

An Open Letter to Trustees of the North American Mission Board, SBC Executive Committee, and all who partner with or contribute to the SBC in response to NAMB court claims. From Dr. Morris Chapman, Dr. Randy Adams and over 200 Baptist pastors and local, state and national Baptist organizational leaders

Baptists face several issues that are hindering our ability to advance the Great Commission. However, no issue endangers those who cooperate with the SBC more than the arguments advanced by the North American Mission Board (NAMB) in their ongoing lawsuit with former NOBTS professor and Maryland/Delaware Baptist Convention Executive Director, Dr. Will McRaney. NAMB's defense before the U. S. Fifth Circuit Court of Appeals echoes the ERLC amicus brief on behalf of NAMB that said Southern Baptist governance is a hierarchy, with the SBC at the top and all churches, associations, conventions and Baptist ministers falling under the governance of the SBC.

On April 4, 2024, arguing before the U. S. Fifth Circuit Court of Appeals, NAMB Trustees and President, speaking through their attorney, said this:

“In the Supreme Court’s decision in *Watson v Jones* in 1871 the court made clear that “voluntary religious associations, not merely churches, are entitled to freedom in their governance.” ... And what the *Watson* Court makes clear is that if you as an individual choose to “unite” with a “voluntary religious organization, or association”, you are deemed to have impliedly consented to that association's governance.”

“And I think the passage from *Watson* is critical. The court said the right to organize voluntary religious associations to assist in the expression and dissemination of any religious doctrine and for the ecclesiastical government of all the individual members, congregations and officers within the association is unquestioned. All who unite themselves to such a body do so with an implied consent to this government and are bound to submit to it.”

Key to NAMB's argument before the court is that any religious organization that partners with NAMB falls under NAMB's “governance,” and, shockingly, they are “bound to submit” to NAMB's governance. While NAMB was careful not to use the word “hierarchy” in its argument, by partnering with NAMB you must submit to their governance, which functionally establishes a hierarchical relationship between NAMB and its partners. Furthermore, if NAMB chooses to defame you or interfere with your employment for failure to submit to them, NAMB cannot be held legally liable for any damage they might inflict.

The oral argument by NAMB's attorney to the Fifth Circuit Court is consistent with NAMB's written defenses made twice to the U. S. District Court. Note these in particular:

- 10th Defense – “NAMB had the legal ‘right to interfere’ to protect its own economic and other interests.”
- 12th Defense – “NAMB is protected by an absolute privilege with regard to any statements it may have published regarding Plaintiff.”
- 13th Defense – “NAMB is protected by a qualified privilege with regard to any statements it may have published regarding Plaintiff.”
- 16th Defense – “NAMB is protected by an absolute privilege and/or a qualified privilege with respect to all decisions it made and/or actions it took which may have related to or had an effect upon Plaintiff's employment with BCMD.”

NAMB claims it can say and do what it wants regarding churches, associations, conventions, ministers, etc. with whom it partners, because by partnering with NAMB they have implied consent to NAMB's governance and must submit to NAMB's governance. That is what NAMB is arguing to the precedent-setting second highest court in the United States.

NAMB argues that those partnering with NAMB must submit to NAMB's governance, and that NAMB has a right to interfere with partnering organizations and their staff, should it choose. NAMB also states that NAMB officials can defame individuals and interfere in ways that threaten their employment, without NAMB being subject to any legal accountability or potential liability. Moreover, McRaney's legal complaint is that NAMB continued to defame him, and interfere with his employment opportunities, even after he was no longer employed by the BCMD. Although NAMB claims they did not defame or interfere with him, they maintain that they have a right to do so.

In addition to the concern for individual Baptist bodies and leaders that NAMB's legal defense introduces, there is also the danger of ascending and descending liability with mission gifts. If partnering with NAMB means you are under NAMB's governance, does this also mean the partnering organizations are at risk should one of the partners be held legally liable in sexual abuse lawsuits, or some other lawsuits, that happened within their organization? If a partnering organization falls under NAMB's governance, and someone in that partnering organization commits a criminal offense, can NAMB be held liable when lawsuits are filed against the partner?

These are questions that NAMB Trustees should be asking. Moreover, NAMB Trustees, and every Baptist and Baptist body, should be alarmed that an SBC entity is arguing in court that they have a right to defame and interfere with a person, simply because his Baptist organization partners with that SBC entity. Though U. S. courts may or may not determine they have jurisdiction in this matter, is there no fear of God when we mistreat a brother? Does NAMB's argument to the court build trust and goodwill with other partners? Is the threat of ascending and descending liability not of great concern to NAMB Trustees, and others, when NAMB claims partners fall under NAMB governance?

NAMB has taken positions that Baptist authorities and leaders all agree are contrary to the historic position and practice of cooperating Baptists bodies and ministers, and places at risk the cooperative missionary commitment so dear to generations of Baptists.

Dr. Barry Hankins, Baptist scholar of Church-State relations, in his expert report to the courts, stated, *"If NAMB's interpretation of the First Amend. prevailed, every Baptist entity that cooperates in any way with the SBC would be put at risk."* Moreover, Dr. Hankins stated, *"It is my opinion as a scholar of Church-State relations in the US that NAMB's 1st Amendment defense in this case, if accepted by courts, would actually undermine religious liberty rather than safeguard it."*

We request that the NAMB Trustees abandon their dangerous anti-Baptists assertions and erroneous defenses made to the court and resolve this case. If NAMB Trustees fail to act, we encourage the SBC Executive Committee to carry out its fiduciary duties on behalf of the SBC as its executive entity.

Link to Audio of Oral Arguments April 4, 2024 - https://www.ca5.uscourts.gov/OralArgRecordings/23/23-60494_4-4-2024.mp3?

Link to Automated Transcript from Oral Arguments - <https://willmcraney.com/wp-content/uploads/2024/04/Transcript-Oral-Argument-5th-Circuit-4.4.24-McRaney-v-NAMB.pdf>