

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

VERSUS

CIVIL ACTION NO. 2:07cv188 KS-MTP

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

DEFENDANT

ORDER

THIS MATTER is before the court on defendant Jim Hood's motion to clarify [71] this court's November 2, 2007 order requiring Mr. Hood to appear in person and give testimony at the second day of hearings on State Farm's motion for a preliminary injunction, scheduled for tomorrow, November 7, 2007, at 10:00 a.m. in Jackson, Mississippi. Having considered the motion and the response, for the reasons set forth below the court finds that the motion should be DENIED.

Mr. Hood was previously served with a subpoena ad testificandum for the first day of the preliminary injunction hearing (held on November 1, 2007), which this court quashed on October 31, 2007. The court did so in an effort to accommodate Mr. Hood, and based upon Mr. Hood's representation that two witnesses designated by him would appear instead and would be able to testify regarding all the matters for which Mr. Hood's testimony was sought. However, at the hearing on November 1st it became apparent that these witnesses would not, in fact, be able to provide the necessary testimony regarding these matters or other areas of inquiry. Accordingly, at the close of the November 1st hearing, State Farm made an ore tenus motion for an order

directing Mr. Hood to personally appear at the second day of hearings, scheduled for November 7, 2007, a date agreed to by the parties. This court granted that motion by Order dated November 2, 2007 [57], finding that Mr. Hood's presence was necessary to fully address the issues raised by the parties.

Mr. Hood now moves the court to modify its Order and grant him the following relief: 1) to require that in lieu of attending the hearing tomorrow, he be ordered to attend only the third day of the hearing (which has not yet been scheduled and, in fact, might not be necessary); or 2) to order that the scope of his testimony at tomorrow's hearing be limited, and that any decision as to whether further areas of inquiry will be allowed be reserved until the third day of the hearing. The basis for Mr. Hood's motion is the fact that the general elections for the State of Mississippi (in which Mr. Hood is a candidate for re-election) are being held today, and that because of his and his office's responsibilities in connection with the election, he will be unable to properly prepare for tomorrow's testimony, thereby prejudicing his office and the State of Mississippi.

The court finds that neither of Mr. Hood's requests for relief should be granted. The court is not convinced that today's election somehow prevents Mr. Hood from being able to appear and testify tomorrow or prejudices him in any way, particularly in light of the fact that this action, to which Mr. Hood is a party, has been pending since September 13, 2007, the issues have been identified, and Mr. Hood has known since last week that he would be testifying tomorrow. As previously found by this court, Mr. Hood's presence and testimony at the hearing tomorrow is necessary and required. Moreover, the court does not find it appropriate - at least at this juncture - to limit the scope of Mr. Hood's testimony.

IT IS, THEREFORE, ORDERED AND ADJUDGED that Jim Hood's motion to clarify

[71] is denied, and that Mr. Hood is directed to appear and give testimony at tomorrow's preliminary injunction hearing, as previously ordered by this court.

SO ORDERED on this the 6th day of November, 2007.

s/ Michael T. Parker

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United States Magistrate Judge