

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

ALEXANDRA SIMS

PLAINTIFF

v.

No. 4:13CV00371 JLH

STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY

DEFENDANT

ORDER

Dr. Scott Harter has filed a motion to quash subpoena duces tecum issued by State Farm Mutual Automobile Insurance Company seeking his attendance at a deposition on April 1, 2015. Dr. Harter previously gave expert testimony for the defense in the case of *Alexandra Sims v. William B. Stillman, Doris E. Stillman and John Doe*, Lonoke County Circuit Court No. CV-2010-552-3. State Farm now seeks to use the testimony developed in that case for defending in the present action. Sims supports the motion to quash and states that Dr. Harter was improperly retained as an expert by the defense lawyer in *Sims v. Stillman*.

Dr. Harter's motion to quash the subpoena duces tecum is granted. Dr. Harter cannot be compelled to give expert testimony through a subpoena, nor can the Court require him to agree to be retained in this action to testify for the defense. Nevertheless, if Dr. Harter's deposition testimony is otherwise admissible, the defense may use it pursuant to Rule 32(a) of the Federal Rules of Civil Procedure.

Alexandra Sims' response in support of Dr. Harter's motion to quash essentially is a motion in limine to prevent Dr. Harter from being allowed to testify as a defense expert, and the Court will treat it as a motion in limine. State Farm must respond to the arguments stated by Sims in her response (Document #45) within fourteen days from the date that the response was filed. If Sims wishes to file a reply, she may do so within seven days after State Farm's response is filed.

For the reasons stated, Dr. Scott Harter's motion to quash is GRANTED. Document #37.
He will not be required to attend the deposition on April 1, 2015.

IT IS SO ORDERED this 26th day of March, 2015.



J. LEON HOLMES
UNITED STATES DISTRICT JUDGE