

REVIEW & OUTLOOK

Mississippi Hoods

It isn't often that a state Attorney General finds himself on the wrong end of a lawsuit. Then again, it isn't often that a state Attorney General has such a cavalier approach to the law as Mississippi's Jim Hood.

Since Hurricane Katrina, the AG has been waging a legal and PR war against State Farm and other insurance companies, a populist campaign that helped win him a second term last week. Weary of being a political piñata, State Farm has now turned the tables with a federal lawsuit against Mr. Hood. The suit accuses him of breaching a non-prosecution agreement, using his power to retaliate against the insurer over separate litigation, and colluding with tort lawyers to purloin documents and assist in *their* lawsuits. The details are colorful, if you find legal abuse entertaining.

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Mr. Hood's low-jinks were supposed to have ended in January, when State Farm agreed to settle. The insurer had been fighting a Hood civil suit for refusing to pay for flood damage, even though its policies clearly excluded such claims. But when Mr. Hood cranked up a criminal probe, and State Farm lost a case in court, the insurer decided to cut its losses.

State Farm agreed to reopen some 35,000 claims and to pay off suits brought by Mr. Hood's friend and political ally, tort baron Dickie Scruggs. It also wrote a check for \$5 million to cover the AG's investigation costs. In return, the prosecutor signed a paper agreeing to "conclude" his investigation and to "not bring criminal charges against State Farm or any of its employees . . ."

However, this is Mississippi. After federal Judge L.T. Senter Jr. blocked the settlement on fairness grounds, Mr. Hood promptly reneged. By June, he had ginned up another complaint against State Farm, this time for breaching the settlement that the judge had declared invalid. By August, Mr. Hood was busy with a *new* criminal investigation, despite his prior legal agreement not to do so.

State Farm then filed its countersuit, and its complaint is a study in the marauding tactics of the modern Attorney General. Most revealing are details showing how closely Mr. Hood worked with the trial bar—a strategy designed to pressure State Farm to settle both with the state and the tort posse.

Many of these details are wrapped up in a separate case involving a State Farm contractor, E.A. Renfroe. Not long after Katrina, tort king Mr. Scruggs convinced two Renfroe employees—sisters Cori Rigsby Moran and Kerri Rigsby—to steal documents to aid his civil litigation against State Farm. According to previously filed court documents, the women were performing this clandestine work for Mr. Scruggs.

However, the State Farm complaint says Mr. Hood also knew about the Rigsby sisters, and that they were also acting as his agents in collecting State Farm documents. State Farm says this amounts to "warrantless searches and seizures of State Farm property"—a valid point, given that prosecutors

have subpoena power precisely so they can obtain documents legally. If this is true, Mr. Hood was allowing state informants to simultaneously conduct discovery in aid of Mr. Scruggs's private litigation.

The State Farm complaint also notes that former Mississippi Attorney General Mike Moore, "acting as an agent of Attorney General Hood, was involved in compiling information from State Farm for use by Attorney General Hood in his criminal investigation of State Farm." It also points out that Mr. Moore has appeared as a private attorney for policyholders suing State Farm. The idea of a lawyer working both in a criminal investigation for the state and as a private attorney for plaintiffs is ethically outrageous.

Renfroe later sued the Rigsby sisters to have the documents returned, and the State Farm complaint says Mr. Hood was "angered" by that litigation and wanted State Farm to pressure Renfroe to drop the case. As State Farm and Mr. Hood continued to talk about a settlement this February, the complaint says Mr. Moore, working as "Attorney General Hood's agent," sent an email to State Farm officials stating: "can we get renfroe [sic] settled, its [sic] holding up progress on my end . . ." Two days later Mr. Moore sent another email to State Farm: "I am told that the Renfroe lawyers made unreasonable demands for resolving the issues on the Rigsby sisters issue today . . . I am going to wait til tomorrow to report to the Attorney General what they are up to because the response will not be pretty."

A federal judge later found that Messrs. Hood and Scruggs had "teamed up to bully State Farm into civil and criminal settlements," and ordered Mr. Scruggs to return the documents. Instead, Mr. Scruggs defied the judge's order by shipping them to Mr. Hood. This caused federal Judge William Acker in June to request that the U.S. Attorney prosecute Mr. Scruggs for criminal contempt.

Once again Mr. Hood rode to the rescue of his partner in shakedowns, sending a letter to the U.S. Attorney requesting that she not prosecute Mr. Scruggs because he was a "confidential informant" of the state. The prosecutor acquiesced, which inspired an angry Judge Acker to appoint three special prosecutors. (Mr. Scruggs is due to be arraigned shortly before Thanksgiving.) By the way, Mr. Scruggs made a \$33,000 campaign contribution to Mr. Hood in July. About a week after receiving it, Mr. Hood sent a letter to federal authorities confirming he'd re-initiated his criminal probe of State Farm, and that this time he viewed Renfroe as a "potential co-conspirator."

You can't make this stuff up.

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Mr. Hood has tried to keep all of this under seal, but we're delighted to make it public. The Hood-Scruggs story is all too typical of the way state Attorneys General and the tort bar are teaming up to shake down political targets. Congratulations to State Farm for fighting back.

State Farm fights back against Jim Hood and Dickie Scruggs.