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2018-09-23 11:10:41

STATE OF NORTH CAROLINA  
COUNTY OF HAYWOOD

10

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION  
FILE NO: 18CVD 345

MCLEAN LAW FIRM, P.A.  
Plaintiff

Vs.

MOTION TO DISMISS A  
MOTION TO COMPEL

LISA A. KOSIR  
Defendant

DEC 20 2018


NOW COMES the Defendant moving that a pleading filed in the above captioned matter be dismissed, and stricken, and in support of this motion the Defendant alleges and says as follows:

1. That on the 26<sup>th</sup> day of September, 2018 a Motion to Compel was filed in the above captioned matter.
2. That the motion alleges that the Defendant, Lisa Kosir was served with Request for Production of Documents on the 2<sup>nd</sup> day of July, 2018; however, the undersigned attorney for this matter was not, at that time, served with interrogatories.
3. That the motion alleges that a copy of the interrogatories are attached to the motion; however, there is no attachment.
4. That paragraph 4 of the motion alleges that the undersigned attorney, Russell McLean III, made notice to produce discovery within 10 days, and certifies that this request was made to Joy McIver. Mrs. McIver was never the attorney of record in this matter, and the undersigned is still attorney of record in this matter.
5. That the requests are signed by Russell McLean III; however, this motion is also improper as the Honorable Judge Tessa Sellers entered an order of disqualification on June 7, 2018 preventing Mr. Mclean from acting as the attorney in this matter.
6. That the Defendant was subsequently served with Requests for Admissions and Request for Production of Documents in the above captioned matter; however, these requests were not served until October 4, 2018.

WHEREFORE, the Defendant respectfully prays judgment as follows:

1. That the Court dismiss the motion to compel discovery filed by the Plaintiff on the 2<sup>nd</sup> day of July, 2018, for the reasons cited above, and that such a dismissal be with prejudice.
2. for any such other and further relief the Court deems just and proper.

This is the 30<sup>th</sup> day of November, 2018.

  
Bill Jones, Attorney for Defendant  
89 Walnut St.  
Waynesville, NC 28786  
(828)456-2886  
Bar No: 25594

CERTIFICATE OF SERVICE

This is to certify that I have this day served the foregoing document, upon each party to this cause, or the attorney(s) of record for said party, in accordance with Rule 5 of the NC Rules of Civil Procedure by:

Personal delivery by myself or an employee or agent of my office

Depositing a copy of the same in a receptacle of the United States Postal Service, with adequate postage affixed thereon

Facsimile

Email

Virginia Jordan Song, Attorney at Law  
154 N. Main Street, Suite 1  
Waynesville, NC 28786

Personal delivery by myself or an employee or agent of my office

Depositing a copy of the same in a receptacle of the United States Postal Service, with adequate postage affixed thereon

Facsimile

Email

Russell L. McLean III  
P.O. Box 4  
Waynesville, NC 28786

This the 3<sup>rd</sup> day of December, 2018.



---

Bill J. Jones, Attorney at Law, P.A.  
89 Walnut Street  
Waynesville, NC 28786  
Phone: (828) 456-2886  
Fax: (828) 456-2887  
Bar No: 25594

FILED

2018 DEC -3 AM 10:41

STATE OF NORTH CAROLINA  
COUNTY OF HAYWOOD

*dc*

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION

FILE NO: 18 CVD 345

MCLEAN LAW FIRM P.A.

Plaintiff

vs.

NOTICE OF OBJECTION  
TO THIRD PARTY INTERVENTION

LISA A. KOSIR,

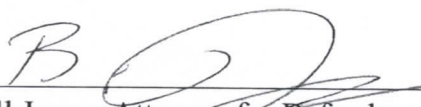
Defendant

DEC 20 2018

NOW COMES the Defendant responding to a motion to intervene filed by Russell McLean III, and objects to the same, and says that the potential intervenor, Russell McLean III has failed to meet the mandatory requirements for permissive intervention per N.C.G.S. § 1A-1, Rule 24, in both his pleadings and fact.

WHEREFORE the Defendant respectfully requests that the motion of Russell McLean III to intervene in the above captioned matter be dismissed.

This is the 30<sup>th</sup> day of November, 2018.

  
Bill Jones, Attorney for Defendant  
89 Walnut St.  
Waynesville, NC 28786  
(828)456-2886  
Bar No:25594

CERTIFICATE OF SERVICE

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Facsimile

Email

Russell L. McLean III  
P.O. Box 4  
Waynesville, NC 28786

This the 3<sup>rd</sup> day of December, 2018.

  
\_\_\_\_\_  
Bill J. Jones, Attorney at Law, P.A.  
89 Walnut Street  
Waynesville, NC 28786  
Phone: (828) 456-2886  
Fax: (828) 456-2887  
Bar No: 25594

STATE OF NORTH CAROLINA

COUNTY OF HAYWOOD

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION  
FILE NO: 18 CVD 345

McLEAN LAW FIRM, P.A.  
Plaintiff

Vs.

LISA A. KOSIR  
Defendant

)  
)  
)  
) DEFENDANT'S RESPONSES TO  
) REQUESTS FOR ADMISSIONS  
)  
)  
)

DEC 20 2018

To: McLean Law Firm, P.A., Plaintiff  
c/o Virginia Jordan Attorney at Law  
154 N. Main Street, Suite 1  
Waynesville, NC 28786

NOW COMES the Defendant, pursuant to Rules 33 of the North Carolina Rules of Civil Procedure, responding to Plaintiff's Requests for Admissions, states as follows:

1. That the Quickbooks program attached hereto as Exhibit A and made a part hereof including software used in the Samsung Model 700A computer (hereinafter "the computer") was purchased by McLean Law firm P.A. Exhibit A Attached hereto and made a part hereof. .

**ANSWER:** The Defendant objects to this request for production on the following grounds:

- 1) **Objection 1:** The Defendant cannot answer this request for admission as there was no exhibit A attached to the requests tendered to Defendant, and as such the Defendant is unable to admit or deny these allegations.
  - 2) **Objection 2:** That the Defendant is without sufficient information to admit or deny whether certain, unlabeled software was or was not purchased by the McLean Law Firm, P.A.
2. That Lisa A. Kosir P.L.L.C., a Professional Limited liability Corporation, was dissolved with the North Carolina Secretary of State in the month of August on or about the 16<sup>th</sup> day of August, 2016 as shown on Exhibit B attached hereto an made a part hereof.

**ANSWER:** The Defendant objects to this request for admission.

- 1) Objection 1: That, once again, there is no attached exhibit B, and as such the Defendant is unable to admit or deny what Exhibit B, which is unattached, says or shows.
- 2) Objection 2: This request for admission is not relevant to the subject matter of any pending matters in this action.

However, without waiving objection, it is denied that Lisa A. Kosir, P.L.L.C. was dissolved on August 16, 2016.

3. That on April 4, 2018 the Defendant entered the building at 1878 Camp Branch Road and removed the computer that was found in Defendant's possession by the Haywood County Sheriff's Department.

**ANSWER:** That the Defendant objects to this request for admission in that it is not relevant to the subject matter of any motions pending in this matter. However, without waiving objection the allegations contained in this request for admission are hereby denied.

4. That the Defendant is a full time employee of the Haywood County Magistrate's office and that no work was performed by Lisa A. Kosir P.L.L.C. after August 2016.

**ANSWER:** The Defendant objects to this request for admission, in that the request is not relevant to any pending matters in this action.

5. That the computer's propriety files, trust accounts, client information, payroll files and other property belonging to the Plaintiff were downloaded and mirror imaged by New Meridian Technologies and that the attached Exhibit C to this admission and made a part hereof is true and correct as to the contents of the hard drive of the computer which is the subject of this lawsuit.

**ANSWER:** The Defendant objects to this request for admission.

- 1) Objection 1: The form of this requests is not proper, as there is no exhibit C attached.
  - 2) Objection 2: That the Defendant cannot admit or deny exactly what actions that New Meridian Technologies did or did not undertake.
6. That Defendant took the computer from 1878 Camp Branch road and placed it in a motel room at the Maggie Valley Inn and Conference Center which is occupied by Defendant.

**ANSWER:** The Defendant objects to this request for admission, in that the inquiry is not relevant to any pending motions in this matter. However, without waiving objection this request is denied.

7. That at or about 10:27:40 a.m. on the morning of April 4<sup>th</sup> 2018, Defendant attempted to breach SOL account entitled rlmclean3@aol.com with a device known as Firefox Windows NT.

**ANSWER:** That the Defendant objects to this request for admission as it is not relevant to the pending motions in this matter. However, without waiving objection this request is hereby denied.

8. That at on April 4, 2018 at 4:55 a.m. Defendant attempted to sign on to an AOL email account entitled rlmclean3@aol.com.

**ANSWER:** That the Defendant objects to this request for admission as it is not relevant to the pending motions in this matter. However, without waiving objection this request is hereby denied.

9. That on numerous occasions since April 4, 2018 as hereinabove referred to, Defendant has attempted to sign into AOL email account entitled rlmclean3@aol.com.

**ANSWER:** That the Defendant objects to this request for admission as it is not relevant to the pending motions in this matter. However, without waiving objection this request is hereby denied.

10. That in June 2013, McLean Law firm P.A. (hereinafter "the law firm") reimbursed the Defendant's discover credit card by payment of \$2500.00 to its credit card services by check from law firm.

**ANSWER:** That the Defendant objects to this request for admission as it is not relevant to the pending motions in this matter. Furthermore, the Defendant is without sufficient information to admit or deny the allegation contained in the preceding request for admissions.

11. That the doors at 1878 Camp Brach Road, the office of the law firm and Brad H. Ferguson were changed and that Defendant did not have a new key to unlock the new locks.

**ANSWER:** That the Defendant objects to this request for admission on multiple grounds.

- 1) Objection 1: The request is not relevant to any pending motion in this matter.
- 2) Objection 2: Improper Form: The request contains no time frame for the request and the Defendant is without sufficient information to admit or deny what has been, or was, done during such an unlimited time frame.



However, without waiving objection this request is hereby denied.

12. That Defendant left the law firm office on March 29, 2018 and instructed the Plaintiff to handle all bills itself and that she would no longer be involved in the process.

**ANSWER:** The Defendant objects to this interrogatory as it is not relevant to any pending motion in this action. However, without waiving objection the request is hereby denied.

13. That the Mclean law firm and Brad H. Ferguson law firm were tenants in possession of 1878 Camp Branch Road since 2012 up to the present.

**ANSWER:** That the Defendant objects to this interrogatory.

- 1) Objection: as it is not relevant to matters pending in this action.
- 2) Objection: The Defendant further objects in that the requests calls for a legal conclusion as to the determination of what is a tenant.

Without waiving objection, the Defendant admits that the law firm, and Brad Ferguson have used the building at 1878 Camp Branch Rd; however, at various periods since 2012 so have the Defendant, Lisa A. Kosir, PLLC, Ben Olinger, and possibly even other unknown persons. However, the North Carolina Secretary of State shows that the McLean Law Firm, P.A.'s registered office and mailing address are at 1922 Camp Branch Rd, Waynesville, NC 28786, a fact which has remained unchanged, according to the information available from the Secretary of State since March 9, 2011.

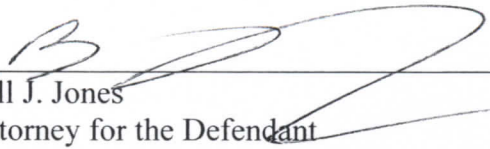
14. That the property at 1878 Camp Branch Road, Waynesville, North Carolina was posted with a No Trespass sign as of April 4, 2018.

**ANSWER:** That the Defendant objects to this request for admission as it is not relevant to the pending action in this matter. However, without waiving objection, the allegation denied to the extent that the Defendant, a co-owner by deed of the property located at 1878 Camp Branch Rd, Waynesville, NC was unaware of any trespassing sign being posted, and as a co-owner, has never posted a sign herself, or had agents post a no trespassing sign on the property. As to any remaining portion of the request for admission, the Defendant is without sufficient information to admit or deny what an unnamed person or party may have posted at the property.

15. That the Defendant posted on Facebook that she had hacked into the account of Rusty Mclean.

**ANSWER:** That the Defendant objects to this request as it is not relevant to any pending action or motion in this matter. However, without waiving objection this allegation is denied.

This the 30<sup>th</sup> day of November, 2018.



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Bill J. Jones  
Attorney for the Defendant  
89 Walnut Street  
Waynesville, North Carolina 28786  
(828) 456-2886  
NC Bar # 25594

VERIFICATION TO ACCOMPANY

REQUEST FOR ADMISSIONS

I, LISA A. KOSIR, the undersigned Defendant in this matter, being first duly sworn, state that the attached responses are true to the best of her knowledge and belief, except for those allegations set forth upon information and belief, and as to those allegations, she believes them to be true.

*Lisa A. Kosir*  
Lisa A. Kosir, Defendant

State of North Carolina  
County of Haywood

Sworn to and subscribed before me this the 30<sup>th</sup> day of November, 2018.

*Crystal N. Mulvey*  
Crystal N. Mulvey  
Notary Public

April 18, 2021  
My Commission Expires:



CERTIFICATE OF SERVICE

This is to certify that I have this day served the foregoing document, upon each party to this cause, or the attorney(s) of record for said party, in accordance with Rule 5 of the NC Rules of Civil Procedure by:

Personal delivery by myself or an employee or agent of my office

Depositing a copy of the same in a receptacle of the United States Postal Service, with adequate postage affixed thereon

Facsimile

Email

Virginia Jordan Song, Attorney at Law  
154 N. Main Street, Suite 1  
Waynesville, NC 28786

Personal delivery by myself or an employee or agent of my office

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Facsimile

Email

Russell L. McLean III  
P.O. Box 4  
Waynesville, NC 28786

This the 3<sup>rd</sup> day of December, 2018.



---

Bill J. Jones, Attorney at Law, P.A.  
89 Walnut Street  
Waynesville, NC 28786  
Phone: (828) 456-2886  
Fax: (828) 456-2887  
Bar No: 25594

STATE OF NORTH CAROLINA  
COUNTY OF HAYWOOD

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION  
FILE NO: 18 CVD 345

RUSSELL L. MCLEAN III )  
Plaintiff )  
Vs. )  
LISA A. KOSIR )  
Defendant )

DEFENDANT'S RESPONSES TO  
REQUEST FOR PRODUCTION  
OF DOCUMENTS

DEC 20 2018

To: McLEAN LAW FIRM, P.A., Plaintiff  
c/o Virginia Jordan Attorney at Law  
154 N. Main Street, Suite 1  
Waynesville, NC 28786

**MOTION TO STRIKE/OBJECTION**

NOW COMES the Defendant objecting to the request for admission tendered upon the Defendant with the heading as captioned above. In support of this objection the Defendant states as follows:

1. That the case in which the undersigned attorney represents the Defendant Lisa Kosir, at this time, is McLean Law Firm, P.A. in Haywood County File No: 18cvd 345.
2. That Haywood County File number 18cvd 345, is not Russell L. McLean III vs. Lisa Kosir, but rather McLean Law Firm.
3. That the Defendant is unable to discern for which file these requests are intended.
4. That these request are improper in form, irrelevant, and unduly burdensome, and such requests should be denied and stricken.

Pursuant to the provisions of Rule 36 of the North Carolina Rules of Civil Procedure, Defendant hereby submits responses to Request for Production of Documents.

**INDIVIDUAL RESPONSES TO REQUEST FOR PRODUCTION OF DOCUMENTS**

1. Produce all passwords used and created for you for any purpose since January 2016.

RESPONSE: Objection. Not relevant, overly broad and unduly burdensome, and incapable of production.

- 1) Objection 1: This request for production is not relevant to current proceeding or pending action.
- 2) Objection 2: Overly Broad and unduly burdensome. This request would call for the Defendant produce a document which does not exist. This request would require the Defendant to produce passwords for systems for the State of North Carolina, through her work as a magistrate, which would violate policies thereof.
- 3) Objection 3: Privileged. At least portions of this request would contain privileged information, as it would violate the employment policy of the Defendant to release or produce passwords for State related systems with which she works, as well as to release passwords for any documents or files of her law firm and clients, which would also be confidential through her representation of the same.

2. Produce all monthly phone records for all cell phones used by you for calls or text messages since January 2017 to the present, to include all text numbers and monthly billing statements.

RESPONSE: Objection this request is not relevant and is overly broad and unduly burdensome, and is interposed for an improper purpose.

3. Produce all text messages sent or received by you since January 1, 2018 from any cell phone used by you, and particularly since the date of the pre-litigation "notice to preserve" sent by Plaintiff to your counsel of record, to the present.

RESPONSE: Objection and this request is not relevant to the pending action, and is overly broad and unduly burdensome, and is interposed for an improper purpose.

4. Produce copies of monthly statements for charge cards while you had access to use, or which was in any way by the authorized user from January 2017 to present.

RESPONSE: Objection and this request is not relevant to the pending action, and is overly broad and unduly burdensome, and is interposed for an improper purpose.

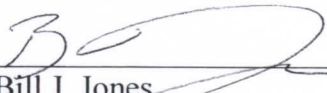
5. Provide all text messages sent or received by you or any cell phone used or owned by you or to which you had access to from January 1, 2017 to present.

RESPONSE: Objection and this request is not relevant to the pending action, and is overly broad and unduly burdensome, and is interposed for an improper purpose.

6. Produce all documentary evidence in your possession or to which you have access to that relates to a company called Wayne PB LLC.

RESPONSE: Objection and this request is not relevant to the pending action, and is overly broad and unduly burdensome. However, without waiving objection the Defendant states that any such documents are in the possession of the Plaintiff.

This is the 30<sup>th</sup> day of November, 2018.

  
Bill J. Jones  
Attorney for the Defendant  
89 Walnut Street  
Waynesville, NC 28786  
(828) 456-2886  
Bar No: 25594

VERIFICATION TO ACCOMPANY DISCOVERY  
REQUEST FOR PRODUCTION OF DOCUMENTS

I, Lisa Kosir, the undersigned Defendant in this matter, being first duly sworn, state that I have read the foregoing or attached responses and that the contents are true to my own knowledge, except as to this matters stated on information and belief, and as to these, I believe them to be true.

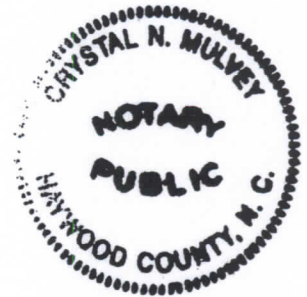
L. Kosir  
Lisa Kosir, Defendant

State of North Carolina  
County of Haywood

Sworn to and subscribed before me this the 30<sup>th</sup> day of November, 2018.

Crystal N. Mulvey  
Crystal N. Mulvey  
Notary Public

April 18, 2021  
My commission expires:





CERTIFICATE OF SERVICE

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Email

Russell L. McLean III  
P.O. Box 4  
Waynesville, NC 28786

This the 3<sup>rd</sup> day of December, 2018.

  
\_\_\_\_\_  
Bill J. Jones, Attorney at Law, P.A.  
89 Walnut Street  
Waynesville, NC 28786  
Phone: (828) 456-2886  
Fax: (828) 456-2887  
Bar No: 25594