

IN THE CIRCUIT COURT OF MADISON COUNTY, MISSISSIPPI

MICHAEL D. LAND

PLAINTIFF

VS.

CIVIL ACTION NO. CI2021-008-JA

McRAE LAW FIRM, PLLC;
JUSTICE CHUCK McRAE, ESQ;
AND DREW MARTIN, ESQ.

DEFENDANTS

DEFENDANTS' EXPERT DESIGNATION

COME NOW defendants, by counsel, and designate the following expert witnesses who may be called to testify at trial, as follows:

1. Michael V. Cory
Danks, Miller and Cory
213 S. Lamar Street
Jackson, MS 39201

Mr. Cory is an attorney in good standing with the Mississippi State Bar and all federal courts in Mississippi. He has been practicing law in Mississippi since 1994. Mr. Cory is a partner at Danks, Miller and Cory. He has a diverse practice that includes representation of both plaintiffs and defendants in the areas of personal injury, domestic relations, commercial litigation, insurance coverage and defense and criminal law. His practice has involved litigation of alienation of affection ("AOA") cases. Mr. Cory is a member of the National Association of Criminal Defense Lawyers, Defense Research Institute, American Immigration Lawyers Association and the Subcontractors Alliance of Mississippi. He has served as a speaker to different groups on various topics, including trial practice, construction law, insurance coverage and settlement negotiation techniques. Mr. Cory graduated from the University of Alabama in 1989 with a BA in political science. He graduated cum laude in 1994 from the University of Mississippi School of Law where he was a member of the Moot Court Board and the Mississippi Law Journal where he served as special projects editor.

Mr. Cory's opinions will be based on his review of the following: materials from Mike Land's client file; Mike Land's discovery responses and documents produced in this litigation; all depositions taken in this litigation; pleadings, depositions and discovery from the *Tee Land v. Mike Land* divorce proceeding and pleadings, depositions and discovery from the *Mike Land v. Paul Bertucci* AOA suit. Mr. Cory's opinions will also be based on his education, training and experience as a practicing attorney.

It is anticipated that Mr. Cory will testify that based on his review of the above materials, it appears that Mike Land hired the McRae Law Firm to pursue a potential AOA claim relating to a suspected affair. Mr. Land signed a retention agreement with the McRae Law Firm on or about July 14, 2017. When Mr. Land hired the law firm, he advised that his wife was believed to be having or to have had an affair with a Danny Gray. Chuck McRae and Drew Martin testified that they were not advised of any other potential affairs during their initial meeting. Mike Land testified that he advised the defendants that his wife may be having an affair with "a beer distributor from the coast." However, Mr. Land testified that he did not know the identity of the "beer distributor from the coast" until Danny Gray was deposed in the divorce case between Tee Land and Mike Land in February of 2018.

It is anticipated that Mr. Cory will testify that based on his review of the file materials, it appears that Mr. Land fired the McRae Law Firm in December of 2019 and then retained his current counsel. Mr. Land's current counsel filed an AOA suit against Bertucci on or about January 15, 2020. On November 12, 2020, Judge Emfinger dismissed the AOA suit, finding that the three-year statute of limitations began to run on October 31, 2014, when Tee Land moved out of the marital home. Judge Emfinger found that the statute of limitations on any AOA suit against Bertucci ran on October 31, 2017. Mr. Land failed to appeal Judge Emfinger's ruling.

It is anticipated that Mr. Cory will testify as to the standard of care and duties owed by attorneys generally and specifically as to the standard of care and duties owed by defendants to plaintiff during the course of their representation of him. It is anticipated that Mr. Cory will testify that defendants at all times met the applicable standard of care in their representation of Mr. Land and breached no duties owed to him.

It is anticipated that Mr. Cory will testify that the issue of when a statute of limitations begins to run in an AOA case is far from clear in Mississippi. It is further anticipated that Mr. Cory will testify that defendants did not breach the standard of care by failing to file suit against Bertucci before October 31, 2017. It is anticipated that Mr. Cory will testify that the evidence indicates neither Mr. Land nor the defendants knew the identity of Mr. Bertucci until after October 31, 2017, which is the date that Judge Emfinger found that the statute of limitations ran. It is anticipated that Mr. Cory will testify that based on his review of the applicable case law, there were valid grounds on which to appeal Judge Emfinger's ruling and that had Bertucci appealed the ruling, then he would have had a good chance of success on appeal. Mr. Cory will testify that Bertucci should have appealed the ruling and his failure to do so constitutes a failure to exhaust remedies.

It is anticipated that Mr. Cory will also testify that based on his review of the file materials, any AOA suit against Bertucci would have been substantively and procedurally challenging and likely would have been unsuccessful. This is supported by Tee Land's testimony that her relationship with Bertucci began well after any feelings she had towards Mike Land were alienated. According to Tee, her feelings ended as early as 2013, which is more than three years before defendants were hired. Moreover, the evidence establishes that Tee Land had multiple affairs over

the years and that Mr. Land was suspicious of an affair as early as 2013. She is the likely source of any marital issues, not Bertucci or any other men.

It is anticipated that Mr. Cory will testify that had an AOA suit been filed against Bertucci and allowed to proceed, then Mr. Land likely would have lost the lawsuit on dispositive motion or at trial. In order to prevail on an alienation of affection claim, the plaintiff must prove: (1) that the defendant engaged in wrongful conduct; (2) that the plaintiff suffered loss of affection or consortium; and (3) that the defendant's conduct was the cause of the loss. The evidence of other affairs from as early as 2013 make it likely that the marital relationship was already beyond repair; and/or that the plaintiff's spouse actively pursued the affairs.

Finally, it is anticipated that Mr. Cory will testify that under these circumstances it was not negligent or below the standard of care for the defendants not to file a complaint against Mr. Bertucci, or to file a John Doe Complaint, on or before October 31, 2017.

Plaintiffs failed to designate any expert witnesses. Defendants will object to any expert witness plaintiff may attempt to belatedly designate. However, in the event that plaintiff is allowed to belatedly designate an expert witness, then defendants reserve the right to have Mr. Cory offer opinions in response to said designation. Defendants also reserve the right to supplement Mr. Cory's opinions as discovery proceeds.

2. Justice Chuck McRae, Esq.
Drew Martin, Esq.

Former Justice McRae and Mr. Martin are both practicing attorneys and defendants in this action. To the extent that their testimony may include legal opinions and/or opinions as to the applicable standard of care and duties owed, they are designated as expert witnesses. It is anticipated their testimony will be consistent with their deposition testimony previously provided in this matter.

This the 23rd day of August, 2021.

Respectfully submitted,

McRAE LAW FIRM, PLLC;
CHUCK McRAE;
AND DREW MARTIN

BY: /s/ George E. Abdo, III
OF COUNSEL

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CERTIFICATE OF SERVICE

I hereby certify that on August 23, 2021, I electronically filed the foregoing pleading or other document with the Clerk of the Court using the MEC system which sent notification of such filing to all counsel of record.

 /s/ George E. Abdo, III