

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
ABERDEEN DIVISION

WILL McRANEY

PLAINTIFF

VS.

CAUSE NO. 1:17cv080-GHD-DAS

THE NORTH AMERICAN MISSION BOARD
OF THE SOUTHERN BAPTIST CONVENTION, INC.

DEFENDANT

**PLAINTIFF'S RESPONSE TO DEFENDANT'S
NOTICE OF INTENT TO SERVE SUBPOENA DUCES TECUM**

COMES NOW, the Plaintiff, WILL McRANEY, by and through his attorney of record, BARTON LAW FIRM, PLLC, in the above styled and numbered cause, and files his Response to Defendant's Notice of Intent to Serve Subpoena Duces Tecum, and in support thereof would show unto the Court the following, to wit:

I.

The Plaintiff has no objection to the issuance of the Subpoena Duces Tecum filed against the Baptist Convention of Maryland Delaware, Inc., as far as personnel files and any and all other potentially relevant information. He has executed an Affidavit waiving any confidentiality, privilege and/or any other protection to which he might be entitled. See Exhibit "A."

II.

The Plaintiff asserts that the cause of action for which he has filed a Complaint is as a result of a separate independent tort arising after his termination from the Baptist Convention of Maryland Delaware, Inc., and after the execution of his Separation Agreement.

III.

The law in Mississippi, and most other jurisdictions, is well settled that a release will not serve to bar subsequent actions for intentional torts or gross negligence, and particularly, those that arise following the execution of the release.

IV.

For precedence on this point in the State of Mississippi, see the memorandum opinion found at *Ricky Milton v. Byhalia Raceway Park, Inc.*, Civil Action No. 1:95cv133-D-D, (N.D. Miss. 1995), that held,

“This court will not, however, apply the releases to bar the Plaintiff’s claims based on gross negligence or on “willful or wanton” negligence. The strict construction given these releases under Mississippi law would find them lacking in requisite intent to release the Defendant from liability for such conduct. In any event, it appears that virtually every jurisdiction which has concerned itself with the matter has ultimately determined that permitting anticipatory releases to bar actions for intentional torts or gross negligence violates the public policy of that state... It is the opinion of this court that the Mississippi Supreme Court, if faced with the question, would likewise rule that permitting anticipatory releases to bar actions for intentional torts or gross negligence would be violative of public policy.”

This the 10th day of October, 2018.

Respectfully submitted,

WILL McRANEY, Plaintiff

BY: s/W. HARVEY BARTON, MSB #2104

BARTON LAW FIRM, PLLC

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harvey@wbartonlaw.com

CERTIFICATE OF SERVICE

I, W. HARVEY BARTON, do hereby certify that I electronically filed the foregoing with the Clerk of the Court using the ECF System which sent notification of such filing to:

Joshua J. Wiener, Esquire
Kathleen Ingram Carrington, Esquire
Butler Snow, LLP
P. O. Box 6010
Ridgeland, MS 39158-6010
josh.wiener@butlersnow.com
kat.carrington@butlersnow.com

SO CERTIFIED, this the 10th day of October, 2018.

s/W. HARVEY BARTON, MSB #2104

BARTON LAW FIRM, PLLC

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Pascagoula, MS 39567
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AFFIDAVIT OF WILL McRANEY

STATE OF FLORIDA
COUNTY OF Orange

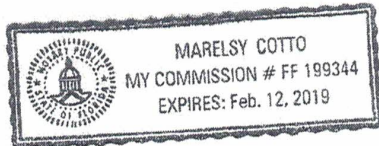
I, WILL McRANEY, do hereby affirm under the penalties of perjury, that the matters set forth below are true.

1. I am over the age of eighteen (18), and I am competent to be a witness in this action, and have personal knowledge of the matters and facts in view of the fact that I am the Plaintiff.
2. I am thoroughly familiar with the Request for a Subpoena Duces Tecum filed by the Defendant, North American Mission Board, against my former employer the Baptist Convention of Maryland/Delaware, Inc. I am aware and advised of the third-party response by the Baptist Convention of Maryland/Delaware, Inc., and their effort to quash the Subpoena Duces Tecum.
3. I have no objection to the Request for Subpoena Duces Tecum to any of the items requested from the Baptist Convention of Maryland/Delaware, Inc., and hereby waive any privilege, confidentiality or other objection I might have to the production of my personnel file or any other information concerning my termination from the Baptist Convention of Maryland/Delaware, Inc.

This the 9th day of October, 2018.

Will McRaney
WILL McRANEY

SWORN TO AND SUBSCRIBED BEFORE ME, this the 9 day of October, 2018.



[Signature]
NOTARY PUBLIC

My Commission Expires:

(SEAL)

