

IN THE CIRCUIT COURT OF LAFAYETTE COUNTY, MISSISSIPPI

JONES, FUNDERBURG, SESSUMS,  
PETERSON & LEE, LLC

PLAINTIFF

VS.

CIVIL ACTION NO. L07-135  
LAFAYETTE COUNTY

FILED

APR 10 2008

RICHARD SCRUGGS, Individually;  
DON BARRETT, Individually; SCRUGGS  
LAW FIRM, P.A.; BARRETT LAW  
OFFICE, P.A.; NUTT & McALISTER, PLLC  
and LOVELACE LAW FIRM, P.A.

BY  D.C.  
MARY ALICE BUSBY  
CLERK

DEFENDANTS

**DEFENDANTS DON BARRETT, INDIVIDUALLY, BARRETT LAW OFFICE, P.A.,  
NUTT & McALISTER, PLLC AND LOVELACE LAW FIRM, P.A.'S  
MOTION FOR CLARIFICATION REGARDING SETTING OF HEARING**

COME NOW Don Barrett, individually, Barrett Law Office, P.A., Nutt & McAlister, PLLC and Lovelace Law Firm, P.A., four of the defendants herein, by and through counsel, and file their Motion for Clarification Regarding Setting of Hearing, and would show unto the Court the following:

1.

This Court has entered an order setting a hearing regarding plaintiff's Motion for Sanctions for April 15, 2008. Prior to the entry of this order, counsel for all parties conferred in an attempt to obtain a mutually agreeable date when all parties and their counsel were available for depositions and a hearing. Counsel for these defendants advised that counsel was available the entire week of April 14 - 18, but these defendants had some scheduling conflicts during the week. For that reason, the depositions of these defendants were noticed for April 18. (See Notice of Deposition attached as Exhibit "1").

2.

Some of these defendants have conflicts on April 15 and 17, including an appearance in another court, but all of these defendants are available and can attend the hearing on April 16 or 18. All counsel have stated that they are available on April 18, but counsel for plaintiff is unavailable on April 16, 2008. (See email from Roy Percy dated April 4, 2008, attached as Exhibit "2").

3.

If the hearing begins on April 15 as currently set, these defendants respectfully request that the Court allow a recess until April 18 before concluding the hearing so these defendants may be present to testify on their behalf, if the decision is made to call them to testify. Counsel for plaintiff has previously advised this Court that plaintiff does not have any objection to proceeding in this manner. (See email from Roy Percy dated April 4, 2008, attached as Exhibit "2").

4.

Alternatively, all counsel and parties are available to conduct the hearing on April 18, so the hearing could be conducted in its entirety on that date in order to avoid any interruption in the proceedings. Counsel for plaintiff has also previously advised this Court that plaintiff will consent to beginning the hearing on April 18. (See email from Roy Percy dated April 4, 2008, attached as Exhibit "2").

5.

If the hearing proceeds as currently scheduled and is concluded on April 15, 2008, these defendants will not have the opportunity to testify on their behalf, and these defendants may be unduly prejudiced.

6.

These defendants respectfully request that this Court enter an order allowing a recess until Friday April 18, 2008. In the alternative, these defendants respectfully request that this Court enter an order resetting the hearing in this matter for April 18, 2008.

7.

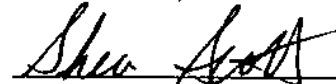
If the Court deems a hearing necessary regarding this motion, these defendants request the opportunity to be heard sufficiently in advance of the April 15 hearing to enable these defendants to take appropriate action in light of the Court's ruling.

WHEREFORE, PREMISES CONSIDERED, these defendants request that this Court enter an order allowing a recess of the hearing scheduled for Tuesday, April 15, 2008, until Friday April 18, 2008. In the alternative, these defendants respectfully request that this Court enter an order resetting the hearing for April 18, 2008.

Respectfully submitted,

DON BARRETT, Individually; BARRETT  
LAW OFFICE, P.A.; NUTT &  
McALISTER, PLLC; and LOVELACE  
LAW FIRM, P.A.

BY:



OF COUNSEL

LARRY D. MOFFETT - BAR # 3401  
WILTON V. BYARS, III - BAR # 9335  
SHEA S. SCOTT - BAR # 100775  
KENNETH A. RUTHERFORD - BAR # 5749  
DANIEL COKER HORTON & BELL, P.A.  
OXFORD SQUARE NORTH  
265 NORTH LAMAR BOULEVARD, SUITE R  
POST OFFICE BOX 1396  
OXFORD, MS 38655-1396  
(662) 232-8979

**CERTIFICATE**

I, Shea S. Scott, of counsel for the Defendants identified above, do hereby certify that I have this day transmitted, via hand delivery or electronic mail, a true and correct copy of the above and foregoing to:

Grady F. Tollison, Jr., Esq.  
Tollison Law Firm  
100 Courthouse Square  
Oxford, MS 38655

J. Cal Mayo, Jr., Esq.  
Mayo Mallette, PLLC  
P. O. Box 1456  
Oxford, MS 38655-1456

THIS, the 10<sup>th</sup> day of April, 2008.



*Shea S. Scott*  
\_\_\_\_\_  
SHEA S. SCOTT

IN THE CIRCUIT COURT OF LAFAYETTE COUNTY, MISSISSIPPI

JONES, FUNDERBURG, SESSUMS,  
PETERSON & LEE, PLLC

PLAINTIFF

V.

CIVIL ACTION NO. L07-135

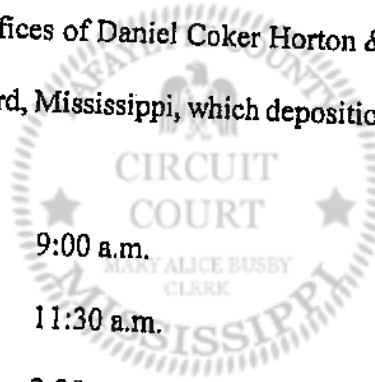
RICHARD SCRUGGS, ET AL.

DEFENDANTS

NOTICE OF DEPOSITION

PLEASE TAKE NOTICE that Plaintiff Jones, Funderburg, Sessums, Peterson & Lee, PLLC, by and through counsel, pursuant to Mississippi Rule of Civil Procedure 30 and the court's Order entered in this action on February 26, 2008, will take the depositions upon oral examination of the persons listed below commencing at the times indicated on Friday, April 18, 2008 before a duly authorized court reporter at the offices of Daniel Coker Horton & Bell, P.A. located at 265 North Lamar Boulevard, Suite R in Oxford, Mississippi, which depositions shall continue from day to day until completed.


- |    |               |            |
|----|---------------|------------|
| 1. | Meg McAlister | 9:00 a.m.  |
| 2. | David Nutt    | 11:30 a.m. |
| 3. | Don Barrett   | 2:30 p.m.  |



Respectfully submitted,

JONES, FUNDERBURG, SESSUMS,  
PETERSON & LEE, PLLC,

By and through counsel,

  
 \_\_\_\_\_  
 LeRoy D. Percy, MSB #10454  
 TOLLISON LAW FIRM, P.A.  
 100 Courthouse Square

LAFAYETTE COUNTY  
**FILED**  
 MAR 04 2008  
 Mary Alice Busby  
 CIRCUIT CLERK  
 BY AK D.C.

P.O. Box 1216  
Oxford, MS 38655  
Tel: (662) 234-7070  
Fax: (662) 234-7095

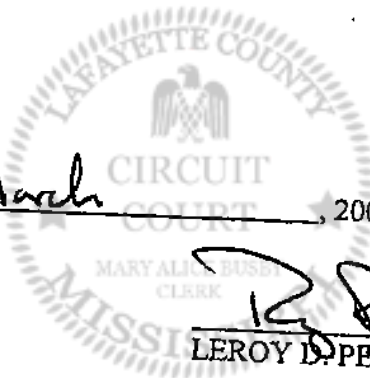
CERTIFICATE OF SERVICE

I, LeRoy D. Percy, hereby certify that I have this date caused to be mailed, first class postage prepaid, a true and correct copy of the above and foregoing to the following persons:

Wilton V. Byars, III  
DANIEL COKER HORTON & BELL  
265 North Lamar Boulevard, Suite R  
Oxford, Mississippi 38655

J. Cal Mayo, Jr.  
MAYO MALLETTE  
P.O. Box 1456  
Oxford, MS 38655

This the 4<sup>th</sup> day of March, 2008.



LRD  
LERROY D. PERCY

**- RE: Jones Funderburg v. Scruggs, et al.**

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**From:** "Roy Percy" <roy@tollisonlaw.com>  
**To:** "Larry Moffett" <LMoffett@Danielcoker.com>, "William Coleman"  
<judgewfc@bellsouth.net>  
**Date:** 4/4/2008 10:32:51 AM  
**Subject:** RE: Jones Funderburg v. Scruggs, et al.  
**CC:** "Shea Scott" <SScott@Danielcoker.com>, "Trey Byars" <Wbyars@Danielcoker.com>, "Cal Mayo" <cmayo@MAYOMALLETTE.com>, "Pope Mallette" <pmallette@MAYOMALLETTE.com>, "Paul Watkins" <pwatkins@MAYOMALLETTE.com>, "Bill Duke" <bill@tollisonlaw.com>, "Cameron Abel" <cameron@tollisonlaw.com>, "Grady Tollison" <grady@tollisonlaw.com>

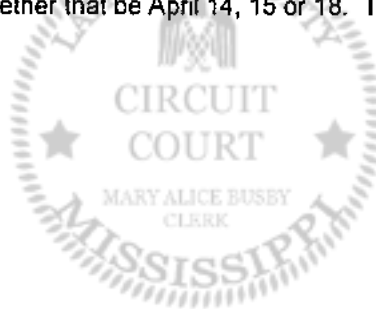
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Judge Coleman:

In response to Larry Moffett's email to you below, I am writing to confirm his representations to you regarding the availability of plaintiff's counsel for the sanctions hearing. Indeed we do have conflicts on April 16 and 17, but if the hearing commences on April 15 as currently scheduled, we will not oppose Mr. Moffett's request for a recess until April 18 so as to accommodate his witnesses. We will also consent to resetting the hearing to commence on April 18 if you see fit to do so, and we are also available to commence the hearing on April 14 if you wish. I cannot speak for the other parties of course, but we believe we can present our evidence and argument in support of our motion in a single day, whether that be April 14, 15 or 18. Thank you.

Respectfully,  
Roy Percy

Tollison Law Firm, P.A.  
100 Courthouse Square  
P.O. Box 1216  
Oxford, MS 38655  
Tel: (662) 234-7070  
Fax: (662) 234-7095



[www.tollisonlaw.com](http://www.tollisonlaw.com)

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**From:** Larry Moffett [mailto:LMoffett@Danielcoker.com]  
**Sent:** Friday, April 04, 2008 9:31 AM  
**To:** William Coleman  
**Cc:** Shea Scott; Trey Byars; 'Cal Mayo'; 'Pope Mallette'; 'Paul Watkins'; 'Bill Duke'; 'Cameron Abel'; 'Grady Tollison'; Roy Percy  
**Subject:** RE: Jones Funderburg v. Scruggs, et al.

Judge Coleman:

I have received your order setting the hearing in this matter for April 15, 2008. While we previously advised other counsel that we were available the entire week of April 14 - 18 for depositions or a hearing, we also advised that our clients had some scheduling conflicts during the week. For that reason, the depositions of our clients that were previously noticed in this matter were noticed for April 18.

Some of our clients have a conflict on April 15 and 17, including an appearance in another court, but all of our clients are available and can attend the hearing on April 16 or 18. However, counsel for plaintiff advised us yesterday that counsel for plaintiff is now unavailable on April 16. All counsel have stated that they are available on April 18 along with their clients.

EXHIBIT "2"

4/10/2008

If we must begin the hearing on April 15, we respectfully request that the Court allow a recess until April 18 before concluding the hearing so our clients may be present to testify on their behalf. Alternatively, everyone is available to conduct the hearing on April 18, so we could attempt to conduct the hearing in its entirety on that date and avoid any interruption in the proceedings. Other counsel have advised that they anticipate the proceedings may not take more than one day. Therefore, I respectfully request in the alternative, that the hearing be rescheduled for April 18, 2008.

We are available for a conference call to discuss this scheduling issue with the Court if the Court believes such a conference would be of assistance.

Please let me know how you wish to proceed, and I will submit a proposed order in accordance with your instructions. Thank you for your consideration.

Respectfully submitted,

Larry Moffett  
Counsel for Don Barrett, Barrett Law Office,  
Nutt & McAlister, and Lovelace Law Firm

Larry D. Moffett  
Daniel, Coker, Horton & Bell, P. A.  
Oxford Square North  
265 North Lamar, Suite R  
P.O. Box 1396  
Oxford, MS 38655  
662-232-8979  
662-232-8940 (fax)  
[lmoffett@danielcoker.com](mailto:lmoffett@danielcoker.com)

>>> "William Coleman" <[judgewfc@bellsouth.net](mailto:judgewfc@bellsouth.net)> 4/3/2008 10:43 AM >>>  
Order signed today and faxed to clerk. Time set for 9:30 AM.

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

**From:** Roy Percy [<mailto:roy@tollisonlaw.com>]  
**Sent:** Monday, March 31, 2008 4:10 PM  
**To:** 'Judge William Coleman'  
**Cc:** 'Trey Byars'; 'Larry Moffett'; 'Shea Scott'; 'Cal Mayo'; 'Pope Mallette'; 'Paul Watkins'; 'Grady Tollison'; 'Cameron Abel'; 'Bill Duke'; 'Roy Percy'  
**Subject:** Jones Funderburg v. Scruggs, et al.

RE: *Jones, Funderburg, Sessums, Peterson & Lee, PLLC v. Richard Scruggs, et al.*, in the Circuit Court of Lafayette County, Mississippi, No. L07-135

Dear Judge Coleman:

Attached for your consideration in both Wordperfect and PDF formats is a proposed order setting this cause for hearing on the plaintiff's Motion for Sanctions on April 15, 2008 in accordance with your instructions Friday.

If the order meets with your approval, please insert your preferred time of commencement, sign the order and provide it to the clerk for filing.

Thank you very much for your assistance, and please let me know if you need anything further.

Respectfully,  
Roy Percy

4/10/2008

Cc: Counsel of record

Tollison Law Firm, P.A.  
100 Courthouse Square  
P.O. Box 1216  
Oxford, MS 38655  
Tel: (662) 234-7070  
Fax: (662) 234-7095

[www.tollisonlaw.com](http://www.tollisonlaw.com)

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