

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

No. 15-_____

Petitioners,

TOUGH MUDDER LLC; PEACEMAKER NATIONAL TRAINING CENTER,
LLC; GENERAL MILLS, INC.; and GENERAL MILLS SALES, INC.,

v.

The HONORABLE DAVID W. HUMMEL, JR. Judge of the Circuit Court of
MARSHALL County; and MITA SENGUPTA, as Personal Representative of
AVISHEK SENGUPTA,

Respondents.

PETITION FOR A WRIT OF PROHIBITION

On Petition for a Writ of Prohibition to the Circuit Court of Marshall County,
West Virginia (Civil Action No. 14-C-66)

**MOTION FOR ADMISSION *PRO HAC VICE* OF ROBERT P. O'BRIEN
AND STATEMENT OF LOCAL ATTORNEY**

COMES NOW Alonzo D. Washington, an attorney licensed to practice law in the State of West Virginia, and, pursuant to Rule 8.0 of the West Virginia Rules for Admission to Practice, respectfully moves that Attorney Robert P. O'Brien ("Applicant") be admitted *pro hac vice* for the purposes of this litigation on the following grounds:

In support of this Motion is the attached Verified Statement of Application for *Pro Hac Vice* Admission for Robert P. O'Brien and the same is incorporated by reference as if fully set forth herein. Additionally, the Movant avers the following:

1. Applicant seeks *Pro Hac Vice* admission for the limited purpose of appearing as co-counsel for the Defendants, Tough Mudder, LLC, Peacemaker National Training Center, LLC, General Mills, Inc., and General Mills Sales, Inc.

2. Applicant, Robert P. O'Brien, is a member in good standing and is admitted to practice in Maryland. He is not currently and has never been suspended or disbarred from the practice of law in any court.

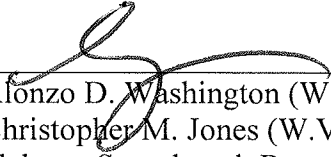
3. Pursuant to Rule 8.0 of the Rules of Admission to Practice Law in the State of West Virginia, Tough Mudder, LLC, Peacemaker National Training Center, LLC, General Mills, Inc., and General Mills Sales, Inc., by its undersigned counsel herein, Alonzo D. Washington, does endorse the Verified Statement of Application for Admission *Pro Hac Vice* submitted by Robert P. O'Brien, and will serve as "Responsible Local Attorney" for the *pro hac vice* admission of Robert P. O'Brien.

4. Should this Motion be granted, the Movant, as local responsible attorney, states that he, or an attorney from the firm of Flaherty Sensabaugh Bonasso PLLC, will personally attend all actions that occur in this matter, whether conducted before, or outside of, this Court. Movant further requests that Applicant be permitted to attend all such proceedings subject to the continued responsibility of the Movant for his conduct.

WHEREFORE, the Movant respectfully requests that the Applicant be admitted to practice before this Court, *Pro Hac Vice*, for the limited purpose of appearing as co-counsel for Tough Mudder, LLC, Peacemaker National Training Center, LLC, General Mills, Inc., and General Mills Sales, Inc., in the above-styled civil action now pending before this Honorable Court.

This 9th day of February, 2015.

Respectfully submitted,



Alonzo D. Washington (W.Va. Bar No. 8019)
Christopher M. Jones (W.Va. Bar No. 11689)
Flaherty Sensabaugh Bonasso PLLC
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Morgantown, WV 26501
(304) 598-0788
awashington@fsblaw.com
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*Attorneys for Defendants,
Tough Mudder, LLC
Peacemaker National Training Center, LLC
General Mills, Inc.
General Mills Sales, Inc.*

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**VERIFIED STATEMENT OF APPLICATION FOR
PRO HAC VICE ADMISSION OF ROBERT P. O'BRIEN**

STATE OF MARYLAND,

COUNTY OF BALTIMORE CITY, to-wit:

I, **ROBERT P. O'BRIEN**, being first duly sworn, state as follows:

1. This statement is submitted in support of my Application for admission *pro hac vice* as counsel for Defendants Tough Mudder, LLC, Peacemaker National Training Center, LLC, General Mills, Inc., and General Mills Sales, Inc. in the above-captioned civil action.

2. I am an attorney with Niles Barton & Wilmer LLP, with offices located at 111 South Calvert Street, Suite 1400, Baltimore, Maryland, 21202, and before courts of record and general jurisdiction.

3. I am licensed to practice law in Maryland and am admitted to the following bars:

- (a) Maryland Bar;
- (b) United States District Court for the District of Maryland (Bar No. 3);
- (c) United States Court of Appeals for the Fourth Circuit.

4. The Maryland Bar extends like courtesy or privilege to members of the West Virginia State Bar as is being sought by this Application.

5. I have been involved in matter(s) before West Virginia tribunals or bodies during the preceding twenty four (24) months as listed below:

Mita Sengupta, as Personal Representative of the Estate of Avishek Sengupta, v. Tough Mudder, LLC, Air Squid Ventures, Inc. (d.b.a. Amphibious Medics), Travis Pittman, Peacemaker National Training Center, LLC, General Mills, Inc., and General Mills Sales, Inc.,
Circuit Court of Marshall County, Civil Action No. 14-C-66

Tough Mudder, LLC, Peacemaker National Training Center, LLC, General Mills, Inc., and General Mills Sales, Inc., v. Mita Sengupta, as Personal Representative of the Estate of Avishek Sengupta, Bijon Sengupta, and Priyanka Sengupta,
United States District Court for the Northern District of West Virginia, Civil Action No. 3:14-cv-00056

6. Based upon reasonable inquiry, I understand members of my firm, Niles Barton & Wilmer LLP, have been involved in any matters before West Virginia tribunals or bodies within the preceding twenty-four (24) months. See Exhibit A.

7. In every jurisdiction in which I have been admitted to practice law, I am in good standing with the bar of every such jurisdiction and have not been disciplined in any such jurisdiction.

8. If admitted *pro hac vice* in this action, I will comply with all laws, rules and regulations of West Virginia state and local governments, where applicable, including taxing authorities as well as complying with the requirements of the West Virginia Rules of Professional Conduct and the Court's rules of decorum.

9. The attorney registration agency, as well as disciplinary agency, for the Maryland bar is located at 520 W. Fayette Street, Baltimore, Maryland 21201, telephone (410) 685-7878 or 1-800-492-1964.

10. Alonzo D. Washington and the law firm of Flaherty Sensabaugh Bonasso PLLC, 48 Donley Street, Suite 501, Morgantown, West Virginia, members in good standing of the West Virginia State Bar, will serve as the responsible local attorneys in this action.

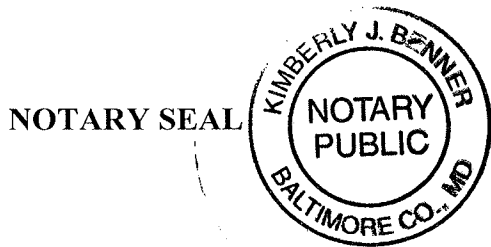
I declare under penalty of perjury that the foregoing is true and correct.

Dated this 4th day of February, 2015.


ROBERT P. O'BRIEN

Taken, subscribed and sworn to before the undersigned authority this 4th day of February, 2015.

My commission expires 5/8/17.




NOTARY PUBLIC

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CERTIFICATE OF SERVICE

I, Alonzo D. Washington, counsel for the Defendants, Tough Mudder, LLC, Peacemaker National Training Center, LLC, General Mills, Inc., and General Mills Sales, Inc., do hereby certify that on the 9th day of February, 2015, I served the forgoing MOTION FOR ADMISSION *PRO HAC VICE* OF ROBERT P. O'BRIEN AND STATEMENT OF LOCAL ATTORNEY, on counsel as follows:

Robert P. Fitzsimmons, Esq.
Clayton J. Fitzsimmons, Esq.
Fitzsimmons Law Firm PLLC
1609 Warwood Ave
Wheeling, WV 26003
Counsel for Plaintiff

Robert J. Gilbert, Esq.
Edward J. Denn, Esq.
Gilbert & Renton, LLC
344 North Main Street
Andover, MA 01810
Counsel for Plaintiff

David L. Shuman, Esq.
David L. Shuman, Jr., Esq.
SHUMAN, McCUSKEY & SLICER, P.L.L.C
1411 Virginia Street, East, Suite 200 (25301)
P.O. Box 3953
Charleston, WV 25339
Counsel for Airsquid Ventures, Inc. d/b/a Amphibious Medics and Travis Pittman

Robert C. Morgan, Esq.
MORGAN, CARLO, DOWNS & EVERTON, P.A.
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11350 McCormick Road
Hunt Valley, MD 21031
Counsel for Airsquid Ventures, Inc. d/b/a Amphibious Medics and Travis Pittman

Charles F. Johns, Esq.
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Bridgeport, WV 26330
Counsel for Defendant, Travis Pittman

Karen E. Kahle, Esq.
Steptoe & Johnson PLLC
1233 Main Street, Suite 3000
Wheeling, WV 26003
Counsel for Defendant, Travis Pittman


ALONZO D. WASHINGTON (W.Va. Bar No. 8019)

Exhibit A

Niles Barton and Wilmer LLP West Virginia Actions January 2013 – February 2015

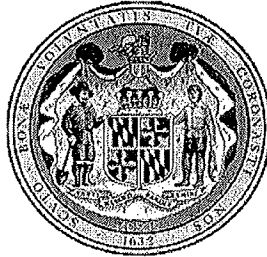
In the Circuit Court for Kanawha County, West Virginia
Irene Galan v. Brown Dog Floor Care, Inc.
Civil Case No.: 13-C-782
Jeffrey A. Wothers, Esquire
WVSB #10765
Defendant, Brown Dog Floor Care, Inc.

In the Circuit Court of Marshall County, West Virginia
Anthony Ankrom v. Moundsville Rifle & Pistol Club, et al.
Civil Case No.: 14-C-178
Jeffrey A. Wothers, Esquire
WVSB #10765
Defendant, Moundsville Rifle & Pistol Club

Circuit Court of Boone County, West Virginia
Anthony Lester v. Stillwater Insurance Company
Case Number 14-C-111
Jeffrey A. Wothers, Esquire
WVSB #10765
Defendant, Stillwater Insurance Company

In the Circuit Court for Kanawha County, West Virginia
Michael Chapman v. Continental Surfaces of Charleston, LLC, et al.
Civil Action No.: 12-C-467
Jason E. Fetterman, Esq. – formerly with Niles, Barton & Wilmer, LLP
WVSB #10759
Defendant, Continental Surfaces of Charleston, LLC

**Court of Appeals
of Maryland
Annapolis, MD**



CERTIFICATE OF GOOD STANDING

STATE OF MARYLAND, ss:

*I, Bessie M. Decker, Clerk of the Court of Appeals of Maryland,
do hereby certify that on the twenty-first day of December, 1977,*

Robert Patrick O'Brien

*having first taken and subscribed the oath prescribed by the Constitution and
Laws of this State, was admitted as an attorney of said Court, is now in good
standing, and as such is entitled to practice law in any of the Courts of said
State, subject to the Rules of Court.*

*In Testimony Whereof, I have hereunto
set my hand as Clerk, and affixed the Seal
of the Court of Appeals of Maryland, this
twenty-seventh day of May, 2014.*

Bessie M. Decker

Clerk of the Court of Appeals of Maryland