

**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

**SUPPLEMENTAL MEMORANDUM IN SUPPORT OF
THE NORTH AMERICAN MISSION BOARD
OF THE SOUTHERN BAPTIST CONVENTION, INC.'S
MOTION FOR PARTIAL SUMMARY JUDGMENT**

The North American Mission Board of the Southern Baptist Convention, Inc. [“NAMB”] files this Supplemental Memorandum in support of its Motion For Partial Summary Judgment [doc 48] in order to incorporate by reference the Court’s Order [doc 50] entered by U.S. Magistrate Judge David A. Sanders granting the Motion to Quash Subpoena *Duces Tecum* filed by Plaintiff’s former employer, the Baptist Convention of Maryland/Delaware, Inc. [doc 37] NAMB respectfully submits that the Court’s Order not only lends support to NAMB’s request for dismissal of Counts I and II, it requires dismissal of these counts.

Noting this Court’s earlier Order [doc 19] denying NAMB’s Motion to Dismiss, Judge Sanders applied the “ministerial exception” at the request of Plaintiff’s employer, and also found that NAMB’s subpoena “runs afoul of the ‘ecclesiastical abstention’ doctrine.” “Submitting the personnel file [of Plaintiff] would subject BCMD to review of ‘internal policies, internal procedures, or internal decisions of the church’, which the doctrine forbids.” [doc 50, p. 2, fn.3]

Counts I and II of the Complaint allege common law claims for tortious interference with employment and defamation on the part of NAMB resulting in the termination of Plaintiff’s employment. These counts raise two essential questions to be decided by the trier of fact: Who

or what caused BCMD to end its employment relationship with its minister, Dr. McRaney, and why? As Judge Sanders correctly held, these inquiries directly violate the ministerial exception and ecclesiastical abstention doctrines. Equally important, the definitive answers to these questions reside solely in Plaintiff's personnel file and the other documents subpoenaed by NAMB, not to mention the sworn deposition testimony NAMB would expect to obtain from BCMD's executive leadership following BCMD's production of the subpoenaed documents.

Early in this case, the Court distinguished this matter from others involving the ministerial exception and ecclesiastical abstention because the defendant is not the plaintiff's employer. Nevertheless, at this different juncture, Judge Sanders has properly ruled that the subject matter of Counts I and II is constitutionally off-limits.

NAMB respectfully submits that it would be both illogical and inconsistent with Judge Sanders' quashing of NAMB's subpoena *duces tecum* to not also dismiss Counts I and II. Otherwise, BCMD will be denied its full First Amendment protection, because one of its major supporting religious organizations will be forced to defend claims related to BCMD's choice of minister. And NAMB will be put in the untenable position of having to defend itself without being able to access and present crucial evidence to the trier of fact.

This the 9th 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 #104220

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
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 Of The Southern Baptist Convention, Inc.’s Supplemental Memorandum in Support of 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 9th day of November, 2018.

s/ Joshua J. Wiener

JOSHUA J. WIENER