

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

Case No. 3:11-CV-00339

MWR MANAGEMENT COMPANY, LCC,)
a North Carolina limited liability company,)
)
Plaintiff,)
)
v.)
)
MIKE COUGHLAN, an individual having been)
issued an H-1B Visa, and)
WILLIAMS GRAND PRIX ENGINEERING LIMITED,)
A Company registered in England and Wales,)
)
Defendants.)

VERIFIED COMPLAINT AND JURY DEMAND

NOW COMES MWR Management Company, LLC (“MWR”), by and through its attorneys, Alan R. Miller, P.C., and for its Verified Complaint against Mike Coughlan (“Coughlan”) and Williams Grand Prix Engineering Limited (“Williams”), states as follows:

THE PARTIES

1. MWR is a North Carolina Limited Liability Company, with its principal place of business in Cornelius, North Carolina.
2. Coughlan is an individual holding an H-1B Visa, having been employed by MWR in a “specialty occupation.” He is, upon information and belief, a citizen of England.
3. Williams is a company registered in England and Wales, company number 1297497, with a registered office in Grove, Wantage, Oxfordshire OX12 0DQ.
4. Williams, upon information and belief, is a wholly owned direct subsidiary of and the operating entity of Williams Grand Prix Holdings, P.L.C.
5. Williams has partnered with AT&T, Inc., a company providing goods and services internationally and to customers located in this district.

6. Williams is conducting business under the name "AT&T Williams" and "Williams F1."

NATURE AND SUBSTANCE OF THE ACTION

7. MWR files this action against Coughlan individually for Breach of Contract and Tortious Breach of Contract and Breach of Covenant of Good Faith and Fair Dealing.
8. MWR files this action against Williams individually for Tortious Interference with Contract and Tortious Interference with Prospective Advantage.
9. MWR files this action against Coughlan and Williams jointly for Civil Conspiracy and Tortious Action in Concert.
10. The claims noted above and asserted below arise from an Employment Agreement ("**Agreement**") entered into between MWR and Coughlan on July 8, 2010 and the tortious actions taken by Coughlan and Williams subsequent thereto.
11. MWR is a wholly owned subsidiary of Michael Waltrip Racing Holdings, LLC ("**MWRH**") and is an affiliate of MWR Racing, LLC, which is also a wholly owned subsidiary of MWRH, which is a world-famous and renowned racing team, which competes in NASCAR Sprint Cup Race Series, NASCAR Nationwide Series races, and other series.
12. Williams is an integrated Formula One team which designs, manufactures, and races cars in the Formula One series, which holds races all over the world.
13. Beginning in or around early, 2010, MWR, in search of a Director of Vehicle Design, contacted Coughlan about the position. The parties began to discuss the possibility of Coughlan's employment with MWR at that time.
14. Among his many qualifications, Coughlan has a strong understanding of materials, manufacturing processes, CAD, CAM, PLM, FEA and metrology. He was and is also keenly familiar with planning and integrating different and varying engineering resources and other integrated engineering development programs.
15. MWR, in negotiating with Coughlan and finalizing the terms of his employment, engaged legal counsel in relation to the Agreement as well as to apply for and obtain the proper immigration documentation for Coughlan (an H-1B Visa).
16. In addition to its legal expenses, MWR incurred other expenses is memorializing the Agreement and finalizing the employment relationship between it and

Coughlan, and spent significant time, money, and effort educating Coughlan regarding its business and incorporating him into its operations.

17. In addition to its numerous and substantial expenses, MWR greatly, and to its eventual detriment, relied on Coughlan's promises and representations to it, specifically in that it halted any search it would and could have pursued for another person to fill the Director of Vehicle Design position.
18. The parties agreed that the term of the Agreement would be from October 1, 2010 until November 30, 2012. There was also an option for MWR; it could renew the Agreement for up to one (1) additional year.
19. Following October 1, 2010, Coughlan worked for MWR as the Director of Vehicle Design and in this capacity, was responsible for overseeing all design, production, engineering and quality control programs for MWR's race teams.
20. Further, Coughlan provided technical leadership to those he supervised, established strong and effective procedures and processes as well as integrated those processes with the manufacturing groups, with the aim of consistently producing high quality and well-designed products for the team.
21. The Agreement also provided a "Loyalty" clause, requiring Coughlan to serve MWR faithfully, loyally, honestly and to the best of his ability (see **Agreement**, at page 2), for the entire term of the Agreement, i.e. until November 30, 2012.
22. Moreover, the Agreement required that Coughlan refrain from, at any time or in any place or to any extent whatsoever, engaging in any outside employment, consulting, or in any other business or professional activity (see **Agreement**, at page 2).
23. Upon information and belief, Williams contacted Coughlan in or about March or April, 2011, regarding the possibility of Coughlan taking employment with Williams.
24. Upon information and belief, Williams became aware of the Agreement and its terms; however, as became apparent by its conduct, Williams completely disregarded the Agreement's existence and instead tortuously interfered therewith and conspired with Coughlan for Coughlan's subsequent blatant and harmful breach of the Agreement.
25. On or about April 28, 2011, Coughlan informed MWR that he was terminating the parties' relationship and breaching the Agreement, which he later reaffirmed on or about May 12, 2011. He also stated in his May 12, 2011 email that his

resignation would be effective June 10, 2011, nearly a year and a half before the Agreement's natural termination.

26. In April, May, and June, MWR exchanged numerous communications and emails with Williams and Coughlan regarding the Agreement and their acts and omissions and Coughlan still proceeded to breach the Agreement and Williams continued to interfere with MWR's Agreement and hired Coughlan.
27. As further described below, MWR has been severely harmed by Coughlan's and Williams' actions.

JURISDICTION AND VENUE

28. This Court has subject matter jurisdiction over both Coughlan and Williams pursuant to 28 U.S.C. § 1332(a), in that the matter in controversy exceeds \$75,000.00 and there is diversity among the parties.
29. This Court has personal jurisdiction over Coughlan in that the Agreement at issue in this action was negotiated and executed in North Carolina; and, the employment and breach of contract occurred in North Carolina. Moreover, the Agreement provides that "the parties designate the courts of the State of North Carolina and the federal courts located within the State of North Carolina as the exclusive jurisdiction and venue for any action brought to construe or enforce [it] ... the parties hereby submit to the personal jurisdiction of the courts of the State of North Carolina and the federal courts located within the State of North Carolina..." (see **Agreement**, at page 14).
30. Further, this action arises out of the wrongful actions committed by Williams, which were and are intentionally targeted at this federal district and MWR, which subjects Williams to personal jurisdiction here on several, independent bases including, but not limited to, the following. First, Coughlan was employed in this district and was working for MWR here when Williams reached in and initiated its interference with Coughlan. It purposely cast its net over this district, in an effort to encourage a breach of contract here. It was the initial and subsequent occurrences in this regard that have given rise to the liability MWR alleges in this suit. Secondly, the contacts aimed at this district and its citizen, MWR, were purposeful in their aim and were severely egregious in their impact on this district and MWR. Third, Williams has a partnership with AT&T, Inc., which provides immeasurable business and personal communications services within this district. Also, Williams routinely avails itself to the benefits and protections of the forum district's laws and the United States' laws in general. It conducts business and races cars in the United States and Williams' products are promoted and

sold in this district through its interactive website(s), including without limitation www.attWilliamsscollection.com, which solicits and allows North Carolina residents to order and purchase goods over the Internet. Fourth, upon information and belief, personal meetings occurred in North Carolina between Coughlan and Williams' officers and/or agents and emails, correspondence, and telephone calls occurred between representatives of Williams and Coughlan (while one or both were in North Carolina) the subject of which were related to Williams' employment of Coughlan, Coughlan's termination of his employment with MWR, and Coughlan's breach of the Agreement. Fifth, upon information and belief, the employment agreement between Williams and Coughlan was executed by one and/or both of them in North Carolina.

31. Venue is proper in this judicial district under 28 U.S.C. § 1391.

FIRST CLAIM FOR RELIEF AGAINST COUGHLAN
(Breach of Contract and Tortious Breach of Contract)

32. The allegations set forth above are incorporated herein by reference.
33. Coughlan was employed by MWR under the Agreement.
34. A specific and finite term of employment was agreed upon between Coughlan and MWR in the Agreement, that being from October 1, 2010 through November 30, 2012
35. MWR has fully and properly complied and performed all of its obligations under the Agreement and is not otherwise in breach thereof.
36. Before the agreed-upon term of employment expired, Coughlan intentionally and willfully breached the Agreement and unilaterally terminated the Agreement.
37. Coughlan breached the Agreement by failing to serve in his capacity as Director of Vehicle Design throughout the entirety of the Agreement.
38. As a result of Coughlan's premature departure, MWR will face and incur many certain and substantial damages, including the costs of searching for, recruiting, negotiating with, hiring and training a replacement for Coughlan, not to mention the expenses MWR devoted to Coughlan's employment, the benefits of which will go unrealized.

39. MWR could and likely will face additional and reasonably-foreseeable indeterminate damages, including the loss of prize money or sponsorship support as a result of underperforming cars, etc.
40. As a direct and proximate result of Coughlan's conduct, MWR is entitled to an award of economic damages which it has and will continue to incur as a result of Coughlan's blatant and willful breach of contract.

SECOND CLAIM FOR RELIEF AGAINST COUGHLIN
(Breach of the Covenant of Good Faith and Fair Dealing)

41. The allegations set forth above are incorporated herein by reference.
42. MWR and Coughlan entered into the Agreement, freely and voluntarily.
43. MWR has fully and properly complied and performed all of its contractual obligations to Coughlan.
44. Inherent in the Agreement was the obligation that each party act in good faith and deal fairly with the other; Coughlan, through his breach and as more specifically described herein, breached his obligation to act in good faith and fairly toward MWR.
45. Coughlan acted in bad faith and took deliberate, willful, oppressive and malicious actions toward MWR, which exemplify his reckless and wanton disregard of MWR's rights.
46. Coughlan's actions and failures to observe reasonable standards of fair dealing and his failure to act in good faith have resulted in MWR suffering severe damages including but not limited to exemplary damages and those set forth in other paragraphs of this Complaint.

FIRST CLAIM FOR RELIEF AGAINST WILLIAMS
(Tortious Interference of Contract)

47. The allegations set forth above are incorporated herein by reference.
48. MWR and Coughlan were parties to a valid contract, as set forth above.



49. MWR and Coughlan were at all times legally capable to enter into a contractual relationship and the Agreement conferred upon MWR contractual rights against Coughlan.
50. Williams knew of the contractual relationship between MWR and Coughlan.
51. Williams surreptitiously, with malice and without regard for the existence of the Agreement, approached Coughlan and offered him employment which would directly interfere with Coughlan's obligations contained in the Agreement.
52. Through its actions, Williams intentionally induced Coughlan to breach his contractual responsibilities to MWR and shirk performance thereof.
53. Williams' actions were not motivated by a legitimate or defensible business interest or purpose nor were they related in any way to the protection of any business interest.
 - a. MWR and Williams are not competitors, which would otherwise potentially serve to defeat MWR's claim in this regard.
 - b. MWR and Williams have different fan bases which result in different sponsorship, different funding courses and different marketing programs.
 - c. MWR and Williams compete in different racing series and in different locations.
 - d. MWR and Williams are each competitors in their respective racing series and teams in those series, as a general rule, do not cross-employ individuals.
 - e. MWR and Williams respective racing series involve expertise unique to their specific cars, engines, bodies, rules, regulations and other areas.
 - f. MWR and Williams have not competed against each other for fans, sponsors, funding, employees or drivers in the past and are unlikely to do so in the future.
 - g. Williams's hiring of Coughlan did not enhance their "competitive edge" over MWR in that it is not a competitor of MWR's.
 - h. There were and are plenty of other individuals who Williams could have hired to fill the position Coughlan has been hired to fill; however, with malice and to MWR's severe detriment, it chose to instead interfere with the Agreement and MWR has been damaged as a result.
54. As a direct and proximate result of Williams' actions and unashamed interference with the Agreement, MWR has suffered and will continue to suffer severe

damages including but not limited to exemplary damages and those set forth in other paragraphs of this Complaint.

SECOND CLAIM FOR RELIEF AGAINST WILLIAMS

(Tortious Interference with Prospective Advantage)

55. The allegations set forth above are incorporated herein by reference.
56. MWR and Coughlan entered into an Agreement which delineated specific terms of employment.
57. Before the natural termination of his employment, Coughlan, at Williams' behest, breached the Agreement with MWR and accepted new employment with Williams.
58. Coughlan would have completed his employment with MWR but for the actions of Williams.
59. By reason of Williams' actions, MWR has suffered a loss of prospective economic advantage in the form of Coughlan's continued contributions to MWR.
60. These contributions include but are not limited to enhanced design, engineering and performance by MWR's cars, new sources of sponsorship, additional prize money and other economic benefits that are impossible to ascertain.
61. Because of Williams' interference with the Agreement and the continued advantage MWR would have realized, MWR has been and continues to be severely damaged as set forth herein.

THIRD CLAIM FOR RELIEF AGAINST WILLIAMS

(Violation of N.C. Gen. Stat. § 75-1.1, et. seq.)

62. The allegations set forth above are incorporated herein by reference.
63. Williams committed numerous unfair and/or deceptive acts or practices and otherwise engaged in unfair methods of unreasonable competition with MWR.
64. The actions Williams engaged in were and are in commerce and have and continue to affect commerce.

65. The actions Williams engaged in offend well-established public policy and are immoral, unethical, oppressive, unscrupulous and substantially injurious to MWR.
66. The actions Williams engaged in have directly and proximately caused substantial injury to MWR.

FIRST CLAIM FOR RELIEF AGAINST COUGHLAN AND WILLIAMS

(Civil Conspiracy)

67. The allegations set forth above are incorporated herein by reference.
68. MWR and Coughlan entered into a legally-binding Agreement, pursuant to which MWR fulfilled all of its obligations to Coughlan.
69. Unbeknownst to MWR, Coughlan and Williams had an agreement amongst themselves, pursuant to which Coughlan would unlawfully breach the Agreement in order to pursue alternative employment with Williams.
70. The actions explained herein were performed pursuant to a common scheme between Coughlan and Williams.
71. As a result of the conspiracy between Coughlan and Williams, MWR suffered substantial injury and it has been and continues to be severely damaged.

SECOND CLAIM FOR RELIEF AGAINST COUGHLAN AND WILLIAMS

(Tortious Action in Concert)

72. The allegations set forth above are incorporated herein by reference.
73. Coughlan and Williams committed tortious acts as described herein in concert with each other and pursuant to a common design and scheme.
74. Williams knew that Coughlan's actions constituted a breach of a duty he owed to MWR under the Agreement; yet, it disregarded that obligation and instead gave substantial assistance and encouragement to Coughlan in breaching the Agreement.
75. Coughlan gave the assistance noted above to Coughlan in an effort to accomplish Coughlan's breach and, its actions, even considered separately, constitute a breach of common law duties it owed to MWR -- namely, not to tortiously interfere with its third-party agreements.

76. The collusion and concerted actions taken by Coughlan and Williams have resulted in severe and substantial damages suffered by MWR, which damages it has and continues to experience.

WHEREFORE, MWR prays for judgment against Coughlan and Williams as follows:

- i. An order stating that Coughlan breached the Agreement and, in so doing, also violated his obligation to act in good faith and fairly toward MWR;
- ii. An order stating that Williams tortuously interfered with the Agreement and, in so doing, severely interfered with MWR's rights to enjoy the advantages it contracted for in the Agreement;
- iii. An order stating that Williams violated N.C. Gen. Stat. §§ 75-1.1, et. seq.;
- iv. An order stating that Coughlan and Williams conspired against MWR and tortuously acted in concert with each other in accomplishing an illegal purpose;
- v. An order providing for compensatory, consequential and punitive damages, including treble damages as a result of Williams's violation of N.C. Gen. Stat. §§ 75-1.1, et. seq. to be paid to MWR by Coughlan and Williams;
- vi. An order providing that Coughlan and Williams pay for MWR's costs and expenses, including reasonable attorneys' fees incurred as a result of their actions as set forth herein;
- vii. An order providing for interest, including pre-judgment interest, on the foregoing sums, as determined in this Court's discretion.
- viii. Trial by jury.
- ix. For any other and further relief as this Court may deem just and proper.



This day of July 2011.

Respectfully submitted,

/s/ Jeffrey J. Svoboda

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VERIFICATION

Mr. Calvin Wells III, under penalty of perjury of the laws of the United States, states that he is the Vice President of Operations of MWR, and that he is familiar with, and has personal knowledge of the contents and factual statements of the foregoing Verified Complaint and that the allegations therein are true and correct to the best of his knowledge. To the extent that matters are not within his personal knowledge, the facts stated therein have been assembled by authorized personnel, including counsel, and he is informed that the facts stated therein are true and correct.

Executed this 11 day of July, 2011 in _____.



Calvin Wells III