

United States District Court  
For the Northern District of California

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

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

Nos. 14-md-02541 CW  
14-cv-02758 CW

This order pertains to all actions

ORDER GRANTING  
MOTION TO DISMISS  
JENKINS WITHOUT  
PREJUDICE

(Dkt. No. 447)

Now pending is Plaintiffs' motion to dismiss Jenkins v. National Collegiate Athletic Association, et al., Case No. 4:14-cv-02758 (Jenkins) without prejudice under Federal Rule of Civil Procedure 41(a)(2). Defendants oppose the motion. For the reasons set forth below, the Court grants the motion.

BACKGROUND

On June 4, 2014, the Panel on Multidistrict Litigation transferred two actions to the undersigned pursuant to 28 U.S.C. § 1407 for coordinated or consolidated pretrial proceedings: (1) Alston v. National Collegiate Athletic Association, et al., Case No. 14-cv-01011, which was originally filed in this District; and (2) Jenkins, a later-filed action that was originally filed in the District of New Jersey, Case No. 14-cv-02758. See Docket No. 1, Case No. 14-md-02541. The Panel subsequently transferred other

1 tag-along actions to the undersigned under Section 1407. See,  
2 e.g., Docket Nos. 2, 80, Case No. 14-md-02541.

3 The Court held a case management conference in June 2014,  
4 during which Plaintiffs in all transferred actions, except for  
5 Jenkins, indicated their intent to file a consolidated complaint  
6 that would supersede the individual actions.

7 Plaintiffs, except those in Jenkins, thereafter filed an  
8 Amended Consolidated Complaint in what became In re National  
9 Collegiate Athletic Association Athletic Grant-in-Aid Cap  
10 Antitrust Litigation, Case No. 14-md-02541 (the consolidated  
11 action).

12 Jenkins remained separate from the consolidated action and  
13 was stayed pending the final resolution of all claims in the  
14 consolidated action, including appeals. See Order Staying Action,  
15 Docket No. 439.

16 All claims in the consolidated action have been adjudicated,  
17 and the Ninth Circuit's mandate issued on August 12, 2020. See  
18 Mandate, Docket No. 1294, Case No. 14-md-02541.

19 Each side filed a statement with respect to the disposition  
20 of Jenkins. Docket Nos. 447, 449.

#### 21 LEGAL STANDARD

22 Federal Rule of Civil Procedure 41(a)(2) allows a plaintiff,  
23 pursuant to an order of the court, and subject to any terms and  
24 conditions the court deems proper, to dismiss an action without  
25 prejudice at any time. Fed. R. Civ. P. 41(a)(2); Stevedoring  
26 Servs. of Am. v. Armilla Int'l B.V., 889 F.2d 919, 921 (9th Cir.  
27 1989). When ruling on a motion to dismiss under Rule 41(a)(2),  
28 the court must determine whether the defendant will suffer any

1 legal prejudice as a result of the dismissal. Hyde & Drath v.  
2 Baker, 24 F.3d 1162, 1169 (9th Cir. 1994).

3 DISCUSSION

4 Plaintiffs move to dismiss Jenkins without prejudice under  
5 Federal Rule of Civil Procedure 41(a)(2).

6 Defendants argue that Jenkins should be dismissed with  
7 prejudice on the basis of res judicata. Defendants contend that  
8 Plaintiffs seek the dismissal of Jenkins without prejudice to  
9 avoid a decision that the claims in that case are barred by res  
10 judicata in light of the final adjudication of the claims in the  
11 consolidated action. Defendants further argue that "it would be  
12 wasteful for the Court to dismiss Jenkins without prejudice,  
13 leaving defendants to re-brief the issues, and forcing another  
14 court to undertake the analysis and determine that the  
15 consolidated action bars Jenkins." Defs.' Statement at 2, Docket  
16 No. 449.

17 The Court finds and concludes that Defendants have not shown  
18 that they would suffer legal prejudice if Jenkins is dismissed  
19 without prejudice. The potential prejudice that Defendants have  
20 identified is the threat and costs of further litigation. The  
21 Ninth Circuit has held, however, that legal prejudice does not  
22 result (1) from "[u]ncertainty because a dispute remains  
23 unresolved," Westlands Water Dist. v. United States, 100 F.3d 94,  
24 97 (9th Cir. 1996); (2) from "the expense incurred in defending  
25 against a lawsuit," id.; or (3) "merely because the defendant will  
26 be inconvenienced by having to defend in another forum or where a  
27 plaintiff would gain a tactical advantage by that dismissal,"  
28 Smith v. Lenches, 263 F.3d 972, 976 (9th Cir. 2001). In the

1 absence of a showing that Defendants would suffer legal prejudice  
2 if Jenkins is dismissed without prejudice, the Court finds and  
3 concludes that dismissing that action without prejudice is  
4 appropriate.

5 CONCLUSION

6 For the reasons set forth above, Plaintiffs' motion to  
7 dismiss Jenkins without prejudice is GRANTED. The Clerk shall  
8 close the file.

9 IT IS SO ORDERED.

10 Dated: September 10, 2020



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12 CLAUDIA WILKEN  
13 United States District Judge  
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