

IN THE CIRCUIT COURT OF COUNTY, MISSISSIPPI

PLAINTIFF

VS.

CIVIL ACTION NO.

DEFENDANT

COMPLAINT

COMES NOW , Plaintiff in the above styled cause, by and through counsel, and files this civil action against , Defendant, and in support thereof would show the following:

PARTIES

1.

Plaintiff, (hereinafter " "), is a Mississippi business corporation with its principal place of business at , County, Mississippi.

2.

Defendant, (hereinafter " ") is an adult resident of County, Mississippi, who may be served with process at his/her residence , Mississippi.

FACTUAL BACKGROUND

3.

On or about , , (hereinafter " ") began doing business as a sole proprietor under the name . At the outset, was engaged primarily in the business of providing and related products to various products throughout Mississippi. As his/her customer base grew, saw the opportunity to expand his/her business to include maintenance and repair.

4.

After securing commitments from numerous customers that they would allow to provide maintenance and repair to their , sought to hire a technician/mechanic. One of the persons responding to 's efforts to locate a technician/mechanic was . Ultimately, decided to hire on an at-will basis and agreed to pay him/her an hourly wage for work performed.

5.

As the business grew and expanded, constantly requested that allow him/her to "own a piece of the rock" and repeatedly offered to buy a portion of the business. In , , was in need of additional capital and discussed with the possibility of purchasing an ownership interest in the business. and ultimately agreed that would loan the sum of \$, evidenced by a Promissory Note. and further agreed that the business would be incorporated effective , , with and his/her husband/wife receiving % of the stock in the corporation, in exchange for all of the assets and liabilities of the sole proprietorship, and with to receive % of the stock in exchange for cancellation of 's \$ Promissory Note.

6.

was formed as a Mississippi corporation effective , , with receiving shares, 's husband/wife, , receiving shares, received shares of in exchange for cancellation of the \$ Promissory Note. The corporation was further organized with , his/her husband/wife, and being named the Board of Directors, and with being elected President, being elected Vice-President, and being elected Secretary-Treasurer.

7.

In addition to serving in his/her capacity as an officer and director of the corporation, was also hired as service manager for .

8.

In , , in his/her capacity as president of , terminated 's employment as service manager due to 's mismanagement of the service department, disruptive personnel practices and customer dissatisfaction.

9.

Immediately upon termination and in total disregard for his/her duties as an officer, director and shareholder of , tortiously and intentionally enticed of 's technicians/mechanics to terminate their employment with and to come to work for in competition with . At the same time, contacted various customers of in an attempt to convince such customers not to do business with but instead, to do business with . also intentionally and tortiously made untrue and derogatory comments regarding and otherwise attempted to undermine and destroy the relationships which had with its customers and to otherwise injure 's business reputation.

10.

As a result of 's actions in enticing of 's employees to cease their employment, in enticing or attempting to entice 's customers to cease doing business with and otherwise disparaging 's name, has suffered financial losses, as well as loss of business reputation.

11.

Approximately weeks after was terminated, 's husband/wife contacted in his/her capacity as President of and requested that give a

second chance. Reluctantly, _____ agreed and _____ was rehired as service manager for beginning _____, _____.

12.

In _____, _____, in his/her capacity as President of _____, discovered that _____ was or had been engaging in conduct adverse to the best interest of _____. In particular, it was discovered that _____ had tortiously and intentionally enticed or attempted to entice various employees of _____ to leave employment, had tortiously and intentionally enticed or attempted to entice customers not to do business with _____ or to allow _____ to perform repairs at night and on weekends for his/her own benefit, and otherwise engaged in conduct which did or was intended to damage the economic viability of _____.

13.

In _____, it was also discovered that _____ broke into _____'s locked office and locked filing cabinet and removed therefrom confidential and proprietary information pertaining to _____'s customers, contracts and other business records.

14.

At all relevant times, _____ had an obligation as an officer, director and service manager of _____ to conduct himself/herself in a manner, at all times, consistent with the best interest of _____.

COUNT ONE

BREACH OF FIDUCIARY DUTY

15.

The allegations and enfranchises of Paragraphs 1 through 15 set forth above are realleged in full and incorporated herein by reference.

16.

has a fiduciary duty and is required to deal with using utmost good faith, undivided loyalty and with inherent fairness. has breached his/her fiduciary duty to and has engaged in conduct contrary to the best interest of .

COUNT TWO

MISAPPROPRIATION OF TRADE SECRETS AND PROPRIETARY DATA

17.

The allegations and enfranchises of Paragraphs 1 through 15 set forth above are realleged in full and incorporated herein by reference.

18.

has misappropriated, misused and otherwise, for his/her own illegal use, the trade secrets and proprietary data of .

COUNT THREE

UNJUST ENRICHMENT

19.

The allegations and enfranchises of Paragraphs 1 through 15 set forth above are realleged in full and incorporated herein by reference.

20.

has been unjustly enriched by the diversion of materials and/or supplies and other benefits to himself/herself at the expense of , and should be required to pay the amount diverted from it or the value of such materials, supplies and benefits.

COUNT FOUR

PUNITIVE DAMAGES

21.

The allegations and enfranchises of Paragraphs 1 through 15 set forth above are realleged in full and incorporated herein by reference.

22.

The actions of _____ in breaching his/her fiduciary duty, in intentionally and tortiously interfering with _____'s employment contracts and in intentionally and tortiously interfering with _____'s customer relations, were done knowingly, willfully and intentionally or with reckless disregard for the rights of _____, evidencing bad faith on the part of _____ and entitling _____ to punitive damages. _____ sues _____ for punitive damages in the amount of \$ _____ in order to punish _____ for his/her actions and to deter such activities by him/her in the future.

COUNT FIVE

INTENTIONAL INTERFERENCE WITH BUSINESS

23.

The allegations and enfranchises of Paragraphs 1 through 15 set forth above are realleged in full and incorporated herein by reference.

24.

At all relevant times hereto, _____ knew that _____ was engaged in the business of selling _____, accessories and other products, and providing _____ maintenance and repair services. _____ was aware that any contacts, persuasion, influence, inducement or coercion exerted upon _____'s customers would result in a loss of termination of business to _____, thereby causing

injury. The actions of _____ were intentional in nature, were calculated to cause damage to the business of _____, were reformed with the unlawful purpose of causing such damage and loss without any right or justifiable cause on the part of _____, and resulted in actual damages to _____, thereby constituting an intentional interference with business relations and pursuits of _____. These actions were performed and exercised by _____ during a time in which he/she was certain or substantially certain that his/her actions would result in such interference with the business relations and pursuits of _____.

25.

As a direct and proximate result of the tortious actions undertaken and performed by _____, has suffered damages and injury to its business and is entitled to recover from _____ to the extent of the damages suffered by it.

COUNT SIX

INTENTIONAL INTERFERENCE WITH EMPLOYMENT RELATIONS

26.

The allegations and enfranchises of Paragraphs 1 through 15 set forth above are realleged in full and incorporated herein by reference.

27.

_____ was aware that any contacts, persuasion, influence, inducement or coercion exerted upon _____'s key employees to terminate or otherwise cease their employment with _____. These employees were needed for _____ to provide adequate and competent services to its customers and to otherwise maintain its customer relations, thereby causing _____ injury. The actions of _____ were intentional in nature, were calculated to cause damage to the business

of _____, were reformed with the unlawful purpose of causing such damage and loss without any right or justifiable cause on the part of _____, and resulted in actual damages to _____, thereby constituting an intentional interference with employee relations and pursuits of _____. These actions were performed and exercised by _____ during a time in which he/she was certain or substantially certain that his/her actions would result in such interference with the employee relations and pursuits of _____.

28.

As a direct and proximate result of the tortious actions undertaken and performed by _____, has suffered damages and injury to its business and is entitled to recover from _____ to the extent of the damages suffered by it.

WHEREFORE, PREMISES CONSIDERED, Plaintiff, _____ prays that summons is issued against the Defendant, _____, that the Defendant be cited to appear and answer herein, that on a final hearing hereof, Plaintiff have judgment entered against the Defendant in the amount of \$ _____ in actual damages and in the amount of \$ _____ in punitive damages, plus reasonable attorneys fees and all costs of Court incurred herein.

AND, Plaintiff, _____ prays for such other general or special relief to which it may be entitled under the circumstances.

THIS, THE _____ DAY OF _____, _____.

Respectfully submitted,

Attorney for

Of counsel:

Telephone:
MSB #
Attorney for