

Serial: **220149**

**IN THE SUPREME COURT OF MISSISSIPPI**

**No. 2017-M-01450-SCT**

***GOOGLE, INC.***

***Petitioner***

***v.***

***THE STATE OF MISSISSIPPI, EX REL.,  
JIM HOOD, ATTORNEY GENERAL***

***Respondents***

**ORDER**

Before the Court en banc is Google, Inc.'s Motion for Reconsideration of Order Denying Petition for Interlocutory Appeal. On January 31, 2018, the panel of Randolph, P.J., King, and Ishee, JJ., denied Google's Petition for Interlocutory Appeal and Motion for Stay. On February 14, 2018, Google moved this Court to reconsider the denial of interlocutory appeal. After considering the matter en banc, this Court finds Google's motion is not well-taken and should be denied.

IT IS THEREFORE ORDERED that the Motion for Reconsideration of Order Denying Petition for Interlocutory Appeal is denied.

SO ORDERED, this the 8th day of August, 2018.

James D. Maxwell II

JAMES D. MAXWELL II, JUSTICE

**RANDOLPH, P.J., KING, MAXWELL, BEAM, CHAMBERLIN AND ISHEE, JJ.,  
AGREE.**

**WALLER, C.J., OBJECTS WITH SEPARATE WRITTEN STATEMENT JOINED  
BY COLEMAN, J.**

**KITCHENS, P.J., NOT PARTICIPATING.**

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**WALLER, CHIEF JUSTICE, OBJECTING TO THE ORDER WITH  
SEPARATE WRITTEN STATEMENT:**

¶1. The State of Mississippi sued Google, Inc., in Lowndes County Chancery Court for violating the Mississippi Consumer Protection Act (“MCPA”), specifically seeking an injunction under the Mississippi Code Section 75-24-9. Google, Inc., filed a Motion to Dismiss for improper venue, citing as authority the venue clause in Section 75-24-9, which provides in relevant part:

The action *shall* be brought in the chancery court or county court of the county in which [the defendant] *resides* or has his *principal place of business* . . . .

Miss. Code Ann. § 75-24-9 (Rev. 2016) (emphasis added). It is undisputed that Google, Inc., neither resides nor has its place of business in Lowndes County, Mississippi.

¶2. Despite the mandatory nature of the statute, the trial court denied Google, Inc.’s, motion relying on the general *circuit court* venue statute, Mississippi Code Section 11-11-3 (Rev. 2004), and a withdrawn opinion of this Court, ***Board of Trustees of State Institutions of Higher Learning v. Van Slyke***, 1986 Miss. LEXIS 2811, \*6 (Miss. 1986), *reh’g granted and withdrawn*, 510 So. 2d 490 (Miss. 1987).

¶3. Google, Inc., filed a petition for interlocutory appeal which was denied by a panel of this Court, Randolph, P.J., King and Ishee, JJ. A Motion for Reconsideration was filed by Google, Inc., pursuant to Mississippi Rule of Appellate Procedure 27(h). Google, Inc., has met the threshold requirement for reconsideration by identifying a specific error of law by the trial court. *See* Miss. R. App. P. 27.

¶4. If venue properly lies in Lowndes County, this Court should give a legal basis for the same. It is clear that a “substantial basis exists for a difference of opinion on a question of law” and review is needed to “(3) resolve an issue of general importance in the administration of justice.” Miss. R. App. P. 5(a) & 5(a)(3).

¶5. I would grant the motion for reconsideration and grant the petition for interlocutory appeal filed by Google, Inc.

**COLEMAN, J., JOINS THIS SEPARATE WRITTEN STATEMENT.**