

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

E.A. RENFROE & COMPANY, INC.,)
)
Plaintiff,)
)
-vs-)
)
CORI RIGSBY MORAN and)
KERRI RIGSBY)
)
Defendants.)
_____)

CIVIL ACTION NO. 06-WMA-1752-S

OPPOSED

EXPEDITED MOTION FOR LIMITED EXPEDITED DISCOVERY

Plaintiff E.A. Renfroe & Company, Inc. (“Renfroe”) files this Expedited Motion for Limited Expedited Discovery pursuant to LR26.1(c)(1)(B) seeking production of documents and the preliminary depositions of Defendants Cori Rigsby Moran and Kerri Rigsby before the time of the parties’ Rule 26 conference. Defendants are being served with this Expedited Motion at the same time they are being served with the Complaint and the Amended Complaint. Defendants have not yet, therefore, answered or appeared in this matter. The undersigned counsel is reluctant to talk to unserved parties who may or may not be represented by counsel. For these reasons I have not conferred with Defendants regarding this Motion and presume that they will oppose the Motion.

In support of this motion, Plaintiff respectfully shows the Court the following:

I. FACTUAL BACKGROUND

1. Defendants Cori Rigsby Moran and Kerri Rigsby (these sisters are referred to collectively as “the Rigsbys” or “Defendants”) were employed by Renfroe as insurance adjusters to provide risk management services for Renfroe’s clients such as State Farm Insurance Co. (“State Farm”). Defendants were deployed by Renfroe in 2005 to work on assignment with State Farm in connection with Hurricane Katrina. Their work included gathering information about insureds’ claims and evaluating and making recommendations regarding those claims.

2. As a part of the claims process, Renfroe’s clients and their insureds provide sensitive, private, personal, confidential claims-related information such as financial data and social security numbers and confidential, proprietary information relating to the claims process. In the course of Defendants’ Hurricane Katrina assignment, they created, obtained and otherwise became privy to this confidential information.

3. As a condition of their employment with Renfroe, the Defendants contractually agreed they had a continuing obligation not to misappropriate or disclose any confidential information of Renfroe, its clients or their insureds for Defendants’ own use or for the use of any other corporation, partnership, firm or

entity without proper authorization. This agreement is memorialized in their Employment Agreements at paragraph 6(a) on page 2. True and correct copies of the Employment Agreements are attached as Exhibits A and C and are fully incorporated herein by reference.

4. Defendants further recognized and agreed to the importance of and protection of this confidential information by signing Renfroe's Code of Conduct as part of their employment agreement. True and Correct copies of the signed Codes of Conduct are attached as Exhibits B and D and are fully incorporated herein by reference.

5. The Rigsbys further contracted to return all claims-related documents and property at the end of their employment.¹ The Rigsbys have resigned from Renfroe, and despite Renfroe's requests, have failed to return the documents and other property.

6. In violation of their Employment Agreements and the Code of Conduct, the Rigsbys, without permission or authorization, took over 15,000 pages of insurance claim records and other documents belonging to Renfroe and State Farm and gave them to their current employer, Richard "Dickie" Scruggs and his law firm (collectively, "Scruggs") for use in his clients' lawsuits against State Farm and others.

¹ Exhibits A and C at p. 3, ¶¶ 6(c) and (e).

7. The Rigsbys admitted in the national media² and on national television on August 25, 2006 to taking these documents, plus whatever knowledge and information they carry in their heads, and turning it over to Scruggs.

8. After the Defendants had abandoned their assignment, but before the Defendants appeared in the national media, Renfroe had asked the Defendants to follow Renfroe's check out procedure by completing a check out form which asks if all claims-related documents and materials have been returned. Cori Rigsby Moran refused to follow Renfroe's check out procedures. Kerri Rigsby did complete and sign the check out form on June 27, 2006, stating that she had returned all copies, paper and electronic, of the claims-related documents received or created for the Hurricane Katrina assignment. As of August 25, 2006, it became apparent that Kerri Rigsby seriously and materially misrepresented the status of the requested documents to Renfroe.

9. On learning of the Defendants' unauthorized misappropriation of these thousands of pages of documents and their wrongful delivery of these documents to Scruggs, Renfroe filed this lawsuit seeking *inter alia* to enjoin the Rigsbys from

² See Exhibit E, a true and correct copy of the Associated Press story carried on the internet by AOL News on August 26, 2006, in which Defendants admit they copied roughly 15,000 pages of claims records and gave them to Scruggs.

disseminating this confidential information to Scruggs or any other similarly situated unauthorized third party and to recover the documents and information.³

10. Because the Rigsbys made unauthorized copies of so many documents, and because the Rigsbys failed to tell Renfroe what documents they have taken and not returned, Renfroe has not been able to determine the scope and extent of the confidential information that has been removed from both Renfroe's and its clients' files and premises.

11. By this Motion, Renfroe seeks to take prompt, limited discovery including the depositions of both Defendants to determine the identity and contents of the 15,000 pages of documents they took without permission from the files and data bases of Renfroe and its clients. Renfroe also seeks to know the source and form of the documents, how the Defendants removed the documents from Renfroe or its clients, to whom the documents and copies have been distributed and to whom those persons may have further disseminated the documents.

12. In a Mississippi newspaper, The Sun Herald, an August 26, 2006 article by Anita Lee states that the sisters "spent an entire weekend printing out computer records from State Farm's system. The task was so large they recruited three

³ Please note that neither the lawsuit nor this Motion address any documents the Defendants may have provided to any law enforcement agencies or any governmental or regulatory investigators.

friends to help.”⁴ Renfroe seeks the identity of all individuals who participated in the removal of the confidential information from the computers and files of Renfroe and its clients.

13. Renfroe also seeks by expedited discovery production of all documents that the Rigsbys copied or disseminated to Scruggs and any other non-law enforcement or non-regulatory persons. Renfroe will need to review these documents before it can effectively depose the Defendants. These documents will, therefore, need to be produced a minimum of forty-eight (48) hours before the first deposition of the Defendants.

14. In addition to the documents, Renfroe is also entitled to know what additional confidential information the Rigsbys may have imparted to Scruggs and others and what is the impact of their current employment with Scruggs on their on-going duty to protect the confidential information of Renfroe, its clients and their insureds. Defendants have an on-going duty because their Employment Agreement requires them to protect the confidential information for two years after termination of their employment with Renfroe.⁵

15. These depositions and document production requests are limited in scope to the topics that may be needed for Renfroe to determine whether it needs to pursue

⁴ See Exhibit F. A true and correct copy of this article is attached and fully incorporated herein by reference.

⁵ Exhibits A and C at p. 2 ¶ 6(a).

a temporary restraining order or a temporary injunction. These initial depositions and document production requests are not designed or intended to be the complete discovery or depositions to be taken of the Defendants. Renfroe would take that complete discovery after the parties Rule 26 conference and in conformance with the Court's anticipated scheduling order.

16. Until Renfroe knows the identity and scope of the documents that Defendants have misappropriated and disseminated, it cannot provide the requisite detail for affidavits and other evidence needed for prosecution of its temporary and permanent injunction and cannot fully measure the economic damages it has suffered.

17. Additionally, because Scruggs, with Defendants' help, is believed to be actively prosecuting his clients' lawsuits against various insurance companies, including Renfroe's clients, it is urgent that Renfroe promptly determine the scope of the confidential information at issue and the extent to which the purloined documents have been misappropriated and disseminated. According to the Associated Press story, the first of Scruggs' cases against State Farm is scheduled to go to trial early next year.⁶ It is likely that a number of the documents at issue are currently being used and disseminated in his pre-trial preparations thereby necessitating this expedited Motion.

⁶ Exhibit E, p. 2.

18. Because it is urgent that Renfroe learn the identity of the misappropriated documents and extent of their wrongful dissemination so that it can take the necessary steps to protect its own confidential information and property as well as its clients' confidential information and property that Renfroe is contractually committed to protect, Renfroe respectfully requests this Court to expedite its consideration of this Motion and to allow Renfroe to have production of the documents and to depose both Defendants within fourteen (14) days of this Court's order.

V. PRAYER

ACCORDINGLY, Renfroe respectfully requests that this Court expedite its consideration of this Motion and grant its Motion for Expedited Discovery. Renfroe further respectfully requests that this Court order that Defendants produce the documents at issue and further, after due notice, that Defendants present themselves for these depositions within fourteen days from the date this Court's order is signed, as well as such other and further relief, general or special, legal or equitable, to which Renfroe may show itself justly and equitably entitled.

Respectfully submitted this 6th day of September, 2006.

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument was served on Defendants, who have not yet answered in this matter and whose counsel of record is not yet known, by certified United States mail, return receipt requested and by delivery to a private process server on September 6, 2006.

s/Robert F. Northcutt
Robert F. Northcutt