

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION**

IN RE: NATIONAL COLLEGIATE  
ATHLETIC ASSOCIATION ATHLETIC  
GRANT-IN-AID CAP ANTITRUST  
LITIGATION

) **Case No. 4:14-md-02541-CW**  
) **Case No. 4:14-cv-02758-CW**

) **JOINT SUBMISSION ON PROPOSED**  
) **BRIEFING SCHEDULES FOR THE RULE**  
) **23(b)(3) MOTION, DEADLINES FOR**  
) **DISCOVERY, EXPERT DISCOVERY AND**  
) **SUMMARY JUDGMENT MOTIONS**

THIS DOCUMENT RELATES TO:  
ALL ACTIONS

1 Pursuant to the Minute Order entered in the above-referenced actions on October 1, 2015,  
 2 counsel for all parties submit the following Proposed Briefing Schedules for the Rule 23(b)(3)  
 3 motion, as well as deadlines for discovery, expert discovery and summary judgment motions.

<b>Item</b>	<b>Plaintiffs' Proposed Timing</b>	<b>Defendants' Proposed Timing</b>
4 Plaintiffs' Motion for 5 Damages Class Certification	Due <b>February 15, 2016</b> (4 months from today)	Due <b>February 15, 2016</b> (4 months from today)
6 Defendants' Opposition to 7 Plaintiffs' Motion for 8 Damages Class Certification	Due <b>April 15, 2016</b> (60 days after filing of opening Motion)	Due <b>June 14, 2016</b> (120 days after filing of opening Motion)
9 Plaintiffs' Reply in Support of 10 Motion for Damages Class 11 Certification	Due <b>May 15, 2016</b> (30 days after filing of Opposition)	Due <b>August 15, 2016</b> (60 days after filing of Opposition)
12 Complete non-class-related 13 document production		120 days after the resolution of Plaintiffs' Rule 23(b)(3) motion
14 Complete fact depositions		Commence upon the substantial completion of document production and shall be completed within 180 days following their commencement
15 Close of Fact Discovery	<b>June 15, 2016</b> (8 months from today)	
16 Exchange Rule 26(a)(2) expert 17 disclosures		30 days after the completion of fact depositions
18 Merits Expert Reports Due	<b>July 15, 2016</b> (Due 30 days after close of fact discovery) (Plaintiffs assert that this includes Defendants filing affirmative expert reports regarding any proffered procompetitive justifications for the restraints at issue because Defendants bear the burden of proof for such justifications)	60 days after the exchange of expert disclosures
19 Rebuttal Merits Expert 20 Reports	<b>September 15, 2016</b> (Due 60 days after initial Merits Reports due)	90 days after the affirmative reports
21 Deadline for Completion of 22 Expert Discovery	<b>October 1, 2016</b> (Due 15 days after rebuttal Merits Reports are filed)	30 days after the rebuttal expert reports are filed
23 Dispositive Motions	<b>November 15, 2016</b> (Due 45 days after close of expert discovery)	60 days after the close of expert discovery
24 Oppositions to Dispositive 25 Motions	<b>December 15, 2016</b> (Due 30 days after filing of opening motions)	60 days after dispositive motions are filed
26 Replies in Support of 27 Dispositive Motions	<b>January 5, 2017</b> (Due 21 days after Oppositions filed)	30 days after responses are filed

1 **PLAINTIFFS’ POSITION**

2 Plaintiffs believe that their proposed schedule is an efficient way to get this case to trial in a  
3 reasonable time frame. We are confident that all counsel can work together to meet our proposed  
4 deadlines.

5 **DEFENDANTS’ POSITION**

6 *Explanation of Defendants’ Proposed Briefing Schedule for Rule 23(b)(3) Motion:*

7 Defendants’ accept Plaintiffs’ proposal that their motion for certification of a Rule 23(b)(3)  
8 damages class should be filed within 120 days from today. During that 120-day period, Plaintiffs  
9 will conduct discovery targeted at information necessary for the filing of their class certification  
10 motion, develop their expert report(s) and prepare their brief in support of the motion.

11 Defendants propose that they have a comparable amount of time to prepare their opposition.  
12 During that 120-period, Defendants will conduct discovery targeted at information necessary for  
13 their opposition to the class certification motion, including the taking of the depositions of any  
14 proposed representative Plaintiffs who were not previously deposed in connection with Plaintiffs’  
15 Rule 23(b)(2) motion and depositions of Plaintiffs’ Rule 23(b)(3) expert(s), develop their expert  
16 report(s) and prepare their brief in opposition to the motion. In light of the difficulties the parties  
17 encountered in scheduling the depositions of Plaintiffs’ Rule 23(b)(2) class representatives, which  
18 required several extensions of the Rule 23(b)(2) briefing schedule, as well as the time required to  
19 prepare Defendants’ own expert report(s) and opposition papers to the Rule 23(b)(3) motion,  
20 Defendants do not believe that the 60 days proposed by Plaintiffs for Defendants’ opposition to  
21 their motion is sufficient. Plaintiffs have had all the time since the commencement of the actions  
22 within which to develop their strategy, work with their experts, and determine the proposed class-  
23 wide damages methodology by which they hope to comply with the requirements for certification  
24 of a damages class. Defendants will not have that information until Plaintiffs file their motion, and  
25 will have to develop their opposition for the most part starting at that time.

26 *Explanation of Defendants’ Proposed Deadlines for Discovery, Merits Experts and*

27 *Summary Judgment Motions:* Defendants agree that the parties will continue to work on general  
28 merits discovery during briefing of the Rule 23(b)(3) motion; however, given the significant

1 amount of document discovery Plaintiffs have requested and the over 100 witnesses identified in  
2 Plaintiffs' initial disclosures, completion of document discovery and fact depositions within an 8-  
3 month period, running concurrently with the Rule 23(b)(3) motion schedule, as proposed by  
4 Plaintiffs, is unrealistic. The scope of the merits discovery in this case, including merits expert  
5 reports and discovery, as well as discovery relating to possible damages, will largely be determined  
6 by this Court's decision on the Rule 23(b)(3) motion and whether Plaintiffs in this class are  
7 representing classes of thousands of student-athletes or are representing only themselves. It would  
8 therefore be wasteful of the resources of the parties and the Court for the merits discovery to  
9 proceed to conclusion before the resolution of the Rule 23(b)(3) motion. For that reason,  
10 Defendants believe that their proposed schedule is the more efficient way to get this case to trial in  
11 a reasonable time frame. Defendants also believe that, if specific issues arise relating to the  
12 conduct of merits discovery, Plaintiffs and Defendants can work with Magistrate Judge Cousins to  
13 resolve them.

14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

By: /s/ Jeffrey L. Kessler  
Jeffrey L. Kessler  
David G. Feher  
David L. Greenspan  
Timothy M. Nevius  
Joseph A. Litman  
WINSTON & STRAWN LLP  
200 Park Avenue  
New York, NY 10166  
Telephone: (212) 294-6700  
Facsimile: (212) 294-4700  
jkessler@winston.com

Derek J. Sarafa  
WINSTON & STRAWN LLP  
35 W. Upper Wacker Drive  
Chicago, IL 60601  
Telephone: (312) 558-5600  
Facsimile: (312) 558-5700  
dsarafa@winston.com

Sean D. Meenan  
Jeanifer E. Parsigian  
WINSTON & STRAWN LLP  
101 California Street  
San Francisco, CA 94111  
Telephone: (415) 591-1000  
Facsimile: (415) 591-1400  
smeenan@winston.com

*Counsel for Jenkins Plaintiffs*  
*Plaintiffs' Interim Co-Lead Class Counsel*

By: /s/ Steve W. Berman  
Steve W. Berman  
HAGENS BERMAN SOBOL SHAPIRO LLP  
1918 Eighth Avenue, Suite 3300  
Seattle, WA 98101  
Telephone: (206) 623-7292  
Facsimile: (206) 623-0594  
steve@hbsslaw.com

By: /s/ Bruce L. Simon  
Bruce L. Simon  
Aaron M. Sheanin  
Benjamin E. Shifan  
PEARSON, SIMON & WARSHAW, LLP  
44 Montgomery Street, Suite 2450  
San Francisco, CA 94104  
Telephone: (415) 433-9000  
Facsimile: (415) 433-9008  
bsimon@pswlaw.com

*Plaintiffs' Interim Co-Lead Class Counsel*

By: /s/ Elizabeth C. Pritzker  
Elizabeth C. Pritzker  
Jonathan K. Levine  
Bethany L. Caracuzzo  
Shiho Yamamoto  
PRITZKER LEVINE LLP  
180 Grand Avenue, Suite 1390  
Oakland, CA 94612  
Telephone: (415) 692-0772  
Facsimile: (415) 366-6110

*Additional Class Counsel*

1 By: /s/ Karen Hoffman Lent  
Jeffrey A. Mishkin  
2 Karen Hoffman Lent  
3 SKADDEN, ARPS, SLATE, MEAGHER &  
FLOM LLP  
4 Four Times Square  
New York, NY 10036  
5 Telephone: (212) 735-3000  
Facsimile: (917) 777-2000  
6 jeffrey.mishkin@skadden.com

7 Raoul D. Kennedy  
8 SKADDEN, ARPS, SLATE, MEAGHER &  
FLOM LLP  
9 525 University Avenue  
Palo Alto, CA 94301  
10 Telephone: (650) 470-4500  
11 Facsimile: (650) 470-4570  
raoul.kennedy@skadden.com

12 *Counsel for National Collegiate Athletic*  
13 *Association and Western Athletic Conference*

14 By: /s/ Benjamin C. Block  
15 Benjamin C. Block  
COVINGTON & BURLING LLP  
16 One CityCenter  
850 Tenth Street, NW  
17 Washington, DC 20001-4956  
18 Telephone: (202) 662-5205  
Facsimile: (202) 778-5205  
19 bblock@cov.com

20 Rebecca A. Jacobs (SBN 294430)  
COVINGTON & BURLING LLP  
21 One Front Street  
San Francisco, CA 94111-5356  
22 Telephone: (415) 591-6000  
23 Facsimile: (415) 591-6091  
rjacobs@cov.com

24 *Counsel for American Athletic Conference*  
25  
26  
27  
28

By: /s/ Leane K. Capps  
Leane K. Capps  
Caitlin J. Morgan  
POLSINELLI PC  
Saint Ann Court  
2501 N. Harwood Street, Suite 1900  
Dallas, TX 75201  
Telephone: (214) 397-0030  
lcapps@polsinelli.com

Amy D. Fitts  
POLSINELLI PC  
120 W. 12<sup>th</sup> Street  
Kansas City, MO 64105  
Telephone: (816) 218-1255  
afitts@polsinelli.com

Wesley D. Hurst  
POLSINELLI PC  
2049 Century Park East, Suite 2300  
Los Angeles, CA 90067  
Telephone: (310) 556-1801  
whurst@polsinelli.com

*Counsel for the Big 12 Conference, Inc. and*  
*Conference USA*

By: /s/ Andrew S. Rosenman  
Andrew S. Rosenman  
Britt M. Miller  
MAYER BROWN LLP  
71 South Wacker Drive  
Chicago, IL 60606-46537  
Telephone: (312) 782-0600  
Facsimile: (312) 701-7711  
arosenman@mayerbrown.com

Richard J. Favretto  
MAYER BROWN LLP  
1999 K Street, N.W.  
Washington, D.C. 20006-1101  
Telephone: (202) 263-3000  
Facsimile: (202) 263-3300  
rfavretto@mayerbrown.com

*Counsel for The Big Ten Conference, Inc.*

1 By: /s/ R. Todd Hunt  
2 R. Todd Hunt  
3 WALTER HAVERFIELD LLP  
4 The Tower at Erieview  
5 1301 E. 9<sup>th</sup> Street, Suite 3500  
6 Cleveland, OH 44114-1821  
7 Telephone: (216) 928-2935  
8 Facsimile: (216) 916-2372  
9 rthunt@walterhav.com

10 *Counsel for Mid-American Conference*

11 By: /s/ Adam Brezine  
12 Adam Brezine  
13 BRYAN CAVE LLP  
14 560 Mission Street, 25<sup>th</sup> Floor  
15 San Francisco, CA 94105  
16 Telephone: (415) 674-3400  
17 Facsimile: (415) 675-3434  
18 adam.brezine@bryancave.com

19 Richard Young  
20 Brent Rychener  
21 BRYAN CAVE LLP  
22 90 South Cascade Avenue, Suite 1300  
23 Colorado Springs, CO 80903  
24 Telephone: (719) 473-3800  
25 Facsimile: (719) 633-1518  
26 richard.young@bryancave.com  
27 brent.rychener@bryancave.com

28 *Counsel for Mountain West Conference*

By: /s/ Robert W. Fuller  
Robert W. Fuller, III  
Nathan C. Chase Jr.  
Mark W. Merritt  
Lawrence C. Moore, III  
Pearlynn G. Houck  
Amanda R. Pickens  
ROBINSON BRADSHAW & HINSON  
101 N. Tryon St., Suite 1900  
Charlotte, NC 28246  
Telephone: (704) 377-2536  
Facsimile: (704) 378-4000  
rfuller@rbh.com

Mark J. Seifert  
Robert R. Moore  
ALLEN MATKINS LECK GAMBLE  
MALLORY & NATSIS LLP  
Three Embarcadero Center, 12<sup>th</sup> Floor  
San Francisco, CA 94111  
Telephone: (415) 837-1515  
Facsimile: (415) 837-1516  
mseifert@allenmatkins.com

*Counsel for Southeastern Conference*

By: /s/ Mark A. Cunningham  
Mark A. Cunningham  
JONES WALKER  
201 St. Charles Avenue  
New Orleans, LA 70170-5100  
Telephone: (504) 582-8536  
Facsimile: (504) 589-8536  
mcunningham@joneswalker.com

*Counsel for Sun Belt Conference*

1 By: /s/ D. Erik Albright  
2 D. Erik Albright  
3 SMITH MOORE LEATHERWOOD LLP  
4 300 North Greene Street, Suite 1400  
5 Greensboro, NC 27401  
6 Telephone: (336) 378-5368  
7 Facsimile: (336) 433-7402  
8 erik.albright@smithmorrelaw.com

9 Jonathan P. Heyl  
10 SMITH MOORE LEATHERWOOD LLP  
11 101 N. Tryon Street, Suite 1300  
12 Charlotte, NC 28246  
13 Telephone: (704) 384-2625  
14 Facsimile: (704) 384-2625  
15 jon.heyl@smithmoorelaw.com

16 Charles La Grange Coleman, III  
17 HOLLAND & KNIGHT LLP  
18 50 California Street, Suite 2800  
19 San Francisco, CA 94111-4624  
20 Telephone: (415) 743-6900  
21 Facsimile: (415) 743-6910  
22 ccoleman@hklaw.com

23 *Counsel for The Atlantic Coast Conference*

By: /s/ Scott P. Cooper  
Scott P. Cooper  
Jennifer L. Jones  
Jacquelyn N. Ferry  
PROSKAUER ROSE LLP  
2049 Century Park East, Suite 3200  
Los Angeles, CA 90067  
Telephone: (310) 557-2900  
Facsimile: (310) 557-2193  
scooper@proskauer.com

*Counsel for Pac-12 Conference*

24 ECF ATTESTATION

25 Pursuant to Civil Local Rule 5-1(i)(3), the filer of this document attests that concurrence in  
26 the filing of this document has been obtained from each of the other signatories above.

27 /s/ Karen Hoffman Lent