

IN THE CIRCUIT COURT OF HINDS COUNTY, MISSISSIPPI
FIRST JUDICIAL DISTRICT

MISSISSIPPI DEPARTMENT OF HUMAN SERVICES

PLAINTIFF

v.

CAUSE No. 22-cv-00286-EFP

JOHN DAVIS, ET AL.

DEFENDANTS

and

JESSE STEVEN NEW, JR.

THIRD-PARTY PLAINTIFF

v.

PHIL BRYANT

THIRD-PARTY DEFENDANT

THIRD-PARTY COMPLAINT

Third-Party Plaintiff Jesse Steven New, Jr., through undersigned counsel, brings his Third-Party Complaint against Phil Bryant.

PARTIES

1. Third-Party Plaintiff Jesse Steven New, Jr. (“Jess New”) is an adult resident of Hinds County, Mississippi, who resides at 5 Sheffield Court, Jackson, Mississippi 39211.
2. Third-Party Defendant Phil Bryant (“Bryant”) is an adult resident of Copiah County, Mississippi, who may be served with process at 7009 Highway 28, Hazlehurst, Mississippi 39083.

JURISDICTION AND VENUE

3. The Court has jurisdiction over this matter pursuant to Miss. Code Ann. 9-7-81.
4. Venue is proper in the First Judicial District of Hinds County pursuant to Miss. Code Ann. § 11-11-3, as the events alleged herein occurred, in whole or in part, in Hinds County, Mississippi.

EXHIBIT "A"

FACTUAL ALLEGATIONS

5. In 1996, Bryant became Mississippi's State Auditor.
6. That same year, Congress passed the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," which created the Temporary Assistance for Needy Families ("TANF") program.
7. Bryant was State Auditor when Mississippi received its first TANF funds.
8. As State Auditor, Bryant was responsible for fiscal oversight of Mississippi's state agencies including their use of TANF and other grant funds.
9. As State Auditor, Bryant successfully encouraged the Legislature to grant the Office of the State Auditor ("OSA") law enforcement powers in conjunction with its fiscal oversight role.
10. As State Auditor, Bryant determined whether expenditures of TANF and other grant funds were permissible.
11. Bryant served as Mississippi's State Auditor for nearly 12 years.
12. In 2008, Bryant became Mississippi's Lieutenant Governor. As Lieutenant Governor, Bryant served simultaneously in two branches of government: the legislative and the executive. In this unique role, Bryant's responsibilities involved the State of Mississippi's annual budget and how Mississippi used grant funds.
13. In 2012, Bryant became Governor. Bryant served as Mississippi's Governor from January 2012 through mid-January 2020.
14. As Governor, Bryant sat over all executive agencies and functions in Mississippi including MDHS and its administration of grant funds.

15. As Governor, Bryant had authority to appoint MDHS's Executive Director, who served at Bryant's will and pleasure.

16. Bryant appointed John Davis as MDHS Executive Director in 2016.

17. Davis served as Bryant's MDHS Executive Director through July 2019.

18. As MDHS Executive Director, Davis was imbued with broad statutory authority and discretion to interpret grant purposes and expend grant funds including TANF funds.

19. As MDHS Executive Director, Davis was authorized to "formulate the policy of the department regarding human services," "to make exceptions to and grant exemptions and variances from, and to enforce rules and regulations implementing or effectuating the powers and duties of the department under any and all statutes within the department's jurisdiction," "apply for, receive and expend any federal or state funds," "enter into and execute contracts, grants, and cooperative agreements with any federal or state agency or subdivision thereof, or any public or private institution ... in connection with carrying out the programs of the department," and "discharge such other duties, responsibilities and powers as are necessary to implement the programs of the department."

20. Bryant used his authority and influence over MDHS and its Executive Director Davis to direct grant funds to Prevacus.

21. MDHS has labeled the use of welfare grants to fund Prevacus as "an illegal transaction," yet MDHS continues to refuse to include Bryant as a Defendant despite overwhelming evidence of Bryant's principal role in the "illegal" transaction. *Id.* at ¶ 120 [Dkt. 197].

22. Bryant's relationship with Prevacus stems from Bryant's relationship with Favre.

23. In 2017, Favre enlisted Bryant's help to fund a volleyball stadium at the University of Southern Mississippi.

24. On April 20, 2017, Favre asked Bryant to use his "influence" to help raise funds for construction of the volleyball facility. Bryant agreed saying, "I am all in on the Volleyball facility."

25. By July 2017, Favre and Bryant had not raised enough in private donations to begin construction.

26. On July 21, 2017, Favre contacted Bryant again. "Not sure how we can help get this facility built for Vball. But you are the governor and on our side and that's a good thing. Actually a great thing."

27. Bryant responded to Favre's request for funds saying, "We can do that." "Just get me some numbers" and "I'll find a way."

28. On July 21, 2017, Bryant communicated with his MDHS Executive Director John Davis.

29. On July 22, 2017, Favre sent Bryant construction plans for the facility with a projected cost of \$4,000,000.

30. Two days later, on July 24, 2017, MDHS, through Davis, committed \$4 million for construction of the volleyball facility.

31. Davis instructed Nancy New to contract with the USM Athletic Foundation through her non-profit, MCEC, and that MDHS would provide the funds. Regarding MDHS's large commitment, Davis told Nancy New the Governor was in favor of the project and wanted it funded.

32. By July 29, 2017, USM still had not accepted the grant funds. Based on information and belief, the issue was whether it was prudent to use several million in grant funds to build a volleyball facility when there were more pressing needs on campus.

33. Frustrated by the delay, Favre considered whether he should “involve the governor” to speed up USM’s acceptance of the grant funds.

34. On August 4, 2017, Bryant contacted Nancy New directly.

35. Bryant had known Nancy New for years and knew that her non-profit, MCEC, handled millions of dollars in grant funds for MDHS.

36. Nancy New, who did not know the extent of Bryant’s involvement at that time, texted Favre. “Wow, just got off phone with Phil Bryant! He is on board with us! We will get this done!”

37. Less than a week later, USM accepted the grant funds.

38. However, a deal had been made to allow USM to keep \$1 million of the \$4 million for renovation and maintenance of other buildings on campus.

39. The \$1 million deal with USM caused a shortfall in the construction funds. On October 19, Favre texted Nancy New, “I hope it’s enough now.”

40. Favre contacted Bryant and Bryant contacted Nancy New.

41. “I saw the Governor last night,” Nancy New told Favre. “It’s all going to work out.”

42. MDHS subsequently increased its \$4 million commitment to \$5 million, thereby offsetting the \$1 million deal with USM.

43. In May of 2018, the volleyball construction project again confronted a shortfall. Favre reached out to MDHS Executive Director John Davis, who told Favre no additional funds were currently available.

44. On May 9, 2018, Favre reached out to Bryant.

45. One week later, the volleyball project received additional funding. Nancy New texted Favre, “Good News. I have a little money [from MDHS] for the ‘project’ - \$500,000!”

46. Favre had already heard the “good news” from Davis, who a week before had told Favre no.

47. MDHS provided Favre another \$600,000, through MCEC, several months later.

48. Having received Bryant’s assistance funding the volleyball facility, Favre reached out to Bryant regarding Prevacus.

49. On November 26, 2018, Favre texted Bryant. “I invested in a company called Prevacus....” “[W]e need help politically to try to get FDA approval.” “And funding....”

50. Favre wanted to connect Prevacus CEO Jake Vanlandingham with Bryant.

51. Bryant responded, “Sure. Give him my cell and have him text or give me a call. Will be glad to help.”

52. Favre texted Vanlandingham, “Phil Brian [sic] is our governor great guy good friends and I mentioned you and what we’re doing in that we needed help he said for you to reach out to him he’ll do what he can.”

53. Vanlandingham responded, “Very cool” followed by “We need \$\$\$.”

54. Vanlandingham texted Bryant, “I’m good friends with Brett Favre” “Brett and I are working together to develop the first drug to treat concussion.” “He thought it would be good if we talked to see if we can move the needle even more with your assistance.”

55. The following day, Bryant responded. “Hey Jake. Just tried to call. Probably shows a s [sic] a blocked number. I am available for about next half hour.”

56. After Bryant spoke with Vanlandingham, Bryant was more enthusiastic. He told Favre, "Great visit with Jake. I am on this."

57. Vanlandingham echoed the positive sentiment. "Great call with the Governor. He's going to make some key connections for us to start with FDA. Good job!!!"

58. Favre texted Vanlandingham, "Don't know if legal or not but we need cut [Governor Bryant] in."

59. Vanlandingham agreed that Bryant needed to be compensated. "Will do for sure. He says he's on it. Great guy. We hit it off."

60. Favre reported Bryant's involvement to an investor saying, the Governor "is going to help as well. But we need more [money] and quickly!!!"

61. Favre continued, the Governor "is all in and is strong."

62. Vanlandingham added that Bryant has arranged "a mtg for us with lead at FDA."

63. The following day, Vanlandingham told another investor, "the governor of Mississippi is helping us with the FDA."

64. Favre again texted Vanlandingham about compensation for Bryant, "Also if legal I'll give some of my shares to the Governor."

65. Vanlandingham agreed but, recognizing the sensitivity, noted that communications with the Governor should remain verbal. "I guess we verbally ask the Governor what the rules are to compensate him. Worse [sic] case scenario I give you more stock that as an individual u can transfer to him. But let's avoid trouble at all cost [sic]."

66. On December 6, 2018, Favre texted Vanlandingham again suggesting they compensate Bryant for his efforts. "Group text the governor and tell him we want to give him shares but don't want to get anyone in trouble." Vanlandingham agreed. "Will do on governor."

67. Vanlandingham texted Bryant, “Good evening Governor, Following up my friend on FDA connections. Also wanted to say Brett and I are hopeful to get a group of investors together perhaps with your help and come up to Jackson.”

68. Vanlandingham, apparently forgetting to keep communications verbal, continued, “We want you to know we want you on the team and can offer stock. We don’t know the rules but are willing to do what is needed to bring you on board. Grateful for your help!!!” Favre added, “Amen to that!!”

69. Bryant responded to Vanlandingham’s stock offer of Prevacus stock and a place on the “team” by calling a “team meeting at the Governor’s Mansion.”

70. The following day, Vanlandingham followed up on his stock offer and asked Bryant if they could meet at the Mansion “a week from Sunday.” Bryant responded, “If not sooner or later if need be.”

71. Bryant’s efforts on behalf of Prevacus include a fundraising dinner. Vanlandingham texted Favre, “U good with me texting governor with u attached on our availability after Christmas to get this fundraiser done?” Bryant did not respond to Vanlandingham, so Favre texted Bryant. “Hey Governor when you have an idea on what day is best let us know. We can do it where ever you want. We have get these human trials moving and we need your help.”

72. A few minutes later, Bryant responded. “Looks like the 26th is the only night I have open till Jan.” Favre replied, “Ok let’s see if we can round up some folks.”

73. Two weeks later, Vanlandingham asked Bryant to report on his efforts to secure potential investors. “Governor have you had any luck with your invites?” Bryant was bringing Joe Canizaro, a real estate developer in New Orleans that owned Tradition, a large commercial and residential development in south Mississippi.

74. Bryant, apparently feeling the need to explain added, “Got this day job [as Governor] keeping me busy.”

75. On December 26, 2018, Bryant hosted a Prevacus dinner for potential investors at a restaurant in Jackson, Mississippi.

76. The following day, Vanlandingham texted Bryant and Favre. “Governor it was a pleasure to meet you my friend. Thx for all you’re doing for us You’re the man!!!”

77. Bryant responded: “We have our orders and we are moving ahead.”

78. Favre texted, “It’s third and long and we need you to make it happen!!”

79. Bryant responded: “I will open a hole.”

80. On December 28, 2018, Vanlandingham asked a Prevacus investor, “I’m going to get the governor a budget and identify the best clinical trial hospital in Mississippi to run our phase 1B trial.” What do you think?” The investor responded, “I think it would be great. We just need to find the funding.”

81. In an effort to find “the funding,” Vanlandingham turned to Bryant. For \$1 million “Mississippi can start clinical trials before phase 2....” Bryant responded positively. “That helps me find the finances here in Mississippi.” Apparently thinking of Tradition, Bryant added, “We look forward to the Manufacturing Opportunity.”

82. Again Bryant added, “Please remember being Governor is a full time job so I adding this [Prevacus] to a very busy calendar.”

83. Responding to Bryant’s comment regarding a “Manufacturing Opportunity,” Vanlandingham told Bryant that “infrastructure” would be needed. Bryant responded, “I will make sure of that.” That same day, Vanlandingham told a potential investor, the “Governor is inspired.”

84. Based on information and belief, Tradition subsequently became slated to receive a \$57 million appropriation from the State of Mississippi for research and manufacturing infrastructure.

85. “Tradition” also was chosen as the location for Prevacus clinical trials and manufacturing. The same day Bryant and Vanlandingham discussed the Prevacus “Manufacturing Opportunity” in Mississippi, Vanlandingham told Nancy New that Prevacus was “site-set” and “working with the Governor to bring some human trial sites and drug manufacturing to MS.”

86. At some point, Bryant became vice president of The Village at Tradition, L.L.C.

87. On January 1, 2019, Davis calendared a meeting for the following day. Davis wrote, “This meeting was requested by Brett Favre and the Governor to discuss the Educational Research Program that addresses brain injury caused by concussions [Prevacus]. They also want to discuss the new [volleyball] facility at USM.”

88. On January 2, 2019, at Bryant’s direction, Davis and Nancy New drove south to meet with Vanlandingham. Documentation provided by Vanlandingham reflects that Prevacus was looking to “secure 750K USD from the Division of Human Services in the State of Mississippi” and “an additional 1.2M USD” that would be used “to transition from Phase 1A into 1B including the synthesis.”

89. MDHS committed \$2 million to Prevacus.

90. Davis expected Nancy New’s non-profit, MCEC, to contract with Prevacus and provide the funds. Nancy New asked Davis why he had committed so much money to Prevacus and so quickly. Davis said the Governor wanted Prevacus funded.

91. After the meeting, Vanlandingham texted Bryant. “Governor, we had a great meeting with Nancy New and John Davis. We are excited to be working together!!! Thanks.”

92. Vanlandingham later bragged to a Prevacus investor, “Damn. I got 1.95M in non-dilute\$!!!” “Contract with the great state of Mississippi.”

93. Bryant also was energized. He texted Favre about a potential contact saying, “He sounds like some[one] who can help our cause.” Bryant referred to Prevacus as “our cause.”

94. On January 3, 2019, Vanlandingham texted Canizaro at Tradition. “It was great to meet you last week [at the Prevacus dinner]. The Governor shared your number. We wanted to follow up on next steps.” “We are making key connections in MS and excited to work with The Traditions when the time comes.”

95. A week or so later, Favre texted Bryant, “...we are moving forward with Prevacus strongly. Of course we need your help to get over the hump.”

96. Bryant sent Favre U.S. Senator Rick Santorum’s contact information. “This is Senator Santorum, former Presidential Candidate. He know [sic] how to work with FDA to get clearance for trials. ...text him and thank him for his help on our project....” Again, Bryant described Prevacus as “our project.”

97. After speaking with Santorum, Vanlandingham texted Bryant, “approval. Big deal.” “[Sen. Santorum’s] former employee is now second in command at FDA. You did great by us my brother.”

98. Continuing with the football metaphor that he, Favre, and Vanlandingham had been using, Bryant responded, “had to open a whole in the line.”

99. Later, Favre asked Vanlandingham when Prevacus would make money. Vanlandingham projected a timeline and then added, “[t]he governor/Nancy/joe can be key in bringing us funds in for project development and not diluting our percentage ownership.” Grant funds are non-dilute; private investments are not.

100. On January 15, 2019, Vanlandingham updated Bryant on locating Prevacus manufacturing at Tradition. Bryant responded, “Great report. We will get this done.”

101. On January 20, 2019, Vanlandingham texted a potential investor, “Hey brother lots of good stuff happening for us. 1.95M [in grant funds] with the Governors help.”

102. However, Vanlandingham was pushing for more. He texted his Chief Science Officer at Prevacus. “Lmk as soon as you confirm GMP so I can call the governor of Mississippi. It’ll get us more money quicker.”

103. Vanlandingham texted Favre, “I’m mtg at Tradition in Gulfport with Joe Canizaro” on Feb. 12.

104. On January 30, 2019, Vanlandingham texted Favre. “Santorum’s guy fully approved and said he’d get Santorum to go ahead and get second in charge at fda lined up to meet us.” “Real good stuff on many levels.”

105. On February 4, 2019, Vanlandingham texted Favre. “Send group text to Governor saying that we are meeting with Joe Canizaro at The Tradition early next week to discuss the clinical trials there.”

106. Favre texted Bryant. “Hey Governor. Hope you’re well. We wanted to update you on Prevacus. Headed down early next week to meet with Joe Canizaro at Tradition to talk clinical trial structure.”

107. Favre also thanked Bryant, “We couldn’t be more happy about the funding from the State of MS.”

108. Favre then asked Bryant for additional funding. “We continue to push for an additional 1.5M to ensure we can get Phase 1B drug made and FDA sign off for phase 1B in MS ASAP. You got leads we will run with them. Thx.”

109. On February 15, 2019, Vanlandingham reported on a call he had with Bryant about “creating a Prevacus corporation in MS” to “help our funding opportunities.”

110. Vanlandingham told Favre he had updated Bryant on “talks with Joe and Tradition about clinical trials and manufacturing.” Vanlandingham planned to be “back at Tradition with Joe and Nancy New next Tuesday.”

111. On February 16, 2019, Vanlandingham texted Favre. “I forgot to say that the Governor was excited about us moving company to MS.”

112. On February 22, 2019, Favre texted Vanlandingham. “Jake I think you should ask the governor if he can help with [China] and ASAP.” Based on information and belief, Vanlandingham did so.

113. On March 8, 2019, Favre texted Vanlandingham, “China issue resolved.”

114. On March 19, 2019, Vanlandingham texted Favre, “I’m curious to find out where the Governor provides appropriation money. I’m hoping joe Canizaro gets 57M at Tradition for research development.”

115. Favre responded, “Why don’t you text Governor and ask him if he can give you a hint if joe canizaro will be receiving monies [referring to the \$57 million appropriation].”

116. Vanlandingham reported that Nancy New “believes that [the \$57 million] will be a last minute appropriation by the Governor...so nothing to know yet.”

117. Nancy New’s son Zach also responded, “[Joe Canizaro] did mention the 57m and said he is working on getting it approved.”

118. On April 1, 2019, Vanlandingham again asked, “Hey team any updates on funding from MS to Tradition per govt session?”

119. The effort to appropriate \$57 million to Tradition apparently had become common knowledge. On April 3, 2019, an investor asked Vanlandingham, “Any word on Traditions funding from Gov?”

120. On April 5, 2019, Vanlandingham thanked Bryant for arranging a call with Camp Shelby’s commanding officer to discuss conducting human trials on soldiers at the base. “Had a great call with commander at Camp Shelby.” “Thx Governor!!!”

121. Favre responded, “Like I’ve said Jake the Governor can get done.”

122. Continuing with the football metaphor, Bryant replied, “Just making holes in the line.”

123. On April 6, 2019, Vanlandingham texted Prevacus shareholders. “I have a handshake deal with the great state of MS to have phase 1B getting set up on October 1st.” One of the stakeholders asked, does the “[t]ime line gets us in before the change of [Governor’s] administration in Mississippi.” Vanlandingham responded: “Correct.”

124. On April 11, 2019, Favre texted Vanlandingham asking if “the manufacturing facilities [were] still a good possibility in Mississippi with Canizaro [at Tradition].” Vanlandingham responded, “Canizaro is supportive of anything with Tradition. Did he get his 57M from MS? That’d be huge.” Favre replied, “I’ll ask Governor on a group text.”

125. Favre texted Bryant. “Hey Governor do you know yet if Joe Canizaro will get the 57 million in funding?”

126. Bryant responded, “Not sure. But he is a deal maker. I know we have \$16m for a Veterans Home that will go in at Traditions.”

127. Vanlandingham texted, “Great. I think the 57M is for the research and manufacturing facility at Tradition. We can do so much good with that!!!”

128. On April 17, 2019, Favre texted Bryant again about Traditions. “Hey Governor we still haven’t been able to find out if Joe [Canizaro at Tradition] got any of the 57 Million funding yet.” Bryant responded: “Checking with Joe.”

129. Bryant responded, “Joe ask that Doc [Vanlandingham] contact him directly. I will send you the contact number.”

130. On May 1, 2019, Vanlandingham updated Bryant and Favre about his visit to Camp Shelby. Vanlandingham texted, “Them boys at Camp Shelby are great Americans. They’re onboard for human trials in October. You guys are the best!!! Thx so much.”

131. Bryant responded, “They are America’s finest. This could be huge for the Military. I hear their Commander and Chief is also fired up about it.” As Governor, Bryant was commander-in-chief of the Mississippi National Guard. Bryant was referring to himself as being “fired up” about Prevacus.

132. On May 15, 2019, Vanlandingham updated Prevacus investors about “clinical patient intake site at Tradition.” Vanlandingham told investors, “A great deal of this has been funded with the help of folks in Mississippi including the Governor.”

133. Vanlandingham texted two Prevacus investors. “Next Tuesday I’m Meeting the governor and [the candidate] who he’s supporting to take his place in Mississippi. Hoping to keep that non-dilute [investment] running our way!!”

134. The first investor responded, “[t]hat would be a sweet deal.” Vanlandingham gloated, “Chess not Checkers.” The second investor chimed in, “[a] very sweet deal. Who do we send campaign contributions to?”

135. The following day, one of the investors summed up the “sweet deal.” “Let me get this process down correct. We get \$2M from MS Gov Office and we ear mark some of the funds to the next MS Gov. Campaign fund. America at its best.”

136. The sole consideration MDHS was to receive for its \$2 million grant to Prevacus was the right to choose where its clinical trials and manufacturing facility would be located. Of course, Tradition had already been chosen.

137. On June 11, 2019, Vanlandingham texted Favre. “just landed in N.O. headed to joe Canizaro’s house....”

138. Vanlandingham texted Nancy New. “We are progressing well” but “I wanted to check in on timing for the next funding installment and see if you would be willing to help with a little more....”

139. On June 26, 2019, Nancy New responded. “Hi Jake. Sorry for the delayed response but things are quite hectic. How much are you thinking about? There are some things going on at the state level that are causing a delay on our monthly funding.”

140. Vanlandingham replied that “450k” was still owed from the original MDHS commitment and “in a perfect world we could get an additional 284k but beggars can’t be choosers.” Nancy New did not respond.

141. On July 2, 2019, Vanlandingham texted a business associate concerning a deal in Ghana, Africa. Revealing an apparent connection between Mississippi’s grant funds and the African deal, Vanlandingham told the associate, “I’m pushing the Mississippi state to release grant funds too.”

142. A Prevacus investor texted Vanlandingham. “We get our money out of MS?” Vanlandingham responded, “That [sic] only had half for now. Ugh.” The investor responded,

“Humm. What does that do to us?” Vanlandingham replied, “Ok for now. Governor getting involved.”

143. On July 2, 2019, Nancy New met with Bryant and told him she could no longer fund Prevacus and volleyball without MDHS reimbursements. Bryant told Nancy New to give Prevacus what she could and that he would handle MDHS.

144. On July 7, 2019, Vanlandingham texted Favre, “Need the rest of the MS grant \$\$\$ so we can roll!!!” “Waiting on Nancy New. Something about budget.”

145. Vanlandingham texted Nancy New. “We would love 784k.” Nancy New responded, “Jake, you cannot even imagine the word stress for us right now!” Having recently met with Bryant, Nancy New said, “we can send 400k today [but] I will need to let Brett know that we will need to pull this from what we were hoping to help him with [volleyball]....”

146. A few days later, Nancy New broke the bad news to Favre about volleyball. “I may not be able to assist you in Aug. as we had planned.”

147. Favre responded, “About to see Governor Bryant.”

148. Favre texted Bryant. “Hey Governor we are in a little bit of a crunch.” “Jake can explain more but bottom line we need investors and need your direction.”

149. Bryant responded, “Will get with Jake.. will help all I can.” “See you tonight.”

150. Favre also texted Bryant about volleyball funding, which had become more difficult in the wake of Davis’s firing. Bryant responded, “I will handle that...long story but had to make a change [at MDHS]. But I will call Nancy and see what it will take. [Thumbs up emoji].”

151. Favre responded, “I’m close but sounds good. I really need your help with Nancy [volleyball] and Jake [Prevacus].”

152. Bryant responded, “You my man... we are all in....”

153. After seeing Favre that night, Bryant reached out to Nancy New. “Just left Brett Favre. Can we help him with his project. We should meet soon to see how I can make sure we keep your projects on course.”

154. Nancy New reported to Favre, “[the Governor] wants me to continue to help you and us get our project done.”

155. Favre thanked Bryant, “Good to see you and thanks for your help.”

156. Bryant responded, “Meeting with Nancy Thursday at 4pm and we are arranging a call with the WH. This can help with our concussion project.” Again, Bryant described Prevacus as “our ... project.”

157. On July 18, 2019, Bryant and Nancy New discussed Prevacus and volleyball funding. Nancy New told Favre that Bryant “said he was going to get with DHS folks soon.”

158. Based on information and belief, Vanlandingham spoke to Bryant concerning the problems he was having in Ghana, Africa.

159. On July 19, 2019, Vanlandingham texted his business partner in the African deal. “Good news. I’m pretty good friends with the Governor and he has direct access to Stephanie Sullivan the US ambassador to Ghana. We can run communication through the Governor and get these thieves!!!!” His business partner responded, “I want to support and work together with you with your FBI and Governor connection to the Ambassador to Ghana.”

160. Within a month, Bryant was in Ghana, Africa. Bryant texted Favre, “In Ghana, Africa today. Be back Sunday.”

161. On July 22, 2019, Nancy New submitted a grant proposal to MDHS and copied Bryant, per his instructions. The grant proposal requested \$2 million in additional funds to finish construction of the volleyball center.

162. That same day, Bryant warned Favre, the “State Auditor is reviewing all the Contracts at [M]DHS which Funds Families First.” Families First is the program that MDHS claims funded Prevacus and volleyball. Bryant knew the funds he had directed to Prevacus and volleyball had come from MDHS’s Families First welfare funds.

163. On July 25, 2019, Favre reached out to Bryant. Bryant responded, ‘just back in town. Met with new Director today. It will take time to get the Auditor’s Report. Working on it.’” Favre then added, “He [GOV] said for us to keep the faith also.”

164. The following day, Vanlandingham texted Favre. “Need governor to help us get that other 380k for Prevacus.”

165. Favre texted a media contact of his first. “Jake and I are grinding on this Prevacus project and we need 380k more in funding....” “Governor Bryant has been a big help with us and I’ve asked him to help with this as well.”

166. Favre then texted Bryant. “Governor Jake and I are asking for help or direction for 380k to round out the funding [for Prevacus].

167. Bryant responded, “I [sic] having lunch with Joe Canizaro today.”

168. Favre reached out to Canizaro’s camp, as well, asking for an “additional 500k.” Favre’s text referenced the plan to locate Prevacus’ “clinical trials at Tradition....”

169. On August 5, 2019, Vanlandingham texted Favre, “U around this week. It might be time to get Jay, poncho, David, Governor around the table so we can bring it all home.”

170. Bryant also texted Nancy New. “Have you had a chance to meet with Chris Freeze [about your funding].” Nancy New had not. Bryant responded, when you do, “let me know how the meeting goes.” “I will talk to him as well.”

171. Nancy New responded, “Brett is anxious, too. Did you look at his brief [grant] proposal I sent you … a couple weeks ago?” Bryant responded, “I have not seen it. Let me ask....”

172. Later that day, Favre texted Bryant, “Did you find out if auditor looked at info?” Bryant responded, “...I am working on it everyday Coach. Had a good conversation with Nancy...today.” “Moving ahead...”

173. On August 8, 2019, Bryant texted Nancy New. “Meeting with Brett in a few. Have the [volleyball grant] proposal and working it through [M]DHS.”

174. Favre and Bryant met. Favre then texted Nancy New saying they discussed the grant proposal briefly, but Bryant “did say at the end that he will get this done with you!!!”

175. On August 10, 2019, Nancy New texted Favre. “What did the Gov say to you about our [grant] proposal?” Favre responded, “The only thing Phil said was the questions I relayed to you but Phil is adamant it will get done.”

176. Bryant, using Favre as intermediary, told Nancy New how to revise the grant proposal to “get it accepted.” Favre texted Nancy New that the Governor “has seen [the revised grant proposal] but hint hint that you need to reword it to get it accepted.” Bryant texted Favre, “Hopefully she can put more details in the proposal. Like how many times the facility will be used and how many child [sic] will be served and for what specific purpose.”

177. On August 16, 2019, Favre texted Nancy New, “I really feel like [the Governor] is trying to figure out a way to get it done without actually saying it.”

178. That evening, however, Bryant texted Favre, “thumbs up emoji” and said, “met with Nancy tonight. We are pushing forward.” Bryant then added a “shady smiley face emoji” and said, “Funny how that happened.”

179. On September 26, 2019, Bryant texted Nancy New. “You ever hear anything from DHS on your existing contracts?” Nancy New confirmed that MDHS had awarded MCEC additional grant funding.

180. On September 27, 2019, Vanlandingham texted a business consultant who wanted Bryant’s influence on a purported multimillion dollar deal. Vanlandingham, who was working with Bryant on Prevacus, pushed back. The “...governor can’t do anything until he’s out of office....” The consultant responded, “He’s helped you while in office.”

181. Vanlandingham replied, “My focus is to get him to honor the 380k owes to Prevacus before he’s out of office.”

182. On October 16, 2019, Vanlandingham texted Favre: “I know you’re stressed about USM money from governor for volleyball facilities. We still need the last 380k agreed for Prevacus too.” Favre responded, “Ask Nancy if that’s something the Governor can ok.”

183. Vanlandingham texted Nancy New. “I know John Davis is gone but I wanted to see if there was an angle to get the last 380k we need for the human trials before the governor was out of office.”

184. On October 22, 2019, Bryant texted Favre. “I am meeting with Director of MDHS this week to see where we are in the grant request [for the additional \$2 million for volleyball].”

185. On December 2, 2019, Vanlandingham texted Bryant and Favre. “Governor we ... still need some funding... We are hunting the finish line real hard but need to try and find at least 100k funding if you have any ideas how to help us we’d be grateful. Thx brother.”

186. With an investigation in full swing, Bryant responded more cautiously, “Can you send me some more details. I can probably find some help but need documentation.”

187. Favre, having previously received grant funds for Prevacus, cut to the chase. "What about grant possibilities? Federal funding? Jake [Prevacus] is in DC tomorrow to discuss I think with powers that be maybe you can help with that." Bryant responded, "Jake who are you meeting with in D.C.?" Vanlandingham replied, "Gregory Smith at the White House."

188. Bryant responded, "I have a call in [to the White House] now.. This can be a huge event."

189. Vanlandingham suggested several professional athletes they should invite and Bryant responded with suggestions of his own. Then Favre asked, "Governor maybe you could ask the president if he would reach out to some folks."

190. Bryant responded, "Will do. Have a call into WH now. He is in Europe much of this week but we will get a call back soon."

191. Vanlandingham texted, "Governor can we bring you onboard with ownership now?"

192. Bryant responded, "Cannot till January 15th. But would love to talk then. This is the type of thing I love to be a part of."

193. On December 5, 2019, Bryant texted, "How did Meeting with WH go?" Vanlandingham responded, "Great they are very supportive and moving forward with a summit plan as discussed just prior to the super bowl!!!"

194. Bryant texted again, "Talked to [someone] yesterday [at the White House]. She suggested the three of us do a Oval Office busy [sic] about this [concussion] issue. She is Special Assistant to the President. Y'all up for that?" Vanlandingham responded, "Hell yes." Bryant replied, "I am on it.."

195. Bryant was scheduled to be at the White House himself later that week. He texted Favre and Vanlandingham, “be there Thursday.”

196. On December 12, 2019, Vanlandingham texted Favre, “We gotta get this shit closed. Hope governor had a good mtg at White House.”

197. Favre texted Bryant. “Hey Gov I think your [sic] meeting with Nancy tomorrow.”

198. The following day, Bryant met with Nancy New. Shortly thereafter, MDHS awarded MCEC three new grants worth \$8.6 million over 9 months.

199. On December 16, 2019, Bryant texted Vanlandingham. “Great meeting with [White House]. Summit on Brain Injury will happen. Joe Canizaro [at Tradition] interested in \$100k. Doesn’t he get interest.”

200. Vanlandingham responded: “Yes and yes!!!”

201. On December 18, 2019, Bryant texted Nancy New. “Did y’all get any Of the new programs from DHS?” Nancy New responded, “Yes, we did.” “Someone was definitely pulling for us behind the scenes. Thank you.”

202. Bryant replied, [Smiley Face Emoji].

203. On January 7, 2020, Favre texted Vanlandingham. “I think you should offer the Governor a package that will get him determined to see [Prevacus] through.” Vanlandingham responded, “Stock or also cash?” Favre replied: “That’s up to you. Maybe an incentive package”

204. On January 15, 2020, Bryant left Office.

205. The following day, Vanlandingham texted Bryant. “Now that you’re unemployed I’d like to give you a company package for all your help.”

206. Bryant responded, “Sounds good. Where would be the best place to meet. I am now going to get on it hard....”

207. On January 23, 2020, Joe Canizaro texted Bryant committing to an additional “100,000” in Prevacus stock.” Bryant responded, “Perfect.” “We have a city [Tradition] to finish. [Building Emoji].”

208. On February 4, 2020, a meeting was scheduled for a week later to formalize Bryant’s relationship with Prevacus. The meeting was to occur at Tradition.

209. On February 5, 2020, John Davis, Nancy New, and Zach New were arrested.

210. Bryant broke ties with Prevacus.

211. MDHS is not the only state entity attempting to shield Bryant from liability for his role in funding Prevacus.

212. On or about June 27, 2019, the Office of the State Auditor (“OSA”) opened an investigation into Prevacus. OSA agents subpoenaed documents from Prevacus CEO Jake Vanlandingham, who resides in Florida.

213. On January 23, 2020, Vanlandingham responded by forwarding emails and documents to OSA that expressly mention Bryant and indicate his involvement with Prevacus since 2018. *See Email from Jake Vanlandingham to Nancy New dated December 29, 2018.* In his email, Vanlandingham told Nancy New, “Governor Bryant is very supportive of future relations including drug clinical trials and manufacturing in the State of Mississippi.” Attached to Vanlandingham’s email to Nancy New was a document that Vanlandingham had sent to Prevacus investors on May 15, 2019, entitled “Prevacus Investor Updates, Solutions for Concussion.” According to Vanlandingham, the “Prevacus Investor Update” listed “key” Prevacus “team members.” Listed among the “key” Prevacus “team members” is Bryant. Vanlandingham told Prevacus investors, “[a] great deal of this has been funded with the help of folks in Mississippi including the Governor.” *Id.* (*quoting* “Prevacus Investor Updates, Solutions for Concussion”).

214. On February 19, 2020, OSA secured a search warrant for Jake Vanlandingham's property in Florida. An attachment from the Florida Department of Law Enforcement indicates that the search warrant was executed and Vanlandingham's cell phone was collected. Vanlandingham's cell phone contains dozens of text messages confirming Bryant's involvement in funding Prevacus through MDHS and MCEC and securing FDA approval for its concussion drug. Included in the text messages on Vanlandingham's phone are conversations between Vanlandingham and Bryant discussing Prevacus stock in consideration for his efforts toward funding and FDA approval and Bryant's intent to accept the stock after leaving office. One day after leaving office, Bryant planned to meet Vanlandingham to accept the Prevacus stock he had been promised a year earlier. Bryant cancelled the meeting upon learning that John Davis and Nancy New had been arrested.

215. Most damning perhaps, OSA failed to produce Vanlandingham's phone and text messages to Nancy New and Zach New in criminal discovery. Instead, OSA withheld the evidence from the News until long after a plea had been entered in state court.

216. Bryant is a necessary party to this lawsuit, but the State of Mississippi, through MDHS and OSA, have actively concealed Bryant's role. Bryant's joinder as a Defendant is essential to Jess New's ability to adequately defend himself. MDHS seeks to improperly blame Jess New for grant funds that Bryant directed to Prevacus. Jess New is entitled to show the jury that Bryant directed these grant funds to Prevacus while Governor in order to benefit himself, personally, and his business associates.

217. While in office, Bryant used his authority and influence over MDHS to promote Prevacus, including by directing federal grant funds to Prevacus, with the expectation that he

would be compensated through Prevacus stock, which he planned to accept upon leaving office, and through his interest in a real estate development in south Mississippi called Tradition.

218. Bryant used his position to direct funds to Prevacus to benefit himself and his business associates.

219. Because of his actions, Bryant is liable to MDHS for any damage it may have suffered, including damages MDHS alleges against Jess New in relation to Prevacus, and, therefore, Bryant should be joined in this action as a third-party defendant. Bryant also is liable to Jess New for any amount of liability that may be imposed on New in relation to Prevacus, as Bryant directed MDHS grant funds to Prevacus.

CAUSES OF ACTION

COUNT I: UNLAWFUL EXPENDITURES LIABILITY (Miss. Code Ann. § 31-7-57)

220. Jess New repeats and realleges each of the foregoing paragraphs of this Third-Party Complaint as if fully set forth herein.

221. In its first amended complaint, MDHS specifically labeled the \$2 million expenditure of grant funds that were directed to Prevacus as “an illegal transaction.” *See* [Doc. No. 197 at ¶ 120]. However, Jess New had no involvement in the decision to direct the subject funds to Prevacus. That decision belonged solely to Bryant and those that worked at his will and pleasure.

222. Without a doubt, Bryant, who was an elected public officer and the chief executive of the State of Mississippi, used his position and influence to direct, appropriate or authorize these funds to Prevacus in order to benefit himself, personally, and his business associates in violation of Miss. Code Ann § 31-7-57(1).

223. Absent Bryant's actions as shown herein, Prevacus would not have received the illegal expenditure, and more importantly, Jess New would not have been improperly named in this litigation.

224. Because of Bryant's actions, he is personally liable for the \$2 million dollar expenditure that he directed to Prevacus. Therefore, he is a necessary and indispensable party to this suit.

COUNT II: COMMON LAW INDEMNIFICATION/RIGHT TO CONTRIBUTION

225. Jess New repeats and realleges each of the foregoing paragraphs of this Third-Party Complaint as if fully set forth herein.

226. Because Jess New had no involvement with Bryant's efforts to direct grant funds to Prevacus, the damages which MDHS seeks to recover against Jess New would be the result of a legal obligation imposed upon him by this Court for Bryant's actions.

227. Jess New did not actively or affirmatively participate in the decision to direct, appropriate or authorize grant funds to Prevacus.

228. Any damage suffered by MDHS would be the direct and proximate result of Bryant's actions. Therefore, Jess New is entitled to indemnification by or contribution from Bryant.

Jess New is also entitled to recover his attorney's fees and expenses from Bryant resulting from being forced to defend against claims brought by MDHS for which Bryant is responsible.

PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, Third-Party Plaintiff Jess New respectfully prays that this Court grant him permission to cause a summons and the aforementioned Third-

Party Complaint to be served upon Phil Bryant and thereafter that the Court award him the relief requested herein and damages incurred as a result of Bryant's actions, including all economic, actual, compensatory, special, and all other types of damages, plus costs, pre and post judgment interest, attorneys' fees, costs and expenses.

Jess New also requests all other relief the Court may deem appropriate.

Respectfully submitted this, the _____ day of _____, 2024.

JESSE STEVEN NEW, JR.,
Third-Party Plaintiff

BY: /s/ R. Allen Smith, Jr.
R. ALLEN SMITH, JR.

OF COUNSEL:

R. Allen Smith, Jr. – MSB #99984
THE SMITH LAW FIRM, PLLC
300 Concourse Blvd., Suite 104
Ridgeland, MS 39157
Telephone: (601) 952-1422
Facsimile: (601) 952-1426
Email: asmith@smith-law.org

*Attorney for Third-Party Plaintiff/Defendant, Jesse Steven New, Jr.; and,
Defendant, Magnolia Strategies LLC*