

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF ARKANSAS  
LITTLE ROCK DIVISION

ROBERT McCURRY

Plaintiff

Vs.

Case No. 4:13-CV-00467-DPM

ALCOHOLIC BEVERAGE CONTROL  
DIVISION OF THE STATE OF ARKANSAS

Defendant

**RESPONSE TO MOTION TO DISMISS**

Comes the Plaintiff, Robert McCurry, by and through his attorneys, Lyons & Cone, P.L.C., and for his Response to Motion to Dismiss, states:

1. That Plaintiff's claims should not be dismissed as the Plaintiff has properly alleged claims upon which relief can be granted as more fully set forth in the accompanying Brief in Support.

2. That as the Court is well aware, in regard to a motion to dismiss, the facts alleged in the complaint are treated as true and are viewed in the light most favorable to the plaintiff. *See, e.g., Born v. Hosto & Buchan, PLLC*, 2010 Ark. 292, 372 S.W.3d 324 (2010). Further, all reasonable inferences **must be** resolved in favor of the complaint and the pleadings are to be liberally construed to do so. *Id.* (Emphasis added).

3. That such brief in support of this motion is incorporated by reference herein.

WHEREFORE, Plaintiff, Robert McCurry prays for relief as follows:

(a) that Defendant's Motion to Dismiss be denied;

- (b) for his costs and attorney's fees; and
- (d) for all other proper relief to which this Plaintiff may be entitled.

LYONS & CONE, P.L.C.

By: /s/ Jim Lyons

Jim Lyons, State Bar No. 77083

P. O. Box 7044

Jonesboro, AR 72403

(870) 972-5440

jlyons@leclaw.com

Attorneys for Plaintiff

F:\WP60\McCurry\McCurry.Resp.Motion.to.Dismiss.wpd

Certificate of Service

The undersigned attorney hereby certifies that on September 19, 2013, he has caused to be sent by electronic mail the foregoing document and whereby notice is to be provided to the following attorneys of record for Defendant:

Mindy D. Pipkin  
Assistant Attorney General  
323 Center Street, Suite 200  
Little Rock, AR 72201-2610  
(501) 682-1314  
mindy.pipkin@arkansasag.gov

/s/ Jim Lyons

Jim Lyons