



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

June 24, 2024

Jeffrey S. Bruni, Esq.
Attorney, City of Gulfport
Post Office Box 1780
Gulfport, Mississippi 39502-1780

Re: Additional Named Insured Under Municipal Liability Policy

Dear Mr. Bruni:

The Office of the Attorney General has received your request for an official opinion.

Question Presented

May a municipality legally name a third party as an additional named insured on its liability insurance policy/plan?

Brief Response

A municipality may not name a third party as an additional insured on its liability insurance policy.

Applicable Law and Discussion

“The Mississippi Tort Claims Act provides the exclusive civil remedy against a governmental entity for lawsuits seeking money damages arising out of tortious actions.” *Moton v. City of Clarksdale*, 367 So. 3d 979, 983 (Miss. 2023) (citing Miss. Code Ann. §§ 11-46-1, *et seq.*). As noted in your request, this office has previously opined that a municipality may not “obligate itself to indemnify or hold harmless a [private individual or entity], since coverage of the municipality under the Tort Claims Act may not be extended to a private individual or entity.” MS AG Op., *Bruni* at *1 (May 22, 1998) (citing Miss. Code Ann. §§ 11-46-1, *et seq.*). You ask if a municipality may nonetheless legally name a third party as an additional insured on its liability policy.

In MS AG Op., *Stringer* (Jan. 25, 2006), this office highlighted that a governmental entity can only do that which statute authorizes it to do. *Id.* at *2-3. This said, the Tort Claims Act does not provide any authority for adding a third party to a governmental entity’s coverage. *See* Miss. Code Ann. § 11-46-17 (providing for obtaining policies of insurance and lacking language regarding adding a third party or necessary implication for the same). Further, adding a third party as an additional

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insured would essentially amount to an agreement to indemnify, which, as discussed above, governmental entities may not do. Accordingly, it is the opinion of this office that a municipality may not name a third party as an additional insured on its liability insurance policy.

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: */s/ Maggie Kate Bobo*

Maggie Kate Bobo
Special Assistant Attorney General

OFFICIAL OPINION