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**

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

In 2015, the Baptist Convention of Maryland/Delaware ("BCMD") terminated Plaintiff Will McRaney from his employment as BCMD's Executive Director. Plaintiff now claims that the North American Mission Board ("NAMB") "influenced" the termination through defamatory statements, thereby interfering with his employment, and that NAMB thereafter continued to defame him, costing him religious speaking engagements. Discovery—consisting of voluminous internal ministry records and testimony from NAMB executives, church pastors and other ministry leaders—is now complete and NAMB is entitled to summary judgment.

First, the First Amendment bars Plaintiff's claims. Resolving them would require the Court to interpret a joint ministry agreement between NAMB and BCMD, scrutinize BCMD's spiritual decision-making, and determine why Plaintiff was not selected for religious speaking engagements. Secular courts are barred from doing so. *See, e.g.*, *Our Lady of Guadalupe Sch. v. Morrissey-Berru*, 140 S. Ct. 2049, 2060 (2020) ("[C]ourts are bound to stay out of employment disputes involving those holding certain important positions with churches and other religious institutions."). This Court previously dismissed the case on First Amendment grounds. Dkt. No. 63. The Fifth Circuit remanded based on its conclusion that it was "premature" to make that determination prior to discovery, but acknowledged that discovery could confirm that this is an off-limits religious dispute. *See McRaney v. N. Am. Mission Bd. of the S. Baptist Convention, Inc.*, 966 F. 3d 346, 351 (5th Cir. 2020). Discovery has made that abundantly clear.

Second, Plaintiff released NAMB by signing a Separation Agreement upon his termination.

Third, the undisputed evidence shows that NAMB did not cause Plaintiff any harm.

Undisputed Facts

NAMB is an entity of the Southern Baptist Convention ("SBC"). Plaintiff's Supplemental Pleading, Dkt. No. 191 ("Supp.") ¶ 2. NAMB assists churches, associations, and conventions in

Christian missionary work and church planting. Ex. 1 at NAMB-0002.[1] NAMB has strategic relationships with 42 state or regional conventions of churches. *See* Ex. 2 at 27:18-28:4. BCMD is one such convention; it is an organization of autonomous Baptist churches in Maryland and Delaware. *See* Ex. 3 at 20:10-20. Between September 2013 and June 2015, Plaintiff was BCMD's Executive Director, also referred to as "Executive Missional Strategist." Ex. 4 at WM06172.

In 2012, NAMB and BCMD executed a Strategic Partnership Agreement ("SPA"), a joint ministry agreement that "define[d] the relationships and responsibilities of [BCMD and NAMB] in areas where the two partners jointly develop, administer and evaluate a strategic plan for penetrating lostness through church planting and evangelism." Ex. 1 at NAMB-0003. The SPA is an inherently religious agreement: it invokes the Baptist Faith and Message (the "BFM"), the SBC's fundamental doctrinal statement, *see id.* at NAMB-0004; to interpret the SPA requires an understanding of the BFM. *See* Ex. 3 at 66:4-17. The SPA also provides that it can be discontinued by either party, "normally with at least twelve months' notice." Ex. 1, SPA § IV(3).

Plaintiff and NAMB disagreed about how to achieve the parties' religious objectives in connection with the SPA. Often, Plaintiff would act unliterally, without consulting NAMB, which was inconsistent with SPA provisions, including the core dictates that the partnership "shall be driven by shared values that reflect mutual respect" (*id.*, SPA § I.2) and be implemented "in accordance with all the policies and procedures of each partner (*id.*, SPA § I.6). For instance:

- SPA § II provides for the parties to jointly fund missionary personnel in accordance with specified terms, including approval by both parties. *Id.* at NAMB-0004. Yet, on June 25, 2014, Plaintiff informed NAMB Vice President Jeff Christopherson that he had unilaterally

[1] Exhibits, cited in this Memorandum as "Ex. []," are attached to the Declaration of Timothy Perla.

offered a missionary position to Joel Rainey without first consulting NAMB. *See* Ex. 5 at NAMB 6744. This violated the SPA's provisions that the parties would jointly approve missionaries (SPA § II.1.a) and abide by the procedures of both parties (SPA § I.6). Mr. Christopherson ultimately supported Mr. Rainey's hiring, but he explained to Plaintiff that BCMD and NAMB had to agree on candidates before offers were extended. *See id.*

- Plaintiff did it again in November 2014, offering a jointly-funded State Director of Missions position to Michael Crawford, again without consulting NAMB. This not only constituted another SPA violation, it was worse because after the first incident (discussed in the foregoing bullet), NAMB had explained to Plaintiff NAMB's approval process for missionaries—which Plaintiff again ignored. *Id.* Mr. Christopherson reiterated the importance of coordination between BCMD and NAMB *before* decisions are made. *See* Ex. 6 at NAMB 6483.
- Plaintiff made the unilateral decision to impose associational giving and work requirements on NAMB-funded church planters, which was also inconsistent with the SPA. *See* Ex. 7 at NAMB 6214-15 (noting that a "general associational giving requirement is not something [NAMB] can partner in" and a work requirement "would not be aligned with the spirit with which we agree to jointly fund a missionary"). NAMB discussed its concerns with the giving requirement at length with Plaintiff, who initially agreed to remove it from the BCMD Church Planter's Covenant only to direct later that it be added back in. *See* Ex. 5 at NAMB 6745.

NAMB tried to fix the relationship. On August 25, 2014, Mr. Christopherson emailed Plaintiff, noting these "areas of concern" that NAMB wanted to discuss with Plaintiff "in order to build a smooth working relationship over the days ahead." Ex. 7 at NAMB 6214. On November 18, 2014, NAMB executives offered to meet with Plaintiff to address "the need to shift in our relationship." Ex. 8 at NAMB 6512. On November 20, 2014, NAMB's President sent Plaintiff an

email underscoring the seriousness of Plaintiff's conduct and outlining the three major areas that NAMB believed Plaintiff had "disregarded": "Local Disregard for NAMB staff," "Disregarding NAMB's processes," and "Adding Percentages Fees to [Church] Planters." Ex. 9 at NAMB 6568. This contravened the doctrine of voluntary cooperation, a central tenet among autonomous Baptist organizations, and a cornerstone of the SPA. *See* Ex. 3 at 59:11-16. As William Warren, President of BCMD, explained, this was ultimately a dispute between members of the body of Christ (a term for the Christian church) about how to carry out a religious mission. *See id.* at 99:18-100:14.

The relationship between NAMB and BCMD broke down to the point that, on December 2, 2014, NAMB sent BCMD a letter exercising its right terminate the SPA with one year notice. Ex. 10 (the "December Letter"). Though the SPA did not require cause for termination, the December Letter described NAMB's view that Plaintiff had breached the SPA. *See id.* Over the next six months, NAMB and BCMD explored paths forward for the partnership. At first, BCMD disagreed with the December Letter, and confirmed its support of Plaintiff. *See* Ex. 4; Ex. 11. NAMB met with BCMD (including Plaintiff) in March 2015, and "determined to do our best to find a way to partner and move forward." Ex. 12. The parties agreed to "[c]ommit all this to prayer for the Holy Spirit's guidance toward positive resolutions for a more healthy relationship and partnership to reach the lost and plant churches in Maryland/Delaware." *Id.* at NAMB 6981. BCMD leadership was at the time "supportive" of Plaintiff as Executive Director. Ex. 3 at 162:4-5.

However, BCMD thereafter soured on Plaintiff for reasons unrelated to NAMB. On June 8, 2015, BCMD's General Mission Board ("GMB"), voted to terminate Plaintiff; the minutes from that meeting clearly reflect GMB's concerns with Plaintiff's leadership. *See* Ex. 12. As BCMD President Warren explained, Plaintiff's lack of a "humble spirit," an element of Christ-like character, was the primary reason for his termination. *See* Ex. 3 at 79:7-82:3, 110:5-16, 378:11-

379:4. Plaintiff acknowledges that BCMD made the termination decision but alleges that NAMB "influenced" it. Supp. ¶ 16. But as President Warren wrote to a colleague, the "bottom line" is that BCMD "fired Will because of his wretched leadership not because of a possible loss of NAMB funds." Ex. 14 at WARR 041; *see also* Ex. 3 at 82:5-86:19 (Warren Dep.) (testifying repeatedly that NAMB's influence was not the cause of Plaintiff's termination); Ex. 15 at NAMB 7363 ("Kevin Ezell never implied or stated to me a threat that NAMB would eliminate or reduce their funding to [BCMD] if you were not removed as the Executive Director."); Ex. 16 at NAMB 5380 ("But categorically I can say Kevin Ezell never bullied us or badgered us or asked us to fire Will McRaney."). Plaintiff signed a severance agreement with BCMD, which released all claims against BCMD and its "supporting organizations." Ex. 17 at BCMD_0632 (the "Separation Agreement").

Following his separation from BCMD, Plaintiff publicly fixated on his belief that NAMB—and in particular NAMB President Kevin Ezell—wronged him. For instance, on February 3, 2016, Plaintiff wrote to leaders across the SBC, and published online, a "Letter of Concern." Ex. 18 (*available at* https://willmcraney.com/wp-content/uploads/2016/03/McRaneys-Letter-of-Concern-Ezell-NAMB.pdf). He also published an "Open Letter" attacking NAMB. Ex. 19 (*available at* https://willmcraney.com/open-letter/). There are hundreds of other examples of Plaintiff attacking NAMB on social media and the internet.[2] The irony of this lawsuit is that, while Plaintiff claims his dispute with NAMB marred his reputation, *he* alone is the one who has continually publicized it.

Plaintiff's fixation on NAMB and Dr. Ezell prompted NAMB to take unprecedented steps to ensure physical security. NAMB hired additional security personnel for Dr. Ezell and provided him

[2] *See, e.g.*, Ex. 23 (representative sample of Plaintiff's Facebook and Twitter posts). NAMB has not attached to this motion all of Plaintiff's postings about NAMB and Dr. Ezell because they are so voluminous, and because Plaintiff cannot reasonably deny that he made a substantial number of postings concerning NAMB and Dr. Ezell. Indeed, a simple search on Facebook and Twitter confirms it.

with a home security system. *See* Ex. 2 at 86:19-93:17, 322:7-323:1. NAMB also placed a photograph of Plaintiff at the reception desk at NAMB headquarters so that he could be identified upon entry. *See* Ex. 20. As Plaintiff continued to publicly attack NAMB and Dr. Ezell, he claims that NAMB in turn defamed him. He cites several emails in which NAMB personnel privately referred to Plaintiff as "delusional" or similar. However, these one-off comments (in addition to being honestly held opinions) were never publicly disseminated except by Plaintiff.

Plaintiff also falsely asserts that he was uninvited to speak at a church event in October 2016 due to "interference" by NAMB. Supp. ¶ 28. But the undisputed evidence—including the testimony of the event organizer and his real time correspondence with Plaintiff—proves that NAMB had nothing to do with it. *See* Ex. 21 at 51:19-52:21, 58:8-9, 75:18-77:6; *see also* Ex. 22.

Argument

I. The First Amendment Bars Plaintiffs' Claims

The First Amendment affords religious organizations the "power to decide for themselves, free from state interference, matters of church government as well as those of faith and doctrine." *Kedroff v. St. Nicholas Cathedral of Russian Orthodox Church in N. Am.*, 344 U.S. 94, 116 (1952). The ecclesiastical abstention doctrine precludes civil courts "from involving themselves in ecclesiastical matters, such as disputes concerning theological controversy, church discipline, ecclesiastical government, or the conformity of the members of the church to the standard of morals required." *Klouda v. Sw. Baptist Theological Seminary*, 543 F. Supp. 2d 594, 611 (N.D. Tex. 2008) (citing *Watson v. Jones*, 80 U.S. (13 Wall.) 679, 733 (1871)). "[M]atters of church government, as well as those of faith and doctrine" are among the "purely ecclesiastical questions" judicial review of which is precluded. *McRaney*, 966 F.3d at 348 (citing *Kedroff*).

The First Amendment also "ensures that the authority to select and control who will minister to the faithful—a matter 'strictly ecclesiastical'—is the church's alone." *Hosanna-Tabor Evangelical Lutheran Church & Sch. v. E.E.O.C.*, 565 U.S. 171, 194–95 (2012) (internal citation omitted). This "ministerial exception" requires secular courts "to stay out of employment disputes involving those holding certain important positions with churches and other religious institutions." *Our Lady of Guadalupe,* 140 S. Ct. at 2060. The decision whether to "fire a minister" is "safeguard[ed]" from judicial scrutiny—and punishment under state law—by the First Amendment regardless whether "it is made for a religious reason" or not. *Hosanna-Tabor*, 565 U.S. at 194.

Whether a person is a "minister" is a legal conclusion for the court to make, *Starkman v. Evans*, 198 F.3d 173, 175-76 (5th Cir. 1999); *EEOC v. Sw. Baptist Theological Seminary*, 651 F. 2d 277, 285 (5th Cir. 1981), and turns on "what an employee does." *Our Lady of Guadalupe*, 140 S. Ct. at 2064. In *Hosanna-Tabor*, the Court concluded that a school teacher qualified as a "minister," because, among other things, her "job duties reflected a role in conveying the Church's message and carrying out its mission," she held herself out as a minister, and she claimed tax benefits available only to those compensated "in the exercise of the ministry." 565 U.S. at 191-92; *see also Cannata v. Cath. Diocese of Austin*, 700 F. 3d 169, 180 (5th Cir. 2012) (plaintiff was a "minister" because as a pianoplayer at religious services, "he played a role in furthering the mission of the church and conveying its message"); *Bell v. Presbyterian Church (U.S.A.)*, 126 F.3d 328, 332 (4th Cir. 1997) (holding the ministerial exception applies "if the employee's primary duties consist of teaching, spreading the faith, church governance, supervision of a religious order, or supervision or participation in religious ritual and worship," even if the plaintiff is not suing his employer).

Based on these precedents, the Fifth Circuit stated that "[i]f further proceedings and factual development reveal that McRaney's claims cannot be resolved without deciding purely

ecclesiastical questions, the court is free to reconsider whether it is appropriate to dismiss some or all of McRaney's claims." *McRaney*, 966 F.3d at 350. The record now confirms that is the case.

A. Plaintiff's Claims Concerning the Termination of His Employment With BCMD Require Resolution of Ecclesiastical Questions

Plaintiff's claims require the Court to evaluate, *inter alia*, whether Plaintiff breached the SPA, why NAMB terminated the SPA, and why BCMD terminated Plaintiff's employment. To do so, the Court would have to interpret the SPA, an agreement steeped in religious doctrine, and interrogate the job performance of BCMD's "Executive *Missional* Strategist," *see* Ex. 4 at WM06172 (emphasis added). The evidence makes clear that (i) Plaintiff's role as Executive Director "reflected a role in conveying the Church's message and carrying out its mission," *Hosanna-Tabor*, 565 U.S. at 191–92, and (ii) BCMD's process for terminating him unquestionably involved "matters of church government as well as those of faith and doctrine," *Kedroff*, 344 U.S. at 116. The First Amendment precludes the Court from making both inquiries.

1. The Court Cannot Evaluate Either Plaintiff's Performance Under the SPA or NAMB's Desire to Terminate the SPA

NAMB decided to end its partnership with BCMD because it believed Plaintiff's "serious and persistent disregard" of the SPA resulted in a breach of that agreement. Ex. 10. A factfinder cannot assess that belief without evaluating the SPA, a document rooted in religious doctrine. The document begins by quoting the Holy Bible. *See* Ex. 1 at NAMB-0002 (quoting 1 Corin. 3:7-8). It then recites NAMB's Ministry Statement regarding church planting and evangelism. *Id.* Plaintiff's own expert witness agrees that statement describes "a religious enterprise" protected by the First Amendment. Ex. 24 at 198:1-199:1. The SPA also outlines NAMB's ministry priorities, stating that the SPA "sets forth mutual guidelines … to help each convention penetrate lostness." Ex. 1 at NAMB-0002. Again, Plaintiff's expert agrees that "penetrating lostness is protected by the First

Amendment." Ex. 24 at 201:13-15. Perhaps most critically, the SPA incorporates by reference the Baptist Faith and Message, the SBC's fundamental doctrinal statement. Ex. 1, SPA § I.14; *see also* Ex. 3 at 66:4-17 (to interpret accurately the SPA requires an understanding of the BFM).

In addition, evaluating NAMB's decision to terminate the SPA requires the Court to delve into what Plaintiff's expert calls "the doctrine of the autonomy of local congregations," pursuant to which it is an "exercise in autonomy for the Southern Baptist Convention to cease partnering with a state convention" just as it is an exercise of autonomy, by extension, for NAMB to stop partnering with a convention or for a congregation to withdraw from the SBC. Ex. 24 at 107:11-14, 124:9-16. Plaintiff's expert places "the independence or autonomy of the local church" as one of the "three features that mark virtually all Baptists from their beginnings in the early seventeenth century to the present." Dkt. No. 133-1 at 17. Under Baptist doctrine, both NAMB and BCMD are autonomous. Resolution of Plaintiff's claims would require the Court to assess NAMB's decision to terminate its relationship with BCMD, which would impinge on NAMB's religious autonomy.

2. The Court Cannot Evaluate BCMD's Decision to Terminate Plaintiff

BCMD's decision to terminate Plaintiff's employment, which the Court would need to evaluate to assess whether it was caused by NAMB, also involves purely ecclesiastical questions. There can be no doubt that Plaintiff's role at BCMD was that of "minister." In the lead-up to Plaintiff's termination, "major tensions and conflict" arose "between [Plaintiff] and almost all the Directors of Missions [('DOM')] over his desire to dissolve and absorb associations into state convention," which one DOM[3] described as an "aggressive and at times hostile approach to pushing a strategy with little consideration of the history, core values and identity of this state convention."

[3] Directors of Missions – sometimes also referred to as "Associational Mission Strategists" – are leaders of associations of local autonomous churches and not employed by either NAMB or BCMD.

Ex. 25. These issues, which the Court must resolve to assess Plaintiff's contention that NAMB—rather than internal concerns at BCMD—caused his termination, concern missional strategy and impact missional giving, which are purely ecclesiastical topics about which the Court may not inquire under the ecclesiastical abstention doctrine.

Moreover, BCMD's decision to terminate Plaintiff's employment is shielded from judicial review by the ministerial exception. As this Court held, Plaintiff's role as Executive Director places him squarely within the definition of a "minister" under the ministerial exception. *See* Dkt. No. 19 at 5. Indeed, Plaintiff held himself out as a minister during his tenure as Executive Director, *see* Ex. 3 at 56:6-10, demonstrating his own understanding that his role was religious in nature. The position required adherence to and understanding of the BFM. *See id.* at 47:18-48:6 (describing "doctrinal criteria to be executive director of BCMD"). It is therefore no surprise that Plaintiff "came to [BCMD] … as a minister of the gospel." *Id.* at 56:14-15. Because Plaintiff's role qualifies for treatment as a minister, this Court may not adjudicate "employment disputes" between him and his religious institution employer. *Our Lady of Guadalupe*, 140 S. Ct. at 2060. It does not matter that Plaintiff chose to sue an entity other than BCMD. *See Bell*, 126 F.3d at 332.

This Court's prior dismissal of this case (Dkt. No. 63) correctly anticipated the very religious entanglement that is now before it. The Fifth Circuit remanded this Court's prior ruling that the First Amendment barred Plaintiff's claims because, at that time, "it [was] not certain that resolution of McRaney's claims will require the court to interfere with matters of church government, matters of faith, or matters of doctrine." *McRaney*, 966 F.3d at 351. But now, after discovery, it is certain that such interference will be required to resolve this case. The claims are therefore barred by the First Amendment.

B. Plaintiffs' Claims Concerning His Speaking Engagements Require Resolution of Ecclesiastical Questions

Plaintiff also claims that he was disinvited from ministerial speaking engagements because of supposedly defamatory statements by NAMB. But to resolve these claims, the Court would have to adjudicate the reasons for inviting or not inviting religious speakers, which would entangle the Court in questions about who is selected for "a role in conveying [a religious organization's] message." *Hosanna-Tabor*, 565 U.S. at 191-92. The First Amendment does not allow this inquiry.

II. Plaintiff Released His Claims

In the Separation Agreement, in exchange for valuable consideration, Plaintiff released both BCMD and its "supporting organizations" from future liability. *See* Ex. 17 at BCMD_0632.[4] There is no genuine dispute that NAMB is a "supporting organization" released under the Separation Agreement. Plaintiff stated in writing that "NAMB's role" was to "provid[e] support" to BCMD. Ex. 26 at NAMB 6612. BCMD did so too. *See* Dkt. No. 38 at 2 ("Dr. McRaney has brought suit instead against one of the Convention's *primary supporting organizations*. This action is exactly the type of end-around that was foreclosed and released by Dr. McRaney's settlement agreement with BCMD.") (emphasis added).[5] Indeed, BCMD President Warren testified that NAMB was a "supporting organization of BCMD." Ex. 3 at 153:18-154:2. The SPA explicitly acknowledges "NAMB's support" of the "strategic plan of [BCMD]." Ex. 1 at NAMB-0003; *see also id.* at NAMB-0004 (referring to NAMB as a "financially supporting partner[]" of BCMD).

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[4] Specifically, the Separation Agreement released "any rights or claims for any tort that Dr. McRaney may allege, including any claim of negligence (including negligent infliction of emotional distress …) and any claim of intentional tort (including libel, slander … and intentional infliction of emotional distress)," and "any other claim under any other law …." *Id*. at BCMD_0633.

[5] It would make no sense for BCMD to require a general release of claims with respect to itself but allow those same claims to be brought against NAMB, and this litigation proves the point: BCMD has had to participate extensively in discovery in this case, thereby undermining the peace it sought to acquire through the Separation Agreement and its constitutional rights as a religious employer.

Plaintiff's own expert, who initially opined, without support, that "NAMB is not a 'supporting organization' of BCMD," Dkt. No. 133 at 13, testified at his deposition that he understood the SPA's reference to "supporting partner[s]" to refer to "NAMB and BCMD." Ex. 24 at 235:17-236:1.

Plaintiff tries to distract from this by arguing that NAMB does not meet the Internal Revenue Code ("IRC") definition of "supporting organization." *See* Dkt. No. 85-1. But Plaintiff offers *no evidence* that the parties intended that technical definition to apply to the Separation Agreement. "[C]ourts must accord words their ordinary and accepted meanings, or that meaning which a reasonable person would attach to the term, absent evidence that the parties intended to employ the term in question in a special or technical sense." *Unintrin Auto & Home Ins. Co. v. Karp*, 481 F. Supp. 3d 514, 520 (D. Md. 2020) (internal quotations and citations omitted); *see also W.F. Gebhardt & Co. v. Am. Eur. Ins. Co.*, 252 A.3d 65, 74 (Md. Ct. Spec. App. 2021) ("In applying the objective theory of contract interpretation, we look to dictionary definitions to identify the common and popular understanding of the words used in the contract as evidence of what a reasonable person in the position of the parties would have understood those terms to mean.").

Here, the phrase "supporting organizations" is not in quotation marks to signify a special meaning, nor are the words capitalized, unlike other specifically-defined terms in the contract. None of the words around "supporting organizations" are terms with special meanings; they are generic categories of released parties such as affiliates, agencies, and member churches. Inserting the IRC definition of supporting organizations into a sea of generic terms is an illogical construction in the context of its location in the "General Release" section of the Separation Agreement. *See, e.g.*, *Sy-Lene of Wash., Inc. v. Starwood Urban Retail II, LLC*, 829 A.2d 540, 546 (Md. 2003)

("When the clear language of a contract is unambiguous, the court will give effect to its plain, ordinary, and usual meaning, taking into account the context in which it is used.").[6]

III. Plaintiff Cannot Raise a Triable Issue as to His Claims

A. Plaintiff's Interference Claims Fail (Counts I and IV)

Under Maryland law,[7] a plaintiff alleging the tort of interference with economic relations must prove the following four elements: "'(1) intentional and willful acts; (2) calculated to cause damage to the plaintiffs in their lawful business; (3) done with the unlawful purpose to cause such damage and loss, without right or justifiable cause on the part of the defendants (which constitutes malice); and (4) actual damage and loss resulting.'" *Bagwell v. Peninsula Reg'l Med. Ctr.*, 665 A.2d 297, 314 (Md. 1995) (quoting *Alexander & Alexander, Inc. v. B. Dixon Evander & Assocs., Inc.*, 650 A.2d 260, 268-69 (Md. 1994) (referring to the tort as "wrongful interference with economic relationships")).[8] Plaintiff cannot meet his burden as to any of these elements.

1. Plaintiff Has Produced No Evidence of a Causal Relationship Between NAMB's Actions and Any Purported Interference

Plaintiff's interference claims fail because there is no genuine dispute as to causation. *Kaser v. Fin. Prot. Mktg., Inc.*, 831 A.2d 49, 54 (Md. 2003) (plaintiff must prove "defendant's wrongful or

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[6] It is irrelevant that NAMB was not a party to the Separation Agreement. *See e.g.*, *Bretheren Mut. Ins. Co. v. Buckley*, 86 A.3d 665, 670 (Md. 2014) ("general releases … must be read to release even claims against parties who gave no consideration for, had no knowledge of, and were not parties to the contract.").

[7] Given that this Court sits in diversity, it must determine which state's law to apply, using, in this case, the forum state's "most significant relationship test." *See Burdett v. Remington Arms Co., L.L.C.*, 854 F.3d 733, 735 (5th Cir. 2017). Maryland law applies because the alleged actions and injuries arose from the period when Plaintiff worked and resided in Maryland. *See* Restatement (Second) of Conflict of Laws § 145 (1971) ("When the injury occurred in a single, clearly ascertainable state and when the conduct which caused the injury also occurred there, that state will usually be the state of the applicable law with respect to most issues involving the tort."). However, to moot any dispute, this Memorandum includes footnotes and string citations showing that summary judgment would also be warranted under Mississippi law.

[8] Though Plaintiff sometimes frames these claims as interference with a *contract*, interference claims based on at-will contracts constitute claims for interference with *economic relations*. *See Barclay v. Castruccio*, 230 A.3d 80, 91 n.17 (Md. 2020). A claim for interference with a contract requires Plaintiff to prove that BCMD breached his employment contract with him. *See Md. Indus. Grp., LLC v. Bluegrass Materials Co., LLC*, 2018 WL 3006354, at *7 (Md. Ct. Spec. App. June 15, 2018). Plaintiff cannot establish such a breach.

unlawful act caused the destruction of the business relationship which was the target of the interference"); *Gulf Coast Hospice LLC v. LHC Grp. Inc.*, 273 So. 3d 721, 745 (Miss. 2019) ("It must also be proven that the contract would have been performed but for the alleged interference.").

With respect to Count I (relating to Plaintiff's termination from BCMD), it is undisputed that BCMD—not NAMB—terminated Plaintiff. *See* Ex. 13. The record reflects myriad documented reasons for doing so, none of which had anything to do with NAMB. These include:

- **Plaintiff's lack of leadership**: BCMD "fired Will because of his wretched leadership, not because of a possible loss of NAMB funds." Ex. 14 at WARR 041; *see also* Ex. 3 at 74:18-75:14; Ex. 13 at BCMD_0687 ("He cannot lead. He is never going to inspire leaders to really go for it").

- **Plaintiff's demeaning behavior toward staff**: "Will loves to carelessly criticize former employees," engages in "[d]emonizing everyone who disagrees or offers criticism" and yells at and chastises staff. *Id.* at BCMD_0688-89, *see also id.* at BCMD_0683 ("The staff feel ignored, put-down, censuring emails at midnight").

- **Plaintiff's failure to develop trust and confidence among BCMD leadership and staff**: Missionaries, pastors, and church leaders all said that they didn't trust Plaintiff. *See id.* at BCMD_0683, 0687; *see also id.* at BCMD_0688 (Plaintiff "[d]emanded that I breach a confidence that I would not breach").

- **Plaintiff's inability to communicate clearly:** Plaintiff "struggles in his ability to communicate" and "doesn't have the relational equity he needs." *Id*. at BCMD_0690; *see also id.* at BCMD_0688 ("The staff is very confused about what we are supposed to do").

- **Plaintiff's promotion of fundraising over mission**: "[P]astors are unhappy to hear it's more about how to get more money from the churches for the network instead of how we can help more churches in the network." *Id.* at BCMD_0683, 0689.

- **Plaintiff's failure to follow internal BCMD processes**: "[W]e have seen McRaney circumvent [BCMD's Administrative Committee (the "AC")] and GMB going against polity set up for the network." *Id.* at BCMD_0683; *see also id.* (describing Plaintiff as offering "jobs to people when the position has not been approved by the AC or GMB,"); *id.* at BCMD_0690 (describing Plaintiff as "refus[ing] to go through the AC for financial changes that are HUGE").

- **Plaintiff's narcissism**: "The narcissism is choking." *Id.* at BCMD_0687; *see also* Ex. 27 at WARR 034.

Worse, five senior members of BCMD's staff threatened to "leave if Will stays." Ex. 13 at BCMD_0683; *see also id.* at BCMD_0689. The possibility of losing five "excellent employees [and] excellent leaders," would have been "very detrimental to [BCMD]," and was the driving force behind the decision to terminate Plaintiff. Ex. 3 at 184:4-185:5. The evidence not only confirms what the reasons for terminating Plaintiff *were*, but also confirms that they *were not* based on NAMB. As Mark Dooley, President of the GMB, wrote to Plaintiff, "this was not / is not about NAMB and Kevin Ezell." Ex. 28 at BCMD_0065. BCMD President Warren was unaware of "any NAMB personnel say[ing] disparaging things about Dr. McRaney to BCMD that caused BCMD to terminate Dr. McRaney" during his tenure as president. Ex. 3 at 82:16-83:6; *see also id.* at 84:5-11, 84:13-85:5. Simply put, no jury could find that NAMB caused Plaintiff's termination.

Similarly, as to Count IV, no jury could find that NAMB caused Plaintiff's disinvitation to speak at a church event in Louisville, Mississippi in 2016. *See* Supp. ¶ 28. The event was organized by Rob Paul, then the lead pastor at First Baptist Church in Louisville. *See* Ex. 21 at 10:25-11:8. Pastor Paul, who has never been a NAMB employee (*see id.* at 13:10-13), testified unequivocally that he—not NAMB—made the decision to rescind Plaintiff's invitation to speak at his church, and that he did so *not* because of any influence by NAMB but because Plaintiff had rashly publicized on Facebook his post-termination dispute with NAMB. *See id.* at 50:24-51:2 ("In essence, [Plaintiff] was declaring war on [NAMB], and significant numbers of our ministry partners were [NAMB] ministers, and those two things are incompatible."); *Id.* at 51:4-6 (confirming that Plaintiff's "declaration of war" was the reason Pastor Paul uninvited him). Pastor Paul's testimony is corroborated by his real-time correspondence with Plaintiff to the same effect. *See* Ex. 22 at WM01024 (explaining Pastor Paul's decision was "based on what was best for [Pastor Paul's] church and [its] mission partners"). No one from NAMB ever told Pastor Paul to disinvite Plaintiff

or "had any role in the decision." Ex. 21 at 52:13-21; *see also* Ex. 22 at WM01023-24.[9] As a result, Plaintiff has failed to establish any causal link between NAMB and the disinvitation.

Finally, there is no evidence of a causal link between NAMB's conduct and Plaintiff's alleged failure to secure two job opportunities. Supp. ¶¶ 25-26. As an initial matter, the alleged opportunities do not constitute "prospective business relationships."[10] In any event, Plaintiff has produced no evidence indicating that NAMB was even aware these opportunities existed. Lack of knowledge of the business relationship is fatal to a claim of interference with that relationship. *See Galbreath v. Burlington Coat Factory Warehouse of Arundel, Inc.*, 2003 WL 22955704, at *4 (D. Md. Dec. 2, 2003) (awareness of relationship is necessary to establish tortious interference); *AmSouth Bank v. Gupta*, 838 So. 2d 205, 214 (Miss. 2002) (requiring "knowledge" to support intentional or willful conduct to the claim of tortious interference). Even if NAMB had known of these relationships, Plaintiff has produced no evidence of any action taken by NAMB with respect to either opportunity. One alleged potential employer declined to hire Plaintiff "[a]fter learning

[9] The only nexus Plaintiff offers between Pastor Paul's disinvitation and NAMB is a phone call Pastor Paul had with his pastoral mentor, Danny Wood, who was also a NAMB trustee at the time. Plaintiff misleadingly argues that Mr. Wood caused the disinvitation. Supp. ¶ 28. Not so. *See* Ex. 21 at 52:13-17 (testifying that Mr. Wood did not tell Pastor Paul to disinvite Plaintiff). On the contrary, Pastor Paul independently decided to rescind the invite "the moment [he] read [Plaintiff's] Facebook post." Ex. 22 at WM01024. He then contacted Mr. Wood for advice about how to handle the situation. *See Id.* at WM01024; Ex. 21 at 49:7-9. Moreover, far from being "calculated to cause damage to the plaintiff[]," *Bagwell*, 665 A.2d at 314, Mr. Wood actually responded to this request by advising Pastor Paul to "find a way to use [Plaintiff] in some capacity at some point in the future." Ex. 22 at WM01024. Such advice cannot form the basis of a tortious interference claim. *See Cromwell v. Williams*, 333 So. 3d 877, 889 (Miss. Ct. App. 2022) ("One who intentionally causes a third person not to perform a contract or not to enter into a prospective contractual relation with another does not interfere improperly with the other's contractual relation, by giving the third person … honest advice within the scope of a request for the advice.").

[10] Plaintiff submitted declarations from two witnesses, the admissibility of which NAMB does not concede. One stated that he "began considering ways to incorporate" Plaintiff; the other stated that he "wanted to hire" Plaintiff. Ex. 29 at WM00966; Ex. 30 at WM00323. Such inchoate thoughts fall short of the requirement that Plaintiff "identify a possible future relationship which is likely to occur." *Marinkovic v. Vasquez*, 2015 WL 3767165, at *11 (D. Md. June 16, 2015); *see also Hubbard Chevrolet Co. v. Gen. Motors Corp.*, 682 F. Supp. 873, 877-78 (S.D. Miss. 1987) (plaintiff must prove "reasonable probability that plaintiff would have entered into a contractual relationship," such as a relationship "where the parties intended and were about to execute a contract or that negotiations were reasonably certain to result in a contract").

from various SBC leaders in Florida that NAMB leadership was not pleased with" Plaintiff and out of "fear of damage to [the seminary] and backlash from some SBC leaders." Ex. 29 at WM00966. Another said he did not hire Plaintiff "because SCBA could not afford the perception problems and potential hurt to SCBA with NAMB and SBC leaders" resulting from a "perception portrayed by NAMB among SBC leaders [] that Dr. McRaney was a trouble maker." Ex. 30 at WM00323. There is no evidence that NAMB ever communicated with these alleged potential employers.

2. No Jury Could Find that NAMB Acted with the Intent to Interfere

Plaintiff's interference claims also fail because there is no genuine dispute that NAMB acted with a "specific purpose to interfere." *Alexander & Alexander*, 650 A.2d at 270. Even if Plaintiff could show that NAMB "harbored animosity towards" him, that "would not sustain the tort if [the] animosity was incidental to its pursuit of legitimate commercial goals." *Id*. at 271. To the extent Plaintiff's claim is based on the December Letter, these statements were not intended "to cause damage to the plaintiff[] in [his] lawful business." *Rocky Gorge Dev., LLC v. Gab Enters., Inc*., 2018 WL 6271662, at *16 (Md. Ct. Spec. App. Nov. 30, 2018) (defendant must act "not for [his] own sake" but "for the deliberate, independent, and successful purpose of interfering"); *see also* NAMB 0001. Rather, NAMB was seeking to advance its ecclesiastical goals, including protecting NAMB's interest in hiring the right people to fulfill its mission, Ex. 9 at NAMB 6568; Ex. 31 at NAMB 5348, promoting a sustainable level of giving by church planters, developing a cooperative joint partnership, and preserving the roles of church planters, *see* Ex. 7 at NAMB 6214-6215.

3. NAMB's Conduct Was Not Improper

Finally, Plaintiff's interference claims require him to prove that any allegedly interfering conduct "was accomplished through *improper means*"—that is, "independently wrongful or unlawful, quite apart from its effect on the plaintiff's business relationships." *Spengler v. Sears, Roebuck & Co.*, 878 A.2d 628, 642 (Md. Ct. Spec. App. 2005) (citation omitted). "The types of

'improper means' that give rise to a tortious interference claim have been limited to 'violence or intimidation, defamation, injurious falsehood or other fraud, violation of the criminal law, and institution or threat of groundless civil suits or criminal prosecutions in bad faith.'" *MedServ Int'l, Inc. v. Rooney*, 2006 WL 8457075, at *2 (D. Md. June 28, 2006) (quoting *Volcjak v. Washington County Hosp. Ass'n*, 723 A.2d 463, 513 (Md. Ct. Spec. App. 1999)). Plaintiff's claims do not allege any improper means other than defamation, which, for the reasons outlined below, *infra* Section III.B., cannot support his interference claim. Because there is no genuine dispute that NAMB's alleged conduct was not improper, Plaintiff's interference claims fail.

B. Plaintiff's Defamation Claims Fail (Counts II and V)

1. The Statute of Limitations Has Run

The limitations period for defamation is one year. *See* Miss. Code Ann. § 15-1-35; *Adams v. David's Bridal, Inc.*, 2007 WL 805663, at *2-3 (S.D. Miss. Mar. 14, 2007).[11] Plaintiff alleges that NAMB defamed Plaintiff prior to his termination on June 8, 2015. Supp. ¶¶ 12, 46. But he did not sue until April 7, 2017, more than one year later. *See* Dkt. No. 2. To the extent the defamation claims are premised on alleged defamatory statements made prior to April 7, 2016—including anything that could conceivably have contributed to Plaintiff's termination—such claims are untimely. *See Dixon v. Clark*, 1999 WL 33537231, at *3 (N.D. Miss. Oct. 15, 1999) (finding plaintiff's wrongful termination based on defamation claim barred by statute of limitations where claim not brought within one year of publication of allegedly defamatory statement).

2. The Defamation Claims Are Otherwise Deficient as a Matter of Law

Maryland law requires four elements to prove defamation: "(1) that the defendant made a defamatory statement to a third person, (2) that the statement was false, (3) that the defendant was

[11] Mississippi law supplies the limitations period because limitations periods are procedural. *See, e.g.*, *Utterback v. Trustmark Nat'l Bank*, 2017 WL 5654732, at *6 (S.D. Miss. Mar. 30, 2017).

legally at fault in making the statement, and (4) that the plaintiff thereby suffered harm." *State Farm Mut. Auto. Ins. Co. v. Slade Healthcare, Inc.*, 381 F. Supp. 3d 536, 565 (D. Md. 2019). Plaintiff's defamation claims are based on two theories of allegedly defamatory statements: (a) NAMB's alleged "disparaging falsehoods" and statements about his failure to abide by the SPA—namely, that he "violated a civil legal agreement" (the SPA), "engaged in 'serious and persistent disregard'" of the SPA, failed to abide by the SPA, and "willfully and repeatedly ignore[ed]" the SPA, Supp. ¶¶ 9, 10, and (b) nonspecific allegations relating to a few private emails (*e.g.*, stating that Plaintiff is a "liar" and is "delusional"), Supp. ¶ 31. Neither theory holds water.

Even if Plaintiff could establish a *prima facie* claim for defamation with respect to NAMB's statements in the December Letter (he cannot), his claim would fail as a matter of law because of the qualified "common interest" privilege, which recognizes that "a person should not be held liable for defamation where that person, 'in good faith, … publishes a statement in furtherance of his own legitimate interests, or those shared in common with the recipient or third parties.'" *Lindenmuth v. McCreer*, 165 A.3d 544, 553 (Md. Ct. Spec. App. 2017) (quoting *Marchesi v. Franchino*, 283 Md. 131, 135-36 (Md. 1978)). Here, there is no dispute that by identifying what it understood to be repeated breaches of the SPA, NAMB was protecting its own legitimate interests. *See Klingshirn v. Fid. & Guar. Life Ins. Co.*, 2013 WL 4506271, at *7 (D. Md. Aug. 22, 2013) (allegedly defamatory letter sent by defendant to plaintiff's customers about plaintiff's failure to complete professional requirements was protected because defendant sent it "for the purpose of protecting its and [the customer's] interests"). Dr. Ezell told the NAMB Executive Committee that he sent the December Letter hoping to restore the cooperative relationship between NAMB and BCMD, particularly with respect to the hiring of missionaries. *See* Ex. 31 at NAMB 5348. Communications prior to the December Letter documented NAMB's legitimate interests in and concern with preserving funding

ratios for religious employees, *see* Ex. 33 at BCMD_1331, Plaintiff's "church planting overreach," Ex. 32, and hiring the right people to spread the Word of God, Ex. 9 at NAMB-6568. The common interest privilege therefore bars Plaintiff's claims. *See Lindenmuth*, 233 Md. App. at 358-59.

Plaintiff's defamation claims also fail because he has not produced any evidence that the alleged statements are false. In Maryland, the "plaintiff bears the burden of establishing falsity." *State Farm Mut. Auto. Ins.*, 381 F. Supp. 3d at 565. "A false statement is one that is not substantially correct," and "[m]inor inaccuracies do not amount to falsity so long as the substance, the gist, the sting, of the libelous charge be justified." *Batson v. Shiflett*, 602 A.2d 1191, 1212 (Md. 1992) (internal quotation marks omitted).

Not only has Plaintiff failed to meet his burden to prove falsity, but the indisputable evidence also shows that NAMB's alleged statements were in fact true. Plaintiff did violate and repeatedly disregard the SPA, particularly by hiring missionaries without consulting NAMB. *See* Ex. 1, SPA § II.1(a) ("Jointly funded missionaries must go through the approval process of both the convention and NAMB. Searches for jointly funded missionaries shall be initiated by the convention in consultation with NAMB."); *see also* Ex. 3 at 300:10-302-7, 309:8-312:8.

Plaintiff's other, nonspecific allegations of "disparaging falsehoods" arise from a few private emails expressing opinions that Plaintiff is a "liar" or "delusional," and that he "almost single-handedly ruined" the BCMD. Supp. ¶¶ 11, 31. "[S]tatements of opinion are generally not actionable." *Shulman v. Rosenberg*, 2017 WL 5172642, at *12 (Md. Ct. Spec. App. Nov. 8, 2017). These alleged statements about Plaintiff's ineffectiveness are nothing more than "opinions, comments, and criticism," which cannot support a defamation claim. *Id.*

Neither do name-calling and other hyperbole give rise to defamation liability. *See, e.g.*, *Carey v. Throwe*, 2019 WL 414873, at *8 (D. Md. Jan. 31, 2019) (statements that are "loose,

figurative, [and] hyperbolic" are not defamatory) (quoting *Milkovich v. Lorain J. Co.*, 497 U.S. 1, 21 (1990)); *see also Greenbelt Coop. Publ'g Ass'n v. Bresler*, 398 U.S. 6, 14 (1970) (rejecting defamation claims based on statements that "even the most careless reader must have perceived [were] no more than rhetorical hyperbole [or even] a vigorous epithet"); *see also* Restatement (Second) of Torts § 556, cmt. e (1977).[12] Indeed, courts routinely reject defamation claims based on the specific words Plaintiff claims NAMB used to describe him.[13] Even if such hyperbole were actionable, Plaintiff has utterly failed to establish that it caused him any harm.

Finally, Plaintiff alleges that NAMB defamed him by placing his photograph at the reception desk of NAMB's headquarters in order to deny him entry. Supp. ¶ 23. The undisputed facts show that the photo, an unoffensive headshot of Plaintiff, without any accompanying text (*see* Ex. 20 at NAMB-5238), was placed *behind the desk* and out of public view. *See* Ex. 34 at 149:12-15; *see also* Ex. 23 (showing photo's discreet positioning). There is *no* evidence that members of the public saw it; those who regularly entered the building never saw the photograph. *See* Ex. 35 at 63:3-8. Even if someone did, there would be no indication why it was there. Ex. 34 at 150:22-151:2. The photo therefore cannot be a predicate for defamation, because it is neither a

[12] Mississippi and other states similarly find that "mere 'unfair' statements and 'caustic commentary' are 'simply not actionable [as defamation].'" *Hays v. LaForge*, 333 So. 3d 595, 603–04 (Miss. Ct. App. 2022) (internal citations omitted); *see also Fagan v. Faulkner*, 2023 WL 2884538, at *4 (Miss. Ct. App. Apr. 11, 2023) ("[C]ommon law has always differentiated sharply between genuinely defamatory communications [and] obscenities, vulgarities, insults, epithets, name-calling, and other verbal abuse."); *Kryeski v. Schott Glass Techs., Inc.*, 626 A.2d 595, 601 (Pa. Super. Ct. 1993) (calling someone "crazy" is not defamatory because it was "not meant in the literal sense" and was "no more than 'a vigorous epithet'"); *Ultimate Creations, Inc. v. McMahon*, 515 F. Supp. 2d 1060, 1065 (D. Ariz. 2007) ("Statements of rhetorical hyperbole are not actionable" because "[t]he law provides no redress for harsh name-calling.").

[13] *See, e.g.*, *Cromity v. Meiners*, 494 S.W. 3d 499, 501 (Ky. Ct. App. 2015) (rejecting defamation claim based on being called an "out and out liar" and "delusional"); *Desai v. Clark*, 2011 WL 3359971, at *3 (N.D. Cal. Aug. 2, 2011) ("delusional maniac" was non-verifiable derision, not defamation); *Bourne v. Arruda*, 2011 WL 2357504, at *11 (D.N.H. Jun. 10, 2011) (descriptions of plaintiff as "delusional," a "nutcase," and someone who "spews falsehoods" were "opinions, vigorous epithets, and rhetorical hyperbole" and therefore non-defamatory).

communication to a third party nor is there anything "false" about it whatsoever. *See State Farm*, 381 F. Supp. 3d at 565. Indeed, if anyone is to blame for the public dissemination of the photo, it is Plaintiff, who repeatedly posted about it on his Facebook and Twitter pages. *See* Ex. 23; *see also Hickey v. St. Martin's Press, Inc.*, 978 F. Supp. 230, 237 (D. Md. 1997) ("The general rule is that, if a person claiming to be defamed communicates the allegedly defamatory statements to another, no liability for any resulting damages is incurred by the originator of the statements."). No reasonable jury could find that the posting of the photo was defamatory.

In any event, posting the photograph was a self-evidently reasonable step under the circumstances. By 2016, Plaintiff had become a serious security risk for NAMB. He was openly upset and blamed NAMB (and Dr. Ezell in particular) for his termination from BCMD—to cite just a few examples, he published a "Letter of Concern," started a website filled with negative content concerning NAMB, and routinely attacked NAMB and Dr. Ezell using escalating language on Facebook and Twitter. *See, e.g.*, Ex. 2 at 34:15-37:9 (Dr. Ezell describing the "build-up" of Plaintiff's unpredictable behavior, including but not limited to the publication of the Letter of Concern, which caused him and NAMB to feel threatened). Plaintiff repeatedly confronted pastors and churchgoers to air his grievances. *See, e.g.*, Ex. 36 at BCMD_0030 ("Engaging me in conversation in the foyer of my church within earshot of my church members to discuss your recent termination was highly improper."); Ex. 37 at 41:20-53:12 (Danny De Armas, a NAMB trustee, describing in detail an "intense" in-person interaction at his church between himself and Plaintiff which caused Mr. De Armas to be concerned for his and Dr. Ezell's safety). Given Plaintiff's expressed contempt for NAMB and its personnel, it is entirely unsurprising that NAMB wanted to control his access to NAMB's private property, as it had every right to do. The photograph is not an example of defamation; it is a sad symptom of the parties' broken relationship.

C. Plaintiff's Infliction of Emotional Distress Claims Fail (Counts III and VI)

To establish a cause of action for intentional infliction of emotional distress ("IIED"), a plaintiff must prove each of the following four elements: "(1) The conduct must be intentional or reckless; (2) [t]he conduct must be extreme and outrageous; (3) [t]here must be a causal connection between the wrongful conduct and the emotional distress; (4) [t]he emotional distress must be severe."[14] *Manikhi v. Mass Transit Admin*., 758 A.2d 95, 113 (Md. 2000) (internal quotation marks omitted). Such conduct must be "so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community." *Batson*, 602 A.2d at 1216 (quoting *Harris v. Jones*, 380 A.2d 611, 614 (Md. 1977)). The tort of IIED "is to be used sparingly," and "[t]he requirements of the rule are rigorous, and difficult to satisfy." *Kentucky Fried Chicken Nat. Mgmt. Co. v. Weathersby*, 607 A.2d 8, 11 (Md. 1992). In fact, only four claims for IIED have been sustained in Maryland's history. *See Haines v. Vogel*, 249 A.3d 151, 163–64 (Md. Ct. Spec. App. 2021).

NAMB's conduct does not come close to meeting any of the required elements to sustain an IIED claim. *First*, for conduct to be intentional or reckless, "the actor [must] desire[] to inflict severe emotional distress, and also where he knows that such distress is certain, or substantially certain, to result from his conduct; or where the defendant acts recklessly in deliberate disregard of a high degree of probability that the emotional distress will follow." *Mixter v. Farmer*, 81 A.3d 631, 637 (Md. Ct. Spec. App. 2013) (quoting *Harris,* 380 A.2d at 614). Plaintiff cannot prove that any of NAMB's conduct suggested an intent to cause him severe emotional distress. NAMB could

[14] Plaintiff's IIED claims fail under Mississippi law as well. In Mississippi, the relevant conduct "must be wanton and willful, as well as evoke outrage or revulsion." *Collins v. City of Newton*, 240 So. 3d 1211, 1220 (Miss. 2018). It must be "so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community." *S. Farm Bureau Life Ins. Co. v. Thomas*, 299 So. 3d 752, 759 (Miss. 2020) (citation omitted).

not reasonably have expected that Plaintiff would suffer from such distress based on his awareness that NAMB had placed his photograph in a discreet location at NAMB headquarters. And no rational person could foresee—let alone be substantially certain—that severe emotional distress could result from NAMB's alleged statements regarding Plaintiff's job performance.

Second, the conduct must be extreme and outrageous, which is a "high standard" designed to "screen out" claims precisely like Plaintiff's, *i.e.*, "claims amounting to mere insults, indignities, threats, annoyances, petty oppressions, or other trivialities that simply must be endured as part of life." *Batson*, 602 A.2dat 1216 (internal quotation marks omitted). NAMB's alleged misconduct amounted to, at worst, harmless name-calling ("nutcase," "delusional," "liar," etc.), legitimate performance feedback ("[f]ailure to follow a Partnership Process in Hiring Jointly Funded Missionaries," "[d]isregard for National Agreements," etc.), and discreetly posting a photo of Plaintiff. Such conduct does not approach the standard of "so outrageous that it goes beyond all possible bounds of decency, and [is] regarded as atrocious, and utterly intolerable in a civilized community." *Borchers v. Hyrchuk*, 727 A.2d 388, 392 (Md. Ct. Spec. App. 1999). In fact, these are the "mere insults, threats or indignities" to which IIED liability does not extend. *Id.* at 393.[15]

Third, "[t]here must be a causal connection between the wrongful conduct and the emotional distress." Plaintiff offers no facts establishing a causal link between his alleged consultation with "primary care medical professionals and a cardiologist" and any of NAMB's alleged actions. In

[15] The alleged misconduct here pales in comparison to the rare cases where Maryland law has actually entertained IIED claims. *See, e.g.*, *Figueiredo-Torres v. Nickel*, 584 A.2d 69 (Md. 1991) (psychologist engaged in sexual relations with plaintiff's wife during the time he was counseling the couple); *B.N. v. K.K.*, 538 A.2d 1175 (Md. 1988) (physician with herpes had sex with nurse without informing her that he had the disease and infected her); *Young v. Hartford Accident & Indem. Co.*, 492 A.2d 1270 (Md. 1985) (workers' compensation insurer insisted that claimant submit to psychiatric evaluation for the "sole purpose" of harassing her and forcing her to drop her claim or commit suicide).

fact, Plaintiff had already made at least one appointment with a cardiologist as early as November 2014, before any of NAMB's alleged actions occurred. *See* Ex. 38 at NAMB 6511.

Finally, the emotional distress must be severe "in the sense that it was of such substantial quantity or enduring quality that no reasonable man in a civilized society should be expected to endure it." *Vauls v. Lambros*, 553 A.2d 1285, 1290 (Md. Ct. Spec. App. 1989) (internal citation and quotation marks omitted). The degree of distress must be such that one is "unable to function or to tend to necessary matters." *Haines*, 249 A.3d at 164-65 (internal quotation marks omitted). Maryland courts distinguish "between the slight hurts which are the price of a complex society and the severe mental disturbances inflicted by intentional actions wholly lacking in social utility." *Harris*, 380 A.2d at 617 (noting that "[i]ndiscriminate allowance of actions for mental anguish would encourage neurotic overreactions to trivial hurts"). Here, Plaintiff claims he "suffered from stress, anxiety, difficulty sleeping, and weight gain as a result of Defendant's conduct and consulted primary care medical professionals and a cardiologist in connection with those conditions." Ex. 39 at 22. But Plaintiff has provided neither official diagnoses nor any other evidence to support those allegations, let alone prove that he was not able to carry on with his day-to-day life. Indeed, he is still, to this day, the lead pastor of a church. Ex. 40 at 16:8. Such alleged emotional distress is not nearly sufficient to meet the substantial and enduring quality standard. *See, e.g., Vauls*, 553 A.2d 1285 (finding that "grief stricken" plaintiff failed to establish severe emotional distress despite suffering from "transient stress disorder," "anxiety attacks," "fear and sweat," and "fright-nausea"). NAMB is therefore entitled to judgment as a matter of law as to Counts III and VI.

Conclusion

The Court should grant summary judgment in favor of NAMB.

Respectfully submitted, this 18th day of May, 2023.

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