

IN THE CIRCUIT COURT OF MACON COUNTY, MISSOURI

MARY KATHRYN CROCKER-WYSS)
a/k/a MARY KATHRYN WYSS)
Plaintiff,)
v.) Case No.: 23MA-CC00020
JOHN W. BRISCOE, *et al.*)
Defendants.)

PLAINTIFF'S MOTION FOR LEAVE TO AMEND PETITION

Plaintiff Mary Kay Wyss, by and through counsel, hereby moves to amend her Petition in the above-styled cause, and in support, states as follows:

1. Defendants John W. Briscoe and Briscoe & Brannon have confirmed in their answer that Briscoe & Brannon is a Missouri general partnership. In discovery, they have confirmed that Joseph A. Brannon has been a partner in the general partnership since 2001 and thus during all times covered by the instant lawsuit.

2. Plaintiff thus seeks to name Mr. Brannon personally as a defendant due to his status as a general partner in the general partnership, Briscoe & Brannon.

Under the Missouri partnership act, all partners are jointly and severally liable for everything chargeable to the partnership. Section 353.150. And Missouri law holds a partnership liable for the acts of one of the partners in the ordinary course of the partnership's business or with the authority of his copartners. Section 358.130. Thus, all partners are jointly and severally liable for torts committed by a partner acting within the scope and ordinary course of the partnership's business. Sections 358.150 and 358.130; *Dwyer v. ING Inv. Co.*, 889 S.W.2d 902, 906 (Mo.App. E.D.1994); *Martin v. Yeoham*, 419 S.W.2d 937, 951 (Mo.App.1967).

Blanks v. Fluor Corp., 450 S.W.3d 308, 365 (Mo. Ct. App. 2014)

3. The core allegations of the proposed First Amended Petition would not differ in substance from those of the Petition currently in place. There is no discovery deadline or trial date yet in this case. Thus, Defendants would not be prejudiced by the grant of this motion.

4. Under Rule 55.33(a), leave to amend a petition shall be freely given when justice so requires.

5. A copy of Plaintiffs' proposed First Amended Petition is attached hereto as Exhibit A.

WHEREFORE, Plaintiff respectfully request that this Court grant her Motion for Leave to Amend Petition in the above-styled cause, and that the Court deem the First Amended Petition, which is attached to this Motion as Exhibit A, to be filed with the Court upon granting of such order, to direct the clerk to issue summons for service on Joseph W. Brannon, and for such other and further relief as this Court may deem just.

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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

The undersigned certifies that on this 19th day of September 2023 that the above and foregoing was filed and served via Missouri Casenet.

/s/ Hugh L. Marshall
Hugh L. Marshall MO #39193