

## U.S. Attorney subpoena's engineering firm's computer hard drive

U.S. Attorney seeks computer hard drive in ongoing Katrina probe

By Michael Kunzelman, Associated Press Writer

NEW

ORLEANS -- An engineering firm that helped adjust insurance claims on the Gulf Coast after Hurricane Katrina is seeking to block an employee's computer hard drive from being turned over to a federal grand jury in Mississippi.

Forensic Analysis & Engineering Corp. asked a federal judge on Wednesday to bar Zach Scruggs - an attorney for hundreds of homeowners suing insurers after Katrina - from complying with a subpoena for the hard drive obtained by U.S. Attorney Dunn Lampton.

Lampton, whose jurisdiction includes Mississippi's Gulf Coast, has convened a grand jury that is believed to be investigating the insurance industry's handling of claims after Hurricane Katrina.

Some state and federal officials and homeowners' attorneys have accused insurers of overbilling the federal government billions of dollars for Katrina's flood damage. The companies say their policies cover damage from wind but not rising water. They sell separate flood insurance policies that are subsidized by the federal government.

Forensic says it doesn't want to interfere with Lampton's investigation, but argues that its employee's hard drive may contain privileged information that should remain confidential.

Scruggs' firm, for one of its cases against State Farm Fire & Casualty Co., obtained the hard drive from Forensic employee Nellie Williams in July. Forensic, which helped State Farm adjust claims after Katrina, says Scruggs' firm wasn't entitled to obtain the hard drive.

On Oct. 9, U.S. Magistrate Judge Robert Walker in Gulfport, Miss., agreed to temporarily block Scruggs from disseminating any information obtained from the hard drive. Two days later, however, Lampton's office served Scruggs with the subpoena for the hard drive.

Scruggs subsequently asked for Walker's permission to comply with the subpoena. Walker hasn't ruled on that request. Forensic's lawyers say the timing of Lampton's subpoena was "odd, but coincidence just cannot be the explanation." Instead, the firm's attorneys claim Scruggs tipped off Lampton's office to the existence of the hard drive "in direct contravention" to Walker's order.

"Knowledge of the exact location of the hard drive and its potential contents are most likely not a lucky guess," Forensic attorney Kathryn Platt wrote.

Richard "Dickie" Scruggs, Zach's father and law partner, said they told federal investigators about the hard drive before Walker issued his Oct. 9 order. "We weren't trying to circumvent Judge Walker's order," he added. "We have complied with the letter and the spirit of his order." A spokeswoman for Lampton's office declined to comment on the subpoena or on the grand jury's proceedings.

In May, Allstate Corp. and Nationwide Mutual Insurance Co. disclosed that they have been subpoenaed by a federal grand jury in Mississippi and would be cooperating with its probe of Katrina insurance claims.

Lawyers for State Farm also have confirmed that at least two of its employees were targets of a federal grand jury's probe of its Katrina claims handling in Mississippi. But it wasn't immediately clear whether the Allstate and Nationwide subpoenas were linked to the same probe.

"It's hard to tell where they're aiming," Scruggs said of the grand jury proceedings. "They haven't shared it with me."

Scruggs also has cooperated with Mississippi Attorney General Jim Hood, whose office has investigated allegations that insurers fraudulently denied claims after Katrina. Scruggs' firm provided Hood's office with copies of internal

State Farm documents obtained by two sisters who helped the company adjust claims.

In June, however, U.S.

District Judge William Acker in Alabama ruled that Scruggs "willfully" violated a court order to return the documents. Acker named two special prosecutors to handle the case after U.S. Attorney Alice Martin declined to prosecute Scruggs for criminal contempt charges.

Forensic said Scruggs'

handling of the hard drive is "not completely dissimilar" from the contempt proceedings in Alabama. Scruggs, for his part, rejected that comparison.