

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
HATTIESBURG DIVISION**

**STATE FARM FIRE AND CASUALTY
COMPANY and STATE FARM
MUTUAL AUTOMOBILE INSURANCE
COMPANY**

PLAINTIFFS

V.

CIVIL ACTION NO. 2:07CV188-KS-MTP

**JIM HOOD, IN HIS OFFICIAL
CAPACITY AS ATTORNEY GENERAL
OF THE STATE OF MISSISSIPPI**

DEFENDANT

MOTION FOR CLARIFICATION OF NOVEMBER 2, 2007 ORDER

COMES NOW, Jim Hood, in his official capacity as Attorney General of the State of Mississippi, and moves the Court for a clarification of its November 2, 2007 Order as follows:

I. Prior to the commencement of the hearing in this cause on November 1, 2007, and specifically, by telephonic conference held on October 31, 2007, this Court quashed the subpoena ad testificandum and subpoena duces tecum served upon Jim Hood. In lieu of Mr. Hood, two representatives of the Attorney General's office were tendered for testimony, including Ed Snyder and Scott Johnson. The Attorney General was excused from testimony on the basis that others could testify on certain specified subject matter which was made known to the Court.

II. At the hearing on November 1, 2007, Ed Snyder was able to testify about all matters for which it was believed testimony was necessary as outlined to the Court by State Farm in the October 31, 2007 telephonic hearing on Defendant's Motion to Quash. However, Mr. Snyder was unable to testify regarding the discussions and agreement between State Farm and Attorney General Jim Hood *as regards only the second paragraph of the January 23, 2007 letter from Attorney General Jim Hood to James Tucker, counsel for State Farm.* Otherwise, Mr. Snyder

was able to testify regarding the remaining designated subject matter, thereby serving the purpose represented on October 31, 2007.

III. This hearing is scheduled to resume at 10:00 a.m. on the morning of November 7, 2007. The general elections for the State of Mississippi are held on November 6, 2007, the day prior to the reconvening of this hearing. Not only is Attorney General Jim Hood a candidate for re-election on November 6, 2007, but also, he and his office are charged with oversight responsibilities and law enforcement responsibilities with regard to certain aspects of the general elections, on a state-wide basis. The Attorney General has been and will be dedicated to this official function.

Because of the tremendous responsibilities placed upon the office of the Attorney General, and upon Attorney General Hood specifically, in connection with the November 6, 2007 general election, it is not reasonably possible for Attorney General Hood to prepare to give testimony on the tremendously broad subject matter areas in which inquiry has already been made by counsel for State Farm. Indeed, to require Attorney General Hood to testify without limitations on the scope of his testimony and the scope of counsel's inquiry, would be per se prejudicial to the Office of the Attorney General and thus to the State of Mississippi under the existing circumstances.

IV. This Court has previously stated that it is likely that a third day of testimony would be required for this matter to be concluded. Accordingly, Defendant Attorney General Hood requests the Court to grant him the following relief:

1. To enter an Order requiring that Attorney General Hood be required to attend only the third day of this evidentiary hearing in lieu of his appearance on November 7, 2007 at 10:00 a.m.; or

2. That Attorney General Hood be required only to give testimony regarding the second paragraph of the January 23, 2007 letter to which Mr. Snyder testified on the date of November 1, 2007, reserving any decision as to whether further areas of inquiry will be allowed until the third day of this evidentiary proceeding.

3. Absent the rescheduling of Attorney General Hood's testimony, and because of his ongoing duties, and the duties of his office existing through the date of November 6, 2007, the Office of the Attorney General and the State of Mississippi would suffer irreparable prejudice by the inability of Attorney General Jim Hood to properly prepare in advance of the November 7, 2007 hearing. Accordingly, Defendant Jim Hood, in his official capacity as Attorney General of the State of Mississippi prays that this Court will grant him relief from the November 2, 2007 Order as prayed for hereinabove.

Respectfully submitted,

FOR THE DEFENDANT, JIM HOOD, IN HIS OFFICIAL
CAPACITY AS ATTORNEY GENERAL OF THE
STATE OF MISSISSIPPI

BY: /s J. Lawson Hester
J. LAWSON HESTER

OF COUNSEL:

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CERTIFICATE OF SERVICE

I, J. Lawson Hester, Counsel for Defendant Attorney General Jim Hood, do hereby certify that I have this day caused a true and correct copy of the foregoing instrument to be delivered to the following, via the ECF electronic filing system:

Robert C. Galloway
Butler, Snow, O'Mara, Stevens, and Cannada, PLLC
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THIS the 5th day of November, 2007.

/s J. Lawson Hester
J. LAWSON HESTER