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Barbara Lucas

Cause No. 2009-550,359

MIKE LEACH

*Plaintiff,*

v.

TEXAS TECH UNIVERSITY

*Defendant.*

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IN THE DISTRICT COURT

OF LUBBOCK COUNTY, TEXAS

99<sup>TH</sup> JUDICIAL DISTRICT

**PLAINTIFF MIKE LEACH'S THIRD AMENDED PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Mike Leach ("Leach"), Plaintiff and files this Third Amended Petition complaining of Texas Tech University, Defendant, and would show as follows:

**I. DISCOVERY CONTROL PLAN**

1. Mike Leach intends to conduct discovery under Level 2 of Texas Rule of Civil Procedure 190.

**II. PARTIES**

2. Plaintiff is Mike Leach, the head football coach at Texas Tech University.
3. Defendant is Texas Tech University, which has already appeared in this case.

**III. VENUE**

4. Venue is proper in Lubbock County, Texas. Specifically, venue is allowed in this county because all or a substantial part of the events or omissions occurred in this county. Tex. Civ. Prac. & Rem. Code § 15.002(a)(1). Venue is mandatory in this county because of Texas Civil Practice & Remedies Code Section 15.017 provides that venue is mandatory in the county in which the plaintiff resided at the time of the accrual of the cause of action.



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Case No: 2009550359

#### **IV. FACTS**

5. For the last ten years Mike Leach has made his livelihood as head football coach at Texas Tech University, a Division 1 school that has appeared in NCAA College Bowl games the last ten years. Leach has a strong winning percentage while the head coach at Texas Tech. He is the winningest head football coach in Texas Tech's history. According to [www.collegefootballpoll.com](http://www.collegefootballpoll.com), Leach is responsible for over half of Texas Tech's 11 bowl wins all time. Last year Leach was the national college coach of the year.

6. Leach is a member of a very small pool of qualified applicants for head coaching positions at major colleges and universities in the United States. The number of head coaches at Division 1 schools number 120 in the NCAA Bowl Eligible Subdivision. Even fewer openings exist for such positions in any given year. These Division 1 schools recruit during the year and practice in the spring and summer for the upcoming year. If a coach is not hired in the early part of the year, his opportunity to find a position is effectively gone. Moreover, a coach's good reputation among recruits – high school seniors and their families – is paramount.

7. This case involves a dispute between Texas Tech University and Leach, its former head football coach. The University executed a contract with Leach effective January 1, 2009 (the "Agreement") providing that Leach will perform as Head Football Coach of the University's Division 1 football program for a term of five years. See Exhibit 1, Employment Contract dated February 19, 2009.<sup>1</sup> The Agreement has certain provisions relating to termination, including a termination-at-will provision, a termination for cause provision, and a notice and cure provision.

8. During the 2009 football season, Leach had to contend with the disciplinary problems of a sophomore wide receiver named Adam James. For example, in September 2009,

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<sup>1</sup> All exhibits referenced in this petition are attached to Plaintiff's Motion for Expedited Discovery which is on file with this Court and are incorporated by reference.

wide receiver coach Lincoln Riley met with Adam James in the Texas Tech coaches' offices. Coach Riley told James that his effort at practices was not good and that Riley needed more from James at his position. As a result, James was demoted to the third team. Unhappy with this demotion, Adam James stormed out of the athletic offices yelling "F\*#@# this!" in front of staff and players. James slammed the outer door to the coaches' office so hard that it split and came off its hinges, causing approximately \$1,100 in damage.

9. On or about September 10, 2009, Adam James' father Craig James<sup>2</sup>, called Texas Tech assistant coach Tommy McVey to tell him, in effect, that you coaches are crazy and you're screwing my kid. On or about the same day, Craig James left a voice message for Coach Riley stating, in effect, "You don't know what you're doing. Adams James is the best player at the wide receiver position." He concluded his message to coach Riley by stating, "If you've got the balls to call me back, and I don't think you do, call me back."<sup>3</sup> Coach Riley forwarded the message to Plaintiff Leach. Plaintiff Leach met with Adam James and requested that Adam tell his father to stop calling Texas Tech coaches. Thereafter, upon information and belief, Craig James began to call Texas Tech officials.

10. On December 14, 2009, during practice for the Alamo Bowl, Coach Leach noted poor effort by Adam James. Leach advised James during the 1<sup>st</sup> period of practice if he didn't like James' effort he was going to be sent to 'Muscle Beach' (an area designated for use by injured players and for lifting weights which is generally overseen by Texas Tech Strength Coach Bennie Wylie). During the 2<sup>nd</sup> period of practice, Leach advised several players,

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<sup>2</sup> Craig James is a former SMU running back who played in the National Football League and who currently works as a college football analyst for ESPN. James had previously contacted Leach and other members of the coaching staff to complain and question the amount of playing time afforded to his son.

<sup>3</sup> In August 2009, Craig James told Mike Leach that he was in business with Chancellor Kent Hance.

including Adam James, that their effort was unacceptable and that he had seen enough. Leach sent James and other players to Muscle Beach. At Muscle Beach, Coach Wylie directed James, and the two other players to run laps and stairs. Afterward, the players other than James acknowledged to Coach Wylie that they had put forth unacceptable effort in practice and had learned from the discipline of the coaching staff. However, Adam James told Coach Wylie that Wylie didn't know what he was doing and James' effort was just fine.

11. On or about December 17, 2009, Adam James arrived at football practice in street clothes wearing sunglasses, claiming he had received a concussion. The team physician Dr. Phy acknowledged that James had a mild concussion and limited him from any physical activity until he was symptom free. The football team policy provides that all players, including injured players, shall attend practice in practice attire and participate in the manner permissible given the nature of their injury. If a player cannot practice at all, he must still attend practice in appropriate practice attire and "walk the field". Street clothes and sunglasses are not considered appropriate attire. According to the affidavit of team trainer, Steve Pincock, James was "walking the field" in a nonchalant, non-caring way. See Exhibit 2.

12. When advised by Pincock that James had a concussion, Leach told Mr. Pincock to take James to a dark location (since concussions cause sensitivity to light), to remove James from the immediate practice field since he was not in proper attire and the rest of the team was practicing hard for the Alamo Bowl, and to have James stand during the duration of the practice. Plaintiff Leach did not identify where James was to be taken; he did not direct that James be locked anywhere; and he did not require James to engage in any physical activity during practice. In his affidavit, Mr. Pincock has testified that Leach did not want James loafing while others practiced. (Any reasonable person can understand the need to keep a team focused on the most

important game of the season and to limit the team's view of/exposure to players who are not being put through the same difficult physical and mental stresses of an elite college football program preparing for its biggest game of the season.)

13. Athletic trainer Steve Pincock placed Adam James in the medicine/athletic training garage and told him to stand. Mr. Pincock placed assistant trainer Jordan outside the garage so that someone could check on James' condition every fifteen to twenty minutes. When James was checked by team trainers during the practice, which lasted approximately 2 hours, James was sitting and/or sleeping in the garage. Adam James was never locked in the garage. Further there is no "electrical closet" in the garage.<sup>4</sup>

14. On or about December 18, 2009, the Red Raiders football team conducted practice on the game field. Prior to practice trainer Pincock asked Coach Leach what should be done with the injured players. Leach responded, to the effect, "same thing as yesterday." Because he was still allegedly suffering from this mild concussion, James did not practice. At Pincock's direction, James spent the practice in a media room used for opposing teams' post-game press conferences at the Red Raiders' stadium. Pincock instructed a student trainer was placed outside the media room to check on James' condition. At no time was James locked inside the room or the electrical closet. Indeed, according to Mr. Pincock's affidavit, Adam James wandered around the room, sat down, and laid down in the media room. James was not required to engage in any physical activity, and was checked periodically by team trainers. Moreover, based on Mr. Pincock's affidavit, James was specifically told not to go into the electrical closet. Despite Mr. Pincock's express instructions, Adam James voluntarily placed himself into the electrical closet and apparently took pictures with his phone camera. (It is a violation of team policy to have a phone at practice.)

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<sup>4</sup> Indeed, offensive lineman stay in the training garage during special teams practice.

15. On or about December 19, 2009, Adam James again reported to practice. Trainer Pincock placed James in training room and instructed James to ride a stationary bicycle because his symptoms had subsided sufficiently. Leach was not advised of Pincock's treatment until after practice. At no time did Leach or any other member of the coaching staff or team place Adam James at any risk of additional injury or take any action that was inconsistent with James' health and welfare.

16. That day, Leach received a phone call from Chancellor Kent Hance, who advised Leach that Larry Anders, Chairman of the Texas Tech University Board of Regents had received a complaint from Adam James' father, Craig. According to Hance, the elder James complained that his son was being forced to play before his concussion had healed. Leach denied this allegation. Further, Leach informed Hance that Craig James had previously called Tech coaches to interfere on Adam's behalf. Hance admitted to previously receiving such calls. In response, Hance advised Leach that Hance would tell Craig James three things: (1) that Adam could choose to listen to the coaches; (2) that Adam could leave the team, stay at Texas Tech, and the school would honor the scholarship through graduation (typically, a school is only required to honor a scholarship through the semester); or (3) transfer to another school which Texas Tech would facilitate by signing necessary waivers. At no time did Hance request that Mike Leach change treatment of Adam James. In addition, Hance forbade Leach from cutting Adam James from the football team.

17. Despite their previous discussion, Hance instigated an investigation by Texas Tech University attorney Charlotte Bingham. Several Tech officials advised Leach that this investigation was simply to ensure that the University had some evidence in its files that it investigated the complaints. Specifically, President Guy Bailey advised Leach that while the

investigation was no big deal, he (Bailey) was concerned that Kent Hance was going to “railroad Leach” because Hance and Craig James were in business together. Consequently, Bailey had his assistant attend the investigation interviews conducted by Ms. Bingham, who worked for Hance’s office. After interviewing Leach as part of the investigation, Ms. Bingham advised Leach that this was just a routine investigation to protect the University in case the James family sued Defendant.

18. Despite Ms. Bingham’s investigation and statements, on or about December 22, 2009, Hance again called Leach to advise him that some members of the Board of Regents wanted to fire Leach over some unspecified complaints made by Craig James.<sup>5</sup> Hance also advised Leach that Hance had discussed this matter with members of the Board of Regents and that they were going to take some kind of disciplinary action against Leach, though Hance could not articulate what Leach had done wrong. Hance indicated that he wanted to fine Leach up to \$100,000 and demanded a letter of apology from Leach. When Leach reiterated that he had not done anything wrong and would not issue an apology, Hance warned Leach that if he refused, Hance could fire him. Hance also advised Leach that he would call Leach after the board meeting. Hance never called Leach.

19. On December 26, Leach attended a meeting with Athletic Director Myers and President Bailey. At that meeting, Bailey and Myers presented Leach with a letter. See Exhibit 3. Myers and Bailey advised Leach that he needed to sign the letter which acknowledges wrongdoing on the part of Leach in the “mistreatment” of a student-athlete. Leach refused to sign the letter again reiterating his innocence of any mistreatment. In addition, the letter delineates several items that Leach is supposed to undertake. When Leach noted that he had

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<sup>5</sup> According to statements from Hance, Craig James called Hance, Board Chairman Larry Anders, Board vice chairman Jerry Turner and Athletic Director Gerald Myers.

already agreed to each of the items in his contract, Myers and Bailey agreed. More specifically, Leach's contract states clearly that it contains all the terms and conditions to which the parties had agreed and that no other understandings or representations exist regarding Leach's employment as head football coach of Texas Tech University for the next five years. Leach advised Bailey and Myers that nothing in his contract required him to sign this letter. They did not disagree.

20. Defendant did not set forth any deadline in the letter or advise Leach of any deadline for Leach to execute the letter. Myers and/or Bailey advised Leach that if Hance would not meddle with them, they would not be in this situation. Thereafter, both Bailey and attorney Bingham confirmed to Leach's representative that the letter did not need to be signed by Leach. Instead, according to them, it was needed to paper the file. Indeed, attorney Bingham stated that she had advised Bailey, Myers and Hance that Leach did not need to sign the letter, the letter could be placed in the file without Leach's signature, that the James family should be called and advised not to call again. The next day, December 27, 2009, Ms. Bingham left a voicemail for Leach's representative, to the effect, "This thing is heating up. There are outside forces affecting this situation that I can't control."

21. On December 28, 2009, Leach left for San Antonio to continue preparing the football team for its appearance in the Alamo Bowl on January 2, 2010. When Leach arrived in San Antonio, he was called by University Athletic Director Myers and advised that he was suspended as head football coach at Texas Tech University, despite there being no contractual basis for suspending Leach or any evidence of wrongdoing to support such a disciplinary measure. Leach asked why he was being suspended, but was given no valid reason. Myers told



Leach that (1) there was an allegation against Leach and (2) Leach's refusal to sign the letter presented on December 26, 2009 amounted to insubordination.

22. Leach reminded Myers that he was not obligated to sign such a letter and asked how exercising his right not to sign a letter constituted insubordination. Moreover, Leach did not agree with the contents of the letter because they suggest that Leach was guilty of mistreating a student-athlete. Leach also did not agree to the suggestion that he must apologize to Adam James or the James family. Myers advised Leach that the decision had been made by Hance and the Board of Regents to suspend him, there was nothing he could do, and that Leach was not coaching the football team at the Alamo Bowl. Leach was instructed not to speak to the team members.

23. On December 28, 2009, Leach received a letter suspending him as head football coach of Texas Tech University. See Exhibit 4. The letter states that Defendant had received a complaint from a player and that an investigation was on-going. On December 29, 2009, Pat Campbell, General Counsel of Texas Tech, spoke to Leach's representative and advised that if Leach filed an application for temporary restraining order (TRO), Leach will be fired.

24. Because of Defendant's wrongful actions in violation of Plaintiff's contract and without due process, Leach's attorney sought a temporary restraining order in this Court to complain of Defendant's actions. On December 29, 2009, Leach through his attorney of record Ted Liggett, filed a petition seeking a temporary restraining order complaining of Defendant's failure to accord Leach due process and for breaching his contract. The District Court of Lubbock County set the matter for hearing on December 30 at 10:00 a.m.

25. On December 30, 2009, at a pre-hearing meeting in the Court's chambers, Defendant advised Leach's attorney that if Leach proceeded with the hearing on the TRO,

Defendant would terminate Leach as an employee and head football coach of Texas Tech University. Leach's attorney advised Defendant that he intended to proceed with the hearing. At this point, Defendant handed Leach's counsel a letter of termination advising Leach that he was terminated from his employment for cause effective December 30, 2009.

26. Subsequently University officials, including Chancellor Kent Hance, made statements to the effect that "if you sue your boss, you are going to get fired." This statement and others like it clearly reflect the motive for the University's firing of Mike Leach, that he filed a lawsuit complaining that Defendant was not affording him his constitutionally protected right to due course of law in Texas. These statements also clearly demonstrate Defendant's intentional retaliation against Leach for reporting Defendant's wrongful conduct in violation of Leach's constitutional rights. On information and belief, all of Defendant's actions were committed intentionally and with impunity based on the belief that Defendant would not face liability for its conduct due to the sovereign immunity shield and Defendant intended to hide behind this shield to deprive Plaintiff of his constitutional rights.

27. Defendant, its agents and representatives also given other statements about the basis for terminating Leach for cause. On or about December 30, 2009, the day the University terminated Leach, University Chancellor Kent Hance stated that the only person responsible for Mike getting fired is Mike. See Exhibit 5. Hance also claimed that Leach's contractual bonuses due under the contract were "never a consideration" when Leach was fired. See Exhibit 6. On or about December 30, 2009, Defendant released a "Statement from Texas Tech on Termination of Football Coach Mike Leach." See Exhibit 7. In that statement, Defendant asserted the termination was due to Leach's suit against Texas Tech. *Id.* That statement suggests Defendant terminated Leach because he sought to apprise himself of legal protections.

28. In addition, on January 1, 2010 the Wall Street Journal reported that “three prominent current and former members of the school’s board of regents said the firing was largely the result of ill will left over from heated contract negotiations early last year.” See Exhibit 8. That report is supported by emails obtained by the Dallas Morning News in 2009 which illustrate hostility on the part of the University in the contract negotiations with Leach and demonstrating that bonuses and contract buy-out issues were at the very heart of the hostility by the University. See Exhibit 9.

29. All of these statements have been made by Defendant despite school officials telling the Los Angeles Times on January 4, 2010 that “the investigation into Adam James’ allegations is on-going.” See Exhibit 10. Indeed, Defendant’s representative Mr. Hance, engaged in an apparent lengthy interview with the Lubbock Avalanche Journal discussing the termination that appeared in that newspaper on January 10, 2009 in which he admitted that Leach was terminated for having filed suit seeking to enforce his rights. These statements demonstrate that Plaintiff Leach was not at fault in this situation and establish that Defendant’s actions were wrongful and violate Texas law.

30. The University wrongfully terminated Leach allegedly with cause. Having wrongfully terminated Leach for cause, the University is not intending to pay him the compensation, including bonuses to which Leach was or would have been entitled and certain guaranteed income it owes under the Agreement. In addition, in reasonable probability, Leach will not be able to obtain another head coaching position in the near term due to the very public, wrongful acts and statements of Texas Tech University, its agents and representatives. The University has publically accused Leach of mistreating a student-athlete who allegedly suffered a mild concussion and being insubordinate and uncooperative in the investigation. The University

even alleges that Leach himself is responsible for his contract being terminated. The mere allegation that a head football coach would mistreat a student athlete threatens that coach's reputation and prospects for future employment and exposes him to ridicule and contempt. Leach denies those allegations.

## **V. CAUSES OF ACTION**

### **A. Breach of Contract – Wrongful Termination**

31. Defendant has breached its contract with Mike Leach by, among other things, suspending him without any process or contractual basis, failing to give Plaintiff notice as required under his contract and a reasonable opportunity to cure, and allegedly terminating him for cause when no good cause exists. Specifically, Defendant terminated Leach without providing him with a contractually required notice of conduct Defendant claimed violated the contract terms and at least 10 days to cure any alleged breach, which is also specifically set forth in the contract. See Exhibit 1.

32. Plaintiff has suffered damages in excess of the minimum jurisdictional limits of this Court for which he now sues.

### **B. Defamation**

33. Defendant has made both slanderous and libelous statements including but not limited to:

- a) that Mike Leach was terminated for cause;
- b) that Leach was insubordinate and refused to cooperate and was responsible for his contract being terminated for cause;

c) that Plaintiff Leach's termination was precipitated by his treatment of a player diagnosed with a concussion and he placed that player at risk of additional injury.

d) that Plaintiff Leach's termination was solely Leach's fault.

These false statements were made intentionally and designed to injure Mike Leach's reputation as a coach, injure him in his occupation, and expose him to financial harm. Plaintiff has suffered damages in excess of the jurisdictional limits of this Court for which he now sues.

**C. Fraud in the Inducement**

34. Additionally, Plaintiff would not have entered into the contract but for the reasonable expectations from representations exhibited in the terms of the contract that he would not be deprived of process in the face allegations of misconduct. In the present case, Defendant's representatives' communications with one another during contract negotiations with Leach and their actions surrounding his wrongful termination support the conclusion that Texas Tech, through its Board of Regents, negotiated Leach's contract in bad faith and without any intent to perform it. By way of example, internal emails among the Chancellor and a booster at the time negotiations between Leach and the Chancellor were on-going strongly imply an intent not to perform this contract at the time of its execution. In addition Defendant represented and assured Leach that Defendant would honor all contract terms. Defendant knew or should have known these representations were false or made recklessly. These representations and/or omissions were material and were made or omitted with the intent that Plaintiff rely upon them. Defendant had an obligation to fully disclose information to Plaintiff but failed to do so. Plaintiff relied upon such representations and/or omissions to his detriment and has suffered damages in excess of the minimum jurisdictional limits of this Court for which he now sues.

**D. Negligent Misrepresentation**

35. Defendant represented to Plaintiff that (1) he would not be terminated for cause without good cause shown; (2) that Defendant would honor all contract terms including his right to cure an alleged violation. Defendant's statements were made negligently without due care. Plaintiff has suffered actual damages for which it now sues.

**E. Texas Whistleblower Act**

36. Under the Texas Whistleblower Act (TWA), a state or local governmental entity may not suspend or terminate the employment of a public employee who in good faith reports a violation of law by the employing governmental entity to an appropriate law enforcement authority. Tex. Govt. Code Ann. §554.002 (Vernon's 2006). The elements of a TWA claim are: (1) a public employee; (2) acting in good faith made a report; (3) the report involved conduct violating law by the agency or a public employee; (4) the report was made to an appropriate law enforcement authority; (5) the public employee suffered retaliation for making the report. *Lane v. Texas Department of Health*, 2003 WL 21750608 at \*3 (Tex. App. – Austin 2003, pet denied.).

37. In the present case, at all times relevant to this lawsuit, Plaintiff was a public employee hired by Texas Tech University as its head football coach. Plaintiff had a written contract of employment. See Exhibit 1. Defendant sought to suspend Plaintiff under his contract without due process/course of law. Plaintiff filed a lawsuit seeking a temporary restraining order complaining that Defendant failed to afford him due process with regard to the allegations leading to this alleged suspension. Plaintiff further complained that there existed no legal grounds for the suspension and Defendant was acting without process or any contractual basis.

38. Upon learning of Plaintiff's lawsuit, Defendant terminated Plaintiff. It is clear from statements made at the time Defendant fired Plaintiff and in the timing of the termination that it is in direct retaliation for Plaintiff filing this lawsuit that complained of Defendant's failure to afford him due process under the Texas Constitution and his written employment contract in which he has a vested property right as a public employee. Plaintiff filed this lawsuit in good faith with the District Court of Lubbock County, Texas, an appropriate authority in the State of Texas for the enforcement of constitutional rights and guarantees. As a result of Defendant's actions, Plaintiff has suffered and is entitled to recover actual damages, court costs, reasonable attorneys' fees, and compensation for wages lost during the period of termination.

**F. Constitutional Due Course of Law Violation**

39. Defendant violated Plaintiff's due process rights under the Texas Constitution. Defendant deprived Plaintiff of his property rights under the contract and the due course of law to which Plaintiff is entitled under the Texas Constitution. On the date that Defendant terminated him, Plaintiff Leach was an employee of Defendant, a public institution of higher education in the State of Texas. Plaintiff Leach had a written contract for a specified term with Defendant. That contract provided for continued employment for a specific term. In addition, the University's ability to terminate that contract was expressly limited by terms requiring substantial monetary payment in the event it were terminated without cause and provided for specific procedures and an opportunity to cure, in the event the University contemplated termination with cause. Specifically, the contract's "for cause" provision required at least 10 days notice of the alleged violation and a reasonable opportunity to cure before being terminated. The limitations on termination for cause were additionally regulated by specific procedures under the employment policies and regulations of Texas Tech University.

40. The specific term of Plaintiff Leach's contract and the limitations on the University's ability to terminate that contract created a vested property interest protected the Article I, Section 19 of the Texas Constitution. Defendants violated Plaintiff Leach's rights under the Texas Constitution by failing to afford the mandatory due process, and by unilaterally and wrongfully terminating Plaintiff Leach's employment contract, thereby depriving him of a vested property right.

41. Plaintiff Leach seeks redress from this Court for Defendant's actions in depriving him of his rights without due course of law. In light of this Constitutional due course of law violation, Plaintiff Leach seeks a declaratory judgment that he did not violate a material provision of the contract, that Defendant did not have cause to terminate Leach as head football coach and that Defendant violated Leach's rights under the contract and Texas Constitution in terminating the contract.

**G. Constitutional Taking**

42. Because Plaintiff Leach had a vested property interest in his employment contract, Defendant was required to observe due course of law before depriving Leach of that interest. Defendant failed and refused to afford Leach his rights to due course of law before unilaterally and wrongfully terminating the contract and thereby depriving Leach of his property rights. Under the Texas Constitution, no person's property shall be taken, damaged, or destroyed for or applied to public use without adequate compensation being made...." TEX. CONST. ART. I, §17. The takings clause prohibits the State from taking a person's property under its sovereign powers without adequate compensation. In this case, Defendant has taken or invaded Plaintiff Leach's property and/or unreasonably interfered with Leach's right to the use and enjoyment of the contract terms and benefits without compensation. On information and belief, all of Defendant's



actions were committed intentionally and with impunity based on the belief that Defendant would not face liability for its conduct due to the sovereign immunity shield and Defendant intended to hide behind this shield to deprive Plaintiff of his constitutional rights and property. As such, Plaintiff Leach is entitled to compensation for the loss he has suffered as a result of Defendant's actions.

#### **H. Waiver of Sovereign Immunity**

43. Plaintiff Mike Leach denies that Defendant is entitled to immunity from suit because Defendant has waived such immunity based on its conduct. Texas Tech waived any immunity claim by its egregious conduct which was in violation of Mike Leach's contractual rights and rights to due process. See *Texas Southern University v. State Bank and Trust Co.*, 212 S.W.3d 893 (Tex. App.—1<sup>st</sup> Dist. 2007, pet. denied); *Catalina Development Inc. v. County of El Paso*, 121 S.W.3d 704 (Tex. 2003). On information and belief, all of Defendant's actions were committed intentionally and with impunity based on the belief that Defendant would not face liability for its conduct due to the sovereign immunity shield and Defendant intended to hide behind this shield to deprive Plaintiff of his constitutional rights.

44. Defendant fraudulently represented that it would honor the parties' agreement. Then, only days before it was to pay Leach a bonus of \$800,000 under the contract, Defendant falsely accused Leach of violations of the contract's "Performance" provisions without any or adequate investigation. In order to evade its obligation to pay the bonus, Defendant willfully and maliciously slandered and defamed Leach, including making public statements accusing Leach of mistreating an injured player, in order to claim that Leach was terminated "for cause." In manufacturing a false basis to terminate Leach allegedly for cause, Defendant failed to abide by the notice and cure provisions available to Leach in the contract. When Leach attempted to

enforce the contract in a court of law, Defendant alleged termination for cause based upon Leach's resort to the courts for protection. These extraordinary factual circumstances put Leach to the proverbial Hobbesian's Choice – accept Defendant's defamatory public accusations and allegations of improper conduct and get fired for cause based on those allegations, or defend himself and seek to enforce his contractual rights and get fired for cause. This conduct, along with other acts by Defendant constitute a waiver of any claim of, or right to, sovereign immunity to which Defendant might be entitled.

#### **VI. ATTORNEY'S FEES**

45. Pursuant to Texas Civil Practice & Remedies Code Section 37.001 *et seq.* and 38.001 *et seq.*, Plaintiff seeks recovery of his reasonable attorney's fees.

#### **VII. PUNITIVE DAMAGES**

46. Due to the intentional, abusive and reckless conduct of Defendant, Plaintiff seeks recovery of punitive damages as allowed by law.

#### **VIII. DEMAND FOR JURY**

47. Mike Leach demands a jury trial and has paid the appropriate fee.


#### **IX. PRAYER**

48. For these reasons, Mike Leach asks that Defendant be cited to appear and answer and, on final trial, that Mike Leach have judgment against Defendant for:

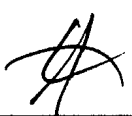
- a. Actual damages.
- b. Consequential, special and incidental damages.
- c. Punitive damages.
- d. Reasonable attorney fees.
- e. A declaration as requested above.
- f. Prejudgment and post-judgment interest as allowed by law.
- g. Costs of suit.
- h. All other relief, in law and in equity, to which Mike Leach may be entitled.

Respectfully submitted,

**DOBROWSKI L.L.P.**

By:   
for Paul J. Dobrowski  
State Bar No. 05927100  
Frederick T. Johnson  
State Bar No. 00785429  
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**THE LIGGETT LAW GROUP**

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**ATTORNEYS FOR PLAINTIFF**

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the foregoing document has been served upon the following on the 12<sup>th</sup> day of January, 2010, as follows:

Daniel C. Perkins  
Assistant Attorney General  
Texas Attorney General's Office  
General Litigation Division  
P.O. Box 12548  
Capitol Station  
Austin, Texas 78711-2548

Dicky Grigg  
Spivey & Grigg, L.L.P.  
48 East Avenue  
Austin, Texas 78701

  
for Frederick T. Johnson

**EMPLOYMENT CONTRACT  
STATE OF TEXAS  
COUNTY OF LUBBOCK**

This Employment Contract (hereinafter the "Agreement") is made and entered into this the 19<sup>th</sup> day of February, 2009, by and between Texas Tech University, herein called "University" and Mike Leach, herein called "Coach". The parties hereby specifically agree that each party has received or shall receive adequate consideration to supersede the existing Employment Contract between the parties dated August 11, 2006 (herein the "Prior Agreement"), and such Prior Agreement shall be and is hereby terminated as of the date of this Agreement.

**I.  
TERM**

Both parties hereby mutually agree that for and in consideration of the mutual benefits and consideration received or to be received by the parties that Coach shall be employed as Head Football Coach at the University for a term of five years beginning the 1st day of January, 2009, and ending on the 31st day of December, 2013 (the "Term"), upon the terms, conditions, stipulations, covenants and agreements as set forth herein. For purposes of this Agreement, each calendar year during the term of this Agreement shall be referred to as a "Contract Year."

The parties agree, however, that in the event that the University's football team is invited to a bowl game or playoff scheduled within 30 days after the expiration of the Term of this Agreement, Coach shall continue his duties as specified herein until such bowl or playoff is completed. During such time, Coach shall be entitled to receive any supplemental compensation otherwise due related to such bowl game or playoff as set forth in this Agreement.

**II.  
PRIMARY DUTY ASSIGNMENT**

Coach shall be employed as Head Football Coach at University during the Term of this Agreement.

**III.  
COMPENSATION AND BENEFITS**

**A. BASE SALARY**

Coach shall be paid the following annual Base Salary during the period of this Agreement.

January 1, 2009 – December 31, 2009	\$300,000
January 1, 2010 – December 31, 2010	\$300,000
January 1, 2011 – December 31, 2011	\$300,000
January 1, 2012 – December 31, 2012	\$300,000
January 1, 2013 – December 31, 2013	\$300,000



Payment shall be in accordance with the payroll policies of the University and subject to such deductions as may be required by applicable state and federal laws and regulations. Changes in Base Salary must be in writing and signed by the parties.

**B. HEALTH, RETIREMENT, VACATION AND OTHER LEAVE**

Coach will be eligible to participate in the same benefits as all other University employees. University policy and Texas state law shall govern such benefits. Vacation leave shall be taken at such time or times agreed upon between Coach and the Director of Intercollegiate Athletics.

**C. PERQUISITES**

1. **Courtesy Automobiles:** Coach shall receive two (2) courtesy automobiles.

2. **Camps:** Coach, acting as an individual or a private legal entity, may offer a camp using University facilities after first receiving written approval by the Director of Intercollegiate Athletics. It is understood that Coach or other University personnel involved will use personal vacation time when preparing for and conducting a private camp and that University facilities, equipment and resources may be used according to the terms and conditions of a separate Facility Use Agreement. Such Facility Use Agreement must be in writing and signed by both parties before commencement of a camp. Coach shall have permission to use the terms "Texas Tech University" and "Red Raider Football" and all logos and trademarks of University related to Texas Tech Football in the description and identification of any Football camp conducted by the Coach, upon approval by the Director of Intercollegiate Athletics.

3. **Guarantee of Outside Athletics Related Personal Income:** If the annual Outside Athletics Related Personal Income ("Outside Income") of Coach does not reach the following amounts for an entire Contract Year, the University agrees to make up any shortfall up to that amount (the "Guarantee"). If the Outside Income of Coach exceeds the amounts below during a Contract Year, Coach shall be entitled to retain such excess income:

<u>Contract Year</u>	<u>Outside Athletics Related Personal Income</u>
2009	\$1,600,000
2010	\$1,900,000
2011	\$2,200,000
2012	\$2,200,000
2013	\$1,700,000

It is agreed that the Outside Income of Coach shall include but not be limited to the following income arranged through the University or Learfield Communications, Inc.:

- a. Uniform/clothing contracts;

- b. Shoe/equipment contracts;
- c. Apparel contracts;
- d. Television coaches shows;
- e. Pre-game, post-game and other radio shows;
- f. Speaking engagements arranged through University;
- g. Merchandising contracts; or
- h. Other income received by Coach resulting from being the Head Football Coach at University but not including sports camps.

The following types of income arranged through IMG World ("IMG") or successor agent shall be excluded from the calculation and determination of the Guarantee:

- a. National speaking engagements arranged through IMG;
- b. Television, radio and Internet commercial contracts arranged through IMG;
- c. Book contracts; or
- d. All other income arranged by IMG or successor agent.

With respect to activities over which he exerts full control, Coach will use his reasonable efforts to maximize his Outside Income so as to minimize the contribution the University is required to make under this section. Coach will earn a bonus of \$100,000 (One Hundred Thousand Dollars) if Coach's Outside Income equals or exceeds 90% of the Outside Income Guarantee for the corresponding Contract Year as set forth herein.

A report of Outside Income, with specific supporting documentation, i.e., copies of checks, etc., adequate for University to review and approve, shall be presented by Coach to the University's President after January 1 following the Contract Year in which the Outside Income is earned. University will pay such Guarantee and related bonus for earning 90% or more of the Outside Income, if applicable, to Coach no later than 30 days after University receives such report from Coach. The Guarantee will only be due and payable upon Coach's completion of an entire Contract Year, provided, however, that in the event of a termination of this Agreement without cause by the University, the Guarantee for the Contract Year in which such termination occurs shall be nonetheless paid to Coach on a pro-rata basis through the date of such termination, unless such termination occurs during the months of January or February (in which case there shall be no pro-ration of the Guarantee payable to Coach for that particular Contract Year).

4. **Supplemental Compensation:** Beginning with the 2009 football season, in the event the University football team achieves the following accomplishments, Coach shall receive Supplemental Compensation as follows:

- a. Football team attains a Graduation Success Rate of 65% as defined by the NCAA - \$25,000
- b. Wins or ties for Big 12 South Championship -- \$25,000

- c. Advances to the Big 12 Championship Game - \$25,000
- d. Wins the Big 12 Championship Game - \$25,000
- e. Participates in Bowl Championship Series ("BCS") bowl - \$75,000
- f. Participates in Holiday or Cotton Bowl - \$50,000
- g. Participates in any other bowl - \$25,000
- h. Wins National Championship - \$250,000
- j. If Coach attains any of the following Big 12 Coach of the Year awards, he shall receive a one-time Supplemental Compensation payment in the amount of \$25,000:
  - a. Associated Press Big 12 Coach of the Year;
  - b. Big 12 Coach of the Year as selected by the Big 12 coaches
- k. If Coach attains any the following National Coach of the Year awards he shall receive a one-time Supplemental Compensation payment in the amount of \$50,000:
  - a. Associated Press National Coach of the Year;
  - b. Munger National Coach of the Year
  - c. Woody Hayes National Coach of the Year
  - d. Bear Bryant National Coach of the Year
  - e. Walter Camp National Coach of the Year
  - f. AFCA National Coach of the Year
  - g. Liberty Mutual National Coach of the Year
- l. Coach shall receive a one-time Supplemental Compensation payment based on the highest of the following rankings:
  - a. Final Associated Press or USA Today Poll Ranking #11-25 - \$25,000
  - b. Final Associated Press or USA Today Poll Ranking #1-10 - \$50,000
- m. In addition to the above Supplemental Compensation payments, Coach shall earn the greater of any of the following team accomplishments:
  - 1. 5 regular season conference wins - \$25,000
  - 2. 6 regular season conference wins - \$50,000
  - 3. 7 regular season conference wins - \$75,000
  - 4. 8 regular season conference wins - \$100,000

Coach will not receive any bonuses for any year that football team receives NCAA Academic Performance Rate (APR) scholarship reduction penalties.

All Supplemental Compensation will be paid to Coach no later than February 15 of the year following the Contract Year in which the Supplemental Compensation was earned provided, however, that any Supplemental Compensation related to a bowl game, playoff game or National Championship will be deemed to have been earned during the Contract Year in which that football season has taken place.

5. **Contract Completion Bonus:** If Coach is the Head Football Coach at University as of December 31, 2009, University will pay to Coach a Contract Completion Bonus of \$800,000 (Eight Hundred Thousand Dollars), such payment to be made no later than February 1, 2010. If Coach is the Head Football Coach at University as of December 31, 2010, University will pay a Contract Completion Bonus of \$200,000 (Two Hundred Thousand Dollars), such payment to be made no later than February 1, 2011. If Coach is the Head Football Coach at University as of December 31, 2013, University will pay a Contract Completion Bonus of \$600,000 (Six Hundred Thousand Dollars), such payment to be made no later than February 1, 2014.

6. **Club Memberships:** The University will pay Coach's membership fees, monthly dues and related assessments in a country club approved in advance by University and in the Lubbock Club. It is understood and agreed that such membership is provided for business purposes so as to allow Coach to develop and promote interest and support and sponsorship of the football program and the University.

7. **Football Tickets:** The University will provide to Coach the use of a football stadium suite with up to 20 tickets and reasonable food and beverages for each University home football game at no cost to Coach. The University will also provide Coach up to 20 tickets to each University away football game and any bowl game in which the University's football team participates during the term of this Agreement, also at no cost to Coach.

#### IV. **PERFORMANCE**

In the performance of his duties, Coach shall be directly responsible to and under the supervision of the Director of Intercollegiate Athletics. Without limitation of the foregoing, Coach, in the performance of his duties, shall conduct himself at all times in a manner consistent with his position as an instructor of students. The parties agree that, although this Agreement is sports related, the primary purpose of the University and this Agreement is educative. Thus, the educative purposes of the University shall have priority in the various provisions of this Agreement. Coach will follow all applicable University policies and procedures. Coach shall not, either directly or indirectly, breach or countenance the breach by any player or coach subject to his control or supervision of any of the rules and standards of the Big 12 Conference, the NCAA, youth, collegiate, and master's amateur athletics as well as other associations or agencies to which the University adheres. In this connection, Coach agrees to devote his entire time, labor, effort and attention, in good faith, to conduct and perform the duties commensurate with the position as Head Football Coach, bearing in mind that University recognizes and accepts that Coach has the ability to engage in reasonable Outside Income producing activities as defined in Article III.C.3. Coach shall assure the fair and responsible treatment of student-athletes in relation to their health, welfare and discipline. Breach of such rules and standards, whether willful or through negligence, may be subject to disciplinary action and penalties ranging from termination, public or private reprimand to monetary fines or adjustments in compensation or adjustments in the term of this contract



as determined by the President following consultation and review with the Director of Intercollegiate Athletics. The provision of this Article IV shall be without prejudice to any right the University may have under Article V of this Agreement.

Unless notice of termination of employment has been given to Coach in accordance with Articles V.A. or V.D. below, Coach shall not engage in discussions or negotiate, either directly or indirectly, concerning Coach's prospective employment by any other employer without first providing prior written notice to the Director of Intercollegiate Athletics of such discussions or negotiations. Failure to provide such notice may be considered a material breach of this Agreement.

## **V.**

### **TERMINATION**

#### **A. FOR CAUSE**

The University specifically reserves the right to terminate this Agreement for Cause. "Cause" is hereby defined as: Coach's violation of any material provision of this Agreement (with specific reference to Article IV) , provided, however, that if such violation is capable of being cured, University shall allow Coach ten (10) business days to cure such violation, provided, however, that if such violation can be reasonably cured, but cannot be cured within ten (10) business days, Coach shall have a reasonable period of time to cure such violation. Notwithstanding Coach's opportunity to cure such violation, Coach shall immediately cease the violating activity upon receipt of notification of such violation from the University. "Cause" shall also include the commission of a major violation or an excessive accumulation of secondary violations of NCAA Legislation ("NCAA Violations") by Coach while at the University or while previously employed at another NCAA member institution; knowingly condoning NCAA Violations by any staff under Coach's direct control and supervision; failure by Coach to take appropriate disciplinary action against such staff member found by Coach to have committed NCAA Violations; failure by Coach to take appropriate disciplinary action against football student-athletes; or indictment of Coach of a criminal act that constitutes any felony, or any misdemeanor involving moral turpitude, under applicable local, state or federal laws.

In the event the University terminates this Agreement for Cause, the University's sole obligation to Coach shall be to pay his Base Salary until the effective date of termination (and any Supplemental Compensation that has been earned pursuant to Article III.C.4. above). In no case shall the University be liable to Coach for the loss of any collateral business opportunities or any other benefits, perquisites, income, Supplemental Compensation, or any form of consequential damages resulting from or associated with Coach's employment.

#### **B. INABILITY TO PERFORM**

In the event of the inability of Coach to continue to perform his obligations under this Agreement by reason of a substantial physical or mental incapacity lasting in excess of one hundred twenty (120) days (of which at least sixty (60) must be

consecutive) which cannot reasonably be accommodated by the University and which prevents Coach from being able to perform essential functions of the duties and responsibilities set forth herein, this Agreement shall thereupon terminate and all future obligations between the parties hereto shall cease.

C. **BY COACH WITHOUT CAUSE**

Coach may terminate this Agreement at any time and for any reason. In such event, Coach shall be entitled to any Supplemental Compensation set forth in Article III.C.4. above earned prior to Coach's resignation. All other obligations not set forth above shall cease effective the date of the termination by Coach.

D. **BY UNIVERSITY WITHOUT CAUSE**

In addition to the provision set forth above, there is also reserved to the University the right to terminate this Agreement without cause at any time and for any reason. The parties agree that in the event this right to terminate is exercised, the University will pay to Coach liquidated damages in an amount equal to \$400,000 (Four Hundred Thousand Dollars) for each year remaining in the Term, pro rated as of the date of termination. It is agreed that University shall pay such liquidated damages in a lump sum within thirty (30) days after the effective date of termination. University shall also pay any Supplemental Compensation set forth in Article III.C.4 above earned prior to such termination. In such event, the University shall not be liable to Coach for any other University benefits, perquisites or any collateral business opportunities, outside income revenues or guarantees or other benefits associated with Coach's position as Head Football Coach.

E. **MUTUAL AGREEMENT**

The parties reserve the right to terminate this Agreement by mutual agreement. In the event the right to terminate pursuant to this paragraph is exercised, all liability of the parties shall cease effective the date of termination.

**VI.**  
**PUBLIC APPEARANCES**

Coach shall make no public appearance, either in person or by means of radio, television, or internet willingly allow the use of Coach's name in connection with Coach's relationship to the University when any such appearance or use of name will result in unfavorable reflection upon the University. Coach will neither participate in, nor allow Coach's name to be used in connection with any particular athletic equipment and/or commercial activity wherein Coach will receive remuneration for such participation or use unless Coach first shall have received written consent therefore from the Director of Intercollegiate Athletics. Endorsement or consultation contracts with athletics shoe, apparel, or equipment manufacturers must be reviewed and approved by the Director of Intercollegiate Athletics before Coach can execute such an agreement.

**VII.**  
**REPRESENTATIONS**

It is mutually understood that this Agreement contains all of the terms and conditions to which the parties have agreed and that no other understandings or representations, either oral or written, unless referenced in the preceding paragraphs, regarding the subject matter of this Agreement shall be deemed to exist or to bind the parties hereto and that any modification, amendment or addendum to this Agreement shall only be by written instrument signed by each party hereto.

**VIII.**  
**INTERPRETATION**

No provision or part of this Agreement which shall prove to be invalid, void or illegal shall in any way affect, impair or invalidate any other provision or part, and such other provision and parts shall remain in full force and effect.

**IX.**  
**APPLICABLE LAW**

This Agreement is made and entered in Lubbock County in the State of Texas, the laws of Texas shall govern its validity and interpretation and the performance by the parties of their respective duties and obligations under this Agreement.

Coach has been advised to have this Agreement reviewed by counsel familiar with employment agreements before agreeing to the terms and conditions contained herein.

IN WITNESS WHEREOF, the parties hereto shall consider this Agreement to be effective on the 19<sup>th</sup> day of February, 2009.

  
MIKE LEACH  
Head Football Coach

2-19-09  
Date

  
GERALD MYERS  
Director of Intercollegiate Athletics

2-19-09  
Date

  
GUY H. BAILEY  
President

2/20/09  
Date

**Thomasson, Russell**

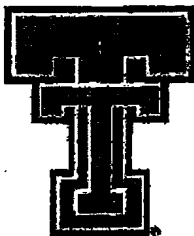
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**From:** Gleason, Bobby  
**Sent:** Thursday, February 19, 2009 4:47 PM  
**To:** Thomasson, Russell; Hance, Kent  
**Cc:** Myers, Gerald  
**Subject:** Football Staff Salary Pool

Kent and Russell

Per your direction, the football staff will be provided a pool of \$400,000 to be allocated to football staff salary increases.

Bobby Gleason



Bobby Gleason  
Deputy Athletics Director  
Texas Tech University  
Box 43031  
Lubbock, Texas 79409  
806-742-1438  
806-742-1327 Fax  
bobby.gleason@ttu.edu

*Gerald Myers*  
2-19-09

*Mark Lusk*  
2-19-09

**Affidavit of Steve Pincock**

I, the undersigned Steve Pincock, hereby swear and affirm that the following is a true and accurate recitation of the statement which I previously provided orally to officials of Texas Tech University on Monday, December 21, 2009, in Lubbock, Texas. I have personal knowledge of the information contained in this affidavit.

1. I am over the age of 18 years and am of sound mind.
2. I am employed by Texas Tech University as the Head Football Athletic Trainer. This is my eighth season at Texas Tech. I have a partial reporting line to coaches with respect to their specific players.
3. After practice on December 16, 2009, Adam James ("James") reported to another athletic trainer Mark "Buzz" Chism, that he had suffered an injury during that evening's practice. He filled out a Sport Concussion Assessment Tool 2 (SCAT 2), which we use in treating athletes who complain of head injuries. In that form James reported that he had the following symptoms: headache, neck pain, dizziness, blurred vision, balance problems, feeling like he was in a fog, and that he didn't feel right. I received and reviewed the form.

In the morning on December 17, 2009, James reported to the training room for treatment. He was examined by the team physician, Dr. Michael Phy, who diagnosed him with a minor concussion. Dr. Phy informed me that James should not practice and that he should not perform exercise that would increase pressure in his head, and be symptom free for one week.

4. In the afternoon of December 17, we had practice on the practice field. I was on the field at the time that James showed up for practice. Injured players are placed in an area on the field referred to as "muscle beach" to participate in activities that are consistent with their respective injuries. James arrived for practice wearing street clothes, his cap on backwards, and sunglasses and began walking around the field in a very nonchalant way. He was not wearing the standard jersey and cleats or workout gear expected of all players during practice, including injured players.
5. When head coach Mike Leach ("Leach") saw James on the field, he called me over to him on the field and asked what James was doing. I was approximately 40 yards away. I told him that James had sustained a concussion and was walking the field, which was standard for players with a concussion. Leach was upset and concerned about James' appearance and attitude. Leach said he did not want him loafing while the players were working. Leach told me to place James in a dark place near the practice field. Leach further said something to the effect that he wanted me to tell James that I was to "lock his [REDACTED] in a place so dark that the only way

**EXHIBIT**

**2**

he knows he has a [REDACTED] which I repeated to James. Leach further told me to have him stand in the dark during the entire practice. He did not want James on the field, and he did not want James in the training facility. He did not want to see James. He wanted James to be uncomfortable. He did not want him showing poor effort.

6. I took James and Jordan (an undergraduate student athletic trainer) to the sports medicine/athletic training shed near the field. At that time, all coolers or water containers were removed from the building so James could not sit on them. Leach ordered me to place James in the dark, enclosed area where he could not sit or lay down. The shed is a portable building that is used to store items like coolers and other equipment, which are used for practice. It is approximately the size of a single car garage. It has an overhead garage-type door. It does not have windows. After repeating Leach's words, I told James that he was to stand in the dark for the entire practice. He was not supposed to sit down. I told him I would get him out when practice was over, and I shut the door. When I went to check on James after approximately 30 minutes, Jordan told me he had just checked on James and found him on the floor. Leach had also instructed me to have a student trainer sit outside the shed to make sure he was standing and that he did not leave. I told Leach where I had placed James, and he was fine with it.
7. Once practice, which lasted for approximately 2 - 3 hours, was over I removed James from the shed. I told James I was sorry for having to place him in a dark shed but that these were Leach's instructions. I do not agree with this form of treatment for anyone, and I discussed this with James.
8. On December 18, 2009, James reported to the training facility for treatment. I examined him and another SCAT2 was filled out. In this form James reported the following symptoms: Headache, neck pain, dizziness, sensitivity to light, sensitivity to noise, didn't feel right, fatigue or low energy and drowsiness. There was no practice.
9. On December 19, 2009, we had practice at the stadium field. James came to practice but was still not allowed to participate due to his injury. He was dressed in appropriate attire. Leach again asked me to place James in the same shed he was in during the last practice. I was standing in the Stadium next to Leach and Zane Perry. Perry mentioned using the media interview room. I located James and Jordan and walked to that room. I noticed an electrical closet in the room, and walked inside. I commented on the noise in the room, and told him not to go in that room. All chairs and items that might be used for sitting were removed from the room, with the exception of two large tractor tires, and the student trainer was placed outside the room to check on James and to ensure James was following instructions.

to stand in the dark and that he did not leave. The media room was very dark and cold. Leach was aware of where I placed him and was fine with it.

10. On December 20, it was my understanding that James no longer had symptoms of a concussion; therefore, we placed him on standard cardio treatment in the training room with the lights dimmed while the team practiced.

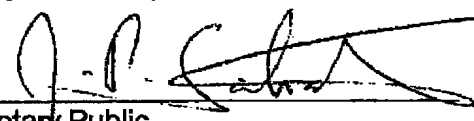
11. I am not aware of any other football player at Texas Tech University ever being placed in a darkened shed or room similar to James. Other players who have sustained concussions in the past were sometimes placed in the physician's examination room with the lights dimmed, or in the weight room or athletic training room. I feel that Leach's treatment of James was inappropriate, and I did not agree with it. However, I felt I had to follow the instructions of the head coach.

12. I hereby swear that the above and foregoing statements are true and correct.

  
\_\_\_\_\_  
Steve Pincock

Subscribed and sworn to before me this 1<sup>st</sup> day of January, 2010.



  
\_\_\_\_\_  
Notary Public



## TEXAS TECH UNIVERSITY

Office of the President

December 23, 2009

Dear Coach Leach,

As you know, we have been conducting an inquiry into allegations by a student athlete that your treatment of him, subsequent to his being diagnosed with a mild concussion, may have been injurious to his health and served no medical and/or educational purposes. Texas Tech takes these allegations very seriously. In addition to being unacceptable, if proven, these allegations constitute a breach of your employment contract.

So that we can carry out an inquiry that takes into account the safety of our student athletes and in addition, that is fair to the students, yourself, and the university, we have determined that you must abide by the following guidelines from this day forward:

1. ~~All practices and other team meetings will be monitored by the athletic director or his representative.~~
2. Any player claiming an injury will be examined by a physician and cleared in writing prior to practicing or playing. Decisions regarding whether an injury warrants suspension from practice and/or play will be determined by a physician without pressure from you or your staff.
3. You must recognize that the players you are working with are student athletes and that you have an obligation to treat them with respect and further to conduct yourself in a manner consistent with your position as an instructor of students.
4. You must at all times assure the fair and responsible treatment of student athletes in relation to their health, welfare, and discipline, and if you are not doing so, you must immediately cease any actions not in compliance with this provision of your contract.
5. There will be no retaliation against any student who has suffered an injury.

Again, these allegations are serious, and should they be substantiated will result in disciplinary action ranging from public or private reprimand, monetary fines or adjustments in compensation, adjustments in the term of this contract, up to termination.

Sincerely,

Guy Bailey  
President

Received \_\_\_\_\_

Mike Leach

Date \_\_\_\_\_

cc: Gerald Myers, Athletic Director  
Kent Hance, Chancellor

Box 43005 | Lubbock, Texas 79409-2005 | 7806.742.2121 | 7806.742.2130

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P.2-2

10:42:21 AM 12/23/2009

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EXHIBIT

3





TEXAS TECH UNIVERSITY

Office of the President

December 28, 2009

Mike Leach  
Head Football Coach  
Texas Tech University  
Lubbock, TX

Dear Coach Leach:

We recently received a complaint from a player and his parents regarding your treatment of him after an injury, and we have undertaken an investigation of that complaint. We consider this a serious matter. Until the investigation is complete, you are suspended from all duties as Head Football Coach effective immediately.

Sincerely,

Gerald Myers  
Athletics Director

Guy Bailey  
President





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12/31/09

## TTU Chancellor Kent Hance speaks on ESPN about Leach's termination

Posted: Dec 31, 2009 2:02 PM CST

LUBBOCK, TX (KCBD) - During the ESPN Half-Time Show on Wednesday night, Texas Tech Chancellor Kent Hance spoke about Leach's termination.

"I wanted to solve the problem, so did the Athletic Director and the President; but Mike was adamant. He wasn't going to have anyone second guessing him, and it just went downhill. We tried to talk some sense into him, but Mike is very hardheaded. He didn't listen to anyone, and I'm sure he can't believe this has happened. We can't believe this has happened. But the only person responsible for Mike getting fired is Mike."

The Board of Regents Vice Chairman, Jerry Turner, says "other things came to light during the investigation," but did not elaborate.

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Coverage of Mike Leach Termination

VIDEO INCLUDED

	<b>Texas</b> Auto • Home • Life	<b>"Moments worth covering are never accidents."</b> 806.747.5273
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WorldNow

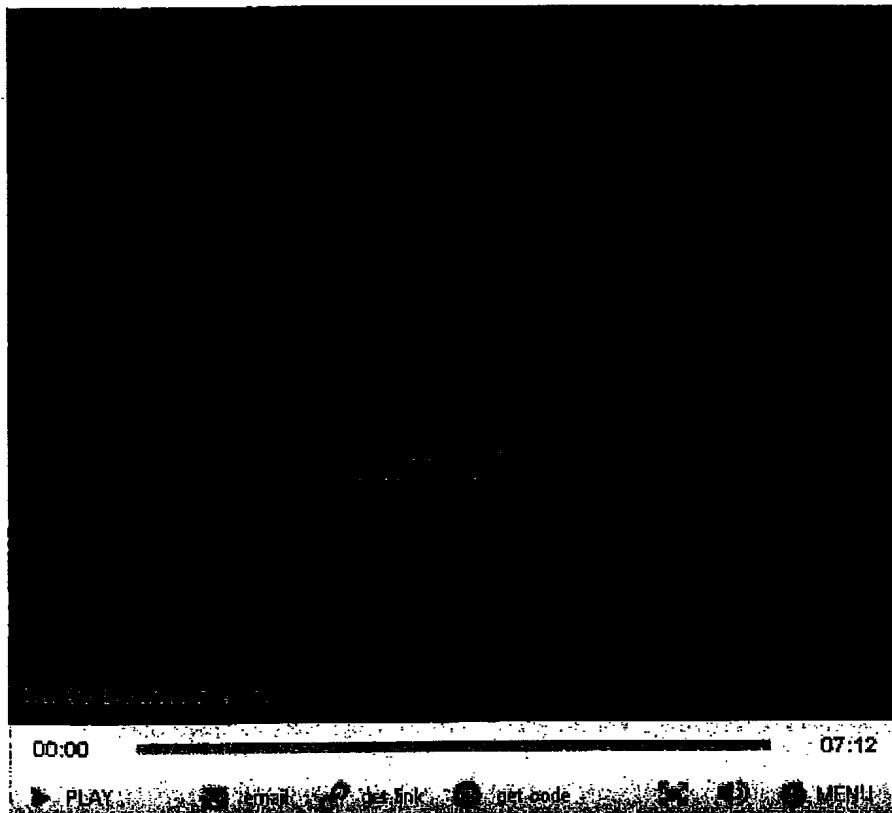
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You are here: [Home](#) -> [Football](#), [Football](#), [Leach](#) -> Tech fires Leach for 'cause'; attorney plans to fight back

## Tech fires Leach for 'cause'; attorney plans to fight back

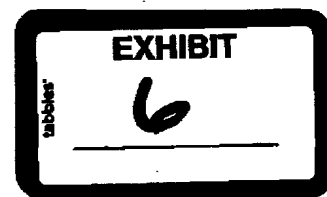
By [A-J Staff](#) on December 30th, 2009 [148 Comments](#) [Printer-Friendly](#)

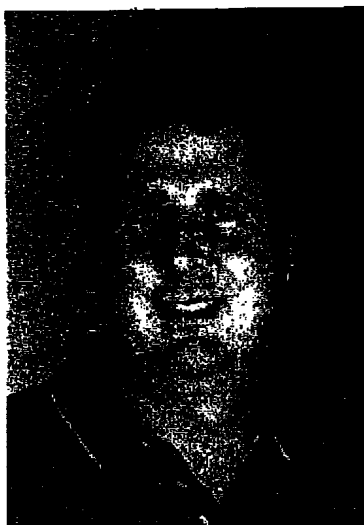


BY LOGAN CARVER | AVALANCHE-JOURNAL

Texas Tech fired Mike Leach, the university's quirky, popular, successful, pirate-loving head football coach Wednesday, and Leach's attorneys vowed to fight the decision.

Tech dismissed Leach following claims he mistreated player Adam James earlier this month.





Leach

"This is sad," Tech Chancellor Kent Hance told The Avalanche-Journal. "The only person responsible for Mike Leach being gone is Mike Leach."

Ted Liggett, Leach's attorney, said "The fight has just begun. We intend to take every advantage of the rights that the court system gives us to seek justice on coach Leach's behalf."

Liggett would not confirm whether Leach would file a wrongful termination suit, nor whether he would seek reinstatement or compensation.

The university released a statement late Wednesday afternoon, explaining Leach was fired for repeated insubordination and demeaning behavior toward a student-athlete.

"Releases such as this are how the institution attempts to control public thought," said Liggett. "For instance, they say coach Leach continually refused to cooperate in a meaningful way to help resolve the complaint. We still don't know why Mike was fired in regard to his contract. They've never told us how we breached his contract in a meaningful, legally understandable manner. All they've mentioned is a young man that in their opinion was mistreated. They never told (Leach) what he was accused of. They never once told coach Leach or his legal team how he breached the contract and why he was suspended."

Tech sacked Leach one day shy of a contract completion bonus worth \$800,000.

Hance said the bonus was "never a consideration" in when Leach was fired.

"His actions and lack of cooperation to find a solution and insubordination was what caused this," said Hance.

Jerry Turner, vice chairman of the university system's board of regents, told The Associated Press "other things" came to light during an investigation of Leach's treatment of James. Turner declined to elaborate about the other issues, according to the AP.

Leach will receive no compensation aside from his base salary through Wednesday, according to the contract he signed in February. Because the university fired Leach "with cause," he receives no additional pay.

If the termination had been without cause, Leach would be due \$400,000 per year remaining in the contract.

The university suspended Leach on Monday after he refused to sign a statement acknowledging the school's concern over an unspecified incident in mid-December and creating guidelines for future incidents, according to court documents.

The parents of wide receiver James — whose father, Craig, is an ESPN football analyst — complained to the university about the way Leach treated the receiver during practice Dec. 17 and again two days later.

The Avalanche-Journal previously reported that on Dec. 17, Leach ordered James to stand in a dark shed at the Tech football practice facility because he thought James was faking a concussion he had suffered during practice the previous day.

Leach had him watched, and when James sat down, Leach had items removed from the shed so he could not sit.

On Tuesday, Liggett filed a motion asking Lubbock Judge Bill Sowder to grant a temporary restraining order allowing Leach to coach the Red Raiders in the Alamo Bowl on Saturday and effectively freeze proceedings until after the game.

After that filing, a Tech official told The A-J no one in the administration or Board of Regents felt any other action was possible except termination.

"A lot of people thought he'd come to his senses," said the source.

An amended motion was filed Wednesday morning containing a modified affidavit from Leach.

In the new version, Leach outlined the damage to his reputation he believes was caused by stories reporting wrongful acts and irreparable damage he would suffer if not allowed to coach in the Alamo Bowl.

"This is my last bowl with 17 scholarship seniors that I have watched grow from boys to men, 80 percent of whom will graduate.

Twenty-seven scholarship juniors I have I feel like are my own sons," Leach said in the affidavit. "There is no way to place a value of losing the ability to coach these young men in our pinnacle game of our football season, all of whom I feel like a father to."

But the hearing never happened because a termination letter from University President Guy Bailey made such a proceeding moot. If the hearing had been held, it would have been open to the public in response to requests from lawyers for The A-J and Fox-TV 34.

Supporters gasped as Liggett read the letter ending Leach's 10-year tenure nearly two hours after the hearing was scheduled to begin.

"You can stuff my season tickets," one man yelled from the packed gallery.

Bailey fired Leach with cause, citing the section of his employment contract containing wording requiring the coach to "assure the fair and responsible treatment of student-athletes in relation to their health, welfare and discipline."

Tech confirmed in the statement released Wednesday evening Leach was fired for his behavior regarding Adam James.

Hance added when parents send their children to Tech, he wants them to feel confident their children will be safe.

"How many parents would be happy if their kid was put in a room after a concussion?" he said.

The chancellor also said "that's absurd" to comments Tech reacted only because Craig James is famous.

"If any parent made a complaint ... we would do the same for them," he said.

Still, Liggett promised a fight, claiming the real reason Tech terminated Leach was to keep information out of the hearing in open court.

"The public was about to hear the truth and they (Texas Tech) don't want the public to hear the truth," Liggett said.

Standing next to her husband, who was draped in a pirate flag, Kirsten White said the timing of the suspension and subsequent firing days before the bowl game is curious.

"If they're firing him that quickly, I feel there's something we don't know about," White said.

#### **Leach's statement**

Leach issued a statement to KRIV-TV in Houston, saying he was proud of his accomplishments, then he blasted Tech's leadership.

"Over the past several months there have been individuals in the Texas Tech administration, Board of Regents and booster groups who have dealt in lies and continue to do so," the statement read. "These lies have led to my firing. I steadfastly refuse to deal in any lies and am disappointed that I have not been afforded the opportunity for the truth to be known.

"Texas Tech's decision to deal in lies and fabricate a story which led to my firing includes, but is not limited by, the animosity remaining from last year's contract negotiations. I will not tolerate such retaliatory action. Additionally, we will pursue all available legal remedies."

#### **Tech's statement**

After reviewing all the information available, Texas Tech University has decided that the best course of action for the university and its football program is to terminate its relationship with Head Football Coach Mike Leach for cause.

Texas Tech was prepared to participate in the legal proceeding today on coach Leach's motion for a temporary restraining order. His attorney, however, chose to not participate when he was informed that the termination of coach Leach was inevitable.

The coach's termination was precipitated by his treatment of a player after the player was diagnosed with a concussion. The player was put at risk for additional injury. After the university was apprised of the treatment, Coach Leach was contacted by the administration of the university in an attempt to resolve the problem. In a defiant act of insubordination, Coach Leach continually refused to cooperate in a meaningful way to help resolve the complaint. He also refused to obey a suspension order and instead sued Texas Tech University. Further, his ... statements make it clear that the coach's actions against the player were meant to demean, humiliate and punish the player rather than to serve the team's best interest. This action, along with his continuous acts of insubordination, resulted in irreconcilable differences that make it impossible for coach Leach to remain at Texas Tech.

"It is our number one priority to protect the welfare of our students and the reputation of the Texas Tech University. Parents have entrusted us with their children and we take this responsibility very seriously. We very much appreciate the leadership shown by the university's athletic director, Gerald Myers, and president, Guy Bailey, in dealing with this unfortunate situation. The board supports their decision," said Larry Anders, chairman and Jerry Turner, vice chairman of the Texas Tech University System Board of Regents. In the near future, Texas Tech will undertake a search for a new coach. In the meantime, the focus of the athletic department is on the preparation for the Alamo Bowl.

#### **James family statement**

We have heard the news this morning along with the public.

We appreciate that the University conducted a fair and thorough investigation. From the family's point of view, this has always been about the safety and well being of our son and the players on the team. We have not seen any of the documents, so it would be inappropriate for us to discuss them.

To comment on this story:

logan.carver@lubbockonline.com | 766-8704

charles.reinken@lubbockonline.com | 766-8706



## Comments

- **Steve Turner said:**



This whole deal stinks. Leach had done so much to enhance TT football. It appears that TT administration was eager to move, when careful thought and investigation were needed. I've nothing that warrants the action they have taken against Coach Leach. I think it is time to really consider retiring Gerald Meyers. His handling of this disappoints me greatly. If Leach did anything deserving this treatment, it is time to lay down your cards and show us.

**(Report comment)**

**-December 30th, 2009 at 8:22 pm**

- **Steven said:**



Hance is a buffoon and so is Myers. They were upset because Leach was way more popular than they ever hoped to be.

Isn't Bailey the one who recently referred to Tech as Texas A&M...what a joke.

I wash my hands of this administration of good ol boys.

so pathetic

**(Report comment)**

**-December 30th, 2009 at 8:29 pm**

- **runnergarland said:**



I am sending a letter to each member of the board of regents to explain to me why this was handled in the manner that it was. A total PR fiasco.

**(Report comment)**

**-December 30th, 2009 at 8:32 pm**

- **TJ said:**



My family made a \$50,000 donation last year in the midst of a major recession to help with funding for the Texas Tech football expansion. This appears to be good money wasted. We are devastated by this news and won't be supporting Tech until they get new leaders.

December 30, 2009

Print Email ShareThis A+ Font A- Font

## Statement from Texas Tech on Termination of Football Coach Mike Leach

After reviewing all the information available, Texas Tech University has decided that the best course of action for the university and its football program is to terminate its relationship with Head Football Coach Mike Leach for cause.

Written by Chris Cook

After reviewing all the information available, Texas Tech University has decided that the best course of action for the university and its football program is to terminate its relationship with Head Football Coach Mike Leach for cause.

Texas Tech was prepared to participate in the legal proceeding today on coach Leach's motion for a temporary restraining order. His attorney, however, chose to not participate when he was informed that the termination of coach Leach was inevitable.

The coach's termination was precipitated by his treatment of a player after the player was diagnosed with a concussion. The player was put at risk for additional injury. After the university was apprised of the treatment, Coach Leach was contacted by the administration of the university in an attempt to resolve the problem. In a defiant act of insubordination, Coach Leach continually refused to cooperate in a meaningful way to help resolve the complaint. He also refused to obey a suspension order and instead sued Texas Tech University. Further, his contemporaneous statements make it clear that the coach's actions against the player were meant to demean, humiliate and punish the player rather than to serve the team's best interest. This action, along with his continuous acts of insubordination, resulted in irreconcilable differences that make it impossible for coach Leach to remain at Texas Tech.

"It is our number one priority to protect the welfare of our students and the reputation of the Texas Tech University. Parents have entrusted us with their children and we take this responsibility very seriously. We very much appreciate the leadership shown by the university's athletic director, Gerald Myers, and president, Guy Bailey, in dealing with this unfortunate situation. The board supports their decision," said Larry Anders, chairman and Jerry Turner, vice chairman of the Texas Tech University System Board of Regents.

In the near future, Texas Tech will undertake a search for a new coach. In the meantime, the focus of the athletic department is on the preparation for the Valero Alamo Bowl.

Story produced by the Office of Communications and Marketing, (806) 742-2138.





# HEARD ON THE FIELD



## McLeach and School Agree By

After three years, the school board and the coach agreed on a new contract. The deal called for a \$127 million contract, a 10% raise over the previous one, and a 10% raise in the coach's salary. The deal was signed by the school board and the coach, and it was a victory for both sides.

The school board and the coach agreed on a new contract. The deal called for a \$127 million contract, a 10% raise over the previous one, and a 10% raise in the coach's salary. The deal was signed by the school board and the coach, and it was a victory for both sides.

In April 2006, McLeach's representatives from the sports agency \$45 and a proposal for a contract extension that would pay McLeach \$15.7 million over five years and make him one of the 10 highest paid coaches in college football. At that point, the school board was in a bind and had to sign the deal to keep the coach.

According to a person familiar with the coach's side of the negotiations, the coach's representatives said the school board was in a bind and had to sign the deal to keep the coach.

The school board in January 2006, three years after the coach's contract expired, had to sign the deal to keep the coach. The school board was in a bind and had to sign the deal to keep the coach. The school board was in a bind and had to sign the deal to keep the coach.

Scott Brown, a former board chairman who was the board chairman during the negotiations, says he was "definitely not happy with the agents."

McLeach did not return calls seeking comment. A representative for the coach said only one email was sent to the agents and that was a note the next day to apologize for the coach's behavior.

One month later, following a meeting between McLeach and the school's director, Scott Brown, the school signed a contract for the year and \$127 million, making one of 34 college football coaches making at least \$1 million.

—David Miderman



EXHIBIT

8

tabbles

Steele, Linda

From: Hance, Kent  
Sent: Monday, December 08, 2008 10:20 PM  
To: Steele, Linda  
Subject: FW:

File M/L

-----Original Message-----

From: Jim Sowell (mailto: [REDACTED])  
Sent: Saturday, December 06, 2008 12:19 AM  
To: Hance, Kent; Myers, Gerald  
Subject:

Fyi, OSU signed Gundy for 7 years at 2.2 mil per year. Briles has told Baylor that he has been contacted by Scovell about the Tech job and he is using that to try and improve his deal there. Baylor did a smart thing and has a 4 million dollar buyout which decreases annually by 1 million, the Baylor trustees said they assumed that Tech would see the 4 million buyout as no big impediment to hiring Briles. We need a big buyout in Leach's next contract. Apparently Notre Dame would have fired Weis except the former AD there gave Weis a guaranteed contract which has 7 years left so they would have to pay him 21 million to let him go. Make sure it won't cost us a fortune to ever let Leach go. We can get a big buyout from Leach, I would say at least 1 million for every year remaining on his contract like Briles deal. That would calm down the annual fever about him leaving for a few years anyway. Finally, it looks to me like there are not any jobs left open for Leach. Auburn doesn't want him, if he actually interviewed at Washington that would be the first school that formally interviewed him in 8 years. Leach should be more worried about getting an offer from us rather than getting an offer from someone else. His agent is a master at making the reporters think schools are after him. UCLA and Miami last year and Washington, Auburn, Clemson and Tenn. this year. Give me a break! The Kentucky job has been open twice since he has been at Tech, he was the offensive coord. there and the never interviewed for that job either time. That is because they knew him. The Tech job is the top job in the country that would put up with his quirky personality, I don't think there is another job that would be considered "better" than our job that wouldn't require a Mack Brown or Pete Carroll personality. Tech and Leach are a perfect fit, I honestly believe Leach will never be offered a "better" job.



**Steele, Linda**

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**From:** Hence, Kent  
**Sent:** Monday, December 08, 2008 10:15 PM  
**To:** Steele, Linda  
**Subject:** FW: Next Monday

File M/L

-----Original Message-----

**From:** Jim Sowell [mailto: ]  
**Sent:** Monday, December 08, 2008 5:47 PM  
**To:** 'Alan White'  
**Cc:** Hence, Kent; Hence, Kent  
**Subject:** RE: Next Monday

Ok, but is there a chance that Kent and Gerald could wrap this up before the? I hope so. Gerald does not want to give him a 7 year deal. Gerald has some facts and info that make me think we should stay out of it if we can. His agent begged Washington for the interview; Auburn said they never seriously considered him and that in their opinion he wouldn't be a fit in the SEC anywhere. His agent asked Auburn if they would interview him if he paid his own way there. Gerald is going to talk to the Wash. AD to find out the circumstances of his interview there. Leach has been at Tech for 9 seasons and after an 11-1 season he gets his first and only interview in 9 years. Gerald has some good ideas; he wants to only pay him for Big 12 wins since Leach won't schedule anybody for non-conference games. Leach doesn't have any other options, in my opinion, the only change we need to make is up his buyout penalty if he leaves and make sure if we fire him that we only owe him his remaining base salary of around \$300,000 per year.

-----Original Message-----

**From:** Alan White [mailto: ]  
**Sent:** Monday, December 08, 2008 4:03 PM  
**To:** Jim Sowell  
**Subject:** Next Monday

Could u meet say 3pm next Monday in Lbb?


I have to be there for meetings starting at 9am. You could fly in and I could have u picked up and then u could fly back with me?

Leach says he is out til then. I don't really want to talk on the phone?

PlainsCapital Corporation made the following annotations

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 -----

Matt Baldwin  
IMG Coaches



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Steels, Linda

From: Hence, Kent  
Sent: Wednesday, December 17, 2008 10:35 PM  
To: Steels, Linda  
Subject: FW: CONFIDENTIAL

File M/L

-----Original Message-----

From: Jim Sowell (mailto:[REDACTED])  
Sent: Wednesday, December 17, 2008 6:09 PM  
To: Hence, Kent; 'Baldwin, Matt'  
Subject: RE: CONFIDENTIAL

Kent, I wouldn't do this, he hasn't earned one dime of the completion bonus yet, so none should be vested or else we should call this the "Not Quite Completed Completion Bonus". If he would've taken the Washington job we wouldn't owe him a penny of this bonus. If he takes a job after next season we don't owe him a penny of it. Why would we even think about vesting any of this for him? Mike says he has "earned" \$800,000 of this completion bonus. He is a smart guy; I think he knows the definition of the word "completion". I consider this an example of bad faith negotiations on their part. js

-----Original Message-----

From: Hence, Kent (mailto:[REDACTED])  
Sent: Wednesday, December 17, 2008 5:18 PM  
To: Jim Sowell  
Subject: FW: CONFIDENTIAL

-----Original Message-----

From: Baldwin, Matt (mailto:[REDACTED])  
Sent: Wednesday, December 17, 2008 12:50 PM  
To: Hence, Kent  
Subject: CONFIDENTIAL

Dear Kent,

I received your voice message, thanks for reaching out to us. In regard to the \$800k currently due Dec. 31, 2009, we propose to transform the entire completion of contract bonus into a deferred compensation plan in which the bonus amounts will be credited, this will be a ledger entry. Within that plan, we propose that Mike be vested \$600k on Dec. 31, 2008; \$200k on Nov. 1, 2009 and \$200k on Nov. 1, 2010. The vested amounts will then be payable to Mike at either an agreed upon date certain or upon termination of the agreement.

Thus, in regard to the total core compensation in 2009, we propose that Mike be paid a total of \$2.75M cash and credited an additional \$200k as vested deferred compensation; total cash: \$2.75M and grand total: \$2.95. In addition, for 2010, we propose that Mike be paid a total of \$2.8M cash and credited an additional \$200k as vested deferred compensation; total cash: \$2.8M and grand total: \$3.0M. The remaining years (2011-2013) are set out as cash only at the following rates: \$2.85M, 2.9M and \$2.95M, respectively.

Please let me know if you have any additional questions. Please feel free to call me on my cell @ [REDACTED] Thank you.

All the best,  
Matt

----- Original Message -----

From: Jim Howell

To: 'Rance, Kent

Myers, Gerald

Baldwin,

Matt

Sent: Thu Dec 18 16:32:13.2008

Subject: RE: CONFIDENTIAL

Kent, their latest offer is offensive. Mike wants a salary virtually the same as Stoops and Brown, both of whom have won National Championships and play in 85,000 - 90,000-seat sold-out stadiums. They want Leach reporting to you and not the AD!!! Are they just trying to piss us off? I feel sorry for Gerald having to put up with this type of adversarial, bad faith negotiation all these years. They want no buyout if he leaves, but full payment of total annual compensation if we fire him!! Stoops and Brown may have that, but they aren't politicking for a job after every season like Mike is. Leach's actions make a large buyout a must. As to severance, we can't agree to anything more than paying Leach the remaining base salary if we fire him; otherwise, we will never be able to afford to fire him. That is why Notre Dame can't fire Charlie Weis; the former Notre Dame AD (now at Duke) gave him the very deal Leach is asking for. The alums were livid when they realized what they would have to pay Weis if he was fired. It makes the coach "fireproof." Leach shouldn't get any more than Pinkel and Mangino. Pinkel is 3-1 against Leach, was ranked #1 in the nation for several weeks in 2007 and has played in two Big 12 Championship games. Mangino was 12-1 last year and won a BCS bowl game. Leach hasn't accomplished any of those things. Both have big buyouts and both get no more than their remaining salary as severance if they are fired. Over the last 2 - 3 years, Leach's record is more comparable to Mangino's and Pinkel's than to Stoops' and Brown's. I would tell Leach and his agents we are sick of this; they have our best offer, except we are raising the buyout. I already told Mike the buyout in the offer you made him was too low. Leach says he has already earned \$800,000 of his bonus for completing his current contract. That is not true and he knows it. For him to take that position eliminates any credibility he had with me. Ask him, if he had taken the Washington job how much of it we would have owed him - None. In other words, he hasn't earned one dollar of it yet. If he doesn't finish out the remaining two years, we don't owe him any of the \$1 million completion bonus. We don't have these problems with our other coach's salary negotiations. We have coaches who have won the Big 12 or gone deep in the playoffs in their sports, things Mike has yet to do, and we don't have these adversarial negotiations with them. We have had two Hall of Fame coaches that said, "Just pay me in the middle of the Big 12." Maybe it's because Leach is a lawyer, maybe it's his agents, maybe it's just greed - I don't know, but I'm tired of the "Mike Leach Contract Soap Opera" every few years. We have spent a fortune on facilities to allow Mike to be successful. He won 11 games this year - big deal - two other Tech coaches did it before him and it didn't take either one of them 9 years to do it. What did it get us? The Cotton Bowl; both Leach and his predecessor have done that before, at a much smaller salary I might add. He was within one play, in each game, of losing 3 different home games this year - which would have been another 8-4 season. We didn't sell out a single home game in the 2007 season - in a 53,000-seat stadium (granted the A & M game was within 300 tickets of a sellout). Mike's agents have tried to get him a "better" job every year he has been here (I guess they are just doing their job), but none of their actions take place without Mike's approval. In 9 years, he has had only one real interview: Washington (where they hired another coach in less than 24 hours after their interview with Leach). We got the report from the Miami AD on their "interview" with Leach last year in a hotel lobby. The Kentucky job, where he was offensive coordinator for two years, has been open twice since he has been at Tech. They weren't interested in him. Auburn wouldn't interview him after his agent told them Mike would pay his own way to the interview! (And he doesn't want a buyout because he says he has shown his loyalty - give me a break!) In spite of being named Big 12 Coach of the Year, he is NOT a hot commodity. If he was, he would already be gone. He has no bargaining power. If he just lives out the two years left on his contract and kills our recruiting, he will be committing professional suicide. What AD will want a guy who torched his previous program? Leach has been able to do one thing no Tech coach has ever been able to do before-make me disgusted with the Tech football program. You have made him an offer that is more than fair.

Steele, Linda

From: Hance, Kent  
Sent: Tuesday, December 30, 2008 10:18 PM  
To: Steele, Linda  
Subject: Fw: Mike Leach

File M/L

----- Original Message -----

From: Jim Sowell  
To: Hance, Kent; Myers, Gerald  
Sent: Tue Dec 30 22:08:25 2008  
Subject: Re: Mike Leach

Kent, they have no leverage, don't give in. Also, I feel you should sign a contract that would not cost us too much to fire him. As I said earlier, I believe salaries have peaked so let's don't go too long term. He has to have a big buyout, he has shown no loyalty, he has tried to get another job every year for the past 4 years. What does he mean that a buyout would hinder him getting some things done at Tech? The only thing it would hinder is him accepting another job for the next couple of years. Buyouts are important, if we had lost Leach this year, we couldn't have hired Briles if we wanted to because he had a \$4 mil buyout. I love his comment about Crabtree, these agents will say anything to get a deal done, there is no chance Crabtree is staying plus Crabtree has 2 years of eligibility left and Leach has 2 years on his contract so that should be no impediment to his staying, which, of course, he has no intention of doing. Also, a buyout keeps you from getting blackmailed into giving Mike a raise when next year his 2 Jerry McGuire wannabes get him another phantom interview to put pressure on you to give Mike a raise. Briles tried to get a raise based on Sowell contacting his agent. Because Briles had only burned off one year of his \$5 million buyout, Baylor knew they didn't have to do anything because no one was going to write them a \$4 mil check in order to hire him. Don't let them convince you that a \$2 mil completion bonus is the same as a buyout. Forfeiting a completion bonus does not compare to digging into your pocket to pay the buyout. His deal should be \$2.4 per year for 5 years and if he leaves, he of course gets no completion bonus but also has a buyout of \$1 mil for every year remaining on his contract. Otherwise it is a one way deal-he has you under contract but you don't have him under a contract that he can't walk away from any time. Finally, we can't afford what they are proposing and they have no other options. Tell them. Take it or leave it. I promise you our prospects for getting a better coach are much higher than Mike's prospects of getting a better job. Texas Tech has paid Mike more money than every football coach before him combined and I think we may have paid him more than every coach in every sport in our history combined. Somebody ought to add that up-what every coach in every sport in the history of Tech has made in total; other than Leach and his staff. That ought to put things in perspective. Bottom line, we can't afford what he is asking for. Every \$100,000 we give him is \$1.5 million in improvements we could have bonded.

----- Original Message -----  
From: Hance, Kent  
To: Myers, Gerald  
online.net>: Jim Sowell  
Sent: Tue Dec 30 18:20:46 2008  
Subject: Fw: Mike Leach

Eyi. Don't share any of these with anyone.

----- Original Message -----  
From: Baldwin, Matt  
To: Hance, Kent  
Cc: O'Hagan, Gary  
Sent: Tue Dec 30 17:13:48 2008  
Subject: Re: Mike Leach

Kent,

**Steele, Linda**

---

**From:** Hance, Kent  
**Sent:** Thursday, January 08, 2009 10:43 PM  
**To:** Steele, Linda  
**Subject:** Fw:

File M/L.

----- Original Message -----

**From:** Jin Howell [REDACTED]  
**To:** Hance, Kent  
**Sent:** Thu Jan 08 21:13:55 2009  
**Subject:**

A thought. You mentioned how O'Hagan started yelling on the phone with you. He had no hesitation in going over Gerald's head to talk to you. Find out who O'Hagan's boss is and have your next conversation with him. Bring O'Hagan down to earth.



**Steele, Linda**

---

From: Hance, Kent  
Sent: Thursday, January 08, 2009 10:42 PM  
To: Steele, Linda  
Subject: Fw:

File M/L.

----- Original Message -----

From: Jim Sowell  
To: Hance, Kent  
Sent: Thu Jan 08 21:54:08 2009  
Subject:

Kent, a hagen boss at ing is Peter Johnson, according to website. Coincidentally, a hagen played football at Boston College, the school that told their coach to take a hike. On his website he claims Bobby Knight as a client. They brag in an article about the job they have done for Leach. He appears to be their only college coach client, they claim Wade Phillips is a client. He is based in Minn., because he was a commodity trader for Cargill who is based in Minn. He did represent Callahan at Nebraska before he was fired. The Ohio State AD is quoted as saying he doesn't deal with agents, his lawyers do. O Hagen has managed to get to you. Tell him you are too busy with more important matters, such as student education and you have handed this off to a mid level staff attorney.

**Steele, Linda**

From: Hance, Kent  
 Sent: Sunday, January 11, 2008 9:36 PM  
 To: Steele, Linda  
 Subject: FW: Mike Leach Offer

File M/L

From: Jim Sowell  
 To: Hance, Kent  
 Sent: Fri Jan 09 23:31:56 2009  
 Subject: Re: Mike Leach Offer

Good, ignore anything they do between now and Tuesday except acknowledging receipt of his fully executed contract as presented. I hope he doesn't sign, that gives us a full year to find another coach after we fire him after next season and pay off the remaining year on his contract. You may lose one or two recruits this year and Crabtree will use it as part of his excuse for going pro even though he is going pro regardless. I predict you get many frantic calls from the agents but in the end, you get a signed contract from Leach at 4:55 on Tuesday. No matter which way this goes, you have done a good job and Leach has lost a lot of support during this process. By the way, did you see the 2 sentence story in today's paper that Gary Patterson signed an extension with TCU until 2014 today. No fanfare or drama.....kind of like his football program.....he has had four 11 win seasons in 6 years. He may have done the best job of any coach in the country the last 6 years. He probably makes half of what Leach does. Think what we could do with that 1 million a year in savings.

From: Hance, Kent  
 To: Jim Sowell  
 Sent: Fri Jan 09 20:39:36 2009  
 Subject: FW: Mike Leach Offer

This is the response to our offer. We are going to ignore it.

From: Baldwin, Matt [REDACTED]  
 Sent: Friday, January 09, 2009 6:29 PM  
 To: Myers, Gerald; O'Hagan, Gary  
 Cc: Hance, Kent  
 Subject: RE: Mike Leach Offer

**Liquidated Damages:**

School	Coach	Guarantee	Buyout
Oklahoma	Bob Stoops	\$18,000,000	\$0
Kansas	Mark Mangino	\$11,500,000	\$0
Texas A&M	Mike Sherman	\$8,900,000	\$1,800,000
Texas	Mack Brown	\$5,400,000	\$0
Oklahoma State	Mike Gundy	\$4,500,000	\$1,100,000
Kansas State	Bill Snyder	\$4,500,000	\$0
Colorado	Dan Hawkins	\$3,650,000	\$1,000,000
Iowa State	Gene Chizik	\$2,000,000	\$750,000
Missouri	Gary Pinkel	\$2,450,000	\$2,000,000
Texas Tech	Mike Leach	\$1,600,000	\$500,000

01/12/2009

Brandon George

Steele, Linda

From: Hance, Kent  
Sent: Sunday, February 08, 2009 9:05 PM  
To: Steele, Linda  
Subject: FW: Leach Fiasco

File M/L

-----Original Message-----

From: Jim Sowell [REDACTED]  
Sent: Saturday, February 07, 2009 8:50 AM  
To: Gleason, Bobby; Hance, Kent  
Cc: Myers, Gerald; [REDACTED]; Arrington, Jodey; Thomasson, Russell  
Subject: Re: Leach Fiasco

I agree, many fans feel that this is an area where Tech is being unfair to Leach. Also, we need to make sure the public knows that permission for Leach to interview will not be unreasonably withheld and that notification of the interview will allow our AD to call the other AD to confirm the seriousness of their interest so that the "interview" can't be used as a negotiating tactic, as it has been in the past.

Steele, Linda

From: Hance, Kent  
Sent: Sunday, February 08, 2009 9:24 PM  
To: Steele, Linda  
Subject: FW: Mike

File M/L

From: [redacted]  
Sent: Sunday, February 08, 2009 6:18 PM  
To: Hance, Kent  
Subject: Mike

Kent,

I told Mike to call you tomorrow and get one on one with you. Regardless of what you think he has feelings and is sensitive. Gerald has always had a hard time with Leach which goes back to Schmidley and Smith. I am going to say a few things and get them off of my chest as a long time fan and businessman. I do not expect you to like what I say, or respond in any fashion, I do not expect you to change your mind, but, I am writing this as an objective outsider who has been watching TT for 48 years now.

As in most small schools TT has it's small clique of large donors, Regents, its President or Chancellor or in our case both that talk in small groups and form their opinions and make decisions about everything for their school. You all have done a wonderful job of leading TT to the next level of National Prominence. Academically and sports with Knight and Leach have made Tech a household name in recent years. You will have to admit Knight and Leach are very odd and different people compared to your inner circle of West Texans and large donors to TT. I doubt very seriously if anyone but Bob Knight would have gotten away with what he did at Tech, including chasing the Chancellor down the street, and, he wouldn't have gotten away with that if it hadn't been for Gerald's close relationship with him. On the other hand you have a situation where you have a football coach who with the strong support of TT, has filled the stadium, sold all the suites, been to 9 straight bowls, has the third best record in the conference since he's been here, etc.....Most importantly, again with TT's strong support, but, on his watch they have recruited and have the highest graduation rates for white and minorities in the conference. Our two best recruiting years have been the last two, and every comment from the players talk about how they connect to the staff and Mike, like him or not he is performing magic, just like Polk, Marsh and Larry Hays did, they were all rare commodities, and lifted us to new heights. Mike is doing it again, but, he is not a "good 'ol boy", he's a quirky intellect who is a football coach. Love him or hate him, you guys should not be bowing your heads and running him off because you can't get along with or relate to some city slicker Yankee agents. I agree that you need to make some changes to his contract, but, they should be done in a spirit of good will and privately. I am guessing his requirements are not any different than the other coaches contracts in the league, and, only 2 have been more successful than he has.

I know about all the "courting" of other schools, but, I know, you know, and Mike knows there are only 10 or 12 better jobs in the country, and, you would only say better because of recruiting possibilities because of tradition. With only 2 years left and shaky relationship with his AD, he shouldn't close too many doors. Those are my words, not his, but, I know how he is feeling. You know all of the above, but, I want to tell you with all of that in my mind you people would be crazy to end this great period of TT football on a negative note. Make a deal with him, reconcile publicly and if he craps on you later, then it's shame on him. In my mind, if we simply shut him out or fire him, it is shame on us. I told him and I will tell you, ego and pride have brought many people down, so let's get off of that inner circle ego trip and get this done. I watch the BB games with an empty arena and I get sick, don't do that to football as well. We are on top of the world as you say "for our budget", let's stay there.

Respectfully,

02/09/2009

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## Texas Tech starts search to replace fired Leach, AD says McNeill to get "strong consideration"

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BETSY BLANNEY  
Associated Press Writer  
January 4, 2010 11:43:35 p.m.

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LUBBOCK, Texas (AP) — Texas Tech athletic director Gerald Myers said Monday that interim coach Ruffin McNeill will be strongly considered for the permanent job.

McNeill took over after Texas Tech suspended Mike Leach indefinitely on Dec. 28 while it investigated Adam James' allegations of mistreatment after he got a concussion. Leach was fired two days later, and McNeill led the Red Raiders to a 41-31 win over Michigan State in the Alamo Bowl on Saturday.

McNeill, 51, met informally with university president Guy Bailey on Monday.

"He's going to have strong consideration, no doubt about that," Myers said.

McNeill came to Tech with Leach in 2000. He was elevated to defensive coordinator in 2007.

Myers said he has started the search and doesn't have a big list of candidates. He could have a pick by the end of the week.

Myers declined to identify any candidates outside the program who could be interviewed in the next couple of days.

Leach has denied he mistreated James, son of former NFL player and ESPN analyst Craig James.

The sophomore alleges the coach twice ordered him to stand while confined to small, dark places after the player was diagnosed with a concussion.

Leach also claims he was fired for financial reasons. He was in the first season of a five-year, \$12.7 million contract.

Leach was fired with cause, which means the university does not have to pay him any of the money remaining in his contract, or the \$800,000 he was due to receive Dec. 31 if he was still coaching Tech.

Leach's attorney has said he plans to file a lawsuit against the school.

The investigation into Adam James' allegations is ongoing, school officials said.

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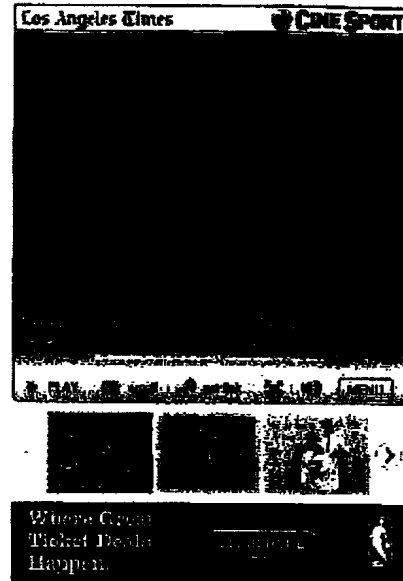
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