

IN THE SUPREME COURT OF MISSISSIPPI

NO. 2017-IA-01558-SCT

LIBERTY MUTUAL INSURANCE COMPANY

v.

STATE OF MISSISSIPPI EX REL. JIM HOOD

DATE OF JUDGMENT:	10/24/2017
TRIAL JUDGE:	HON. TOMIE T. GREEN
TRIAL COURT ATTORNEYS:	CECIL MAISON HEIDELBERG GEORGE W. NEVILLE BENJAMIN GILBERT BRYANT LUCIEN SMITH WILLIAM E. COPLEY WILLIAM L. SMITH JACQUELINE H. RAY CRYMES G. PITTMAN CLIFFORD KAVANAUGH BAILEY, III GREGG A. CARAWAY MARY JO WOODS GEOFFREY C. MORGAN AUGUST J. MATTEIS, JR. MATTHEW S. KRAUSS SEAN J. WILLIAMS
COURT FROM WHICH APPEALED:	CIRCUIT COURT OF THE FIRST JUDICIAL DISTRICT OF HINDS COUNTY
ATTORNEYS FOR APPELLANT:	GREGG A. CARAWAY CLIFFORD KAVANAUGH BAILEY, III JUDY Y. BARRASSO STEPHEN L. MILES CHLOE M. CHETTA

ATTORNEYS FOR APPELLEE: GEORGE W. NEVILLE
 DONALD L. KILGORE
 JACQUELINE H. RAY
 WILLIAM L. SMITH
 W. LUCIEN SMITH
 BENJAMIN GILBERT BRYANT
 CRYMES G. PITTMAN
 WILLIAM E. COPLEY
 CECIL MAISON HEIDELBERG
NATURE OF THE CASE: CIVIL - INSURANCE
DISPOSITION: VACATED AND REMANDED - 08/22/2019
MOTION FOR REHEARING FILED:
MANDATE ISSUED:

EN BANC.

MAXWELL, JUSTICE, FOR THE COURT:

¶1. This is a sister appeal to *Safeco Insurance Company of America v. State*, No. 2017-IA-01554-SCT (Miss. Aug. 22, 2019) (*Safeco*).¹ But unlike *Safeco*, there is no issue of case reassignment from one judge’s docket to another. The only issue in this appeal is the trial court’s appointment of a special master.

¶2. The order appointing the special master to the case against Liberty Mutual Insurance Company is almost verbatim to the appointment order in *Safeco*. Thus, this order also falls outside the discretionary bounds of Mississippi Rule of Civil Procedure 53. For the same reasons articulated in *Safeco*, we vacate the order appointing the special master and remand this case for further proceedings consistent with this opinion.

¶3. Liberty Mutual also asks this Court to appoint a special judge to preside over this case.

¹ This appeal previously had been consolidated with two other appeals—*Safeco*, No. 2017-IA-01554-SCT, and *Vinod Khosla et al. v. State*, No. 2017-IA-01637-SCT (Miss. Aug. 22, 2019) (*Cannon*). But by separate order, the three appeals have been de-consolidated.

But a majority of this Court does not find the record before us sufficient for this Court to invoke Mississippi Code Section 9-1-105(2) (Rev. 2014) in this case. On remand, if Judge Green is convinced additional judicial resources are necessary, Section 9-1-105(2)² authorizes her to request the Chief Justice appoint a special judge to preside in this case or to assist the Hinds County Circuit Court in the prompt administration of justice.

¶4. **VACATED AND REMANDED.**

RANDOLPH, C.J., COLEMAN, BEAM, CHAMBERLIN, ISHEE AND GRIFFIS, JJ., CONCUR. KING, P.J., DISSENTS WITH SEPARATE WRITTEN OPINION JOINED BY KITCHENS, P.J.

KING, PRESIDING JUSTICE, DISSENTING:

¶5. For the reasons stated in the dissenting portion of my opinion in *Safeco Insurance Co. of America v. State*, No. 2017-IA-01554-SCT (Miss. Aug. 22, 2019), I respectfully dissent.

KITCHENS, P.J., JOINS THIS OPINION.

² Subsection (2) of Section 9-1-105 reads as follows:

Upon the request of the Chief Judge of the Court of Appeals, the senior judge of a chancery or circuit court district, the senior judge of a county court, or upon his own motion, the Chief Justice of the Mississippi Supreme Court, with the advice and consent of a majority of the justices of the Mississippi Supreme Court, shall have the authority to appoint a special judge to serve on a temporary basis in a circuit, chancery or county court in the event of an emergency or overcrowded docket. It shall be the duty of any special judge so appointed to assist the court to which he is assigned in the disposition of causes so pending in such court for whatever period of time is designated by the Chief Justice. The Chief Justice, in his discretion, may appoint the special judge to hear particular cases, a particular type of case, or a particular portion of the court's docket.

Miss. Code Ann. § 9-1-105(2).