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13 *Plaintiffs' Class Counsel*

14 UNITED STATES DISTRICT COURT
 15 NORTHERN DISTRICT OF CALIFORNIA
 16 OAKLAND DIVISION

18 EDWARD C. O'BANNON, JR. on behalf
 19 of himself and all others similarly situated,

20 Plaintiffs,

21 v.

22 NATIONAL COLLEGIATE ATHLETIC
 23 ASSOCIATION (NCAA); ELECTRONIC
 ARTS, INC.; and COLLEGIATE
 LICENSING COMPANY,

24 Defendants.
 25

Case No. 4:09-cv-3329 CW

**PLAINTIFFS' RESPONSE TO
 DEFENDANT NCAA'S
 ADMINISTRATIVE MOTION FOR
 CLARIFICATION OF TIMING FOR
 INJUNCTION**

Judge: The Honorable Claudia Wilken
 Courtroom: 2, 4th Floor

1 Plaintiffs respectfully join in the NCAA’s request for clarification of the timing of the
2 Court’s injunction—though Plaintiffs part ways with the NCAA in one key respect. Beginning
3 with the areas of agreement, Plaintiffs share the understanding that “the injunction does not [yet]
4 prohibit the application of the current NCAA rules with respect to student-athletes who were
5 enrolled or will enroll in college before July 1, 2016.” Dkt. 294 at 1. Likewise, Plaintiffs agree
6 that the “next FBS football and Division I basketball recruiting cycle,” as identified by the Court,
7 Dkt. 291 at 98, commences on August 1, 2015 (for student-athlete scholarships covering the fall
8 2016 football season and the 2016-2017 basketball season). Dkt. 294 at 1. Accordingly,
9 Plaintiffs echo the NCAA’s reading that existing NCAA rules remain in force until August 1,
10 2015, although the NCAA and its members cannot adopt or enforce rules inconsistent with the
11 injunction on or after August 1, 2015. This harmony among the parties is reflected in paragraph 1
12 of the attached proposed order, which is identical to paragraph 1 of the NCAA’s proposed order.
13 Dkt. 294-2 at 1 (“As specified in the Findings of Fact and Conclusions of Law, the injunction
14 (Docket 292) will not take effect until the start of [the] next FBS football and Division I
15 basketball recruiting cycle, which means August 1, 2015, the date on which written offer letters
16 can first be sent to student-athletes enrolling in college after July 1, 2016.”).

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19 There ends the consensus, however. Plaintiffs disagree that the injunction is limited only
20 to prospective student-athletes enrolling in college *on or after July 1, 2016*, as the NCAA
21 proposes. Dkt. 294 at 1; Dkt. 294-2 at 1. That exclusion of thousands of current student-athletes
22 (operating under one-year renewable scholarships or multi-year scholarships) is plainly
23 inconsistent with the Court’s injunction, which twice identifies the “licensing or use of
24 prospective, current, or former” student-athlete NILs, as even the NCAA acknowledges. Dkt.
25 294 at 1. And it could lead to inadvertent disparities among teammates, despite the Court’s
26 repeated emphasis on equal sharing among student-athletes. *E.g.*, Dkt. 291 at 46, 47, 92, 94, 95.
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1 In urging this drastic modification, the NCAA suggests that it is the only way to prevent
2 immediate application of the injunction to current student-athletes, which would deprive “the
3 NCAA’s member colleges [of] an opportunity to consider new rules consistent with the
4 injunction.” Dkt. 294 at 1. Not so. There is a far more elegant solution, which Plaintiffs have
5 raised with the NCAA¹ and which Plaintiffs believe to be the Court’s intention as written: that the
6 injunction does not adhere to *any* student-athlete until the next recruiting cycle begins on August
7 1, 2015. This approach is fair; is consistent with the Court’s findings of fact and conclusions of
8 law; and satisfies the NCAA’s desire for “clarity for the coming academic year, an unambiguous
9 deadline for the implementation of the injunction, and time for the NCAA member colleges and
10 conferences to establish any new rules appropriate in light of the injunction.” *Id.* at 2.
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13 Dated: August 12, 2014

Respectfully submitted,

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15 By: /s/ Sathya Gosselin

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¹ Plaintiffs continue to meet and confer with the NCAA about this issue but nevertheless file this response now to apprise the Court of Plaintiffs’ position.

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Additional Counsel for Plaintiffs

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CERTIFICATE OF SERVICE

I, Sathya S. Gosselin, declare that I am over the age of eighteen (18) and not a party to the entitled action. I am a partner in the law firm of HAUSFELD LLP, and my office is located at 1700 K Street NW, Suite 650, Washington, DC 20006.

On August 12, 2014, I caused to be filed the following **PLAINTIFFS' RESPONSE TO DEFENDANT NCAA'S ADMINISTRATIVE MOTION FOR CLARIFICATION OF TIMING FOR INJUNCTION** with the Clerk of Court using the Official Court Electronic Document Filing System, which served copies on all interested parties registered for electronic filing.

I declare under penalty of perjury that the foregoing is true and correct.

/s/ Sathya Gosselin
Sathya S. Gosselin