Serial: **215170**

IN THE SUPREME COURT OF MISSISSIPPI

No. 2015-CA-01886-SCT

HYUNDAI MOTOR AMERICA AND HYUNDAI MOTOR COMPANY — ***Appellants***

v.

OLA MAE APPLEWHITE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF AND WRONGFUL DEATH BENEFICIARIES OF DOROTHY MAE APPLEWHITE, DECEASED, CEOLA WADE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF AND WRONGFUL DEATH BENEFICIARIES OF ANTHONY J. STEWART, DECEASED, AND KENNETH CORDELL CARTER, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF AND WRONGFUL DEATH BENEFICIARIES OF CECILIA COOPER, DECEASED — ***Appellees***

ORDER

In the interest of justice, this Court "may suspend the requirements or provisions of any of these rules in a particular case . . . on its own motion and may order proceedings in accordance with its direction." M.R.A.P. 2(c). On its own motion, this Court stays this appeal pending further order of this Court and issues this order of direction.

Hyundai filed a Supplemental Motion for New Trial or for Relief from Judgment under Rule 60(b), for a Post-Trial Hearing to Investigate Possible Outside Influences on the

Jury, and for Other Relief. Subsequently, Hyundai filed a Supplemental Submission in support of its motion, "seeking targeted discovery, an investigation, and such further relief as may be proper with respect to improper outside influence on the jury in this case." Finally, Hyundai filed its Second Supplemental Submission in support of its motion, seeking, at a minimum, the production of telephone records and targeted depositions. We have examined the motions and plaintiffs' responses to all three, and find that the trial court erred in denying Hyundai's motions and remand this case for discovery and investigation, and a full and complete hearing to determine if "extraneous prejudicial information was improperly brought to the jury's attention" or if "an outside influence was improperly brought to bear on any juror." M.R.E. 606(b)(2).

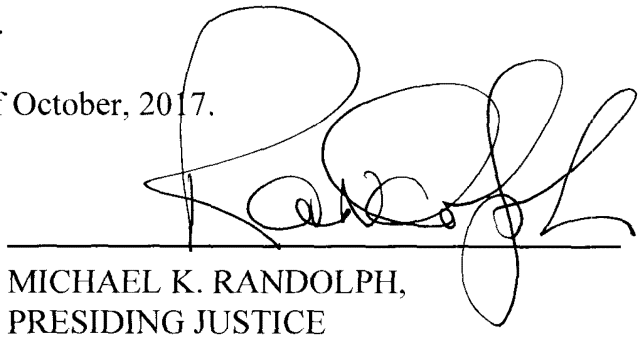
On remand, the parties are entitled to conduct discovery and depositions as provided in Chapter 5 of the Mississippi Rules of Civil Procedure, Rules 26 through 37, and to obtain and issue subpoenas pursuant to Rule 45 as part of their investigation. The trial court is instructed to allow full discovery and a complete investigation of any outside influences which may have brought "a taint of unfairness, real or perceived, to the pre-trial proceedings." ***Hunter v. General Motors Corp.***, 729 So. 2d 1264, 1279 (Miss. 1999). The trial court is also instructed to conduct a hearing once discovery and an investigation have been completed pursuant to Rule 606(b) of the Mississippi Rules of Evidence.

IT IS THEREFORE ORDERED that this appeal is stayed pending further order of this Court.

IT IS FURTHER ORDERED that the trial court's denial of Hyundai's Supplemental Motions for New Trial or for Relief from Judgment under Rule 60(b), for a Post-Trial Hearing to Investigate Possible Outside Influences on the Jury, and for Other Relief is vacated.

IT IS FURTHER ORDERED that the parties are entitled to conduct discovery and depositions as provided in Chapter 5 of the Mississippi Rules of Civil Procedure, Rules 26 through 37, and to obtain and issue subpoenas pursuant to Rule 45 as part of their investigation. The trial court is instructed to conduct a hearing once discovery and an investigation have been completed pursuant to Rule 606(b) of the Mississippi Rules of Evidence. The trial court is then directed to certify a supplemental record on appeal in this appeal and file it with the clerk of this Court.

SO ORDERED, this the 18 day of October, 2017.



MICHAEL K. RANDOLPH,
PRESIDING JUSTICE
FOR THE COURT

JOIN: WALLER, C.J., RANDOLPH, P.J., BEAM AND ISHEE, JJ.

COLEMAN, J., JOINS WITH SEPARATE WRITTEN STATEMENT JOINED IN PART BY KITCHENS, P.J., AND KING, J.

KITCHENS, P.J., OBJECTS TO THE ORDER WITH SEPARATE WRITTEN STATEMENT JOINED BY KING, J.; COLEMAN, J., JOINS IN PART.

NOT PARTICIPATING: MAXWELL AND CHAMBERLIN, JJ.

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COLEMAN, JUSTICE, JOINS WITH SEPARATE WRITTEN STATEMENT:

¶1. One cannot overstate the essential nature of jury integrity. Maintaining the integrity of the jury panel is paramount, foundational, and critical to the American system of justice. Accordingly, I join in today's order finding that the trial judge erred by not allowing Hyundai to conduct additional discovery on the jury tampering issue. However, I do so with a concern.

¶2. The Mississippi Rules of Professional Conduct require lawyers to wear more than one hat. The Preamble to the Rules of Professional Conduct begins, "A lawyer is a representative of clients, an officer of the legal system and a public citizen having special responsibility for

the quality of justice." It is clear enough that investigating alleged jury tampering falls under the second two duties. It is the effect of the Court's action today on the first that concerns me.

¶3. Hyundai raised the alleged jury tampering in its brief on appeal and, *inter alia*, asked the Court to hold the trial court erred by refusing to allow additional discovery on the issue. Today, we agree with Hyundai and grant the relief it requested. However, we do so with absolute silence as to the other assignments of error made by Hyundai on appeal. From today's order, the parties and their attorneys have no idea whether the verdict would otherwise have been reversed or affirmed. The Court denies all of the parties and their attorneys the means to valuate the resources they will be expending on additional discovery and a hearing in the context of the litigation in which they are involved. For example, if the Court were to find reversible error elsewhere, then Hyundai in consultation with its attorneys may well decide to allocate its resources in preparation for the new trial, if any, rather than on deposition and discovery costs and the additional attorneys' fees Hyundai will incur. On the other hand, if no reversible error can be found, then Hyundai and the plaintiffs should be allowed to understand the stakes as they move forward with discovery and toward an eventual hearing.

¶4. In short, I discern no good reason to keep the parties in the dark regarding the disposition of the other assignments of error suggested on appeal, and several compelling reasons to reveal our disposition of the remaining issues come to mind. I would issue an opinion or opinions, as necessary, to address all of the issues presented and inform the parties

and lower court of any other grounds for reversal, if any. In not doing so, we unnecessarily hamstring the parties and their attorneys. We deprive the attorneys of the ability to fully counsel their clients as to the best way to pursue the parties' goals in the litigation, and we leave the parties to pay for an investigation that, depending on the outcome of the other issues raised on appeal, one or both of them may no longer want.

KITCHENS, P.J., AND KING, J., JOIN THIS SEPARATE WRITTEN STATEMENT IN PART.

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KITCHENS, PRESIDING JUSTICE, OBJECTING TO THE ORDER WITH SEPARATE WRITTEN STATEMENT:

¶5. Rather than issuing a timely decision adjudicating the issues presented in this appeal, of which the question of alleged jury tampering was but one of many, the majority takes the unusual step of staying the appeal and, without providing any analysis of the facts and law, remanding the case with an order for the trial court to oversee the parties as they conduct full discovery and a complete investigation to be followed by yet another hearing on the issue of jury tampering. In fact, the trial court already held an extensive hearing on Hyundai's allegations of jury tampering, following which it determined that Hyundai had failed to make

a sufficient showing for further investigation, which requires a good cause showing of specific instances of misconduct and preferably one that clearly substantiates that a "specific, non-speculative impropriety has occurred." ***Gladney v. Clarksdale Bev. Co., Inc.***, 625 So. 2d 407, 419 (Miss. 1993). My review of the record has led me to conclude that the trial court was well within its discretion in deciding that such a showing had not been met. I am mystified by this Court's decision not to issue an opinion in this case to address this issue along with the others presented by the parties which, if any is deemed reversible error, would obviate the need for an investigation of the verdict, with any concerns about attorney misconduct being referred to the Mississippi Bar.

¶6. This Court often has recognized that public policy favors an end to litigation. ***Roach v. State***, 116 So. 3d 126, 131 (Miss. 2013). Thus, as with any jury trial, a presumption of jury impartiality applies as a starting point in this case. ***Id.*** at 133. Jurors have a right to be "free from harassment and secure in their verdict." ***Gladney***, 625 So. 2d at 418. "[T]here is a general reluctance after verdict to haul in and probe jurors for potential instances of bias, misconduct, or extraneous influences." ***Id.*** We do not condone an inquiry into the verdict as a "mere fishing expedition." ***Id.***

¶7. In light of these important and time-tested considerations, this Court carefully has crafted a specific procedure for trial courts to follow under Mississippi Rule of Evidence 606(b) when allegations of jury misconduct or extraneous information arise. ***Gladney***, 625 So. 2d at 418. Rule 606(b) provides that, during an inquiry into the validity of a verdict, jurors can testify whether "extraneous prejudicial information was improperly brought to the

jury's attention[,] or an outside influence was improperly brought to bear on any juror." M.R.E. 606(b). When such an allegation is brought to the attention of the trial court, it is that court which must determine whether an investigation is warranted. ***Gladney***, 625 So. 2d at 418. But for such an investigation to be necessitated, the moving party must make an evidentiary showing that the court deems adequate to overcome the strong presumption of jury impartiality. ***Id.*** In the absence of such a showing, "[a]lthough a minimal standard of a good cause showing of specific instances of misconduct is acceptable, the preferable showing should clearly substantiate that a specific, non-speculative impropriety has occurred." ***Id.*** at 419. Without this threshold showing, no inquiry into the verdict is warranted. ***Id.***

¶8. The trial court has a prominent, supervisory role in all inquiries into allegations of juror misconduct or that the jury received extraneous information. ***Id.*** We have recognized that "[t]he trial court's supervision is warranted to protect the interest of the parties and jurors." ***Id.*** It is for the trial court to determine whether the evidence presented by the moving party is sufficient, under the applicable standard, to warrant a post-trial hearing. ***Id.*** Then, if the trial court determines that an investigation or hearing is warranted, the court "has the inherent power and duty to supervise these post-trial investigations to ensure that jurors are protected from harassment and to guard against inquiry into subjects beyond which a juror is competent to testify under M.R.E. 606(b)." ***Id.*** Notably, inquiry is not permitted into the internal deliberations of the jury or the subjective effects on jurors of the extraneous information. ***Id.*** Finally, if the trial court determines that an improper communication was made and, regardless of its contents, the court then must decide whether it is reasonably

possible that the communication changed the verdict. ***Id.*** And on appeal, we must leave the trial court's rulings on these matters undisturbed, absent an abuse of discretion. ***Payton v. State***, 897 So. 2d 921, 954 (Miss. 2003).

¶9. This trial occurred in September 2014. The record discloses that, on April 17, 2015, – more than six months later – Hyundai submitted a supplemental motion for a new trial or, alternatively, relief from the judgment under Mississippi Rule of Civil Procedure 60(b), or for a post-trial hearing to investigate possible outside influences on the jury. Hyundai averred that, on April 13, 2015, its counsel had received an unsolicited phone call from an attorney who had participated in a civil trial the previous week in Hinds County Circuit Court. This attorney, later identified as Kevin Gay, related that, at that trial, a person known as Bishop C. L. Sparks had approached Gay and his wife, also an attorney, and that Sparks had made statements to them indicating he had worked as a jury consultant for plaintiff's counsel, Dennis Sweet, also counsel for the plaintiffs in the instant case. In these statements, Sparks was said to have indicated that Sweet had hired him to go into communities ahead of trials in the role of a revival preacher in order to become known to potential jurors, and that he had helped obtain a "big verdict" in Clarksdale, Mississippi. Hyundai claimed that Sparks told the attorneys he had a good friend who had contacted him after a relative was seated on the jury in the Clarksdale case, and that Sparks had detailed knowledge of the jurors' deliberations concerning the amount of the verdict. According to Hyundai, Gay discerned from internet searches that the Clarksdale case was the ***Hyundai v. Applewhite*** case, and then gratuitously contacted counsel for Hyundai.

¶10. Hyundai further averred that Sparks had been present during the trial of this matter and had introduced himself to counsel for Hyundai. Hyundai's counsel said they had been concerned about Sparks because he had associated with the plaintiffs' family and counsel and had stood near a courtroom exit when the jury filed out for breaks. Hyundai also claimed that, during the trial of a different case against it in Cleveland, Mississippi, Sparks had walked toward the area where the jury was seated, but a deputy had stopped him before he reached the area. Following that alleged incident at the trial in Cleveland, Hyundai brought the matter to the attention of the trial court, and the plaintiffs represented that Sparks had been asked to leave. In its motion for relief from the judgment in the instant case, Hyundai argued that Sparks's conduct showed that he had been engaged to influence potential jurors, warranting an investigation into possible outside influences on the verdict.

¶11. The trial court in the instant case held a hearing on this matter on April 20, 2015. At that hearing, the trial court heard testimony from Kevin Gay, from his wife, Mary Margaret Gay, from Sara Budslick, another attorney who had heard Sparks's comments in Hinds County, and from Carey L. Sparks himself. Kevin Gay testified that, two weeks previously, he had represented the defendants in a wholly unrelated trial in Hinds County Circuit Court, and Sweet had represented the plaintiffs. Kevin Gay testified that Sparks had approached him and attempted to pitch himself as a jury consultant, investigator, and case runner – someone who assists an attorney with client referrals. According to Kevin Gay's testimony, Sparks represented that another service he offers is that, before large trials, he goes into the community and preaches revivals in an effort to get to know the community. Kevin Gay said

that he had contacted counsel for Hyundai because certain representations Sparks had made to his wife, Mary Margaret Gay, raised a concern about possible improper communication with a juror in this case.

¶12. Mary Margaret Gay testified about what Sparks had said to her. She related that she had attended her husband's trial one morning to observe with an associate, Sara Budslick. The trial had been delayed, and they sat in the courtroom for about a half hour before leaving. Mary Margaret Gay testified that they were approached by a man whom she later learned was Sparks. Sparks said he was working for Sweet and was helping pick a jury. Sparks told Mary Margaret Gay and Sara Budslick that Sweet paid him to preach revivals two or three weeks before a trial to become familiar with potential jurors. He then would attend the trial so the jury would know him, and "women would cover their mouth and say, 'That's the preacher that preached at our revival this weekend.'" However, Sparks did not indicate to Mary Margaret Gay and Sara Budslick that he had employed this preaching tactic before the Clarksdale trial.

¶13. Mary Margaret Gay also testified that Sparks had said he had worked for Sweet on a case in Clarksdale where the jury had returned a ten million dollar verdict that should have been a twenty-one million dollar verdict. Sparks said that a woman on the jury had been unable to count, and "they spent two days trying to teach her how to count, and that just never worked out." Mary Margaret Gay also said that Sparks represented that the jury had awarded ten million dollars only because the jurors had felt that people did not need to get any richer. According to Mary Margaret Gay, Sparks also said that his best friend had called

him and told him that the friend's aunt was on the jury; Sparks did not indicate when this alleged phone call had occurred.

¶14. Mary Margaret Gay testified that Sparks never said that he had contacted any juror in this case before the trial's conclusion. When asked whether she thought Sparks had just been "blowing smoke" to get someone to hire him, she responded affirmatively. She testified that she had thought Sparks "was . . . a lot of talk," and that she "didn't think a whole lot about" what he had said.

¶15. Sara Budslick corroborated Mary Margaret Gay's testimony about the content and tone of their brief conversation with Sparks. Budslick testified that Sparks had said that the best thing to be done for a trial attorney was to go preach on the revival circuit before trials to gain recognition from potential jurors. Regarding the Clarksdale case, Budslick testified that Sparks related how, a couple of weeks previously, he had received a call that his friend's aunt was on the jury. Budslick testified that Sparks had told the two female attorneys that the verdict had been ten million dollars instead of twenty-one million because someone on the jury could not read or write, and that someone on the jury had said the plaintiffs did not have to be that rich. Budslick testified that Sparks said "they" had worked on the verdict for two days, but he never specified who "they" were. Budslick testified that she had a hard time understanding what Sparks had been talking about, and that she had not taken him seriously. She described Sparks as very flamboyant and outspoken and said that her impression was that he had been "just trying to impress two women that were in the courtroom, to be honest."

Budslick testified that Sparks never said that he had spoken to any of the jurors before, during, or after the trial, or insinuated that he had influenced them.

¶16. In his testimony, Carey L. Sparks said that he had attended the Clarksdale trial in this matter, but that he had not been hired in any capacity. He denied that Sweet had paid him any money regarding the case or that he had asked him to attend the trial. Rather, Sparks testified, he had attended the trial to observe his cousin, Terris Harris, who was one of the attorneys. Harris had told him to come watch the trial to see Sweet and Ralph Chapman, who were great lawyers. Under questioning by Sweet, Sparks denied that Sweet ever had asked him to preach anywhere or to hold revivals. He denied that he had been a jury consultant in the Hinds County case tried by Kevin Gay. He denied that he had acted as a case runner by trying to sign up clients. He recalled having spoken with Kevin Gay at that trial. While he initially denied having spoken with Mary Margaret Gay and Sara Budslick, later in his testimony he said that Kevin Gay had introduced him to the two women and they had discussed church and how people do not want to be jurors. Sparks testified that he never told them that he had a friend with an aunt on the jury, that a juror could not read, or that the verdict should have been twenty-one million dollars. He denied having tried to impress the two women. Sparks testified that he is a political consultant. When asked whether he had received a phone call about someone's aunt having been on the jury, Sparks responded that one of his friends had called him about two weeks after the Clarksdale trial and said someone had seen Sparks at the trial. According to Sparks, this friend never discussed the jury's deliberations with him.

¶17. After this testimony, Hyundai requested additional discovery on whether "some person" had been on the jury, and whether any influence had been asserted during trial. The trial court recessed the hearing, and later Hyundai filed supplemental submissions supporting its motion for a new trial or relief from judgment. Included in these submissions was the affidavit of Douglas Kelly, an investigator who was personally acquainted with Sparks. Kelly averred that Sparks had told him many times that he works for Sweet and is well paid for it, and that Sparks had shown him checks from Sweet's law firm in an effort to impress him. Kelly further averred that Sparks had been involved in efforts to sign up clients, and that Sparks had visited the family of Willie Bingham repeatedly in an effort to sign the case up for Sweet. According to Kelly, after Bingham was killed in March 2013, his family had retained Sweet to represent them in a lawsuit against the Bolivar County Sheriff's Department. Kelly also represented that, in late 2014, he was dining at a restaurant in Cleveland when he heard Sparks, seated with others at a nearby table, brag about having helped with a big verdict in Clarksdale and having had a friend on the jury. In their response, the plaintiffs attached affidavits from two members of the Bingham family stating that they had never met Sparks, that Sparks had never contacted them, and that they had hired Sweet two days after Bingham's death on the recommendation of someone else.

¶18. On December 9, 2015, the trial court entered a detailed order denying Hyundai's motion for judgment notwithstanding the verdict (JNOV), a new trial, and other relief, and also denied the relief requested in Hyundai's supplemental motion concerning outside influences on the jury. The trial court found that Hyundai had not made a threshold showing

of external influences on the jury. The trial court found that Sparks never had indicated to any of the three attorneys that he had personal contact with any juror before the trial had concluded or that he had spoken with any of the jurors himself before, during, or after the trial. The trial court found Sparks never had insinuated that he had influenced the jury. The trial court noted that the witnesses had not known whether Sparks had received the alleged phone call before, during, or after the trial. Further, the trial court recognized that the witnesses had not taken Sparks seriously. In conclusion, the trial court found that the evidence was insufficient for a good cause showing of specific instances of misconduct, and "the allegations against Mr. Sparks and his outside influence on the jury are speculative at best and the Court declines to grant additional discovery or to conduct an investigation into Mr. Sparks's influence."

¶19. Hyundai appealed, raising numerous issues including a challenge to the trial court's denial of its supplemental motion concerning outside influences on the jury. Now, instead of issuing an opinion addressing the numerous issues raised on appeal, this Court stays the normal appellate process and remands with an order for full discovery, an investigation, and a full and complete hearing to determine whether the jury was exposed to extraneous prejudicial information or whether an outside influence was improperly brought to bear on a juror. This nondispositive derailment of the appeal raises several concerns. The first concern is that the majority provides no explanation of why it believes the trial court abused its considerable discretion in issuing the ruling outlined above. I would find no abuse of discretion in the learned trial judge's determination that Hyundai failed to make a threshold

showing of an outside influence on the jury. As the trial court found, Sparks never indicated to the three attorneys that he had preached any revivals before this specific trial, that he had contact with any of the jurors during this trial, or that he somehow had contacted an unidentified juror during deliberations. Sparks's comments that he had received a phone call from a friend with an aunt on the jury, and that "they" had worked on a juror who could not read or write for two days, were of dubious significance and questionable veracity. Budslick's testimony indicated that this alleged phone call probably occurred long after the trial; in any event, the exact timing of the phone call, if any, is unknown. A reasonable inference is that "they" referred to the other jurors, not some external influence. While Sparks purported to have knowledge of the jury's deliberations, if that knowledge had been obtained after the verdict, it is of no significance to the issue before this Court. And the trial court took into account the testimony of Mary Margaret Gay and Sara Budslick that they did not take Sparks seriously. The trial court observed the witnesses at the hearing and evaluated the weight and worth of their testimony. The thoughtful and reasoned determination that the evidence of outside influence on the jury was speculative, at best, was within the trial court's sound discretion.

¶20. Second, the Court's order entirely deprives the trial court of its discretion to supervise and control the post-trial proceedings after remand. The trial court already has determined that no further investigation or hearing is warranted. But rather than simply reversing that determination, the majority specifically orders the trial court to allow full discovery and a complete investigation, robbing the trial court of its traditional discretion in discovery

matters. Further, the majority mandates that a hearing *will* occur, regardless of what, if anything, the discovery and investigation reveal. Rather than ordering the trial court to follow the procedures in ***Gladney***, this Court commandeers the proceedings in the trial court.[1] As the foregoing recitation of the facts indicates, nothing about this case remotely suggests that extreme measures of this kind are required.

¶21. Third, I agree with the concerns raised by Justice Coleman in his separate statement. Our failure to provide a decision addressing all the issues leaves the parties with no guidance on whether the verdict would have been reversed or affirmed, which would enable them to decide for themselves whether or how they should allocate their resources for additional discovery in the investigation of the verdict. As Justice Coleman astutely observes, if this Court were to order a new trial, it would make little sense to expend resources to investigate whether that overturned verdict was the product of outside influences on the jury. I fully agree with Justice Coleman that this Court should issue an opinion immediately, rather than dragging out the ultimate resolution of this aged case.

¶22. Fourth, the course of action selected by the majority compounds the already egregious delays attending this case. The accident at issue occurred more than twenty-two years ago, on July 9, 1995. The plaintiffs timely filed this lawsuit on June 22, 1998, and after protracted delays and extensive discovery, the first trial took place nine years ago, in March and April

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[1] I note that, under our adversarial system of justice, the trial court performs the role of a neutral and detached magistrate, not the role of inquisitor. When allegations of jury tampering arise, the trial court's role is to supervise the adversarial proceedings, balancing the rights of the jurors to be secure in the verdict and free from harassment with the right to inquire into the verdict when allegations of juror misconduct arise. ***Gladney***, 625 So. 2d at 418.

of 2008, resulting in a unanimous verdict for the plaintiffs. On February 10, 2011, the case was reversed on appeal, and in September 2014, it was retried – nineteen years after the accident – resulting in another unanimous verdict for the plaintiffs. Thus, to date, twenty-four jurors have voted in favor of the plaintiffs. Hyundai did not bring the matter of alleged outside influence on the jury to the attention of the trial court until more than six months had elapsed after the verdict, then made numerous supplemental filings, and now has appealed. Of course, Hyundai was well within its rights to appeal. But, notwithstanding this Court's having heard oral argument in May of this year, we have allowed this matter to languish on our docket for almost two hundred and seventy days, the full amount of our statutorily prescribed time for decision. Miss. Code Ann. § 9-4-3(5) (Rev. 2014). Yet resolution of the case will be greatly prolonged while one major corporation and four bereaved families continue to await justice. What justice demands is final resolution of this case.

¶23. Finally, the Court's concerns about attorney misconduct that have been raised by this case should be referred by this Court to the Mississippi Bar. Canon 3(D)(2) of the Code of Judicial Conduct provides that "[a] judge who receives information indicating a substantial likelihood that a lawyer has committed a violation of the Rules of Professional Conduct should take appropriate action." If the violation raises a substantial question as to the lawyer's honesty, trustworthiness, or fitness as a lawyer, the judge must inform the appropriate authority. Miss. Code Jud. Conduct 3(D)(2). Mississippi Rule of Professional Conduct 8.3(a) provides that "[a] lawyer having knowledge that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question

as to that lawyer's honesty, trustworthiness or fitness as a lawyer in other respects, shall inform the appropriate professional authority." M.R.P.C. 8.3(a). As members of the judiciary and of the Mississippi Bar, the justices of this Court are governed by these rules, and are required, if they believe attorney misconduct has occurred, to report the matter to the Mississippi Bar rather than needlessly expending judicial and private resources by withholding an opinion and ordering the trial court to oversee full discovery, an investigation, and another hearing. I recognize that Judge Smith fulfilled his responsibilities under Canon 3(D)(2) and Rule 8.3(a) because, after receiving the pertinent information, he took appropriate action by holding a hearing to investigate the allegations.

¶24. I struggle to understand why the Court does not issue an opinion addressing the trial court's discretionary ruling that Hyundai failed to make a threshold, good cause showing of specific instances of misconduct, along with the other issues raised on appeal. I believe the foregoing rendition of the facts and the trial court's well-reasoned ruling demonstrate that no abuse of discretion occurred, and that the trial court's ruling on this issue was well within due bounds and should be affirmed. If the majority disagrees, it should issue an opinion. If the Court finds that other reversible errors occurred, the need for a judicial investigation into the verdict would evaporate. But instead, the majority has chosen the oppressive measure of ordering the trial court to conduct full discovery, a complete investigation, and a hearing, after which, I presume, this appeal will resume. By slighting the procedures set forth by this Court for trial courts to address allegations of juror misconduct, the majority's order overruns the right of the jurors to be secure in their verdicts and the authority of the trial court to

supervise any inquiry into the verdict, which that court already has done. While I respect the decision of my colleagues in the majority to do otherwise, I suggest that the more orderly and more prudent course would be for this Court to issue a decision in this appeal and refer any concerns about attorney misconduct to the Mississippi Bar.

KING, J., JOINS THIS SEPARATE WRITTEN STATEMENT. COLEMAN, J., JOINS THIS SEPARATE WRITTEN STATEMENT IN PART.