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COMMONWEALTH OF KENTUCKY
FRANKLIN CIRCUIT COURT
DIVISION ____

Civil Action No. _____

JOHN D. MEYERS

PLAINTIFF

V. **COMPLAINT FOR ENFORCEMENT OF CONTRACT**

UNIVERSITY OF KENTUCKY
ATHLETICS DEPARTMENT,
UNIVERSITY OF KENTUCKY, a political
subdivision of the Commonwealth of
Kentucky, d/b/a K FUND

DEFENDANT

SERVE: **HONORABLE RUSSELL COLEMAN
KENTUCKY ATTORNEY GENERAL
CAPITOL BUILDING
700 CAPITAL AVENUE
FRANKFORT, KENTUCKY 40601**

INTRODUCTION

K Fund is the “fundraising arm of the University of Kentucky Athletics Department” (“UK”) according to its website.¹ As such, as a condition of obtaining premium season tickets for various varsity sports, K Fund solicits capital contributions over and above the price of the tickets from its season ticketholders. For lower arena or floor seating for UK men’s basketball games, K Fund charges its season ticketholders steep premiums on their capital contributions; however, capital contributions to K Fund are even required to secure upper arena seating.

¹ <https://ukathletics.com/aboutthekfund/>

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Plaintiff John D. Meyers’ grandfather, H.H. Downing, played basketball for UK beginning in 1907-1908 and then went on to a long and distinguished career as Chair of the UK Mathematics and Astronomy department in addition to coaching varsity tennis for 30 years. Plaintiff’s uncle, John DeMoisey, was an All-American basketball player at UK between 1931 and 1934. As a result, Plaintiff John D. Meyers (“John” or “Plaintiff”) is a legacy UK men’s basketball season ticket holder whose parents inherited his grandparents’ seasons tickets with Plaintiff succeeding his parents. John and his parents have been season ticketholders since UK played basketball at Memorial Coliseum and continued as season ticketholders when UK basketball moved to Rupp Arena. The Meyers family has an unbroken streak as season ticketholders for men’s basketball since before Rupp Arena opened its doors in 1976.

PARTIES

1. Plaintiff John D. Meyers resides in Lexington, Kentucky.
2. Defendant, University of Kentucky Athletics Department is a department of the University of Kentucky, which itself is a political subdivision of the Commonwealth of Kentucky established as a land grant institution by Congress in 1862 and recognized by the General Assembly of the Commonwealth of Kentucky pursuant to KRS 164.100.
3. UK operates K Fund as its athletics fundraising arm for the purpose of “providing the resources necessary to ensure our student-athletes have the opportunity to earn a first-class education and compete for championships. These resources are provided through student-athlete scholarships, state-of-the-art facilities and the financial support essential for UK Athletics’ (24) varsity sport programs to excel.”²

² <https://ukathletics.com/aboutthekfund/>

NOT ORIGINAL

DOCUMENT

02/27/2024 05:46:55

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JURISDICTION AND VENUE

MEDIA5022

The preceding paragraphs are incorporated by reference herein.

- 4. This is a breach of contract case brought pursuant to KRS 45A.245.
- 5. The amount in controversy exceeds the minimum amount necessary to confer jurisdiction on this Court.
- 6. Jurisdiction and venue for breach of contract claims against agencies and political subdivisions of the Commonwealth of Kentucky is in the Franklin Circuit Court pursuant to KRS 45A.245.

FACTS

The preceding paragraphs are incorporated by reference herein.

- 7. Prior to 2013, John held four lower arena season tickets for UK men’s basketball games and six upper arena season tickets. John and his wife, Jane, were interested in creating a lasting legacy, through either a bequest or an annual giving program to UK to benefit the tennis program. John’s mother had made such an intervivos gift before her death that benefitted the current tennis facility.
- 8. In 2013, John approached former UK tennis coach, Dennis Emery, to discuss his gift idea, and was referred to K Fund representatives Katie Eiserman and Candice Chaffin. John suggested an annual giving program toward development of a new tennis facility.
- 9. For many years Plaintiff had held ten season tickets to UK men’s basketball games, six upper arena tickets and four lower arena tickets.
- 10. John offered to exchange his ten season tickets to UK men’s basketball games for two “very good” lower arena season tickets.

Presiding Judge: HON. PHILLIP J. SHEPHERD (648260)

COM : 000003 of 000008

NOT ORIGINAL

02/27/2024 05:46:55

MEDIA5022

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- 11. John was told that K Fund had no interest in the upper arena seats, but would agree to an exchange of the four lower arena seats for two “very good” seats plus an increased annual capital contribution to K Fund.
- 12. John was shown options for several “very good” seats including lower priced seats in the upper portions of the lower arena and a much more expensive option for brand new seating on the floor behind the visiting team’s bench.
- 13. Since the floor seats were newly added and did not offer any elevation above floor level to the spectators, UK was unsure whether those seats would be valued according to their expectations. Accordingly, John made a special visit to Rupp Arena with K Fund representatives and personally chose Section 30, Floor Seats 11-12, in order to insure adequate visibility. UK agreed and acquiesced to John’s choice of seating.
- 14. The seats John chose were the two seats on the floor behind the visiting team’s bench closest to mid-court. He has held these two seats continuously since 2013.
- 15. The contract John negotiated with UK, in addition to the annual price of the tickets, included a total capital contribution of \$400,000, with credit of \$180,000 for UK to “resell” the four lower arena seats, which Plaintiff turned back in to K Fund, and \$220,000 to be paid over ten years. UK required John to complete a form it provided memorializing the agreement, known as the “Statement of Intent.” A true copy of the Statement of Intent is attached as **Exhibit 1**.
- 16. K Fund and John agreed to annual payments of \$15,000 with the balance due in year ten.
- 17. John faithfully paid his annual capital contributions and the price of his tickets, and enthusiastically attended men’s basketball games, sitting in Section 30, Floor Seats 11 and 12, all the while vigorously rooting on the CATS.

Presiding Judge: HON. PHILLIP J. SHEPHERD (648260)

COM : 000004 of 000008

NOT ORIGINAL

02/27/2024 05:46:55

MEDIA5022

DOCUMENT

PM

- 18. In 2023, John and UK amended the agreement when UK agreed to accept two of John’s six upper arena season tickets and in turn credit John \$25,000 toward his \$220,000 pledge. Under the agreement, as amended, the annual payments were to continue for four payments, beginning in 2024, at the rate of \$15,000. This amendment is memorialized in written email communications, which collectively are attached hereto as **Exhibit 2**.
- 19. The agreement entered into in 2013, memorialized on the UK furnished “Statement of Intent” form, states that John’s large capital “contribution to benefit UK Tennis program in memory of Professors H.H. Downing and E.N. Fergus . . . includes (the) right to buy 2 floor level basketball tickets – transferable to spouse, Janie Fergus, parking, pass and hospitality.” (Exhibit 1).
- 20. Form language provided by UK on the Statement of Intent stated that “[o]nce your capital gift has been paid in full you will then begin to pay the per seat annual K Fund donation.”
- 21. Upon information and belief, sometime *after* UK entered into the 2013 agreement with Plaintiff, the Athletics Department first implemented a “reseating” policy for K Fund contributors at Kroger Field (formerly Commonwealth Stadium), followed by “reseating” the upper arena men’s basketball season ticket holders at Rupp Arena.
- 22. Beginning with the 2023-2024 season, UK added eight floor level seats within the scorers table, obviously in exchange for premium contributions, further crowding the existing floor seating accommodations.
- 23. In January 2024 John received a “Happy New Year” letter from K Fund informing him that UK and the Lexington Center Corporation had decided to replace seating in the first five rows of the lower arena due to the “aging infrastructure of the risers.” A true copy of this letter is attached as **Exhibit 3**.

Presiding Judge: HON. PHILLIP J. SHEPHERD (648260)

COM : 000005 of 000008

DOCUMENT

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02/27/2024 05:46:55

MEDIA5022

- 24. The letter indicated that in addition to the first four rows of the lower arena (AA, BB, CC, DD), all of which are situated on the “risers,” the floor seats would be affected, even though the floor seats are not located on the “aging infrastructure of the risers.”
- 25. John was informed that he would lose his tickets and there would be a new seat selection process giving priority based on the “K Fund Priority Point Rank system.” This essentially means that persons who donate more money in their capital contribution pledges than does Plaintiff will be entitled to claim Plaintiff’s seats, or similar seats, on the floor in violation of the contract existing between the parties.
- 26. The letter informs John that due to the priority ranking system, 342 seats would be selected before he could bid on two seats. The system would freeze the ranking on March 29, 2024, at 5:00 p.m.
- 27. The situation created by UK is akin to a customer walking into a new car dealership, buying a new Lexus and trading in the old model, financing it at a high rate of interest, making every payment on time, driving it for a couple of years and then the dealership showing up and demanding its car back. The customer is left without his car he bargained for, in fact without any car at all, and nothing to show for it.

COUNT I
Breach of Contract

The preceding paragraphs are incorporated by reference herein.

- 28. UK and Plaintiff entered into a lawfully authorized written contract in 2013 memorialized on a form supplied by UK.
- 29. The intention of the parties, as clearly set forth on the written document, is that the agreement is for Plaintiff to have two floor seats for all men’s home basketball games

NOT ORIGINAL

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02/27/2024 05:46:55

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during John's lifetime and his wife's lifetime, or at least so long as Defendants maintain floor seating in Rupp Arena for men's home basketball games.

MEDIA5022

30. After UK had accepted 85% of Plaintiff's capital contribution, amounting to approximately \$340,000, UK breached the agreement in the "Happy New Year" letter by forcing Plaintiff to give up his prized seats and enter into a ticket lottery with a low priority ranking, thereby insuring that Plaintiff would no longer have access to floor seats closest to mid-court, in violation of the contract.
31. UK maintains that this reallocation of seating priority is due to "equity" considerations; however, the truth is that UK is attempting to extort even higher capital contributions from its long-time faithful fans in exchange for priority seating. Unless John ponies up additional hundreds of thousands, or millions of dollars, he will lose his two floor seats nearest mid-court for which he bargained in 2013.
32. If it is necessary to do away with John's seats, located in Section 30, Floor seats 11 and 12, due to "aging infrastructure" or safety concerns, which is highly doubtful, then the contract entered into by the parties, and performed for more than ten years, nevertheless requires UK to provide Plaintiff with seating in two floor seats nearest mid-court.
33. Pursuant to KRS 45A.245, UK should be enjoined from stripping Plaintiff of his season tickets, which they have enjoyed for over ten years, due to UK's breach of the agreement entered into in 2013, and as amended in 2023.

WHEREFORE, Plaintiff respectfully demands that the Court:

1. Enter a restraining order prohibiting UK from forcing Plaintiff into a lottery for seat selection for season tickets to UK men's home basketball games.

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02/27/2024 05:46:55

MEDIA5022

2. Enter declaratory and temporary and permanent injunctive relief against UK prohibiting UK from forcing Plaintiff into a lottery for seat selection for season tickets to UK men's home basketball games, and which affirmatively orders UK to grant Plaintiff two floor level season tickets to UK men's home basketball games nearest mid-court during John's lifetime and his wife's lifetime, or at least so long as Defendants maintain floor seating in Rupp Arena for men's home basketball games, pursuant to the terms set forth in the contract entered into by the parties.
3. Enter an order declaring that the terms of the contract between the parties require UK to grant Plaintiff two floor level season tickets to UK men's home basketball games nearest to mid-court during John's lifetime and his wife's lifetime, or at least so long as Defendants maintain floor seating in Rupp Arena for men's home basketball games.
4. Award Plaintiff his costs incurred in prosecuting this action, including a reasonable attorney's fee.
5. Award Plaintiff any and all other relief to which he may appear entitled.

/s/ Joe F. Childers
 JOE F. CHILDERS
 BETHANY N. BAXTER

CHILDERS & BAXTER, PLLC
 The Lexington Building
 201 West Short Street
 Suite 300
 Lexington, Kentucky 40507
 Telephone: (859) 253-9824
 Facsimile: (859) 347-2310
Joe@Jchilderslaw.com
Bethany@Jchilderslaw.com

Presiding Judge: HON. PHILLIP J. SHEPHERD (648260)

COM : 000008 of 000008