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Plaintiffs, by and through their attorneys, based on their individual experiences, the investigation of counsel, and upon information and belief allege as follows:

## **I. INTRODUCTION**

1. This suit arises out of a blatant price-fixing agreement and restraint between member institutions of the National Collegiate Athletic Association (“NCAA”). For years, NCAA member institutions unlawfully conspired to maintain the price of student-athletes’ labor at artificially low levels by agreeing never to offer student-athletes athletics-based scholarships of a duration in excess of one year. Only recently, only after litigation in this Court, did the NCAA abandon these restrictions and permit NCAA member institutions to award multiyear scholarships. Contrary to the dire warnings of the NCAA’s counsel in the prior litigation, the abandonment of the rule has not affected the amateur nature of intercollegiate athletic competition or created competitive imbalances. Instead, it is benefiting student-athletes by resulting in the adoption of multiyear scholarships by NCAA member institutions and the restoration of competition for student-athletes.

2. Though it has abandoned the multiyear prohibition, the NCAA continues to artificially restrict the total number and amount of available athletics-based scholarships by imposing artificial caps on the number and amount of athletics-based scholarships that its member institutions can offer.

3. The NCAA’s multiyear prohibition and its caps on the total number and amount of athletics-based scholarships are not, and never were, necessary to protect the amateur status of NCAA student-athletes; rather, they only serve the selfish interests of the NCAA and its member institutions. For years, the NCAA and its member institutions maintained the multiyear prohibition because they knew that in a competitive market, they would be forced to compete for

the athletic services of student-athletes by offering multiyear athletics-based scholarships. The NCAA and its member institutions continue to artificially restrict the amount and number of scholarships because they know that in a competitive market they would be forced to dramatically increase the overall supply of athletics-based scholarships and the amounts of those scholarships.

4. By unlawfully agreeing not to offer multiyear athletics-based scholarships, the NCAA and its member institutions ensured that student-athletes who were injured or who simply did not meet the school's expectations could be cut from a team and their scholarships terminated. In materials recently submitted to the NCAA in connection with the NCAA's abandonment of the multiyear rule, member institution Indiana State University encapsulated the attitude of most NCAA institutions when it lobbied to retain the multiyear prohibition on the ground that it allowed member institutions to dump student-athletes who no longer had "athletic usefulness."

5. Once their scholarships are terminated, student-athletes who wish to remain in school face three unpalatable options: (i) pay tuition out of pocket, often by taking on tens of thousands in loans, (ii) uproot themselves and transfer to another institution that will provide them with a scholarship, or (iii) uproot themselves and transfer to a new school and pay tuition. They would not incur these expenses and/or hardships but for the existence of the challenged unlawful restraint and agreement.

6. Many students simply drop out of school altogether.

7. By unlawfully agreeing to limit the number and amount of athletics-based scholarships that a member institution can grant in any given year, the NCAA and its member institutions have ensured that student-athletes in the class receive tens of millions less for their

labor for member institutions than they would receive – and the member institutions would pay – in a competitive market.

## II. PARTIES

### A. Plaintiffs

8. John Rock is a citizen of the United States and Ohio. A skilled quarterback, Mr. Rock was recruited by numerous colleges out of high school, offered athletics-based scholarships by numerous Division I schools and ultimately selected Gardner-Webb University in North Carolina in 2008. Mr. Rock chose Gardner-Webb based on the pledge of the head coach that his athletics-based scholarship would be renewed annually so long as he did well academically and remained eligible for NCAA competition.

9. On January 26, 2011, Gardner-Webb named a new head football coach. In April 2011, Mr. Rock was informed by the new coach that he would no longer have a football scholarship at Gardner-Webb. The school did not officially inform Mr. Rock of the loss of his athletic scholarship in writing until July 2011. Mr. Rock appealed the non-renewal of his scholarship but was denied in August 2011. As a direct result, Mr. Rock paid thousands of dollars in tuition and room and board out of pocket in order to graduate in May 2012 with a degree in Political Science.

10. Tim Steward is a citizen of the United States and Ohio. After being recruited to several colleges to play basketball Steward decided to attend Kean University in New Jersey, an NCAA Division III member institution. Before his freshman year Mr. Steward applied for and was awarded a Dr. James Dorsey Scholarship (“Dorsey Scholarship”), given to incoming students who met certain academic criteria and demonstrated “extraordinary extracurricular achievement.”

11. In November 2011, prior to the start of the basketball season, Mr. Steward was told by athletic department administrators that he could no longer play for the team while accepting Dorsey Scholarship money because the NCAA had determined that the school was violating the NCAA's prohibition on the award of athletics-based financial aid by Division III institutions. Shocked, confused and dismayed by the University's hasty ultimatum he reluctantly sat out the entire 2011-12 season while his teammates went on to reach the conference playoffs for the fifth straight year.

12. Unable to bear the thought of sitting out another season Mr. Steward decided to forfeit the scholarship for his junior year. As a direct result, he was forced to take out thousands of dollars in private loans in order to pay his out-of-state tuition bills.

13. Kody Collins is a Citizen of Canada. During his college recruitment the international hockey prospect was drawn to the University of New England when it pledged over \$14,000 in financial aid under a Diversity Scholarship.

14. After receiving the tuition assistance for his freshman season he was informed just weeks before the 2010-11 school year that, due to his NCAA athletic participation, he could no longer receive the scholarship money he was promised.

15. Left with few options and little time to plot his next step Mr. Collins begrudgingly left the team and eventually transferred to University of Southern Maine to resume his hockey career. As a direct result Mr. Collins was forced to pay thousands of dollars in additional tuition and room and board at his new school.

**B. Defendant**

16. Defendant NCAA is an unincorporated association that acts as the governing body of college sports. Through the NCAA Constitution and Bylaws, the NCAA and its

members have adopted regulations governing all aspects of college sports. The NCAA Constitution and Bylaws were adopted by votes of the member institutions and may be amended by votes of the member institutions. Thus, the rules set forth in the NCAA constitution and Bylaws constitute horizontal agreements between the NCAA and its members and between members of the NCAA.

17. The NCAA includes 1,096 active member schools and these schools are organized into three Divisions. Division I includes 347 schools with extensive athletic programs and Divisions II and III include schools with relatively less extensive athletic programs.

18. As a practical matter, any academic institution that wishes to participate in any meaningful way in college sports must maintain membership in the NCAA and abide by the rules and regulations promulgated by the NCAA and its members. There is no practical alternative to NCAA membership for any academic institution that wishes to participate at the highest and most lucrative levels of college sports. Indicative of the NCAA's market power, when the NCAA bans a university from participating in NCAA sponsored collegiate competition, this prohibition is colloquially known as the "death penalty."

19. Because the NCAA and NCAA member institutions control college sports, any individual who wishes to provide athletic services in exchange for the payment of tuition for an undergraduate academic and athletic education must by necessity attend an NCAA member institution. There are zero practical alternatives that can provide the unique combination of attributes offered by NCAA member institutions: (i) the ability to exchange athletics services for the payment of the cost of an education plus room and board, (ii) high quality academic educational services, (iii) top-of-the-line training facilities, (iv) high quality coaches that will

best be able to launch players to professional careers, and (v) national publicity through national championships and nationwide broadcasting contracts.

20. There is no major college sports program in the United States that is not an NCAA member, abiding by the NCAA rules. NCAA member institutions are effectively the only purchaser of student athletic labor in the United States and the NCAA and its member institutions have monopsony power over the market for student athletic labor.

21. Although it describes itself as “committed to the best interests . . . of student-athletes,” the NCAA’s true interest is in maximizing revenue for itself and its members, often at the expense of its student-athletes. While extolling the virtues of “amateurism” for student-athletes, the NCAA itself runs a highly professionalized and commercialized licensing operation that generates hundreds of millions in royalties, broadcast rights and other licensing fees each year. The annual revenues for the NCAA in fiscal year 2007-08 were \$614 million. Almost 90 percent of the NCAA’s annual budget revenues stem from marketing and television rights, with only 9-10 percent coming from championship game revenues. The NCAA’s operations are also highly profitable. The direct expenses for operating the actual games that generated the \$614 million in revenues were only \$59 million.

22. The NCAA, its member institutions and their high-level officers and employees use the monies earned from college athletes to pamper themselves with plush headquarters and perks normally associated with Fortune 500 companies. According to published reports, the NCAA’s headquarters in Indiana cost an estimated \$50 million dollars and the NCAA is currently planning an additional \$35 million expansion. Ironically, given that its main purpose is to suppress competition, the NCAA cited the recent economic downturn and increased “competition among contractors” as the explanation for the timing of the construction.

23. NCAA top executives use money earned off the backs of student-athletes to pay themselves salaries of hundreds of thousands of dollars. For example, current NCAA president Mark Emmert has been publicly reported to earn \$1.6 million per year.

### **III. JURISDICTION AND VENUE**

24. This Court has subject matter jurisdiction over this action pursuant to 15 U.S.C. §§ 4 and 15 and 29 U.S.C. §§ 1331 and 1337, in that this action arises under the federal antitrust laws.

25. This Court has personal jurisdiction over the Defendant because its headquarters are located in this district and it transacts business in this district, including, but not limited to, sporting events. Furthermore, NCAA member institutions and co-conspirators are located in this district.

### **IV. RELEVANT MARKET**

26. With respect to the facts set forth herein involving a different student-athlete challenging the same unlawful restraints the Seventh Circuit in *Agnew v. NCAA*, 683 F.3d 328 (7th Cir. 2012) held that “[i]t is undeniable that a market of some sort is at play in this case.” *Id.* at 338.

27. The relevant market is the nationwide market for the labor of student athletes. In this labor market, student athletes compete for spots on athletic teams of NCAA member institutions and NCAA member institutions compete for the best collegiate student athletes by paying in-kind benefits, namely, athletics-based scholarships, academic programs, access to training facilities, and instruction from premier coaches.

28. Despite the nonprofit status of NCAA member schools, the transactions those schools make with premier athletes – full scholarships in exchange for athletic services are not noncommercial, since schools make millions of dollars as a result of these transactions.<sup>1</sup>

29. Thus, the transactions between NCAA schools and student-athletes are, to some degree, commercial in nature, and therefore take place in a relevant market with respect to the Sherman Act. *See Agnew*, 683 F.3d at 341 (citing *White v. NCAA*, CV 06-999-RGK (C.D. Cal. Sept. 20, 2006) (holding that under the Sherman Act, “Major College Football” is a relevant market in which “colleges and universities compete to attract prospective student-athletes”)).

30. The court in *Agnew* recognized the existence of a labor market:

The proper identification of a labor market for student-athletes, on the other hand, would meet plaintiffs’ burden of describing a cognizable market under the Sherman Act. As an initial matter, labor markets are cognizable under the Sherman Act. *Nichols v. Spencer Int’l Press, Inc.*, 371 F.2d 332, 335-36 (7th Cir. 1967). The *Banks* majority, in dicta, opined that the market for scholarship athletes cannot be considered a labor market, since schools do not engage in price competition for players, nor does supply and demand determine the worth of student-athletes’ labor. 977 F.2d at 1091. We find this argument unconvincing for two reasons. *First, the only reason that colleges do not engage in price competition for student-athletes is that other NCAA bylaws prevent them from doing so. The fact that certain procompetitive, legitimate trade restrictions exist in a given industry does not remove that industry from the purview of the Sherman Act altogether.* Rather, all NCAA actions that are facially anticompetitive must have procompetitive justifications supporting their existence.<sup>2</sup> *Second, colleges do, in fact, compete for student-athletes, though the price they pay involves in-kind benefits as opposed to cash.* For instance, colleges may compete to hire the coach that will be best able to launch players from the NCAA to

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<sup>1</sup> To illustrate, FORBES reported that the University of Texas’ college football team was worth \$129 million in 2011 and generated \$71 million in profits. Chris Smith, *College Football’s Most Valuable Teams*, FORBES (Dec. 22, 2011, 11:43 a.m.), <http://www.forbes.com/sites/chris-smith/2011/12/22/college-footballs-most-valuable-teams/>.

<sup>2</sup> Again, this does not necessarily mean that any challenge of any NCAA bylaw will survive the motion-to-dismiss stage. Many NCAA bylaws can be deemed procompetitive “in the twinkling of an eye.” *Cf. NCAA v. Bd. of Regents*, 468 U.S. 85, 109 n.39 (1984) (quoting P. Areeda, *The “Rule of Reason” in Antitrust Analysis: General Issues* 37-38 (Federal Judicial Center, June 1981)).

the National Football League, an attractive component for a prospective college football player. Colleges also engage in veritable arms races to provide top-of-the-line training facilities which, in turn, are supposed to attract collegiate athletes. Many future student-athletes also look to the strength of a college's academic programs in deciding where to attend. These are all part of the competitive market to attract student-athletes whose athletic labor can result in many benefits for a college, including economic gain.

683 F.3d at 346-47 (emphasis added).

31. Schools spend significant sums and time recruiting highly skilled athletes. For example, in fiscal year 2010, looking at the NCAA men's Final Four basketball teams, the University of Kentucky alone spent \$434,095 on recruiting basketball prospects. The University of Kansas spent \$419,228 and Florida State spent \$326,306 in the same period.<sup>3</sup> And these extraordinary costs are not unique to men's basketball teams. The University of Tennessee's football team spent nearly \$1.5 million on its 2011 recruiting class.<sup>4</sup>

32. Institutions have also begun to recruit athletes earlier and earlier in their careers. Recent reports have detailed college scholarships being offered to kids as young as 14 years old – before they even begin high school.<sup>5</sup> Examples of costs undertaken by NCAA member institutions to gain access to young athletes and their families include: travel expenses, letters, phone calls, on-campus visits, and the use of recruiting services.<sup>6</sup>

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<sup>3</sup> See Eben Novy-Williams and Curtis Eichelberger, *Kentucky Wins NCAA Basketball Title in Recruitment Spending*, Bloomberg, Mar. 24, 2011, available at <http://www.bloomberg.com/news/2011-03-25/kentucky-wins-ncaa-basketball-championship-in-spending-to-recruit-players.html>.

<sup>4</sup> See Mitch Sherman, *Balancing the recruiting budget*, ESPN.com, June 12, 2012, available at [http://espn.go.com/college-sports/recruiting/football/story/\\_/id/8041461/the-cost-recruiting](http://espn.go.com/college-sports/recruiting/football/story/_/id/8041461/the-cost-recruiting).

<sup>5</sup> See Sean Gregory, *Sport: Courting Eighth-Graders*, Time, Sep. 27, 2007, available at <http://www.time.com/time/magazine/article/0,9171,1666283,00.html>.

<sup>6</sup> See Austin Parkinson, et al., *A Basketball Coach's Dilemma: RRI (Recruiting Return on Investment)*, available at <http://www.swdsi.org/swdsi08/paper/SWDSI%20Proceedings%20Paper%20S358.pdf>.

33. Because good athletes often excel at multiple sports, athletes are often recruited by coaches in different sports. Indeed, this situation is common enough that the NCAA Division I and Division II manuals have dozens of rules and sub-rules governing how its byzantine system of scholarship limits apply to student athletes playing multiple sports. The NCAA even has distilled these rules into a flowchart for its members, a copy of which is attached hereto as Exhibit A.

34. The competition for student-athletes was highlighted in the recent book and film *The Blind Side*, depicting the true story of a platoon of coaches descending on the house of Michael Oher. Mr. Oher was a highly sought-after high school football and basketball star and eventually received offers from six schools. There is little doubt that each school would have offered a multiyear scholarship but for the naked restraint at issue just as there is no doubt that due to the restraint if Mr. Oher's career ended due to injury, he would have been left by his college to pay his own way.

35. The NCAA prohibits its member institutions from simply paying student-athletes salaries. Instead, students with athletic ability often are given athletics-based scholarships that may sometimes equal the yearly cost of their education. In effect, the student-athlete uses his or her athletic abilities on behalf of the NCAA member institution in exchange for the cost of an athletic and academic education, room, and board. NCAA member institutions pay for these goods and services for student-athletes because student-athletes bring substantial collateral benefits to the school in the form of: (a) enhanced publicity and recruiting, which increases overall tuition revenue, (b) increased alumni donations, and (c) millions of dollars in gate receipts and licensing revenue.

36. Although the NCAA and its member institutions publicly claim that most athletic departments “lose” money, the NCAA’s methodology for calculating the supposed profitability of athletics departments is meaningless from an economic perspective. For example, athletics “grants-in-aid” are considered “expenses” even though they are not actually a true expense from an economic perspective but rather represent a price discount. Similarly, the NCAA does not include tuition paid by student-athletes when it concludes that most athletic departments “lose” money and it does not apportion any of the tuition paid by other students even though successful college sports programs increase overall tuition revenue. Finally, the NCAA’s statistics do not account for the diversion of millions of dollars in monopsony rents to NCAA officials and staff.

37. Contrary to the NCAA’s self-serving reports, the bottom line is that the NCAA and its member institutions make millions of dollars from collegiate athletes.

38. The NCAA and its member institutions take the money reaped from student-athletes and spend lavishly for the benefit of their own officers, directors and high-ranking employees. Public reports estimate that NCAA president Mark Emmert earns \$1,600,000 in compensation annually. Compensation for other high-ranking NCAA employees in fiscal year 2009 was similar: Executive VP Tom Jernstedt received \$604,679; Executive VP/Membership & Student-Athlete Affairs Bernard Franklin received \$509,429; CFO James Isch received \$467,734; Vice President for Division I David Berst received \$453,301; Senior VP/Basketball & Business Strategies Greg Shaheen received \$383,097; Senior VP/Branding & Communications Dennis Cryder received \$351,091; VP/Championships Joni Comstock received \$332,890; and General Counsel Elsa Cole received \$314,525.

39. Mr. Emmert and his colleagues collect their bloated “non-profit” salaries while many student athletes struggle to find the funds to return home during school breaks to visit family.

**V. UNLAWFUL AGREEMENT IN RESTRAINT OF TRADE OR COMMERCE**

40. The NCAA’s Division I, Division II and Division III manuals contain dozens of pages of highly restrictive anticompetitive rules that govern the provisioning of athletics-based scholarships. The NCAA and its member institutions have no legitimate interest beyond the unlawful restraint of trade for the unlawful practices outlined below.

41. Former NCAA president Walter Byers has candidly and publicly admitted that “collegiate amateurism ... is an economic camouflage for monopoly practice.” Far from protecting athletes’ amateur status, Byers admitted that the NCAA’s byzantine rules regarding athletic scholarships are nothing more than “a device to divert [that] money elsewhere” i.e. into the pockets of the NCAA, its member institutions and their high level officers and employees.

42. That is certainly true for the specific practices challenged here: (i) the NCAA’s prohibition on multi-year athletics-based Division I and II scholarships, (ii) its unlawful caps on the amount of athletics-based scholarships that can be awarded by Division I and II member institutions, and (iii) its prohibition on any Division III athletics-based discounts.

43. The restrictions outlined below represent a blatantly unlawful agreement not to compete in terms of price or output and constitute a naked restraint of trade and commerce.

44. The restrictions outlined below are inconsistent with the Sherman Act’s command that price and supply be responsive to consumer preference.

**A. Division I and Division II Anticompetitive Restrictions.**

45. NCAA rules permit Division I and Division II schools to offer athletics-based scholarships but these scholarships are governed by a byzantine set of rules that govern everything from how to account for “Sunday evening meals” that are not provided by the “regular eating facility used by a student-athlete” to how to account for “benefits” received by student-athletes who participate in AmeriCorps. While the NCAA claims that these rules are necessary to preserve amateurism and competitive balance among teams, in reality, the rules are mostly designed to divert money and resources from student athletes so it can be used to line the pockets of NCAA officials and fill the coffers of NCAA member institutions.

**1. NCAA’s Prohibition on Multiyear Athletics-Based Scholarships.**

46. Until this year, the NCAA prohibited member institutions from offering multiyear athletics-based scholarships: “One-Year Period. If a student’s athletics ability is considered in any degree in awarding financial aid, such aid shall neither be awarded for a period in excess of one academic year nor for a period less than one academic year.” *See* NCAA Bylaw 15.3.3.1. Instead, schools could offer only a one year athletics-based discount that is “renewable” at the discretion of the school.

47. The NCAA cannot justify its conduct as necessary to preserve amateurism or maintain “competitive balance.”

48. Indeed, the NCAA itself has acknowledged this explicitly. Specifically, an NCAA Presidential Taskforce concluded that:

The idea of a five-year scholarship reflects the fact that college scholarships are fundamentally academic, even if the merit basis is sports skill. Under the current structure of athletics scholarships, athletes may be legitimately concerned that their continued access to education depends on sports success. This can create a conflict of incentives that may lead to an emphasis on athletics at the cost of academics.

Five-year athletic scholarships are necessary because many student-athletes cannot graduate in four years due to the enormous time demands required of NCAA athletes.

49. Further indicating that the prohibition is not necessary to maintain amateurism or competitive balance, prior to 1973 multiyear athletics-based scholarships were the norm, not the exception. Indeed, the Knight Commission on Intercollegiate Athletics recommended that schools offer five-year athletics-based scholarships instead of one-year renewable scholarships. Notably, when evaluating proposed changes to the Bylaws that would have permitted multiyear athletics scholarships, “NCAA Research Staff” indicated that the “data/information” that would be relevant to the decision was (i) “the impact on the total population of student-athletes,” (ii) “the financial cost to institutions to award multi-year scholarships to student-athletes,” (iii) the “scholarship structure for the general student body,” and (iv) the “effects multi-year scholarships [would] have with the idea of five years of eligibility.” Nowhere did the NCAA research staff indicate that any concerns existed about the maintenance of competitive balance or protecting amateurism.

50. Further indicating that the prohibition on multiyear scholarships is not necessary to maintain amateurism or competitive balance, the NCAA, in the face of vigorous opposition from a majority of its member institutions, recently rescinded the prohibition. Contrary to the dire predictions of the NCAA and its lawyers, the repeal of the multiyear prohibition has not affected amateurism and has had no discernible negative effects on what the NCAA terms the “unique product of amateur intercollegiate competition.”

51. In vigorously opposing the NCAA’s successful repeal of the multiyear scholarship prohibition, NCAA member institutions laid bare their anticompetitive motivations. Below are actual comments made by NCAA member institutions to the NCAA in conjunction

with an ultimately unsuccessful effort by NCAA member institutions to reverse the NCAA's repeal of the multiyear rule:

- a) Boise State University: The multiyear proposal “creates a recruiting disaster . . . Institutions will be competing for recruits by ‘making the best deal’ . . . . In order to be competitive, institutions may offer multiyear awards so they can sign higher level recruits. However, there is never a guarantee that the incoming student-athlete will be a good fit for the program and the institution. If it is a poor fit the program is put in a difficult situation to continue to keep a student-athlete on scholarship.”
- b) Indiana State University: “This proposal . . . is going to create some real nightmares . . . Coaches are going to be compelled to give these multi-year scholarships to compete on the recruiting front with other schools. Problem is, many coaches, especially at the FCS level, in all sports, are usually not around for five years and when the coach leaves, the new coach and institution may be ‘stuck’ with a student athlete they no longer want . . . or the new coach may have a completely different style of offense/defense that the student athlete no longer fits into. Yet the institution is ‘locked in’ to a 5 year contract potentially with someone that is of no ‘athletic’ usefulness to the program . . . . To get recruits that will make a program better, coaches are going to be forced to offer these multi-year scholarships just to make sure they have the recruits to help them win . . . The current system works. We don’t need to get into bidding wars where one school offers a 75 percent

(scholarship) for two years and the other school then offers 85 percent for three years, etc.”

- c) Rutgers, State University of New Jersey, New Brunswick: “By adopting such legislation, institutions will be leveraged into offering multi-year athletic scholarships to prospective student-athletes in order to solidify a prospective student-athlete’s commitment to the institution.”
- d) St. Francisco College (New York): When combined with proposal to allow \$2,000 stipend, the multiyear proposal will allow “prospective student-athletes [to] shop themselves around for the best deal (in terms of length and compensation.”
- e) Tennessee Technological University: “We also believe it might greatly affect the present balance that exists between student-athletes and institutions . . . . It also leads to decisions made for competitive recruiting reasons rather than for the overall benefit of the student-athletes and the institution.”
- f) University of Tennessee at Martin: “Multiyear grants-in-aid become problematic when career-ending injuries occur. The current award period is a year, and student-athlete already receives the benefit of a full year of aid if career-ending or season-ending injury occurs . . . . [I]f all institutions begin awarding multiyear grants to remain competitive in the market place, the cost of a full grant for injured student-athlete will increase overall costs.”

52. As the above comments demonstrate, the primary motivation of NCAA institutions in instituting the multiyear prohibition was to reduce competition thereby holding down their labor costs.

**2. Caps on the Number and Amount of Athletics-Based Scholarships.**

53. In addition, the NCAA imposes highly restrictive caps on the total amount of athletics-based scholarships that can be granted to student-athletes. Specifically, the NCAA limits the number of 100-percent athletics-based scholarships that a school can grant each year. The precise number varies by division and sport. For example, the NCAA prohibits a Division I institution from offering more than 13 basketball-related 100-percent yearly scholarships or 11.7 baseball related 100-percent yearly scholarships. *See* NCAA Bylaw 15.5.4 (baseball); NCAA Bylaw 15.5.5.1 (men's basketball). The equivalent limits at Division II schools are 9 and 10 respectively. *See* NCAA Bylaw 15.5.2.1.1.

54. In some sports, the NCAA permits these 100-percent scholarships to be distributed among more than one student. For example, in any given year, a Division I institution could offer 11 baseball players a "free" year towards their bachelor's degree or it could offer 22 baseball players a one-year 50-percent discount on the yearly cost for a bachelor's degree.

55. A school's ability to divide its allotted athletics-based scholarships, however, is not unlimited. For some sports, the NCAA additionally limits the total number of students who can receive athletics-based scholarships of any amount. Specifically, for the major sports of baseball, football and basketball, the NCAA prohibits Division I schools from providing athletics-based scholarships to more than 27, 85, and 13 student-athletes respectively. For Division II schools the equivalency limits for baseball, football and basketball are 9, 36, and 10 respectively.

56. For purposes of the rules restricting the number of athletics-based scholarships that a school can grant, the NCAA refers to student-athletes as "counters."

57. The NCAA's byzantine rules regarding the number of athletics-based scholarships that can be awarded to student-athletes cannot be justified by amateurism concerns. Lifting limitations on the number of athletics-based scholarships that can be offered to student-athletes would have absolutely no effect on amateurism because student-athletes would continue to receive no wages for their playing.

58. Nor can the NCAA's current restrictions on the number and amount of athletics-based scholarships be justified by competitive balance concerns. As the Seventh Circuit held in *Agnew*:

These Bylaws – one-year limit to scholarships and a limit on scholarships per team – are not inherently or obviously necessary for the preservation of amateurism, the student-athlete, or the general product of college football. Issuing more scholarships (thus creating more amateur players) and issuing longer scholarships cannot be said to have an obviously negative impact on amateurism. Nor is there an obvious effect on the ability of college football to survive without the Bylaws in question. The NCAA argues that multi-year scholarships would make it too difficult for less wealthy schools to compete in the recruiting market, but this claim is weakened by the fact that the restriction on multi-year scholarships was only instituted in 1973, Zachary Stauffer, *NCAA Approves New Rules – But Do They Matter?*, FRONTLINE (Oct. 28, 2011, 4:58 p.m.), <http://www.pbs.org/wgbh/pages/frontline/sports/money-and-march-madness/ncaa-approves-new-rules-but-do-they-matter/>, and has recently been rescinded, *see* Steve Wieberg, *supra*.

683 F.3d at 344.

59. Notably, the NCAA's current rules exacerbate rather than cure competitive imbalances and therefore cannot possibly be justified by a concern for competitive balance. For example, the least-competitive schools athletically are Division III schools but these are the very schools that the NCAA *prohibits* from offering athletics-based scholarships. Likewise, Division II schools are generally less competitive athletically than Division I schools but the NCAA generally permits Division I schools to offer *more* athletics-based scholarships.

Similarly, the top football schools are governed by the NCAA's "Football Bowl Subdivision" rules, formerly known as Division I-A. These rules permit Bowl Subdivision members to award 85 full "scholarships," which can be divided among 85 players. In contrast, lower-ranked schools that are members of the Championship Subdivision, formerly known as Division I-AA, are permitted to award only 63 full "scholarships," which can likewise be divided between 85 players.

60. In short, the NCAA's rules capping the amount and number of athletics-based scholarships have nothing whatsoever to do with maintaining competitive balance.

61. But even if they did, "competitive balance" is not a valid pro-competitive justification for restraining price competition among NCAA member institutions for student-athlete labor because numerous methods exist – such as restricting alumni donations or recruiting budgets – by which competitive balance could be maintained without fixing the price of student-athlete labor.

62. Moreover, any minimal effect on competitive balance is vastly outweighed by anticompetitive effects of the NCAA's caps on the amount and number of athletics-based scholarships because the restrictions result in dramatically higher prices for class members and eliminate price competition between schools for the labor of the student athletes. Consequently, antitrust laws require that the NCAA ensure competitive balance without restraining price competition among NCAA member institutions for student-athletes' labor.

**B. Division III Prohibition on Athletics Based Scholarships.**

63. For Division III schools the unlawful conduct is simple: NCAA member institutions have conspired to prohibit any "award [of] financial aid to any student on the basis of

athletics leadership, ability, participation or performance.”<sup>7</sup> This provision alone severely distorts the market for student-athlete labor by preventing hundreds of NCAA member institutions from competing for their labor. As a result, thousands of students each year are deprived of the opportunity to receive athletics-based discounts from Division III schools.

64. This provision cannot possibly have any procompetitive justification. Specifically, it is not justified by the NCAA’s purported concern with protecting amateurism because NCAA Division II and Division III schools are permitted to offer scholarships. Nor can it be justified as necessary to maintain “competitive balance” – another “old saw” of the NCAA – because Division III schools are generally *less* competitive than Division II and Division I schools.

65. In fact, being prevented from granting athletics-based scholarships puts Division III programs at such a recruiting disadvantage that many are forced to circumvent the rules in order to field competitive lineups. Savvy coaches and athletic directors identify valuable academic and leadership scholarships available at their schools and, with a wink and a nod, steer prospective student-athletes to apply early in the selection process.

66. It is not uncommon to see large percentages of Division III rosters partaking in scholarship programs that may not be highly publicized to the general student population. For example, at Kean University at least 11 players across multiple sports received over \$10,000 apiece in academic scholarships before the NCAA stepped in and investigated the university’s surreptitious grant-in-aid practices.

67. Division III student-athletes receiving a disproportionate amount of non-athletics based financial aid has become an epidemic. In the past six years, 38 percent of the lower

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<sup>7</sup> NCAA Bylaw 15.4.1

division's 447 member institutions have triggered an NCAA review for their policies in awarding financial aid to athletes. According to a 2011 NCAA report, at least 10 schools were found to have violated financial aid guidelines, including five cases in which institutions considered athletics in awarding leadership grants or scholarships to newly enrolled student-athletes – either by rating participation or leadership in sports in aid formulas or explicitly listing athletics among other criteria for awarding a scholarship.

68. In all, 55 Division III member institutions – about 13 percent – have been found to have violated athletic scholarship rules since the NCAA began tracking financial aid practices in 2004.

69. In a competitive market, Division III member institutions would have awarded millions in athletics-based scholarships to students at Division III institutions over the class period.

## **VI. INJURY TO PLAINTIFFS AND CLASS MEMBERS**

70. Coming out of Springboro High School in Ohio, Mr. Rock was a versatile football prospect, playing running back and wide receiver before converting to starting quarterback as a senior. In his final year at Springboro, he completed 100-of-180 passes for 1,107 yards and 12 touchdowns, guiding his Panthers to the school's first ever league title. Following his historic season Mr. Rock became an honorable mention All-Southwest Ohio selection and was named Conference Player of the Year. A skilled rusher as well, he finished the year with 397 yards and four touchdowns on 77 carries.

71. Many colleges took notice of Mr. Rock's talent and competed for his services on the recruiting trail. Division I schools Eastern Michigan and Boise State expressed serious interest and Division I schools Youngstown State, Eastern Illinois, Western Carolina and

Gardner-Webb all extended official athletics-based scholarship offers. Gardner-Webb head coach, Steve Patton, went further and pledged to Mr. Rock that his scholarship would be renewed annually so long as he did well academically and remained eligible for NCAA competition. Mr. Patton also verbally promised that his scholarship would still be honored in the event the current coaching staff departed for any reason.

72. Unwritten guarantees such as this are a common part of the recruiting process and indicative of the competitive pressures that schools face to recruit talented athletes.

73. Impressed with the total package that Gardner-Webb had offered, Mr. Rock signed a National Letter of Intent with the Runnin' Bulldogs on February 6, 2008 – NCAA National Signing Day.

74. Gardner-Webb University is a Division I Football Championship Subdivision institution located in Boiling Springs, North Carolina. Gardner-Webb's website claims that it encourages "visible enthusiasm for knowledge, intellectual challenge, continuous learning, and scholarly endeavors; inviting pursuit of educational opportunities within and beyond the classroom for the joy of discovery; and inspiring accomplishment within one's field of study." Plaintiff would soon learn that, as at most NCAA member institutions, Gardner-Webb's lofty academic and ethical ideals stop at the athletic director's door.

75. At first, Mr. Rock's experience was promising. During his first year at Gardner-Webb, Mr. Rock used a "redshirt," traveling and practicing with the squad while performing well enough in the classroom to secure a spot on the All Big South Conference Academic Team. The following season he earned his way onto the field during NCAA games. Serving as Gardner-Webb's backup QB in 2009 Mr. Rock appeared in three games, throwing for 133 yards and a pair of touchdowns and picking up another 53 yards and touchdown on the ground.

76. Following an offseason dedicated to intense training, Mr. Rock returned to Gardner-Webb in 2010 as a team captain and starting quarterback. After starting the Runnin' Bulldogs' first four games Mr. Rock suffered a concussion against Sam Houston State and was held out of the following game. He returned to action the next week off the bench and eventually reclaimed his starting job, rallying to finish his redshirt sophomore campaign among the Big South leaders in total offense, passing yards, passing touchdowns, completion percentage and passing efficiency.

77. Midway through the 2010 season Mr. Rock was encouraged by Professor of Political Science Michael Kuchinsky to apply for a competitive legislative internship conducted by the North Carolina General Assembly and sponsored by North Carolina State University. A future Political Science major, Mr. Rock was required to complete an internship in order to graduate and this one appealed to his academic and professional interests.

78. Because the internship took place in Raleigh, North Carolina during the spring 2011 semester, he would necessarily miss some Spring football practice. Despite the fact that an internship was a mandatory academic requirement, Mr. Rock nevertheless sought permission from his Head Coach Mr. Patton. Mr. Patton enthusiastically consented to his player pursuing such a unique opportunity and agreed that Mr. Rock would not lose his position on the team or scholarship as a result of completing the mandatory internship.

79. Shortly after Mr. Rock accepted the internship Mr. Patton was relieved of his duties as Gardner-Webb's football coach. Mr. Rock immediately apprised athletic director Chuck Birch of the fact that he would be completing a mandatory academic internship and of the fact that he had asked and received permission from his Head Coach.

80. On January 26, 2011, Gardner-Webb named Ron Dickerson Jr. as its new head football coach. Mr. Rock sought to introduce himself to his new coach at a team banquet soon thereafter. Mr. Dickerson greeted his incumbent quarterback with an icy reception during their initial encounter, going so far as to question his commitment to the team and university. At a meeting the following day with Mr. Rock, Mr. Dickerson, Director of Player Development Troy Nelson and new quarterbacks coach Pete Darnell, the staff expressed its displeasure with Mr. Rock for accepting the internship in Raleigh. The assembled staff threatened to release him from his athletic scholarship and ordered him to stay in contact with them. When Mr. Rock attempted to comply with the coaches' demands, however, he found them unresponsive to phone calls and emails.

81. On April 16, 2011, Mr. Rock traveled to Gardner-Webb to attend the program's annual Spring Game. When he entered the locker room with teammates he was shocked to find his locker had been cleaned out and nameplate removed. After the game Mr. Rock tracked down Mr. Dickerson on the sideline where the coach casually informed him that he would no longer have a football scholarship at Gardner-Webb. Hit hard by the devastating news Mr. Rock asked his coach, "where do we go from here?" Mr. Dickerson callously replied: "I don't know where you go but I'm going to watch film."

82. The school did not officially inform Mr. Rock of the loss of his athletic scholarship in writing until July 2011. Mr. Rock appealed the non-renewal of his scholarship but was denied in August 2011. By then it was too late to transfer to a new school to play football and Mr. Rock was forced to remain at Gardner-Webb where he paid thousands of dollars in tuition and room and board out of pocket in order to graduate in May 2012 with a degree in Political Science.

83. In a competitive market, Mr. Rock would have received additional scholarship offers. Mr. Rock was deprived of these choices by the NCAA's artificial and anticompetitive restrictions on the number of scholarships that NCAA member institutions are permitted to offer.

84. Like Mr. Rock, Mr. Steward was a talented high school athlete from Ohio drawing interest from several colleges. After making recruiting visits to a number of campuses Mr. Steward decided to play basketball at Kean University, an NCAA Division III member institution located in Union, New Jersey.

85. In large part, Mr. Steward based his decision to attend Kean on the fact that it awarded him over \$16,000 annually through a Dorsey Scholarship. Available to incoming freshmen Dorsey Scholarships were given to students "with a minimum 3.0 GPA (unweighted) and 1100 SAT and extraordinary extracurricular achievement." According to the university the scholarship was "renewable for up to four years" as long as certain academic and enrollment requirements were satisfied.

86. With a substantial financial burden off his back Mr. Steward went on to enjoy a successful first year at Kean. Playing in every game for the Cougars he led all freshmen in field goal percentage, starting six contests for a team that would go on to earn a playoff berth.

87. Just prior to the beginning of his sophomore season Mr. Steward was approached by his coaching staff and told that he was no longer eligible to play basketball due to his acceptance of a Dorsey Scholarship. The school informed Mr. Steward that it was taking this action because the NCAA had determined that it was in violation of NCAA Bylaw 15.01.3, which prohibits an award of financial aid "on the basis of athletics leadership, ability, participation or performance." The decision devastated Mr. Steward, who had trained hard in the offseason in hopes of building on a promising rookie campaign.

88. Mr. Steward was presented with three options – return to the basketball team the following semester with no Dorsey Scholarship; (2) retain the Dorsey Scholarship and leave the team; or (3) transfer to a new school. Backed into a corner by his own school and facing the prospect of never playing college basketball again he reluctantly gave up the scholarship and was forced to take out thousands of dollars in private loans in order to pay the balance of his out-of-state tuition bills.

89. Mr. Collins' path to play collegiate hockey began in Ontario, Canada where he earned a reputation as a rugged defenseman on the competitive "Juniors" circuit. After weighing opportunities from several colleges Mr. Collins selected NCAA Division III member University of New England, which offered him \$14,000 tuition per annum under a Diversity Scholarship.

90. According to the school's website, the scholarship program was intended for students "who demonstrate the ability to contribute to the cultural and ethnic diversity of the university community." Mr. Collins, along with a number of foreign-born teammates, was directed to apply for the Diversity Scholarship by the coaching staff. Despite the scholarship's apparent popularity within the athletic department, the university's financial aid office now insists: "[d]ue to NCAA Division III regulations, [applicants should] NOT include any athletic experience or any positions related to athletic experience," in their submissions.

91. Mr. Collins made an immediate impact for the Nor'easters during the 2009-10 season. Playing in 23 of the team's 25 games he led all freshman defensemen in assists and points. But just as Mr. Collins and his teammates were preparing to begin the 2010-11 school year, the university, facing pressure from the NCAA regarding the school's athletic scholarship protocols, ordered that all hockey players receiving financial aid through Diversity Scholarships forfeit either scholarship money or their spot on the team.

92. Collins was not the only University of New England hockey player to face this dilemma. Five other Canadian-born hockey student-athletes receiving Diversity Scholarships joined Mr. Collins in having to choose between financial assistance for college and the game they loved.

93. Unable to afford tuition without the help of the scholarship he was promised Mr. Collins was forced to sit out the entire season. He transferred to University of Southern Maine the following year where he joined the hockey team, finishing third among the squad's defensemen with five points.

94. As a direct result of losing his scholarship, Mr. Collins was forced to pay thousands of dollars in tuition and room and board at his new school that he would not otherwise have had to pay.

95. The stories of Mr. Rock, Mr. Steward and Mr. Collins are not unique.

96. The NCAA's wholly artificial caps on the number and distribution of athletics-based scholarships reduces the overall supply of athletics-based scholarships available to student-athletes thereby forcing them to accept far less compensation than they would have received for their labor by millions of dollars. Top-tier athletes routinely receive less than 100-percent athletics-based scholarships and thousands of highly talented student-athletes receive no athletics-based scholarships at all. As a result, top-tier athletes are often forced to pay full or partial tuition to attend a top university in their sport or are forced to sign with lower-caliber programs that have not reached their "scholarship limits" simply because the top universities are capped in the amount of athletics-based scholarships they can offer. In short, the supply of available athletics-based scholarships is kept artificially low by NCAA rules.

97. Similarly, the NCAA's prohibition on multiyear athletics-based scholarships has injured thousands of student-athletes by causing them to pay millions more in tuition when their athletics-based scholarships are reduced or not renewed. When these athletics-based scholarships are reduced or not renewed, a student is left with the decision to remain at the school and pay for tuition and expenses out of pocket or consider transferring and, in many cases, being forced to sit out a season per NCAA rules.

98. It is a common practice today for a new coach or coaching staff to push out incumbent scholarship players in order to make room for student-athletes that the coaches have handpicked themselves, just as Mr. Rock was. For example, when John Calipari was hired as the University of Kentucky men's basketball coach in April 2009, he brought with him an already-assembled class of recruits that was lauded as one of the best in the country. However, to stay under the NCAA's limit of 13 "counters" per team, Mr. Calipari needed to see to it that a number of inherited players surrendered their scholarships. Mr. Calipari callously made clear to these players that they were no longer welcome on Kentucky's team.

99. Former Kentucky Wildcat player Kevin Galloway revealed to ESPN: "[Mr. Calipari] kept it real straight, kind of got to the point. Pretty much said he's got guys coming in there next year. It's his team and his players so he's really expecting them to produce and play a lot of minutes . . . I kind of got the vibe that I needed to go to a different place." Mr. Galloway left Kentucky to enroll at Texas Southern University of the Southwestern Athletic Conference where he sat out the 2009-2010 season in accordance with college basketball transfer rules.

100. Mr. Calipari's belief that players are essentially unpaid employees to be hired or fired at will is a view widely shared by NCAA coaches. When asked about the NCAA's

proposal to abandon its multiyear prohibition, South Carolina head coach Steve Spurrier called it a “terrible idea” stating “if you go bad, don’t show up to work, your butt will be out on the street. Everybody has to earn your [sic] way in life. You earn your way in life. Go from there. That’s the way I believe.” Demonstrating breathtaking hypocrisy, Mr. Spurrier then added “luckily, coaches have four- and five-year contracts. They get paid off if they get canned.”

101. Student-athletes who suffer injuries that prevent them from competing at a high level are also at risk for non-renewal of their scholarships. Jason Whitehead, a former football player for the Ohio University Bobcats, suffered a career-ending injury during a workout in 2001 which left him temporarily paralyzed. A team doctor declared Mr. Whitehead medically disqualified and a year later his athletics-based discount was taken away by the school. Left to pay tuition and mounting medical bills on his own, Mr. Whitehead told the NEW YORK TIMES: “The coach says ‘You’re on full scholarship. If you ever get hurt, we’ll make sure to take care of you.’ There’s a lot of us out there that get used.”

102. Many student-athletes are simply unable to afford tuition without an athletics-based discount. These student-athletes are forced to drop out of school and never receive a degree. The stakes can be even higher for foreign athletes who come to the United States for NCAA competition. Many international players must obtain student visas before traveling to the U.S. in order to play a collegiate sport. These students generally depend on receiving an athletics-based discount equal to 100 percent of the yearly cost of tuition because they are generally not eligible for federally subsidized student loans. Absent receiving that discount, the player may be forced to de-enroll as a fulltime student or seek off-campus employment, both actions that could cause the individual to be returned to his or her native country under federal immigration law. Thus, the NCAA’s unlawful conduct results in lower prices being paid for

student-athletes' labor than would be paid in a competitive market and it results in fewer student athletes graduating with degrees from NCAA member institutions.

## VII. CLASS ALLEGATIONS

103. Plaintiffs sue on their own behalf and pursuant to Federal Rule of Civil Procedure 23(b)(3) and (b)(2) on behalf of the following class of persons:

Any individual who, while enrolled in an NCAA member institution, (i) received a scholarship, grant or tuition discount ("Grant in Aid" or "GIA") based on athletics leadership, ability, participation or performance from an NCAA member institution for at least one year, (ii) had their GIA reduced or not renewed and (iii) subsequently paid tuition at a college, university or other institution of higher education.

Excluded from the proposed Class are individuals whose GIAs were reduced, cancelled or not renewed due to one of the reasons enumerated in Bylaw 15.3.4.2 of the NCAA Division I Manual, Bylaw 15.3.4.1 of the NCAA Division II Manual or Bylaw 14.01.3 of the Division III Manual. Also excluded from the Class are the NCAA, its member institutions, their employees, co-conspirators, officers, directors, legal representatives, heirs, successors and wholly or partly owned subsidiaries or affiliated companies, class counsel and their employees, and the judicial officers, and associated court staff assigned to this case.

104. The Class includes individuals otherwise within the class definition above who were forced to obtain student loans as a result of the loss of their athletics-based GIA and have either (i) made a payment within the limitations period as determined by the Court, or (ii) remain liable for payment of such loan in whole or in part.

105. Members in the Class are collectively referred as "class members" or "the Class" unless otherwise specified.

106. The persons in the Class are so numerous that individual joinder of all members is impracticable under the circumstances of this case. Although the precise number of such persons

is unknown, the exact size of the Class is easily ascertainable, as each class member can be identified by using Defendant's records. Plaintiffs are informed and believe that there are many thousands of Class members.

107. There are common questions of law and fact specific to the Class that predominate over any questions affecting individual members, including:

(a) Whether the NCAA and its member institutions unlawfully contracted, combined and conspired to unreasonably restrain trade in violation of section 1 of the Sherman Act by agreeing not to offer multi-year athletics-based scholarships;

(b) Whether the NCAA and its member institutions unlawfully contracted, combined and conspired to unreasonably restrain trade in violation of section 1 of the Sherman Act by agreeing to limit the number of athletics-based scholarships available to students;

(c) The definition of the relevant market;

(d) Whether the NCAA has any pro-competitive justification for its conduct;

(e) Whether the pro-competitive effects of the conduct, if any, outweigh the clear injury to class members;

(f) Whether class members have suffered antitrust injury; and

(f) The nature and scope of injunctive relief necessary to restore a competitive market.

108. Plaintiffs' claims are typical of the Class claims, as they arise out of the same course of conduct and the same legal theories as the rest of the Class, and Plaintiffs challenge the practices and course of conduct engaged in by Defendant with respect to the Class as a whole.

109. Plaintiffs will fairly and adequately protect the interests of the Class. They will vigorously pursue the claims and have no antagonistic conflicts. Plaintiffs have retained counsel who are able and experienced class action litigators and are familiar with the NCAA.

110. Defendant has acted or refused to act on grounds that apply generally to the Class, and final injunctive relief or corresponding declaratory relief is appropriate respecting the Class as a whole. A class action is also appropriate because Defendant has acted and refuses to take steps that are, upon information and belief, generally applicable to thousands of individuals, thereby making injunctive relief appropriate with respect to the Class as a whole.

111. Questions of law or fact common to class members predominate over any questions affecting only individual members. Resolution of this action on a class-wide basis is superior to other available methods and is a fair and efficient adjudication of the controversy because in the context of this litigation no individual class member can justify the commitment of the large financial resources to vigorously prosecute a lawsuit against Defendant. Separate actions by individual class members would also create a risk of inconsistent or varying judgments, which could establish incompatible standards of conduct for Defendant and substantially impede or impair the ability of class members to pursue their claims. It is not anticipated that there would be difficulties in managing this case as a class action.

#### **VIII. TOLLING OF THE STATUTE OF LIMITATIONS**

112. On October 25, 2010, a class action seeking identical relief on behalf of an identical class of student athletes was filed in the Northern District of California. Following transfer to this District, the action was dismissed and a final judgment entered. The Plaintiffs in that action appealed to the United States Court of Appeals for the Seventh Circuit, which affirmed the dismissal on June 18, 2012.

113. As a consequence of the previously filed action referenced above, the statute of limitations in this action has been tolled from October 25, 2010 to June 18, 2012.

**IX. CAUSES OF ACTION**

**FIRST CAUSE OF ACTION**

**VIOLATION OF SECTION 1 OF THE SHERMAN ACT 15 U.S.C. § 1**

114. Plaintiffs incorporate by reference the allegations in the above paragraphs as if fully set forth herein.

115. The NCAA and NCAA member institutions by and through their officers, directors, employees, agents or other representatives have entered into an unlawful agreement combination and conspiracy in restraint of trade. Specifically, the NCAA and NCAA member institutions have unlawfully agreed to artificially fix or reduce the amount of athletics-based scholarships to be awarded to class members in exchange for the student-athletes' labor by agreeing amongst themselves not to offer multiyear athletics-based scholarships and by agreeing among themselves to artificially limit the overall supply of athletics-based scholarships. These unlawful agreements have unreasonably restrained price competition among NCAA member institutions for student- athletes' labor.

116. Class members seeking to provide their athletic labor in exchange for in-kind benefits, including grants in aid, have been deprived of the benefits of free and open price competition.

117. Class members' choice of which NCAA member institution to attend has been artificially restricted by the NCAA's restrictions on the number and amount of athletics-based scholarships.

118. Defendant and its member institutions have undertaken this conduct in the United States and its territories.

119. Defendant's business activities and operations involve and affect the interstate movement of students and the interstate flow of funds (including, but not limited to, tuition, room and board, and mandatory fees).

120. As a direct result of the conduct of Defendant and its co-conspirators class members have been injured. Price competition among NCAA member institutions has been unreasonably restrained and as a result class members have been injured because they are paying or have paid substantially more for tuition than they would in a competitive market.

121. The conduct of the NCAA is continuing and will continue to impose antitrust injury on student-athletes unless injunctive relief is granted.

122. In addition, injunctive relief is necessary to remedy the effects of the NCAA's past wrongful conduct.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray for judgment against Defendant as follows:

A. Certification of the action as a Class Action pursuant to the Federal Rules of Civil Procedure, and appointment of Plaintiffs as the Class Representatives and their counsel of record as Class Counsel;

B. A declaration by this Court that Defendant's conduct constituted a conspiracy, and that Defendant is liable for the conduct of or damage inflicted by any other co-conspirator;

C. A declaration that the prohibition on multiyear athletic-based scholarships is unlawful;



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**CERTIFICATE OF SERVICE**

I hereby certify that on August 24, 2012 a copy of the foregoing was filed electronically. Notice of this filing will be sent to the following parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

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