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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

JOE DEAN CRAWFORD,  
  
Plaintiff,  
  
v.  
  
KRISTINA D. LAWSON, et al.,  
  
Defendants.

Case No.: 22-cv-376-CAB-MDD

**ORDER GRANTING MOTIONS TO DISMISS**

[Doc. Nos. 13, 14, 17, 27, 29, 30, 50]

On March 21, 2022, Plaintiff in pro se Joe Dean Crawford filed this lawsuit against over two dozen individual defendants along with the Medical Board of California (“MBC”), the North Carolina Medical Board (“NCMB”), the Federation of State Medical Boards (“FSMB”), and the National Board of Medical Examiners of the United States (“NBME”). There are currently four motions to dismiss pending:

1. R. David Henderson’s motion to dismiss for lack of subject matter jurisdiction under Federal Rule of Civil Procedure 12(b)(1) and for failure to state a claim under Rule 12(b)(6) [Doc. No. 13];
2. NBME’s motion to dismiss for lack of personal jurisdiction under Rule 12(b)(2), for improper venue under Rule 12(b)(2), for failure to state a claim under Rule 12(b)(6), and for improper joinder under Rule 20 [Doc. No. 14];

- 1 3. FSMB’s motion to dismiss for lack of personal jurisdiction under Rule 12(b)(2),  
2 for improper venue under Rule 12(b)(2), for failure to state a claim under Rule  
3 12(b)(6) [Doc. No. 17]; and,  
4 4. A motion by fifteen current and former board members of the Medical Board of  
5 California (the “MBC Defendants”) for lack of subject matter jurisdiction under  
6 Rule 12(b)(1), for insufficient service of process under Rule 12(b)(5), and for  
7 failure to state a claim under Rule 12(b)(6).

8 These motions have been fully briefed, and the Court deems them suitable for submission  
9 without oral argument. For the following reasons, the motions are granted and this case  
10 is dismissed with prejudice.

11 **I. Allegations in the Complaint**

12 Although the complaint is almost fifty pages in length, Plaintiff’s grievances appear  
13 to boil down to the following:

- 14 • Plaintiff allegedly has an active license to practice medicine in North Carolina.  
15 • Defendant Henderson, who allegedly works for Defendant NCMB, allegedly  
16 stated in a licensure verification form to MBC dated January 6, 2021,<sup>1</sup> that  
17 Plaintiff’s North Carolina medical license was voluntarily surrendered and  
18 became inactive on April 1, 1982, and that Plaintiff is no longer authorized to  
19 practice medicine in North Carolina.  
20 • Defendant Henderson’s statement concerning the status of Plaintiff’s North  
21 Carolina medical license was allegedly false.  
22 • Defendant FSMB allegedly falsely stated on its website that Plaintiff’s license to  
23 practice medicine in North Carolina had been voluntarily surrendered on April 1,  
24 1982.

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27 <sup>1</sup> The complaint later refers to a January 4, 2021, statement by Henderson to MBC concerning Plaintiff’s  
28 North Carolina license. It is unclear whether this statement is the same statement but this distinction is  
immaterial to the resolution of the instant motions.

- 1 • Defendant FSMB allegedly falsely stated on its website that Plaintiff’s  
2 application for a license to practice medicine in Maryland was denied by the  
3 Maryland licensing board on December 31, 1996.
- 4 • Defendant Joseph Salazar, who is a member of MBC, allegedly republished  
5 Henderson’s false statement concerning Plaintiff’s North Carolina medical  
6 license and also allegedly falsely stated that Plaintiff is not licensed to practice  
7 medicine in New York.
- 8 • MBC allegedly racially discriminates against applicants because it requires a  
9 color photograph with applications.
- 10 • NBME breached a contract with Plaintiff because it did not forward evidence of  
11 Plaintiff’s “Diplomate” status to MBC in a timely manner.

12 Based on the above allegations, the complaint is divided into fifteen “Counts.”  
13 Seven of these “Counts” (Nos. 1-7) appear to be common law defamation claims. Six of  
14 the fifteen “Counts” reference federal laws or the United States Constitution: (a) Counts 8-  
15 11, which purport to sue Henderson (and possibly NCMB) for deprivation of Plaintiff’s  
16 “property right in his North Carolina license without notice or opportunity for a due process  
17 hearing in violation of the Due Process and Equal Protection Clause of the Constitution”;  
18 and (b) Counts 12 and 15, which purport to sue Salazar (and possibly MBC) for “depriving  
19 the Plaintiff of valuable property and liberty interests without hearing or due process of  
20 law in violation of Title 42 of the United States Code at Section 1983.” Finally, Count 13  
21 appears to be a discrimination claim against MBC, but it is unclear whether this claim is  
22 based on state or federal law, and Count 14 appears to be a breach of contract claim against  
23 NBME.

## 24 **II. Requests for Default Against Individual Defendants**

25 After the motions to dismiss were fully briefed, Plaintiff filed requests for entry of  
26 default against most of the over two dozen individual defendants named in the caption  
27 complaint. Aside from Henderson, Joseph Salazar, and Humayan Chaudry, however, the  
28 body of the complaint contains no allegations of actions or omissions by any of these

1 individual defendants and asserts no claims against them. Accordingly, Plaintiff’s requests  
2 for entry of default [Doc. Nos. 51-75] are denied, and the complaint is dismissed as to the  
3 following Defendants: (1) Kristina D. Lawson; (2) Randy W. Hawkins; (3) Laurie Rose  
4 Lubiano; (4) Ryan Brooks; (5) Alejandra Campoverdi; (6) Dev Gnanadev; (7) James M.  
5 Healzer; (8) Howard R. Krauss; (9) Asif Mahmood; (10) David Ryu; (11) Richard E.  
6 Thorp; (12) Eserick “TJ” Watkins; (13) Felix C. Yip; (14) Kathryn Taylor; (15) Venkata  
7 Jonnalagadda; (16) John W. Rusher; (17) Michaux Kilpatrick; (18) William “Bill”  
8 Brawley; (19) W. Howard Hall; (20) Christine M. Khandelwal; (21) Joshua Malcolm; (22)  
9 Vernell McDonald-Fletcher; (23) Damian McHugh; (24) Shawn P. Parker; (25) Jerri L.  
10 Patterson; (26) Anuradha Rao-Patel; and (27) Devdutta “Dev” G. Sangvai.

### 11 **III. The Complaint Does Not Comply with Rule 8**

12 Federal Rule of Civil Procedure 8(a)(2) requires “a short and plain statement of the  
13 claim showing that the pleader is entitled to relief.” As both Henderson and MBC argue  
14 in their motions, the complaint fails to satisfy this requirement and is subject to dismissal  
15 on this basis alone. The complaint does not satisfy Rule 8 for a variety of reasons, including  
16 the following:

17 First, the complaint makes few allegations actions or omissions by any of the  
18 defendants aside from Henderson (and by extension NCMB), FSMB, NBME, MBC and  
19 Salazar. Along these lines, despite over thirty defendants being listed in the caption, the  
20 complaint frequently uses the generic “Defendant” or “Defendants” instead of identifying  
21 the specific Defendant or Defendants by name.

22 Second, although the gravamen of the complaint appears to concern “certain  
23 objectionable facts” [Doc. No. 1 at 6] allegedly published by Henderson in a licensure  
24 verification form, the verification form itself is not attached to the complaint, and the Court  
25 and defendants are unable to discern from the verbose complaint what exactly Henderson  
26 or any other Defendants allegedly published and why those statements are “objectionable”  
27 or false. Likewise, the complaint appears to assert claims based on statements made “on  
28

1 the internet” but does not state where on the internet or what exact statements were made  
2 and why those statements are actionable.

3 Third, the complaint lacks a prayer for relief and it is unclear what form(s) of relief  
4 Plaintiff seeks (i.e., equitable relief or damages) and from whom. Without this information,  
5 Plaintiff cannot establish, and the Court cannot determine, whether Plaintiff has Article III  
6 standing to seek such relief.

7 Fourth, the complaint lacks any allegations supporting personal jurisdiction over  
8 most of the defendants or why this Court is the proper venue for Plaintiff’s claims.

9 Accordingly, for these reasons alone, the complaint is subject to dismissal without  
10 prejudice in its entirety. However, for the reasons discussed below, the complaint is  
11 dismissed with prejudice.

#### 12 **IV. Henderson’s Motion**

13 The complaint purports to assert up to nine counts against Henderson: (1) Count One  
14 for defamation; (2) Count Two for defamation; (3) Count Three for defamation; (4) Count  
15 Four for defamation; (5) Count Six for defamation; (6) Count Eight for “deprivation of  
16 [Plaintiff’s] property right in his North Carolina license without notice or opportunity for  
17 a due process hearing in violation of the Due Process and Equal Protection Clause of the  
18 Constitution”; (7) Count Nine for “deprivation of [Plaintiff’s] property right in his North  
19 Carolina license without notice or opportunity for a due process hearing in violation of the  
20 Due Process and Equal Protection Clause of the Constitution”; (8) Count Ten for  
21 “deprivation of [Plaintiff’s] property right in his North Carolina license without notice or  
22 opportunity for a due process hearing in violation of the Due Process and Equal Protection  
23 Clause of the Constitution”; and (9) Count Eleven for “deprivation of [Plaintiff’s] property  
24 right in his North Carolina license without notice or opportunity for a due process hearing  
25 in violation of the Due Process and Equal Protection Clause of the Constitution.”

26 The complaint is silent as to whether most of the claims are made against Henderson  
27 in his official or individual capacities. The exceptions are Counts Four and Six for  
28 defamation, both of which include a statement that Plaintiff is suing Henderson

1 individually and in his official capacity as Chief Executive Officer of NCMB. [*Id.* at 17,  
2 27.] The complaint, however, does not actually allege any non-official acts by Henderson.  
3 Rather, the complaint alleges that Henderson is employed by NCMB and is its custodian  
4 of records [Doc. No. 1 at 4, 6], its “chief administrative officer” [*Id.* at 17], and its “Chief  
5 Executive Officer” [*Id.* at 27], and that he published the allegedly “objectionable facts . . .  
6 under the seal of the North Carolina Medical Board which is an indication of the official  
7 nature of the Board’s actions . . .” [*Id.* at 6]. The complaint also alleges that Henderson  
8 published the allegedly false statements using “the seal of the North Carolina State in  
9 making publications under the color of law” [*Id.* at 34, 39, 42], and that he published “the  
10 statement as an official one to the California Medical Board . . .” [*Id.* at 35, 41]. Thus,  
11 notwithstanding Plaintiff’s conclusory statement to the contrary, the complaint only asserts  
12 claims against Henderson in his official capacity as a an NCMB official. As discussed  
13 below, all of these claims are barred by the Eleventh Amendment to the Constitution.

14       The Eleventh Amendment states: “The Judicial power of the United States shall not  
15 be construed to extend to any suit in law or equity, commenced or prosecuted against one  
16 of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign  
17 State.” “The ultimate guarantee of the Eleventh Amendment is that nonconsenting States  
18 may not be sued by private individuals in federal court.” *Bd. of Trustees of Univ. of*  
19 *Alabama v. Garrett*, 531 U.S. 356, 363 (2001); *see also Brooks v. Sulphur Springs Valley*  
20 *Elec. Co-op.*, 951 F.2d 1050, 1053 (9th Cir. 1991) (“The Eleventh Amendment prohibits  
21 federal courts from hearing suits brought against an unconsenting state.”). This immunity  
22 from suit applies to state agencies and departments who are named as defendant as well as  
23 to suits “against state officials when ‘the state is the real, substantial party in interest.’”  
24 *Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89, 100-01 (1984). “[A]n official-  
25 capacity suit is, in all respects other than name, to be treated as a suit against the entity. It  
26 is not a suit against the official personally, for the real party in interest is the entity.”  
27 *Kentucky v. Graham*, 473 U.S. 159, 166 (1985).

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1 Here, the state of North Carolina established NCMB “to regulate the practice of  
2 medicine and surgery for the benefit and protection of the people of North Carolina.” N.C.  
3 Gen. Stat. Ann. § 90-2. According to the complaint, Henderson is the Chief Executive  
4 Officer of NCMB, and all of the allegations in the complaint concern acts by Henderson in  
5 his official capacity in that role. Thus, NCMB is a state agency and is the real party in  
6 interest with respect to all of the claims in which Henderson is named as a defendant.  
7 Eleventh Amendment immunity therefore applies to the claims against Henderson as if  
8 NCMB or the state of North Carolina were the named defendant.

9 In his motion, Henderson argues that this immunity has not been waived by state  
10 statute or abrogated by any federal law. He also argues that the *Ex Parte Young* exception  
11 to Eleventh Amendment immunity in cases seeking to prospective relief to prevent ongoing  
12 violations of federal law does not apply. *See Ex Parte Young*, 209 U.S. 123, 166 (1908);  
13 *see also Pennhurst*, 465 U.S. at 102-03 (noting that “when a plaintiff sues a state official  
14 alleging a violation of federal law, the federal court may award an injunction that governs  
15 the official's future conduct, but not one that awards retroactive monetary relief.) (citing  
16 *Edelman v. Jordan*, 415 U.S. 651, 666-67 (1974)). For his part, Plaintiff does not make  
17 any legal arguments or cite to any allegations in the complaint demonstrating that Eleventh  
18 Amendment immunity does not apply here. Instead, Plaintiff cavalierly dismisses  
19 Henderson’s immunity arguments as “ridiculous,” and that the entirety of Henderson’s  
20 arguments for dismissal are “trash that federal rule 12(f) requires to be stricken upon  
21 application of a timely plaintiff.” [Doc. No. 30 at 3-4.] The Court does not agree with  
22 Plaintiff’s assessment of Henderson’s arguments and is persuaded that the Eleventh  
23 Amendment bars all of Plaintiff’s claims against Henderson.

24 Accordingly, because any amendment to the claims against Henderson would not be  
25 able to overcome this Eleventh Amendment immunity, Plaintiff’s claims against  
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1 Henderson, including Counts 1-4, 6, and 8-11, are dismissed with prejudice to re-filing in  
2 federal court.<sup>2</sup>

3 **V. NBME’s Motion**

4 The complaint only mentions NBME in connection with Count Fourteen, which  
5 states, in its entirety:

6 1. Plaintiff, a Diplomate of the National Board of Medical Examiners of  
7 the United States sues that same body for breach of contract that it failed to  
8 perform a contractual and paid for service by immediately forwarding  
9 evidence of Diplomate status to the California State Medical Board in a timely  
10 manner. The delay caused Plaintiff economic harm and loss of valuable  
11 property.

12 2. No excuse exists for the breach of contract which may have been  
13 malicious or gross negligence.

14 [Doc. No. 1 at 46.]

15 NBME moves to dismiss for lack of personal jurisdiction, improper venue, failure  
16 to state a claim, and improper joinder. Plaintiff’s rambling consolidated response to the  
17 motions to dismiss does not address NBME’s venue and improper joinder arguments, and  
18 the Court finds those arguments to be persuasive, so on those grounds alone the Count  
19 against NBME is dismissed.

20 The Court also finds that it does not have personal jurisdiction over NBME. “Where  
21 defendants move to dismiss a complaint for lack of personal jurisdiction, plaintiffs bear the  
22 burden of demonstrating that jurisdiction is appropriate.” *Dole Foods Co. Inc. v. Watts*,  
23 303 F. 3d 1104, 1108 (9th Cir. 2002). The complaint here contains no allegations  
24 concerning personal jurisdiction, and Plaintiff’s response to the motions to dismiss does  
25 not remedy these deficiencies. Nothing in any of Plaintiff’s papers, even construed in favor  
26 of Plaintiff, indicates that NBME has sufficient contacts with California to be subject to  
27 general jurisdiction here. Nor is there any allegation or evidence of any “act by which  
28 [NBME] purposefully avail[ed] itself of the privilege of conducting activities within

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<sup>2</sup> Plaintiff’s motion to strike [Doc. No. 30] is therefore denied.



1 [California], thus invoking the benefits and protections of its laws.” *Cybersell, Inc. v.*  
2 *Cybersell, Inc.*, 130 F.3d 414, 417 (9th Cir. 1997) (quoting *Hanson v. Deckla*, 357 U.S.  
3 253 (1958)). Further, the specific allegation against NBME demonstrates that it did not  
4 have contact with California concerning Plaintiff’s claim, alleging only that NBME *did not*  
5 forward something to MBC in purported violation of an unidentified contract with Plaintiff.

6 Accordingly, Count 14 against NBME is dismissed with prejudice to refile in this  
7 Court but without prejudice to refile in an appropriate venue where NBME is subject to  
8 personal jurisdiction.

#### 9 **VI. FSMB’s Motion**

10 The complaint purports to assert two counts for defamation against FSMB. Count  
11 Five alleges that FSMB harmed Plaintiff by publishing on the internet that his license to  
12 practice medicine in North Carolina had been voluntarily surrendered on April 1, 1982.  
13 Count Seven alleges that FSMB and Humayan Chaudhry, whom the complaint describes  
14 as “chief corporate officer,” harmed Plaintiff by publishing on the internet that he “was not  
15 competent to practice medicine in Maryland because the Maryland board had ‘denied  
16 licensure’ to plaintiff on December 31, 1996.” [Doc. No. 1 at 30.] FSMB moves to dismiss  
17 the claims against it for lack of personal jurisdiction, improper venue and failure to state a  
18 claim.

19 As was the case with NBME, and for similar reasons, FSMB’s personal jurisdiction  
20 and venue arguments are persuasive. Plaintiff once again does not offer any legal argument  
21 or evidence that would warrant the exercise of personal jurisdiction over FSMB here.  
22 FSMB does not have sufficient contacts with California to be subject to general personal  
23 jurisdiction. Further, Plaintiff’s claims arise entirely out of information posted on FSMB’s  
24 website. “A passive website that does little more than make information available to those  
25 who are interested in it is not grounds for the exercise [of] personal jurisdiction.” *Tr. of*  
26 *Summers Fam. Tr. TA Neak Prod. Buff WA Pty, Ltd. v. Nat’l Distribution Warehouse, Inc.*,  
27 No. 2:20-CV-10741-CAS-EX, 2021 WL 2354507, at \*7 (C.D. Cal. June 7, 2021) (citation  
28 and internal quotation marks omitted); *see also LNS Enterprises LLC v. Cont’l Motors,*

1 *Inc.*, 22 F.4th 852, 863 (9th Cir. 2022) (noting that “the mere existence of a ‘passive  
2 website’ maintained by [the defendant] is insufficient to render the company subject to  
3 personal jurisdiction in the absence of other contacts.”). Accordingly, the Court lacks  
4 personal jurisdiction over FSMB. Counts five and seven are dismissed without prejudice  
5 to re-filing in the appropriate venue where FSMB is subject to personal jurisdiction.

## 6 **VII. Claims Against Humayun Chaudhry**

7 The complaint includes Chaudhry, who is alleged to be FSMB’s chief executive  
8 officer, as a defendant with respect to the same two claims asserted against FSMB.  
9 Although FSMB’s arguments for dismissal are equally applicable to Chaudhry, Chaudhry  
10 did not join in FSMB’s motion because he has not been properly served with the complaint.  
11 Plaintiff has sought the entry of default against Chaudhry, but as Chaudhry himself  
12 explains in his response to that request [Doc. No. 41], Chaudhry has not been served, and  
13 there is no evidence on the docket indicating otherwise.

14 On June 30, 2022, the Court granted Plaintiff’s request for an extension of time to  
15 serve Defendants and set a deadline of August 5, 2022. The order specified that failure to  
16 establish proof of service by the deadline would result in dismissal. [Doc. No. 6.]  
17 Accordingly, because Plaintiff has not served Chaudhry by the Court’s deadline, his claims  
18 against Chaudhry are dismissed. Ordinarily, such a dismissal would be without prejudice  
19 to filing a new lawsuit against Chaudhry in this Court. Here, however, such a filing would  
20 be futile because the Court lacks personal jurisdiction over Chaudhry and this would be an  
21 improper venue for any claims against him. Thus, Plaintiff’s claims against Chaudhry are  
22 dismissed with prejudice to refile in this Court, but without prejudice to filing a new  
23 lawsuit in an appropriate venue where Chaudhry is subject to personal jurisdiction.<sup>3</sup>

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28 <sup>3</sup> Plaintiff’s motion to strike [Doc. No. 29] is therefore denied.

### VIII. MBC Defendants' Motion

1           **VIII. MBC Defendants' Motion**  
2           The complaint asserts two counts (Counts 12 and 15) against Joseph Salazar, who is  
3 alleged to be an employee of MBC, and one count (Count 13) against MBC itself. As  
4 mentioned above, the complaint lists MBC along with fifteen current and former  
5 employees and board members of MBC in the caption, but it does not contain any specific  
6 allegations about or claims against any of those individuals aside from Salazar.  
7 Nevertheless, the last pending motion to dismiss is on behalf of all of these individuals  
8 (collectively referred to as the "MBC Defendants"). The Court has already dismissed all  
9 of the individual MBC Defendants except for Salazar, so the only remaining MBC  
10 Defendants are MBC itself and Salazar. The MBC Defendants argue that the complaint  
11 should be dismissed against them because they are entitled to Eleventh Amendment  
12 immunity, because Plaintiff has not effectively served them, and because the complaint  
13 fails to state a claim.

14           For the same reasons discussed above as to Henderson's immunity under the  
15 Eleventh Amendment, the MBC Defendants are also entitled to such immunity. As the  
16 motion points out, courts have consistently held that MBC is entitled to Eleventh  
17 Amendment immunity. *See, e.g., Bonner v. Med. Bd. of California*, No. 2:17-CV-00445-  
18 KJM-DB, 2018 WL 4699996, at \*5 (E.D. Cal. Sept. 30, 2018) (holding that MBC is a state  
19 agency for Eleventh Amendment purposes and dismissing claims against MBC with  
20 prejudice); [Doc. No. 27-1 at 4-5 (citing cases)]. Plaintiff does not identify any waiver or  
21 abrogation of this immunity in his complaint or opposition. Accordingly, Plaintiff's claims  
22 against MBC are dismissed with prejudice to re-filing in federal court.

23           Eleventh Amendment immunity also applies to the claims against Salazar. The  
24 caption of the complaint states that Salazar is being sued in his official capacity, and  
25 complaint does not request an injunction on any future conduct by Salazar. Thus, the *ex*  
26 *Parte Young* exception does not apply, and the Eleventh Amendment bars Plaintiff's claims  
27 against Salazar as well. *See Pennhurst*, 465 U.S. at 100-03.  
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