

NORTH CAROLINA  
GUILFORD COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
19 CVS 8163

STEVEN MCRAE )  
)  
Plaintiff, )  
)  
v. )  
)  
KYLE RUSSELL CURTIS, )  
)  
Defendant. )  
)  
)  
)

**PLAINTIFF’S AMENDED MOTION FOR  
ORDER TO SHOW CAUSE**

Plaintiff Steven McRae, through his undersigned counsel and pursuant to the Court’s Order (ECF No. 53), submits this Amended Motion for Order to Show Cause requesting that the Court order Defendant to appear before the Court and show cause as to whether he should be held in both civil and criminal contempt. In support hereof, Plaintiff relies upon the prior pleadings, affidavits, and transcripts filed in this case, and shows the Court as follows:

1. Plaintiff filed his Motion for Order to Show Cause (ECF No. 23) on February 12, 2020. In that Motion, Plaintiff asserted that Defendant had failed to comply with the Court’s entry of partial judgment by default (ECF No. 17).
2. In support of his Motion to Show Cause, Plaintiff filed two affidavits (ECF Nos. 22 and 25).
3. All the grounds for civil contempt identified by Plaintiff in his motion and affidavits continue to exist. Plaintiff incorporates ECF No. 23 by reference and reasserts his motion for order to show cause why Defendant should not be held in civil contempt under N.C. Gen. Stat. § 5A-21.
4. In addition to the grounds for civil contempt discussed above, Defendant’s actions since the Court’s order (ECF No. 26) provide ample grounds for Defendant to be held in criminal

contempt pursuant to N.C. Gen. Stat. § 5A-11.

5. First, Defendant wrongfully used his access to the NonSequitur Show accounts, which he was ordered to surrender, to issue false copyright takedown notices against Mr. McRae. (See ECF No. 27.)

6. Second, as described below, Defendant intentionally submitted falsified documents to the Court in an unsuccessful attempt to convince the Court that he had not been properly served in the lawsuit.

7. As set forth in the Affidavit of Service (ECF No. 7), Defendant was served at his address in Pleasant Garden, North Carolina by certified mail, return receipt requested.

8. In his Motion to Set Aside Default Judgment (ECF Nos. 19 and 20) and his Amended Motion to Set Aside Entry of Default and Partial Default Judgment (ECF No. 30), Defendant argued that he was not properly served because he no longer resided at the Pleasant Garden address when the summons and complaint were served. Instead, Defendant argued that he had moved, and his new address was in Charlotte, North Carolina.

9. On July 28, 2020, Defendant submitted an affidavit (ECF No. 31.1) in support of his amended motion to set aside the Court's judgment. Defendant attached two fraudulent documents to his affidavit.

- a. Exhibit B to the affidavit purports to be a lease signed by Defendant and Mr. Benjamin Potts. (ECF No. 31.1 at ¶ 4.) Mr. Potts has submitted an affidavit stating that the signature on the lease is not his. (ECF No. 38 at ¶ 10.) Mr. Potts testified in his deposition that the signature on the lease was not his. (Potts Dep., ECF No. 47.1 at 58:11-60:8.) Defendant testified at his deposition that the copy of the lease was accurate, that he had the original signed lease, and

that he would produce it. (Curtis Dep., ECF No. 47.2 at 17:7-18:24.) Defendant did not produce the original lease. Defendant submitted a falsified and forged lease to mislead the Court.

- b. Exhibit C purports to be portions of Discover credit card statements for August 2019 and November 2019. (ECF No. 31.1 at ¶4.) Defendant testified at this deposition that Exhibit C was true and accurate. (Curtis Dep., ECF No. 47.2 at 33:7-21.) The mailing address printed on those statements is the Charlotte address. However, in response to a subpoena, Discover Financial Services provided actual copies of the statements showing that the actual mailing address was the Pleasant Garden address. (ECF No. 47.40 at 37, 41.) Moreover, the subpoena response from Discover showed that the account was not even opened until October 2019 and did not exist in August 2019. (ECF No. 47.39.) Defendant intentionally submitted altered documents to mislead the Court.

10. Third, on September 14, 2020, Defendant submitted another affidavit (ECF No. 44.1) in response to affidavits submitted by Plaintiff showing that the lease and credit card statements were fraudulent. Defendant attached three more fraudulent documents to this affidavit.

- a. Exhibit D to Defendant's affidavit purports to be a screenshot of Defendant's bank account showing two electronic transfers made using a service called Zelle to Benjamin Potts, purportedly for rent. (ECF No. 44.1 at ¶8.) Defendant testified at his deposition that the screenshot was true and accurate. (Curtis Dep., ECF No. 47.2 at 30:4-31:6.) Mr. Potts testified at his deposition that he never received those payments. (Potts Dep., ECF No. 47.1 at 66:12-69:25.) Plaintiff subpoenaed the information from Zelle directly and learned that (i)

Zelle was not affiliated with Discover Bank at the time of the supposed transfers (ECF No. 47.36) and (ii) the transfers were actually made on January 31, 2020 and February 5, 2020, not July 2019 as represented in the exhibits (ECF No. 47.37 at 5). Defendant manufactured these statements to mislead the Court and make it appear as if he had made a rent payment in July 2019.

- b. Exhibit E to the affidavit is another version of the same falsified Discover statement attached to the prior affidavit. It is fraudulent as set forth in paragraph 9(b), above.
- c. Exhibit A to the Affidavit is a screenshot of an order confirmation from Amazon showing a shipment to Defendant at the Charlotte address in August 2019. (ECF No. 44.1 at ¶5.) Plaintiff subpoenaed records from Amazon to try to confirm the information. The response to the subpoena did not arrive until after the Court's deadline for submitting information concerning the motion to set aside. The response from Amazon shows that the account was not created until December 2019, and the order was actually placed on January 1, 2020. A copy of the Amazon response is attached hereto as Exhibit 1. The screenshot is fraudulent and submitted by Defendant for the purpose of misleading the Court.

WHEREFORE, for the reasons set forth above, Plaintiff requests that the Court find that there is probable cause that Defendant has violated the Judgment and order him to show cause as to why he should not be held in civil contempt pursuant to N.C. Gen. Stat. § 5A-21 unless and until he complies with the Judgment. Plaintiff further requests that the Court find that there is probable cause to find that Defendant willfully disobeyed, resisted, and interfered with the Court's lawful process, orders, directives, and instructions by submitting falsified documents and giving

false testimony under oath, and therefore order Defendant to show cause as to why he should not be held in criminal contempt pursuant to N.C. Gen. Stat. § 5A-11(3).

Respectfully submitted, this the 10th day of February, 2021.

**REVOLUTION LAW GROUP**

/s/ C. Scott Meyers

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*Attorney for Plaintiff*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing was served via email and United States Mail, first class postage prepaid, on the defendant, addressed as follows:

Kyle Russell Curtis  
1532 Providence Church Rd.  
Pleasant Garden, NC 27313

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This the 10th day of February, 2021.

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