

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI (Northern (Jackson))**

HOWARD BROWN and BRANDON SIBLEY,	)	
	)	
Plaintiffs,	)	
	)	
V.	)	Civil Action No. 3:22-cv-00256-DPJ-FKB
	)	
CHOCTAW RESORT DEVELOPMENT ENTERPRISE, ET AL.,	)	
	)	
Defendants.	)	
	)	

RESPONSE TO PLAINTIFFS' NOTICE OF OBJECTIONS (DOC. 27)

COME NOW the Defendants by and through their counsel of record, C. Bryant Rogers, VanAmberg, Rogers, Yepa, Abeita, Gomez & Wilkinson, LLP, and in Response to Plaintiffs' Notice of Objections (Doc. 27), state as follows:

1. Defendants note that this Court's Order of August 11, 2022 (Doc. 16) sought supplemental briefing on the questions whether (1) in the circumstances of this case the Choctaw Tribal Court has been stripped by the ruling in *Nevada v. Hicks*, 533 U.S. 353 (2001) of even a colorable basis for the exercise of subject matter jurisdiction over the claims Plaintiffs have sought to plead in this suit under 42 U.S.C. § 1983; and, (2) if not, whether the Defendants can waive Plaintiffs' duty to exhaust their tribal remedies as to those attempted § 1983 claims. The Court gave Defendants until August 30, 2022 to file a supplemental brief addressing those issues and gave Plaintiffs' a deadline of September 13, 2022 to respond to Defendants Supplemental Briefing. Defendants' Supplemental Briefing was timely filed on August 25, 2022 (Doc. 22).

2. Plaintiffs did not timely file any response to Defendants' Supplemental Briefing by the deadline set by the Court for any such Response, but (outside that deadline) have filed their Doc. 27 Notice of Objections to that Order.

3. Plaintiffs' assert that this Court's good faith effort to determine the controlling law bearing on the scope of Plaintiffs' duty to exhaust tribal remedies regarding Plaintiffs' attempted 42 U.S.C. § 1983 claim was somehow improper under the ABA Model Code of Judicial Conduct (2020 Ed.). Just as with virtually all of Plaintiffs' other legal assertions in this suit, this new contention of Plaintiffs suggesting impropriety on the part of this Court in entering its Doc. 16 Order is utter nonsense. That assertion is, however, in line with Plaintiff Brandon Sibley's recent comments on a new You Tube video available at "Upcoming workshop @ the house of free will vY3mv7QQej4" in which he repeats his baseless statements that Defendants' counsel has repeatedly lied to this Court and states that Plaintiffs have "a bad district judge" in this case. *See*, Mississippi Bar Rules of Professional Responsibility—8.2(a): "A lawyer shall not make a statement ... with reckless disregard as to its truth or falsity concerning ... integrity of a judge"

4. To the extent the Court finds that Plaintiffs' comments about the conduct of this Court would constitute a violation of Rule 8.2 if made by an attorney and could in such circumstances give rise to Rule 11 sanctions against such attorney, the same standards apply to *pro se* parties for Rule 11 purposes. *See*, F.R.Civ.P Rule 11(a) and (b) (making Rule 11 sanctions applicable to both attorneys and unrepresented parties); and, this Court may *sua sponte* address that issue. Such conduct also violates Local Uniform Rule 83.5 and Local Uniform Civ. R. 83.1(c)(l) and Mississippi Rule of Professional Conduct 8.4(d) which provides "[i]t is professional misconduct for a lawyer to ... engage in conduct that is prejudicial to the

administration of justice,” all as addressed in *Estate of Rolando Rodriguez and Bridge Consulting Firm, LLC v. Scott M. Farve Public Adjuster*, 2022 WL 4241276 (S.D. Miss.) accord, *United States v. Brown*, 72 F.3d 25 (5thCir. 1995) (citing and endorsing commentary to Rule 8.2 of the ABA Model Rules of Professional Conduct as being a rule restricting reckless statements regarding members of the judiciary which is primarily a prohibition on comments made to the public that would undermine public confidence in the administration of justice and is meant to reach comments on a judge’s integrity).

Respectfully submitted,

VanAMBERG, ROGERS, YEPA, ABEITA
GOMEZ & WILKINSON, LLP

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was mailed to the Plaintiffs by United States Mail, postage prepaid, on September 16, 2022.

/s/ C. BRYANT ROGERS
C. BRYANT ROGERS