

State Farm files to disqualify Scruggs group

By ANITA LEE, Sun Herald
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State Farm Fire and Casualty Co. fired the latest round Tuesday in its battle with Mississippi's most prominent trial attorney, with a national newspaper lobbing salvos from the sidelines.

State Farm on Tuesday filed a motion asking that a judge disqualify Richard "Dickie" Scruggs and members of his Scruggs Katrina Group from representing a Biloxi couple suing over Hurricane Katrina damage. The company says Scruggs is using records "pilfered" from the insurer to further his case.

"Our position is that Scruggs has shown a blatant disregard for the rules that govern the fairness and the ethics of both Mississippi and the federal government's judicial systems," State Farm spokesman Fraser Engerman said Tuesday afternoon.

Scruggs offered this response to State Farm's motion: "It's a public relations offensive where (State Farm is) just throwing everything against the wall that they can. We've been kicking their fannies for two or three months now. It tells you you're being effective when they try these sorts of shenanigans."

Scruggs said he plans to respond in court to State Farm's motion, but meanwhile is glad legal maneuvering is keeping the post-Katrina insurance woes of Coast residents in the national spotlight.

Attorney General Jim Hood, who worked with Scruggs and

his legal group on an aborted settlement agreement with State Farm, last week filed his own lawsuit against the insurer. He accuses the company of acting in bad faith toward its policyholders, which State Farm denies.

State Farm filed its motion in U.S. District Court in Gulfport to have Scruggs and the Scruggs Katrina Group disqualified from representing Biloxi policyholders Thomas and Pamela McIntosh. The McIntoshes accuse State Farm of "coercing" an engineering firm, Forensic Analysis & Engineering Corp., to alter a damage report on their property in order to minimize the insurer's liability.

State Farm's motion to disqualify Scruggs follows an Alabama judge's ruling Friday that Scruggs should be prosecuted for criminal contempt of court over State Farm records he obtained from two former claims adjusters, sisters Cori and Kerri Riggsby. Scruggs is using some of the documents in the McIntosh case.

He hired the Rigsbys to work for his Scruggs Katrina Group after they "pilfered" the records, in State Farm's words, and turned them over to Scruggs.

The Rigsbys had signed employment agreements with E.A. Renfroe, an independent adjusting firm that dispatched them to work for State Farm after Katrina, promising to maintain confidentiality. They supplied Scruggs with thousands of pages of records and also turned over copies to the U.S. Attorney's Office and Attorney General Hood.

Birmingham-based Renfroe sued in Alabama, where U.S. District Court Judge William Acker in December ordered the records returned to the

company's attorneys. Scruggs instead sent his set to Hood. A Wall Street Journal editorial on Tuesday called Scruggs' move, followed by his and Hood's efforts to settle policyholder claims with State Farm, a "tag-team mugging."

Scruggs said State Farm's latest accusations of unethical behavior come with the territory. As one of the architects of state settlements with Big Tobacco, he said he went through the same kind of ordeal in the 1990s.

"It's just part of this type litigation when you take on these big interests," he said. "When they get desperate, they start this sort of thing. In a way that you wouldn't expect, it's reassuring that we're getting to them."

State Farm's Engerman responded by quoting Scruggs before his first insurance trial, the case of Paul Leonard vs. Nationwide. "I don't want to get in a shouting match with this guy," Engerman said, "but you can quote me on this. Scruggs said before the Leonard trial, 'If you win it, it's a huge win. If you lose it, you spin it the best way you can.'"

The McIntosh case is one of more than 213 lawsuits filed against State Farm in federal court in Gulfport. From his dealings with State Farm, Hood has estimated the insurer had 9,000 Coast policyholders in areas hit by Katrina's tidal surge, with only slabs or pilings left in 800 of those cases. Those are the most contentious claims because State Farm has maintained it owes money only for wind damage that can be separated from tidal surge, covered by federal flood insurance.

Insurance Commissioner George Dale, who Scruggs and

others consider a lapdog for the insurance industry, has been working to get those claims settled. In March he ordered State Farm to re-evaluate claims where Katrina swept away property, leaving only slabs or pilings. He dictated that the company cover wind damage unless it could prove water caused the destruction - the same orders he issued less than a month after Katrina hit.

State Farm says it is trying to settle the claims, but Scruggs and other attorneys are suspicious of the process.

What are policyholders to make of all this? It's hard to say. State Farm will not release numbers to the Sun Herald that would show how many claims are being settled through re-evaluation or how much has been paid. The company does say offers totaling \$10 million are on the table.

The company has committed a minimum of \$50 million and offered to review all of its 35,000 Coast claims. Policyholders must request the re-evaluation to participate.

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