

STATE OF TENNESSEE 20 TH JUDICIAL DISTRICT CHANCERY COURT	SUMMONS	CASE FILE NUMBER <i>10-1197-II</i>
PLAINTIFF TENNESSEE FOOTBALL, INC.	DEFENDANT LANE MONTE KIFFIN, INDIVIDUALLY AND IN HIS CAPACITY AS AGENT FOR UNIVERSITY OF SOUTHERN CALIFORNIA; AND UNIVERSITY OF SOUTHERN CALIFORNIA	
TO: (NAME AND ADDRESS OF DEFENDANT) Lane Monte Kiffin, in his Capacity as Agent for University of Southern California 3501 Watt Way, HER 203B Los Angeles, CA 90089		Method of Service: Private Process Server RECEIVED <i>TAD</i> JUL 27 2010 Office of the General Counsel
YOU ARE SUMMONED TO DEFEND A CIVIL ACTION FILED AGAINST YOU IN CHANCERY COURT, DAVIDSON COUNTY, TENNESSEE. YOUR DEFENSE MUST BE MADE WITHIN THIRTY (30) DAYS FROM THE DATE THIS SUMMONS IS SERVED UPON YOU. YOU MUST FILE YOUR DEFENSE WITH THE CLERK OF THE COURT AND SEND A COPY TO THE PLAINTIFF'S ATTORNEY AT THE ADDRESS LISTED BELOW. IF YOU FAIL TO DEFEND THIS ACTION BY THE ABOVE DATE, JUDGMENT BY DEFAULT CAN BE RENDERED AGAINST YOU FOR THE RELIEF SOUGHT IN THE COMPLAINT.		
Attorney for plaintiff: (Name, address & telephone number) Robert E. Boston Mark W. Peters Mary Beth Thomas Waller Lansden Dortch & Davis, LLP 511 Union St. Ste. 2700 Nashville, TN 37219 (615) 244-6380	FILED, ISSUED & ATTESTED JUL 26 2010 CRISTI SCOTT, Clerk and Master By: <i>Cristi Scott</i> 1 Public Square Suite 308 Nashville, TN 37201 Deputy Clerk & Master	
NOTICE OF DISPOSITION DATE		
<p>The disposition date of this case is twelve months from date of filing. The case must be resolved or set for trial by this date or it will be dismissed by the Court for failure to prosecute pursuant to T.R.C.P. 41.02 and Local Rule 18.</p> <p>If you think the case will require more than one year to resolve or set for trial, you must send a letter to the Clerk and Master at the earliest practicable date asking for an extension of the disposition date and stating your reasons. Extensions will be granted only when exceptional circumstances exist.</p>		
TO THE SHERIFF:	DATE RECEIVED Sheriff	

***Submit one original plus one copy for each defendant to be served.

ADA Coordinator, Cristi Scott (862-5710)

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Exhibit 1

IN THE CHANCERY COURT FOR DAVIDSON COUNTY, TENNESSEE

TENNESSEE FOOTBALL, INC.,)
)
 Plaintiff,)
)
 v.)
)
 LANE MONTE KIFFIN,)
 INDIVIDUALLY AND IN HIS)
 CAPACITY AS AGENT FOR)
 UNIVERSITY OF SOUTHERN)
 CALIFORNIA; AND UNIVERSITY OF)
 SOUTHERN CALIFORNIA,)
)
 Defendants.)

Case No. 10-1197-II
JURY DEMAND

COMPLAINT

Plaintiff Tennessee Football, Inc. ("Tennessee Football") makes the following Complaint against Defendants, Lane Monte Kiffin ("Kiffin"), in his individual capacity and as agent for the University of Southern California ("USC"), and USC:

PARTIES

1. Plaintiff Tennessee Football is a Delaware Corporation with its principal place of business in Nashville, Tennessee. Tennessee Football owns and operates the National Football League team known as the Tennessee Titans.

2. Defendant USC is a California not-for-profit corporation with its principal place of business in Los Angeles County, California. Among other activities, USC operates an intercollegiate sports program, the teams within which include a college football team commonly referred to as the USC Trojans.

3. Defendant Kiffin is an employee and authorized agent for the USC Trojans football program, and is assigned as its head football coach. At all relevant times, Kiffin was USC's agent with actual and apparent authority to staff, manage and operate the USC Trojans football program, including the selection of its coaches.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction over this tort cause of action and Defendants pursuant to Tenn. Code Ann. § 16-11-102 (a).

5. This Court has personal jurisdiction over Defendants because Defendants caused injury to Tennessee Football through their intentional and tortious acts and omissions which were committed in and caused injury in the State of Tennessee.

6. This Court has general personal jurisdiction over Kiffin because he has engaged in systematic and continuous activity within Tennessee, to wit: Kiffin resided in Tennessee from December 2008 to January 2010, and upon information and belief, continues to own real property located at 8701 Inlet Drive, Knoxville, Tennessee 37922; he previously worked as head football coach at the University of Tennessee, Knoxville from December 2008 to January 2010, and while in that role engaged in the recruitment of high school student athletes from various parts of the United States to attend the University of Tennessee; since leaving the University of Tennessee for the head coaching job at USC, Kiffin has contacted at least five football coaches who were residents of and employed in Tennessee – Monte Kiffin,

Ed Orgeron, Willie Mack Garza, James Cregg, and Kennedy Pola – to solicit their respective employment at USC; and has otherwise engaged in business and commerce within Tennessee, thereby purposefully availing himself of the general jurisdiction of the State of Tennessee.

7. This Court has general personal jurisdiction over USC, and Kiffin as its agent, because they have engaged in systematic and continuous activities in Tennessee, upon information and belief, to wit: USC has previously been registered with the Secretary of State of Tennessee to do business within the state; USC and Kiffin have engaged in recruiting student athletes residing in Tennessee to enroll at USC and participate in its sports programs by offering scholarships and other incentives; USC and Kiffin have recently negotiated employment contracts with football coaches residing in Tennessee, including Monte Kiffin, Ed Orgeron, James Cregg, Willie Mack Garza, and Kennedy Pola; and upon information and belief, USC solicits contributions from its alumni located within the state of Tennessee, as a result of all of which USC and Kiffin as its agent have purposefully availed themselves of the general jurisdiction of the State of Tennessee.

8. Venue is proper in this Court pursuant to Tenn. Code Ann. §§ 20-4-101(a) and 20-4-106 because Tennessee Football's causes of action arose and accrued in Davidson County, Tennessee.

FACTS

9. Tennessee Football entered into an enforceable written contract of employment with Kennedy Pola. Under it, Pola agreed to become exclusively an

employee of Tennessee Football as its running backs position coach beginning February 1, 2010 and ending not before February 14, 2011 (the "Pola Contract"). A redacted copy of the Pola Contract is attached hereto as Exhibit A.

10. Pola agreed in paragraph 4(a) of the Pola Contract that he would not "directly or indirectly, serve as an employee or do work for anyone else or any other firm or organization without the express prior written consent of the President and General Counsel [of Tennessee Football]." Pola Contract, ¶ 4(a) (emphasis in original).

11. Pola agreed in paragraph 11(c) of the Pola Contract that he would not "under any circumstance solicit discussions or entertain employment with any other person or entity during the Term unless...given written permission to do so by [Tennessee Football] or by the Commissioner in accordance with NFL Rules," and that "[v]erbal consent is inadequate." Pola Contract, ¶ 11(c).

12. Pola was not given express written consent by Tennessee Football or the Commissioner of the NFL to entertain employment with any other entity.

13. Tennessee Football performed all of its obligations under the Pola Contract.

14. Kiffin and USC through him were aware of the Pola Contract.

15. On Friday, July 22, 2010, while the Pola Contract was still in full force, Kiffin, individually and in his capacity as agent of USC, in furtherance of a culture of violation and avoidance of respect for the sanctity of contract, which Kiffin similarly practices, unbeknownst to Tennessee Football, contacted Pola in

Nashville, Tennessee and solicited his employment as the USC Trojans' offensive coordinator and running backs coach, and thus interfered with and induced the breach of the Pola Contract to the damage of Tennessee Football.

16. Kiffin and USC's actions involving Tennessee Football were intentional, without legal justification, and were part of a course and pattern of conduct fostered by Kiffin and USC to use improper methods and means to the direct harm and damage of parties to contracts, to interfere with existing contracts and induce the breach thereof, including the Pola Contract: For instance, in December 2008, Kiffin accepted the contractual position of head football coach at the University of Tennessee. Without warning, in January 2010, Kiffin abruptly departed after one season, leaving the University of Tennessee without an experienced head football coach, to accept the head coach position he currently holds at USC. Shortly thereafter, Kiffin and USC persuaded four more University of Tennessee coaches – Monte Kiffin, Ed Orgeron, James Cregg and Willie Mack Garza – to leave the University of Tennessee to assume employment in coaching positions with USC. Upon information and belief, USC and Kiffin also attempted to hire for USC a running backs coach, Eric Bienemy, who was under contract at the time with the National Football League team known as the Minnesota Vikings. USC and Kiffin were unsuccessful in persuading Bienemy to end his relationship with Minnesota, but upon information and belief, Minnesota was forced to renegotiate Bienemy's salary to its detriment due to Kiffin and USC's acts of interference.

17. On or around Saturday, July 24, 2010, Pola was solicited and induced by Defendants to accept the position of offensive coordinator and running backs coach at USC, an action in breach of the Pola Contract.

18. Pola's breach of contract, induced by Kiffin and USC, has damaged Tennessee Football, by, *inter alia*, depriving it of an experienced running backs coach less than one week prior to the beginning of Tennessee Football's training camp, disrupting its season planning and coordinated effort among its coaches, causing potential loss of confidence by its players, and causing extensive monetary losses consisting of salary and benefits paid to Pola since the commencement of the Pola Contract, and future damage.

COUNT I – INDUCEMENT OF BREACH OF CONTRACT
PURSUANT TO TENN. CODE ANN. § 47-50-109

19. The Pola Contract is a legally enforceable contract between Kennedy Pola and Tennessee Football, and Tennessee Football has fully performed under the Pola Contract.

20. Pola breached the Pola Contract by discussing employment opportunities with USC and Kiffin, accepting employment with USC offered through Kiffin, and leaving the Tennessee Football running backs coach position prior to the expiration of the Pola Contract.

21. USC and Kiffin were aware of the Pola Contract.

22. USC and Kiffin maliciously intended to – and did – induce Pola to breach the Pola Contract. USC and Kiffin engaged in improper means in their procurement of the breach and were not legally justified in their actions. Kiffin and

USC's actions, through him, were part of a course and pattern of conduct fostered by Kiffin and USC to use improper methods and means to the direct harm and damage of parties to contracts, to interfere with an existing contract and induce the breach thereof.

23. USC and Kiffin's actions violate Tenn. Code Ann. § 47-50-109, which provides that

It is unlawful for any person, by inducement, persuasion, misrepresentation, or other means, to induce or procure the breach or violation, refusal or failure to perform any lawful contract by any party thereto; and in every case where a breach or violation of such contract is so procured, the person so procuring or inducing the same shall be liable in treble the amount of damages resulting from or incident to the breach of the contract. The party injured by such breach may bring suit for the breach and for such damages.

24. As a proximate result of USC and Kiffin's tortious conduct, Tennessee Football has been damaged in an amount to be proven at trial.

**COUNT II – COMMON LAW TORTIOUS
INTERFERENCE WITH CONTRACT**

25. The Pola Contract is a legally enforceable contract between Kennedy Pola and Tennessee Football, and Tennessee Football has fully performed under the Pola Contract.

26. Pola breached the Pola Contract by discussing employment opportunities with USC and Kiffin, accepting employment with USC offered through Kiffin, and leaving the Tennessee Football running backs coach position prior to the expiration of the Pola Contract.

27. USC and Kiffin were aware of the Pola Contract.

28. USC and Kiffin maliciously intended to – and did – induce Pola to breach the Pola Contract. USC and Kiffin engaged in improper means in their procurement of the breach and were not legally justified in their actions. Kiffin and USC's actions, through him, were part of a course and pattern of conduct fostered by Kiffin and USC to use improper methods and means to the direct harm and damage of parties to contracts, to interfere with an existing contract and induce the breach thereof.

29. As a proximate result of USC and Kiffin's tortious conduct, Tennessee Football has been damaged in an amount to be proven at trial.

WHEREFORE, PREMISES CONSIDERED, Plaintiff Tennessee Football, Inc. prays for:

- (a) Judgment against USC and Kiffin in an amount to be proven at trial;
- (b) The judgment to be for treble damages pursuant to Tenn. Code Ann. § 47-50-109;
- (c) Punitive damages in an amount to be proven at trial;
- (d) A jury to try all claims so triable;
- (e) An award of attorneys' fees and costs to the extent allowable by law;
- and
- (f) Such further and general relief as this Court deems appropriate.

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