposition we are taking advantage of his clear order so that I may be on the phone with a quasi clear head. I am afraid if I participated earlier I might say things to you, under the influence of anesthetics, that I would later regret.

Very truly yours,

John Keke

Portions Redacted