

From: [Scott Gant](#)
To: [Catherine Servati](#); [Kat Carrington](#); [Judge-Sanders MSND](#)
Cc: [Harvey Barton](#); [Josh Wiener](#); [Derek Rajavuori](#); [Victoria Scordato](#)
Subject: Re: McRaney v. NAMB - Proposed Amended Complaint [IWOV-ButlerSnow.FID6961545]
Date: Tuesday, October 25, 2022 11:31:52 AM

Thank you. We will prepare and file a motion.

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From: Catherine Servati <Catherine_Servati@msnd.uscourts.gov>
Sent: Tuesday, October 25, 2022 11:18:59 AM
To: Kat Carrington <Kat.Carrington@butlersnow.com>; Scott Gant <sgant@bsfllp.com>; Judge-Sanders MSND <Judge_Sanders@msnd.uscourts.gov>
Cc: Harvey Barton <harvey@wbartonlaw.com>; Josh Wiener <Josh.Wiener@butlersnow.com>; Derek Rajavuori <Derek.Rajavuori@butlersnow.com>; Victoria Scordato <vscordato@BSFLLP.com>
Subject: RE: McRaney v. NAMB - Proposed Amended Complaint [IWOV-ButlerSnow.FID6961545]

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A motion will be required.

Thank you,
Catherine

Catherine C. Servati
Law Clerk to U.S. Magistrate Judge David Sanders
U.S. District Court, Northern District of Mississippi
203 Gilmore Drive
Amory, MS 38821
662.369.2138

From: Kat Carrington <Kat.Carrington@butlersnow.com>
Sent: Monday, October 24, 2022 5:55 PM
To: 'Scott Gant' <sgant@bsfllp.com>; Judge-Sanders MSND <Judge_Sanders@msnd.uscourts.gov>
Cc: Harvey Barton <harvey@wbartonlaw.com>; Josh Wiener <Josh.Wiener@butlersnow.com>; Derek Rajavuori <Derek.Rajavuori@butlersnow.com>; Victoria Scordato <vscordato@BSFLLP.com>
Subject: RE: McRaney v. NAMB - Proposed Amended Complaint [IWOV-ButlerSnow.FID6961545]

CAUTION - EXTERNAL:

Good evening, Judge Sanders,

We take issue with counsel's email below, but he is correct in stating that NAMB opposes the filing of the proposed Amended Complaint. Plaintiff should be required to file a motion for leave to amend, and we will respond in due course.

Thanks,

Kat Carrington
Butler Snow LLP

D: (615) 651-6745 | F: (615) 651-6701
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From: Scott Gant <sgant@bsfillp.com>
Sent: Monday, October 24, 2022 11:05 AM
To: Judge-Sanders MSND <Judge_Sanders@msnd.uscourts.gov>
Cc: Harvey Barton <harvey@wbartonlaw.com>; Kat Carrington <Kat.Carrington@butlersnow.com>; Josh Wiener <Josh.Wiener@butlersnow.com>; Derek Rajavuori <Derek.Rajavuori@butlersnow.com>; Victoria Scordato <vscordato@BSFLLP.com>
Subject: McRaney v. NAMB - Proposed Amended Complaint
Importance: High

Judge Sanders,

As reflected in the email exchange below, Plaintiff believes Defendant has been misreading or misrepresenting in discovery and before the Court the allegations made by Plaintiff. This is creating or exacerbating discovery disputes, and may cause additional complications as we approach post-discovery briefing and trial.

To eliminate any genuine uncertainty on the part of Defendant about Plaintiff's claims, Plaintiff requested that NAMB's consent to the filing of an amended pleading. The amended pleading would also bring the complaint—filed more than four and a half years ago, in April 2017—up to date, consistent with Federal Rule of Civil Procedure 15(d).

NAMB refused to consent to the filing on an updated pleading—even though Plaintiff provided the courtesy of not objecting when Defendant amended its Answer earlier in the case. *See* Doc. 47.

Plaintiff believes an amended pleading is warranted, would be useful to the parties and the Court, and is appropriate under Federal Rules of Civil Procedure 15(a) and 15(d).

Plaintiff's proposed amended complaint is attached.

I'm hoping we can avoid burdening the Court with a motion. Perhaps NAMB will change its position and now consent to the filing? But if not, please let me know if the Court would like

Plaintiff to file a motion for leave to file the amended pleading.

Thank you,

Scott

From: Kat Carrington <Kat.Carrington@butlersnow.com>

Sent: Tuesday, October 11, 2022 8:29 PM

To: Scott Gant <sgant@bsfillp.com>; Josh Wiener <Josh.Wiener@butlersnow.com>

Cc: 'Harvey Barton' <harvey@wbartonlaw.com>; Victoria Scordato <vscordato@BSFLLP.com>; Derek Rajavuori <Derek.Rajavuori@butlersnow.com>

Subject: RE: McRaney v. NAMB - Plaintiff's Complaint [IWOV-ButlerSnow.FID6961545]

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Hi Scott,

NAMB does not consent to the filing of an amended complaint.

Thanks,

Kat Carrington
Butler Snow LLP

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From: Scott Gant <sgant@bsfillp.com>

Sent: Monday, October 10, 2022 10:53 PM

To: Kat Carrington <Kat.Carrington@butlersnow.com>; Josh Wiener <Josh.Wiener@butlersnow.com>

Cc: 'Harvey Barton' <harvey@wbartonlaw.com>; Victoria Scordato <vscordato@BSFLLP.com>

Subject: McRaney v. NAMB - Plaintiff's Complaint

Importance: High

Kat,

I write because NAMB continues to misread or misrepresent Dr. McRaney's allegations in its discovery responses and before the Court.

Although filed in state court, the Complaint fulfilled Rule 8's provision that a pleading provide a short and plain statement of the claim.

Causes of Action: The Complaint alleges interference with business and contractual relationships; infliction of emotional distress; and defamation.

Conduct: The complaint makes allegations related to (1) Dr. McRaney's termination, but (2) *also* contains allegations concerning post-termination conduct. *See* Complaint ¶ XIV (NAMB "has *continued* a course of conduct designed to interfere with the business and contractual relationships of Plaintiff McRaney and various third parties.") (emphasis added); *see also* Ferrer Dep. Tr. at 59; Fifth Circuit Oral Argument (observing that complaint alleged NAMB was attempting to "blackball" Dr. McRaney).

Damages: The Complaint asserts damages for: (1) economic harm, (2) non-economic harm, and (3) punitive damages.

Because the Complaint was filed in April 2017, it obviously does not contain allegations about post-filing conduct. But the Complaint clearly alleged *ongoing, post-termination* conduct by NAMB. Plaintiff's discovery responses have made clear that he alleges illegal conduct by NAMB, and harm, after April 2017. *See, e.g.*, Plaintiff's Supplemental Response to Interrogatory 2 ("The harm to Plaintiff by Defendant continued to cause damages after the filing of Plaintiff's complaint, and damages are ongoing."); Plaintiff's Supplemental Response to Interrogatory 15 ("NAMB's actions concerning Plaintiff occurred over an extended period of time, and are ongoing."); *see also* Expert Report of D.C. Sharp.

I cannot tell if NAMB is genuinely confused or engaged in a tactical distortion of Dr. McRaney's allegations. But regardless of which is the case, it's time to put this to rest. Please let me know in writing by close of business this Wednesday, October 12, whether NAMB will consent to the filing of an amended complaint, *see* Rule 15(a)(2), which would eliminate any genuine uncertainty on the part of NAMB about Plaintiff's claims.

If you have any questions or would like to discuss, please let me know.

Thank you,
Scott

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