

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA

3  
4 IN RE: NATIONAL COLLEGIATE ATHLETIC  
5 ASSOCIATION ATHLETIC GRANT-IN-AID CAP  
6 ANTITRUST LITIGATION

No. 14-md-02541 CW

7 ORDER DENYING  
8 MOTION TO STRIKE

9 (Dkt. No. 1125)  
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12 Defendants move to strike portions of Plaintiffs' closing  
13 argument, on the ground that they improperly rely on the expert  
14 testimony of Dr. Daniel Rascher and Dr. Roger Noll to support  
15 substantive assertions of fact. Docket No. 1125.

16 Plaintiffs oppose the motion, arguing: first, that Defendants  
17 have not specifically identified the facts in their closing  
18 argument that purportedly lack evidentiary support for their truth  
19 or explained why any such facts are inadmissible for their truth;  
20 second, that any factual assertions by Dr. Rascher and Dr. Noll  
21 cited in Plaintiffs' closing argument can be admitted to explain  
22 the bases of these experts' opinions; and third, that Defendants  
23 have waived any objections by failing to raise them during trial.  
24 Docket No. 1130.

25 The Court's citation in its Order of March 8, 2019, to  
26 portions of the testimony of Dr. Rascher and Dr. Noll was to the  
27 opinions of these experts only. The disclosure of the bases of  
28 Dr. Rascher's and Dr. Noll's opinions, as they relate to the

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1 portions of the expert testimony cited in the Order of March 8,  
2 2019, was permissible under Federal Rule of Evidence 703. See  
3 Fed. R. Evid. 703; see also Daubert v. Merrell Dow  
4 Pharmaceuticals, Inc., 509 U.S. 579, 591 (1993) ("Unlike an  
5 ordinary witness, see Rule 701, an expert is permitted wide  
6 latitude to offer opinions, including those that are not based on  
7 first-hand knowledge or observation."). Defendants had the  
8 opportunity at trial to cross-examine Dr. Rascher and Dr. Noll to  
9 explore any weaknesses in these experts' opinions and their bases.  
10 The Court found that the disclosure of the bases of these experts'  
11 opinions was helpful in evaluating the opinions. The Court did  
12 not rely on factual assertions by Dr. Rascher and Dr. Noll for any  
13 improper purpose. Williams v. Illinois, 567 U.S. 50, 70 (2012)  
14 ("When the judge sits as the trier of fact, it is presumed that  
15 the judge will understand the limited reason for the disclosure of  
16 the underlying inadmissible information and will not rely on that  
17 information for any improper purpose.").

18 Accordingly, the motion is DENIED as moot.

19 IT IS SO ORDERED.

20 Dated: March 19, 2019



21 Claudia Wilken  
22 United States District Judge

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