

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI
ABERDEEN DIVISION**

WILL McRANEY

PLAINTIFF

V.

No. 1:17cv080-GHD-DAS

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

DEFENDANT

**NORTH AMERICAN MISSION BOARD
MOTION FOR PARTIAL SUMMARY JUDGMENT**

Defendant, The North American Mission Board of the Southern Baptist Convention, Inc. [“NAMB”], respectfully moves pursuant to Fed. R. Civ. P. 56 for summary judgment in its favor dismissing Count I and Count II of the Complaint. NAMB also asks the Court to dismiss Count VI of the Complaint to the extent it seeks punitive damages based on the underlying claims in Counts I and II and damages for intentional infliction of emotional distress.

There are no genuine issues of material fact. NAMB is entitled to judgment as a matter of law with respect to Counts I and II by virtue of Plaintiff’s execution of the “Separation Agreement And Release” on July 7, 2015 [doc 37-1, page ID# 188-196].¹ The Separation Agreement was recently produced by his former employer, the Baptist Convention for Maryland/Delaware, Inc. [“BCMD”] as an exhibit to BCMD’s Motion to Quash [doc 37] a subpoena *duces tecum* served on BCMD by NAMB.

Further, because BCMD has also asserted its rights under the First Amendment Religion Clauses and asked this Court to dismiss this suit, NAMB likewise respectfully asks this Court to grant it partial summary judgment on Counts I and II on these same constitutional grounds.

¹ By the filing of this Motion, NAMB does not waive and hereby expressly reserves all other defenses to Counts I, II, and VI of the Complaint as set forth in its First Amended Answer and Defenses. [doc 47].

Undisputed Material Facts

1. NAMB incorporates by reference the previously filed Affidavit of Tom Stolle, Associate Executive Director of BCMD [doc 37-1, page ID# 185-86] and the attached “Separation Agreement and Release” executed by Plaintiff on or about July 7, 2015 [doc 37-1, page ID# 188-196].

2. NAMB further incorporates by reference herein the Affidavit of Carlos Ferrer, Executive Vice President of NAMB, attached hereto as Ex. A.

3. In par. XII of the Complaint, Plaintiff acknowledged signing a “severance agreement.” In his later Response to NAMB’s Notice of Intent to issue the subpoena *duces tecum* to BCMD, Plaintiff acknowledged “execution of his Separation Agreement.” [doc 40, par. II].

4. The Affidavits and other pleadings and documents of record show there is no genuine dispute that BCMD has produced a true and correct copy of the Separation Agreement and Release and that the signatures thereon are authentic.

5. The Affidavits of Mr. Stolle and Mr. Ferrer show there is no genuine dispute that NAMB was at the time Plaintiff executed the Separation Agreement and Release, and remains, a major “supporting organization” of BCMD both financially and otherwise.

Judgment as a Matter of Law on Counts I and II

6. This Court should find as a matter of law that the Separation Agreement and Release runs in favor of NAMB as a “supporting organization” of BCMD, and that the express language of the Separation Agreement And Release bars Counts I and II of the Complaint as well as the related punitive damage and intentional infliction of emotional distress claims stated in Count VI.

7. NAMB incorporates by reference BCMD's Motion to Quash [doc 37] and supporting Memorandum [doc 38], as well as NAMB's Response to BCMD's Motion to Quash and supporting Memorandum. [docs 45 and 46]. Based on BCMD's filings, and for the reasons further set forth in NAMB's response, NAMB would respectfully ask the Court to re-evaluate the applicable First Amendment principles and to dismiss Counts I and II.

8. NAMB is filing herewith a Memorandum in support of this Motion for Partial Summary Judgment, which is incorporated by reference herein.

Request for Stay of Discovery

9. In light of the filing of BCMD's Motion to Quash, as well as this Motion for Partial Summary Judgment, NAMB respectfully submits that it is in the interest of justice and judicial economy to suspend and stay discovery pending the Court's rulings on these Motions. Were the Court to grant BCMD's and/or NAMB's Motions, and Counts I and II are dismissed, this will result in a substantial narrowing of the scope of needed discovery. The remaining claims would be those set forth in Counts III and V. Both of the latter Counts reference alleged events in which BCMD was not involved, and which allegedly took place after Plaintiff's termination by BCMD and Plaintiff's execution of the Separation Agreement and Release.

RELIEF REQUESTED:

Based on the foregoing, NAMB respectfully asks this Court to grant its Motion for Partial Summary Judgment and to dismiss Count I and Count II of the Complaint, as well as Count VI, to the extent it seeks punitive and intentional infliction of emotional distress damages based on the dismissed underlying claims.

NAMB further respectfully requests that the Court suspend and stay all discovery pending the Court's rulings on BCMD's Motion to Quash and this Motion for Partial Summary Judgment.

NAMB respectfully asks the Court to award it such other and further relief to which it may be entitled under Rule 56 or otherwise.

This the 5th day of November, 2018.

Respectfully submitted,

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

By: *s/ Joshua J. Wiener*

JOSHUA J. WIENER MB #7185

OF COUNSEL:

Joshua J. Wiener, MB #7185
Kathleen Ingram Carrington, MB #104220
Caroline B. Smith, MB #105501
BUTLER SNOW LLP
1020 Highland Colony Parkway, Suite 1400
Ridgeland, MS 39157
Post Office Box 6010
Ridgeland, MS 39158
Tel: (601) 948-5711
Fax: (601) 985-4500
josh.wiener@butlersnow.com
kat.carrington@butlersnow.com
caroline.smith@butlersnow.com

CERTIFICATE OF SERVICE

I, Joshua J. Wiener, one of the attorneys for Defendant, certify that I electronically filed the foregoing “The North American Mission Board’s Motion For Partial Summary Judgment” with the Clerk of the Court using the using the Court’s ECF system, which sent notification of such filing to all counsel of record.

This the 5th day of November, 2018.

s/ Joshua J. Wiener

JOSHUA J. WIENER

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DEFENDANT

AFFIDAVIT OF CARLOS FERRER

Personally appeared before the undersigned attesting authority authorized by law to administer oaths, Carlos Ferrer, who, after first being duly sworn, states and affirms the following:

1. My name is Carlos Ferrer. I am over the age of 18 years, am otherwise *sui juris*, and am competent to testify to the matters set forth herein. This affidavit is made and given based upon my personal knowledge.

2. I am the Executive Vice President of the Defendant, The North American Mission Board of the Southern Baptist Convention, Inc. ("NAMB"). I am responsible for management and supervision of shared services at NAMB, including, but not limited to, financial services, accounting, and budgeting.

3. During each of the fiscal years from 2013 through 2018, NAMB provided and continues to provide financial support to the Baptist Convention of Maryland/Delaware ("BCMD") for the purpose of supporting BCMD's ministries and operations pursuant to one or more cooperation agreements between NAMB and BCMD. As of October 17, 2018, the total amount of such financial support provided by NAMB to BCMD during such time period is \$5,237,886.00.

4. During each of the fiscal years from 2013 through 2018, NAMB also provided and continues to provide nonmonetary support to BCMD in coordination with BCMD and for the

Exhibit "A"

purpose of supporting BCMD's ministries and operations. Such nonmonetary support includes, *inter alia*: (a) coordinated discovery, assessment, coaching, and development of church-planting pastors and missionaries; (b) equipping BCMD's pastors, missionaries, and ministry leaders with certain tools, training events and materials, and other ministry resources; (c) national recruiting and advocacy with churches and ministries outside BCMD's territory to develop and mobilize support of and partnership with BCMD's churches and pastors; (d) church revitalization; (e) chaplaincy endorsement; and (e) national support and coordination with BCMD's disaster response ministry.

5. This Affidavit is given for use as evidence in the above-captioned action and may be used in any hearing upon any motion for summary judgment or other hearing in connection with such case, coming on any date certain and from time to time until this matter is disposed of.



Carlos Ferrer, Affiant
Date: October 18, 2018

Sworn to and subscribed before me on
This 18th day of October, 2018.



NOTARY PUBLIC, State of Georgia
My Commission Expires: 5/31/19

