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Attorneys for Plaintiff Kendall Gregory-McGhee

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

KENDALL GREGORY-McGHEE, on behalf of
himself and all others similarly situated,

Plaintiff,

v.

NATIONAL COLLEGIATE ATHLETIC
ASSOCIATION; PACIFIC 12 CONFERENCE;
THE BIG TEN CONFERENCE, INC.; THE BIG
TWELVE CONFERENCE, INC.;
SOUTHEASTERN CONFERENCE; AND
ATLANTIC COAST CONFERENCE,

Defendants.

Case No:

COMPLAINT

CLASS ACTION

DEMAND FOR JURY TRIAL

1 Plaintiff Kendall Gregory-McGhee, on behalf of himself and all others similarly
 2 situated, hereby brings this action against Defendant National Collegiate Athletic
 3 Association (“NCAA”), and the following members of the NCAA, the so-called “Power
 4 Conferences”: Defendants Pacific 12 Conference, The Big Ten Conference, Inc., The Big
 5 Twelve Conference, Inc., Southeastern Conference, and Atlantic Coast Conference.
 6 Plaintiff alleges:

7 I. INTRODUCTION

8 1. College football is a big business for the universities and conferences that
 9 are members of Division I, the NCAA’s top tier. In particular, Division I football, played
 10 in the Power Conferences within Division I’s Football Bowl Subdivision, generates
 11 billions of dollars a year in revenue. None of that revenue would exist but for the efforts of
 12 the Football Bowl Subdivision football players such as Plaintiff and the other members of
 13 the Class.

14 2. Players essentially work full-time football jobs while going to school. The
 15 NCAA and Power Conference Defendants have acknowledged that a so-called “full ride”
 16 athletic scholarship does not cover the true cost of attending school. Athletes are often a
 17 few thousand dollars short for the typical expenses of a student, which can include money
 18 for gas, food, and other necessities. By contrast, the average salary for major college
 19 football coaches is over \$2 million, with some coaches earning over \$7 million, and the
 20 top football schools earn enormous amounts from football. For example, team annual
 21 revenue for some of the top five programs in 2011-12 was:

22	Texas:	\$109,000,000
23	Michigan:	\$ 85,229,247
24	Alabama:	\$ 81,993,762
25	Auburn:	\$ 77,170,242
26	Georgia:	\$ 74,989,418

27 3. Profits are also high. Alabama’s football program made \$47 million in 2012
 28 and Texas made \$81 million. Other schools also did well:

Top 10 schools for 2012 profit	
School	Profit
Texas	\$81.7
Alabama	\$47.1
Michigan	\$58.4
Notre Dame	\$46.0
Georgia	\$51.3
Auburn	\$38.8
Florida	\$49.1
LSU	\$48.5
Oklahoma	\$45.1
Arkansas	\$31.6 ¹

4. As described in this Complaint, the NCAA and the Power Conferences have agreed that Football Bowl Subdivision football players may only receive payments that the NCAA approves and the Power Conference schools agree to. The primary form of payment is an athletic scholarship, known as a “grant-in-aid.” In violation of the Sherman Act, Defendants NCAA and the Power Conferences have agreed to cap the value of a grant-in-aid at an amount below what a Football Bowl Subdivision football player would receive for his services in a competitive market, and at an amount below what it costs to attend school.

5. The value of a grant-in-aid is often several thousand dollars below the actual cost of attending a school (the “Cost of Attendance,” an amount published by each school). If the Power Conference football were truly competitive, every Football Bowl Subdivision football player unquestionably would receive a grant-in-aid that actually

¹ See, e.g., S. Stevenson, “Expenses rise in business of college football, but business is good for nation’s elite,” <http://www.star-telegram.com/2013/12/17/5427172/expenses-rise-in-business-of-college.html#storylink=cpy> (dated Dec. 18, 2013 and last accessed April 16, 2014).

1 covers the Cost of Attendance. Indeed, each of the five Power Conference Defendants
2 stated that if they were not bound by the collusive agreement among themselves and their
3 co-conspirators that make up Division I, they would implement such an increase.
4 Moreover, if collusion among conferences were eliminated, every Football Bowl
5 Subdivision football player likely would receive further *additional* compensation above
6 the bare Cost of Attendance.

7 6. After they spend their college years juggling athletic and academic
8 requirements, many college athletes wind up substantially in debt because their
9 scholarships did not fully cover the basic necessities of life. A recent study illustrated that
10 so-called “full scholarships” can leave college athletes with as much as \$30,000 in normal
11 student expenses uncovered over the course of their collegiate athletic careers.

12 7. Plaintiff, on behalf of Football Bowl Subdivision football players who
13 played on teams in the Power Conferences and who received grants-in-aid in the last four
14 years, seeks two specific remedies via this Complaint: First, an order enjoining the NCAA
15 and the Power Conference Defendants from maintaining and abiding by the present
16 NCAA Bylaw that limits financial aid to the presently-defined GIA; and second, an award
17 of damages for the difference between the grants-in-aid awarded and the Cost of
18 Attendance.

19 8. There are reasonable and less restrictive alternatives to Defendants’
20 anticompetitive practices. For example, the Power Conference Defendants could be
21 allowed to compete among themselves and against their co-conspirator conferences within
22 the Football Bowl Subdivision as to the financial aid terms that conference members make
23 available to college football players. Well short of an instantaneous transition to a wide-
24 open free market, such incremental competition would enable every school and conference
25 to make its own independent decisions.

26 9. The NCAA has repeatedly acknowledged that the capped grant-in-aid is
27 insufficient to meet even the basic economic needs of college athletes. NCAA President
28 Mark Emmert stated in December 2013 that “we’ve been working on that for 2-1/2 years.

1 They were talking about that long before I showed up. We don't need a lawsuit to do the
2 right thing. That's important for people to know."² In fact, the NCAA created the issue in
3 the first place, by first imposing a collusive cap on grants-in-aid in 1956, and then by
4 removing a Cost of Attendance stipend in 1973. Ever since, the NCAA has periodically
5 been "working" on the issue, with no significant changes to the capped grant-in-aid
6 limitations. Despite the NCAA's public comments concerning the needs of college
7 athletes, the collusive cap on grants-in-aid remains in place.

8 10. At a typical NCAA member institution, the allowable costs covered by an
9 athletics "grant-in-aid" are several thousand dollars short, per year, per athlete, compared to
10 what it actually costs a college athlete to attend school. The NCAA quite accurately calls
11 the larger cost number the "Cost of Attendance," which the NCAA defines in its rules as
12 "an amount calculated by an institutional financial aid office, using federal regulations, that
13 includes the total cost of tuition and fees, room and board, books and supplies,
14 transportation, and other expenses related to attendance at the institution." Through
15 collusive agreement among all Division I members of the NCAA, the artificial cap on
16 athletics financial aid is set below the amount of the full Cost of Attendance that any
17 student would incur to attend the relevant colleges and universities. This agreement is
18 enshrined in the Bylaws of the NCAA which serve, in essence, as the contract (as in the
19 Sherman Act's prohibition on any contract, combination, or conspiracy in restraint of trade)
20 among the conspirators, making the agreement explicit, and authorizing various cartel
21 policing measures against any school that violates the price-fixing agreement. The NCAA
22 thus arbitrarily restricts athletics financial aid to amounts that are less than the athletes
23 would receive in a competitive market and then enforces that agreement through threat of
24 sanctions ranging from loss of the ability to compete (through loss of scholarships) all the
25 way to a full collective boycott of all other members known colloquially as "the death
26

27 ² <http://www.usatoday.com/story/sports/college/2013/12/11/mark-emmert-ncaa-lawsuit-ed-obannon-ea-sports-collegiate-licensing-co/3987907/>.

1 penalty.” The NCAA thus arbitrarily restricts athletics financial aid to amounts that are less
2 than the athletes would receive in a competitive market.

3 11. A 2012 study concluded that “[i]n 2011-2012, the range of out-of-pocket
4 expenses for a ‘full’ scholarship athlete in the Football Bowl Subdivision was \$1000/year
5 to \$6904/year depending on the institution. Meanwhile, the NCAA restricts the value of the
6 full scholarship to a level of compensation that is at or below the poverty level for many
7 athletes at a time when, according to President of IMG College, Ben Sutton, ‘college sport
8 is indisputably on fire’ in terms of its capacity to generate revenue and television ratings.”

9 12. Denying Football Bowl Subdivision players -- both those who play in the
10 Power Conferences and those against whom they compete within the Football Bowl
11 Subdivision market -- the benefits of economic competition through the grant-in-aid cap
12 not only has imposed a lower standard of living and significant hardships on many of
13 them, the NCAA has exacerbated the effects of the grant-in-aid cap by collusively
14 restricting the ability of Class Members to earn extra money through part-time work.

15 13. The NCAA’s conduct violates the federal antitrust laws. The NCAA and the
16 Power Conferences have agreed not to compete and have colluded to artificially depress
17 the value of an athletics grant-in-aid. Plaintiff and the other members of the Class have
18 suffered antitrust injury as a result.

19 14. There is no reasonable justification or legal defense for Defendants’ athletics
20 grant-in-aid cap. The athletics grant-in-aid cap is not necessary to promote any interest in
21 preserving NCAA “amateurism.” Rather, the NCAA’s athletics grant-in-aid cap is simply
22 an unjustifiable and collusive cost containment mechanism.

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II. THE PARTIES

A. Plaintiff

15. Plaintiff Kendall Gregory-McGhee, an individual, is a resident of Aurora, Colorado, and during the period at issue in this action was a defensive end for the University of Minnesota football team.

16. Plaintiff was a star athlete from Aurora, Colorado. In high school, Gregory-McGhee helped his Cherokee Trail High School team reach the 5A playoffs in just the school's fifth year in existence. He earned All-Colorado honors and was also named first-team All-Class 5A by the Denver Post. He was named all-state, all-league and all-city as both a defensive end and punter, and was ranked as the No. 4 senior in the State of Colorado by Rivals.com. He was ranked No. 35 in the nation as an athlete by Rivals, and ranked as the No. 44 tight end in the nation by Scout.com. ESPN.com and Scouts rated him as the 28th-best tight end in the country. He earned three-star ratings from Scout and Rivals. Gregory-McGhee recorded 71 tackles and eight sacks in 2008 from his defensive end position, and was selected to play in the 2009 Colorado All-Star game. He earned all-league honors as a tight end and punter following his junior season. Also a standout track and field athlete, he holds his school high jump record (6-feet, 3-inches) and has recorded a 42-foot triple jump. He was also a basketball letter winner for his Cherokee Trail team that went 25-1.

17. Plaintiff accepted an athletics scholarship, a "full Football Grant-in-Aid," to attend the University of Minnesota beginning fall 2009.

18. Plaintiff was redshirted as a University of Minnesota freshman during the 2009-2010 academic year. Plaintiff played his first football game at the University of Minnesota in fall 2010. During the 2009-2010 school year, Plaintiff was a full-time student. He fulfilled all academic and athletic requirements during the 2009-2010 school year, and was a student in good standing at all times.

19. For the 2009-2010 academic year, the grant-in-aid money Plaintiff received from the University of Minnesota was less than the full Cost of Attendance.

1 20. In his sophomore year in the 2010-2011 season, Gregory-McGhee appeared
2 in all 12 games, including one start. He made four tackles (three solo) in 2010, and
3 recorded his first-career sack against USC. He made his first-career start against Purdue,
4 making one solo stop and breaking up a pass. He also earned his first varsity letter.

5 21. Plaintiff was a full-time student as a sophomore during the 2010-2011 year.
6 Given his academic and athletic obligations, it was not feasible for Plaintiff to work during
7 the academic year.

8 22. For the 2010-2011 academic year, the grant-in-aid money Plaintiff received
9 from the University of Minnesota was less than the full Cost of Attendance.

10 23. During the 2010-2011 academic year, the University of Minnesota offered to
11 renew Plaintiff's athletic scholarship for his sophomore year under the same terms and
12 conditions. Plaintiff accepted the offer.

13 24. As a junior during the 2011-2012 year, Plaintiff fulfilled all athletic and
14 academic requirements to maintain his scholarship, and was a student in good standing at
15 all times.

16 25. Plaintiff was a full-time student as a junior during the 2011-2012 year. As in
17 the 2010-2011 year, it was not feasible for Plaintiff to work during the academic year
18 given his academic and athletic obligations.

19 26. As a junior in the 2011-2012 year, Plaintiff appeared in 11 games, made five
20 tackles (three solo, two assisted) with 1.5 tackles-for-loss. He recorded his first tackle of
21 the season against North Dakota State, and tallied two solo stops in the Big Ten opener at
22 Michigan. He recorded a tackle-for-loss at Purdue, and notched one tackle at
23 Northwestern. He also earned his second varsity letter.

24 27. For the 2011-2012 academic year, the grant-in-aid money Plaintiff received
25 from the University of Minnesota was less than the full Cost of Attendance.

26 28. During the 2011-2012 year, the University of Minnesota offered to renew
27 Plaintiff's athletic scholarship for his junior year under the same terms and conditions.
28 Plaintiff accepted the offer.

1 29. Plaintiff was a full-time student as a senior during the 2012-2013 year,
2 fulfilled all athletic and academic requirements to maintain his scholarship, and was a
3 student in good standing at all times. Plaintiff missed the 2012 football season with an
4 injury.

5 30. For the 2012-2013 academic year, the grant-in-aid money Plaintiff received
6 from the University of Minnesota was less than the full Cost of Attendance.

7 31. Plaintiff received his bachelor's degree and graduated from the University of
8 Minnesota in 2013.

9 32. Plaintiff is now in graduate school at the University of Northern Colorado
10 pursuing a Master's Degree in Sports Coaching.

11 **B. Defendants**

12 33. Defendant the **National Collegiate Athletic Association (the "NCAA")** is
13 an unincorporated not-for-profit educational organization founded in 1906 with its
14 principal place of business in Indianapolis, Indiana. The NCAA states that it "is the
15 organization through which the colleges and universities of the nation speak and act on
16 athletic matters at the national level." It comprises more than 1,200 colleges, universities,
17 and athletic conferences throughout the United States, including the Power Conference
18 Defendants.

19 34. Through the NCAA Constitution and Bylaws, the NCAA and its members
20 have adopted regulations governing all aspects of college sports. The NCAA Constitution
21 and Bylaws were adopted by, and may be amended by, votes of the member institutions.
22 Thus, the rules in the NCAA Constitution and Bylaws constitute horizontal agreements
23 between the NCAA and its members and between members of the NCAA. With respect to
24 the Division I "grant-in-aid" they constitute a series of annually renewed, horizontal price-
25 fixing agreements.

26 35. The NCAA includes 1,102 active member schools, and these schools are
27 organized into three Divisions. Division I includes 351 schools, including 242 with
28 extensive football programs. Divisions II and III include schools with much less extensive

1 or no football programs. As a practical matter, any academic institution that wishes to
2 participate in any meaningful way in the highest and most popular levels of college
3 football must maintain membership in the NCAA and abide by the Division I rules and
4 regulations promulgated by the NCAA and its members. There is no practical alternative
5 to Division I NCAA membership for any academic institution that wishes to participate at
6 the highest levels of college football.

7 36. Because the NCAA and NCAA member institutions control the highest and
8 most popular levels of college football, any individual who wishes to provide athletic
9 services in exchange for the payment of full tuition for an undergraduate academic and
10 athletic education must, by necessity, attend an NCAA Division I member institution.
11 There are zero practical alternatives that can provide the unique combination of attributes
12 offered by Division I NCAA football schools: (i) the ability to exchange athletics services
13 for the payment of educational costs plus room and board; (ii) high quality academic
14 educational services; (iii) top-of-the-line training facilities; (iv) high quality coaches that
15 will best be able to launch players to professional careers; (v) national publicity through
16 nationwide scheduling of games and nationwide broadcasting contracts; and (vi)
17 competition at the highest level of college football by competing for the same institution
18 where one is also a student.

19 37. There is no major college football program in the United States that is not an
20 NCAA Division I member, abiding by the NCAA rules. Division I NCAA member
21 institutions are by far the largest purchasers of student football labor in the United States,
22 and the NCAA and its Division I member institutions have monopsony power over the
23 market for student football players.

24 38. The NCAA maintains a staff of over 300 individuals at its headquarters, and
25 has an \$800 million dollar annual budget.³

26
27 ³ <http://www.bloomberg.com/consumer-spending/2012-03-21/the-real-cost-of-march-madness.html#slide5>.
28

1 39. During the Class Period Defendant NCAA participated in the collusive
2 restraint of trade and other violations of law alleged in this Complaint, has thereby
3 damaged Class Members, and will continue to damage Class Members unless enjoined.

4 40. Defendant **Pacific-12 Conference (“Pac 12”)** is an unincorporated
5 association with its principal place of business in this District at 1350 Treat Boulevard,
6 Suite 500, Walnut Creek, CA 94597. The Pac 12 is a multi-sport collegiate athletic
7 conference, and a formal “conference member” of Defendant NCAA’s Division I. In its
8 2011 IRS Form 990, the most recent one publicly available, the Pac 12 identified itself as
9 a tax-exempt organization pursuant to section 501(c)(3) of the U.S. Internal Revenue
10 Code, and stated that for its fiscal year ending June 30, 2012, it obtained gross revenues
11 of \$175,898,248. The Pac 12’s “2013-14 Handbook” states that the Pac 12 was organized
12 for purposes including: “[t]o provide its members with a jointly governed body for
13 sponsoring, supervising and regulating intercollegiate athletics as a conference member
14 of the National Collegiate Athletics Association (‘NCAA’) in accordance with the
15 principles, policies, constitution and bylaws of the NCAA” and “[t]o assist its members in
16 funding and promoting their intercollegiate athletics programs.”

17 41. For the purpose of collegiate football, the Pac 12’s current members are the
18 following twelve institutions: University of Arizona, Arizona State University, University
19 of California, Berkeley, University of Colorado, University of Oregon, Oregon State
20 University, Stanford University, University of California, Los Angeles, University of
21 Southern California, University of Utah, University of Washington, and Washington State
22 University. All of the Pac 12’s football members are also members of the NCAA’s
23 Division I, Football Bowl Subdivision.

24 42. The Pac 12 is one of ten NCAA member conferences that managed, until
25 this January, the highly lucrative Bowl Championship Series, which identified itself as “a
26 five-game college football showcase. The Bowl Championship Series, which has recently
27 been retired in favor of a College Football Playoff, was designed to ensure that the top two
28 teams in the country meet in the national championship game and to create exciting and

1 competitive matchups among eight other highly regarded teams in four other [postseason]
2 bowl games.” The Pac 12 was one of six “automatic qualifying” conferences for Bowl
3 Championship Series purposes. This meant that the Pac 12 received an automatic berth
4 into one of the five Bowl Championship Series postseason bowl games.

5 43. During the Class Period Defendant Pac 12 participated in the collusive
6 restraint of trade and other violations of law alleged in this Complaint, has thereby
7 damaged Class Members, and will continue to damage Class Members unless enjoined.

8 44. Defendant **The Big Ten Conference, Inc. (the “Big Ten”)** is a nonprofit
9 Delaware corporation with its principal place of business at 5440 Park Place, Rosemont,
10 Illinois 60018. The Big 10 is a multi-sport collegiate athletic conference, and a formal
11 “conference member” of Defendant NCAA’s Division I. In its 2011 IRS Form 990, the
12 most recent one publicly available, the Big Ten identified itself as a tax-exempt
13 organization pursuant to section 501(c)(3) of the U.S. Internal Revenue Code, and stated
14 that, for its fiscal year ending June 30, 2012, it obtained gross revenue of \$315,479,314. In
15 its 2010 IRS Form 990, the Big Ten identified its mission as “to promote and regulate
16 inter-collegiate athletic programs, encourage sound academic principles, and foster
17 collegiality among our eleven member institutions, all of which are prestigious, non-profit
18 educational institutions.”

19 45. For the purpose of collegiate football, the Big Ten’s members are the
20 following twelve institutions: University of Illinois at Urbana-Champaign, Indiana
21 University, University of Iowa, University of Michigan, Michigan State University,
22 University of Minnesota, University of Nebraska-Lincoln, Northwestern University, Ohio
23 State University, Pennsylvania State University, Purdue University, and University of
24 Wisconsin-Madison. On July 1, 2014, the University of Maryland and Rutgers University
25 will become members of the Big Ten Conference, bringing total membership to fourteen.
26 All of the Big Ten’s football members are also members of the NCAA’s Division I,
27 Football Bowl Subdivision. The Big Ten was an automatic qualifying conference for Bowl
28 Championship Series purposes and is an acknowledged Power Conference.

1 46. During the Class Period Defendant Big Ten participated in the collusive
2 restraint of trade and other violations of law alleged in this Complaint, has thereby
3 damaged Class Members, and will continue to damage Class Members unless enjoined.

4 47. Defendant **The Big Twelve Conference, Inc. (“Big 12”)** is a nonprofit
5 Delaware corporation with its principal place of business at 400 East John Carpenter
6 Freeway, Irving, Texas 75062. The Big 12 is a multi-sport collegiate athletic conference,
7 and a formal “conference member” of Defendant NCAA’s Division I. In its 2011 IRS
8 Form 990, the most recent one publicly available, the Big 12 stated that it was formed in
9 1996, is a tax-exempt organization pursuant to section 501(c)(3) of the U.S. Internal
10 Revenue Code, and that for its fiscal year ending June 30, 2012, it obtained gross revenue
11 of \$159,510,4398. The Big 12 further stated in its IRS filing that its mission is to
12 “organize, promote and administer intercollegiate athletics among its member institutions”
13 and to “optimize revenues and provide supporting service sompatible [sic] with both
14 academic and competitive excellence.”

15 48. For the purpose of collegiate football, the Big 12’s current members are the
16 following ten institutions: Baylor University, Iowa State University, University of Kansas,
17 Kansas State University, University of Oklahoma, Oklahoma State University, University
18 of Texas at Austin, Texas Christian University, Texas Tech University, and West Virginia
19 University. All of the Big 12’s football members are also members of the NCAA’s
20 Division I, Football Bowl Subdivision. The Big 12 was an automatic qualifying
21 conference for Bowl Championship Series purposes and is an acknowledged Power
22 Conference.

23 49. During the Class Period Defendant Big 12 participated in the collusive
24 restraint of trade and other violations of law alleged in this Complaint, has thereby
25 damaged Class Members, and will continue to damage Class Members unless enjoined.

26 50. Defendant **Southeastern Conference** is an unincorporated association with
27 its principal place of business at 2201 Richard Arrington Boulevard North, Birmingham,
28 AL 35203-1103. The Southeastern Conference is a multi-sport collegiate athletic

1 conference, and a formal “conference member” of Defendant NCAA’s Division I. In its
2 2011 IRS Form 990, the most recent one publicly available, the Southeastern Conference
3 identified itself as a tax-exempt organization pursuant to section 501(c)(3) of the U.S.
4 Internal Revenue Code, and stated that for its fiscal year ending August 31, 2012, it
5 obtained revenues of \$273,063,526. It further identified its mission is to “promote and
6 administer intercollegiate athletic competition among its 14 member institutions located in
7 the Southeastern United States.”

8 51. For the purpose of collegiate football, the Southeastern Conference’s current
9 members are the following fourteen institutions: University of Florida, University of
10 Georgia, University of Kentucky, University of Missouri, University of South Carolina,
11 University of Tennessee, Vanderbilt University, University of Alabama, University of
12 Arkansas, Auburn University, Louisiana State University, University of Mississippi,
13 Mississippi State University, and Texas A&M University. All of the Southeastern
14 Conference’s football members are also members of the NCAA’s Division I, Football
15 Bowl Subdivision. The Southeastern Conference was an automatic qualifying conference
16 for Bowl Championship Series purposes and is an acknowledged Power Conference.

17 52. During the Class Period Defendant Southeastern Conference participated in
18 the collusive restraint of trade and other violations of law alleged in this Complaint, has
19 thereby damaged Class Members, and will continue to damage Class Members unless
20 enjoined.

21 53. Defendant **Atlantic Coast Conference** is an unincorporated association with
22 its principal place of business at 4512 Weybridge Lane, Greensboro, North Carolina
23 27407. The Atlantic Coast Conference is a multi-sport collegiate athletic conference and a
24 formal “conference member” of Defendant NCAA’s Division I. In its 2011 U.S. Internal
25 Revenue Service (“IRS”) Form 990, the most recent one publicly available, the Atlantic
26 Coast Conference stated that it was formed in 1953, is a tax-exempt organization pursuant
27 to section 501(c)(3) of the U.S. Internal Revenue Code, and that for its fiscal year ending
28 June 30, 2012, it obtained gross revenue of \$224,076,000. The Atlantic Coast Conference

1 further stated in its IRS filing that it “exists to promote and regulate inter-collegiate
2 athletic programs for and among twelve member institutions, all of which are non-profit
3 educational institutions.” It also identified itself as a corporation in that IRS filing,
4 although elsewhere it has identified itself as an unincorporated nonprofit association.

5 54. For the purpose of collegiate football, the Atlantic Coast Conference’s
6 current members are the following fourteen institutions: Boston College, Clemson
7 University, Duke University, Florida State University, Georgia Institute of Technology
8 (“Georgia Tech”), University of Maryland, College Park (“Maryland”), University of
9 Miami, University of North Carolina at Chapel Hill, North Carolina State University,
10 University of Pittsburgh, Syracuse University, University of Virginia, Virginia
11 Polytechnic Institute and State University (“Virginia Tech”), and Wake Forest University.
12 On July 1, 2014, the University of Louisville will become an Atlantic Coast Conference
13 member, and Maryland will depart the Atlantic Coast Conference to join the Big Ten
14 Conference. Also, as the Atlantic Coast Conference stated in its 2012-13 annual report, the
15 University of Notre Dame “officially joined the ACC on July 1, 2013 ... Notre Dame will
16 compete as a full member in all conference sponsored sports with the exception of
17 football, which will play five games annually against league programs.” The Atlantic
18 Coast Conference was an automatic qualifying conference for Bowl Championship Series
19 purposes and is an acknowledged Power Conference.

20 55. During the Class Period Defendant Atlantic Coast Conference participated in
21 the collusive restraint of trade and other violations of law alleged in this Complaint, has
22 thereby damaged Class Members, and will continue to damage Class Members unless
23 enjoined.

24 56. Defendants Pac 12, Big Ten, Big 12, Southeastern Conference, and Atlantic
25 Coast Conference are collectively referred to herein as the “Power Conference
26 Defendants.”

27 57. Whenever in this Complaint Plaintiff makes reference to any act, deed, or
28 transaction of a Defendant, the allegation means that the Defendant engaged in the act,

1 deed, or transaction by or through its officers, directors, agents, employees, or
2 representatives while they were actively engaged in the management, direction, control or
3 transaction of the Defendant's business or affairs.

4 **C. Co-Conspirators**

5 58. Various other persons, firms, corporations, and entities have participated as
6 unnamed co-conspirators with Defendants in the violations and conspiracy alleged herein,
7 including the NCAA's Division I member schools and non-Defendant Division I
8 conferences. In engaging in the offenses and violations alleged herein, these co-
9 conspirators have performed acts and made statements in furtherance of the antitrust
10 violations and other violations alleged herein.

11 59. At all relevant times, each co-conspirator was an agent of Defendants and
12 each of the remaining co-conspirators, and in doing the acts alleged herein, was acting
13 within the course and scope of such agency. Defendants and each co-conspirator ratified
14 and/or authorized the wrongful acts of Defendants and each of the other co-conspirators.
15 Defendants and the co-conspirators, and each of them, are participants as aiders and
16 abettors in the improper acts and transactions that are the subject of this action.

17 **III. JURISDICTION AND VENUE**

18 60. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331
19 (federal question) and 28 U.S.C. § 1337 (commerce and antitrust regulation), as this action
20 arises under Section 1 of the Sherman Act, 15 U.S.C. § 1, and Sections 4 and 16 of the
21 Clayton Act, 15 U.S.C. §§ 15(a) and 26. This Court also has subject matter jurisdiction
22 pursuant to 28 U.S.C. § 1332(d), because this is a class action in which the matter in
23 controversy exceeds the sum or value of \$5,000,000, exclusive of interest and costs, and in
24 which some members of the proposed Class are citizens of a state different from any
25 Defendant. This Court also has supplemental subject matter jurisdiction with respect to the
26 pendant state law claims pursuant to 28 U.S.C. § 1367.

27 61. Venue is proper in this District because Defendants reside, are found, and
28 have agents in this District as provided in 28 U.S.C. § 1391(b) and (c) and in Section 4 of

1 the Clayton Act, 15 U.S.C. § 15. A substantial part of the events or omissions giving rise
2 to Plaintiff's claims occurred in this District. The athletics grant-in-aid cap applies to
3 college athletes who have competed, or presently do compete, for NCAA member
4 institutions in this District, the NCAA sanctions Division I athletics events that regularly
5 take place in this District, including regular season football games played by local schools
6 and post-season events such as football bowl games, and Plaintiff and numerous members
7 of the proposed Class reside in this District.

8 62. This Court has personal jurisdiction over Defendants because, *inter alia*,
9 they: (a) transact business throughout the United States, including in this District; (b)
10 participate in organizing intercollegiate athletic contests as well as licensing and selling
11 merchandise and products, including television events such as football bowl games,
12 throughout the United States, including in this District; (c) have substantial contacts within
13 the United States, including in this District; and (d) are engaged in an illegal anti-
14 competitive scheme that was directed at, and had the intended effect of causing injury to,
15 persons residing in, located in, and/or doing business throughout the United States,
16 including in this District.

17 63. Additionally, NCAA Division I member schools are found within this
18 District, such as the University of California, Berkeley and Stanford University, both
19 members of Defendant Pac 12. Additionally located in this District are several schools that
20 are members of co-conspirator NCAA conferences, specifically, USF, St. Mary's, Santa
21 Clara, and San Jose State. Moreover, NCAA Power Conference and Defendant Pac 12 are
22 headquartered within this District in Walnut Creek, California.

23 64. In July 2011, rivals.com evaluated "the top 10 states that produced Bowl
24 Championship Series signees over the past 10 years." It ranked California third in the
25 nation, and stated that "California's large population is a key to its high number of Bowl
26 Championship Series signees. California, Stanford, UCLA and USC don't have to go very
27 far to find high-quality players. The other schools in what was the Pac-10 (now Pac 12)
28 have also feasted on California talent, as have programs such as Colorado and Notre

1 Dame. This state has produced tons of top-level talent.” California’s population is the
2 largest in the nation by a very wide margin, and the recruiting patterns of the Power
3 Conference Defendants’ members reflect that, as they continuously and systematically
4 travel and communicate into California to recruit California football players.

5 65. Moreover, the NCAA conducted its 2014 Annual Convention in California.
6 The NCAA, the Power Conference Defendants, and other NCAA members expressly
7 debated and discussed the subject matter detailed in this Complaint, and reinforced and
8 ratified their agreements not to presently allow NCAA members to exceed the grant-in-aid
9 cap up to the Cost of Attendance, and not to allow NCAA members to exceed the Cost of
10 Attendance.

11 **66. Intradistrict Assignment:** This action arises in Alameda County or San
12 Francisco County because that is where a substantial part of the events that give rise to the
13 claims occurred. The University of California Berkeley (“Cal”) campus is found within
14 Alameda County. Cal, for example, fields at least 27 intercollegiate sports teams,
15 including a Football Bowl Subdivision men’s football team, which competes in the Pac
16 12. Current and former college football players on this team have been subjected to the
17 violations described herein, and current college football players on this team are subject to
18 the continuing violations described herein. Pursuant to Civil Local Rule 3-2(d), this action
19 should be assigned to the San Francisco Division or to the Oakland Division.

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IV. THE RELEVANT MARKET

67. The relevant market is the nationwide market for the labor of NCAA Division I college football players. In this labor market, current and prospective college students compete for roster spots on Division I football teams. NCAA Division I member institutions compete to obtain and retain the best Division I football players by paying in-kind benefits, namely, Division I football scholarships, access to academic programs, access to training facilities, and instruction from premier coaches. In some cases, the capped compensation includes payment in cash, through the provision of a housing and food allowance, but in all cases the amount of in-kind and cash compensation is strictly capped by means of the unlawful agreements alleged herein.

68. NCAA Division I football is further divided into two subdivisions, the Football Bowl Subdivision and the Football Championship Subdivision. These subdivisions constitute distinct submarkets within the broader labor market for Division I football college players. Plaintiff only seeks damages and injunctive relief with respect to the Football Bowl Subdivision submarket, in which all of Power Conference Defendants' member teams compete. The Football Bowl Subdivision Labor submarket is referred to herein as the "Football Bowl Subdivision Labor Market." The level of football played by those schools that acquire their athletes through the Football Bowl Subdivision Labor Market is referred to herein as "Major College Football."

69. NCAA rules currently permit the award of 85 full scholarships for Football Bowl Subdivision teams, and 63 full scholarships for Football Championship Subdivision teams (in the latter case, those scholarships may be spread over 85 athletes). Division I football programs compete at the highest level of college football. They generate millions of dollars in revenue from revenue streams including game attendance ticket revenue, TV contracts, corporate sponsorships, merchandise sales and licensing, and alumni contributions.

1 70. The superior revenues generated by Division I football programs enable them
2 to provide superior coaching, playing and training facilities, and travel opportunities to
3 football players.

4 **A. The Football Bowl Subdivision Labor Market is Distinct**

5 71. The NCAA, the Power Conferences, their co-conspirator conferences (such
6 as the American Athletic Conference), and the colleges and universities that compete in
7 Football Bowl Subdivision conferences sanction and sponsor college football games.
8 Those athletic contests involve teams comprising players who also receive the higher
9 education services of the colleges and universities for which they provide their athletic
10 services. The football players that compete in the Power Conferences, and thus within the
11 Football Bowl Subdivision Labor Market, are elite athletes, the very best football players
12 in the world in their age group. Those elite players have no other options, other than in the
13 Power Conferences, where they can compete against similarly elite competition. Most
14 such players are not eligible to compete as professionals in the National Football League
15 (“NFL”). The teams in the NFL are parties to a collective bargaining agreement with the
16 union that represents professional football players (the “NFLPA”). That agreement
17 prohibits a football player from joining the NFL until they have been out of high school
18 for three years. Even as the number of athletes who enter the NFL after three years has
19 grown, it has yet to reach 100 athletes per year, leaving most athletes unable to access any
20 competitive labor offers until they complete at least four years of college under collusive
21 compensation restrictions.

22 72. This association of the products of Power Conference football with college
23 students competing as elite athletes is a unique feature that makes those products
24 successful and distinguishes those products from other sporting events and other
25 entertainment alternatives. Because of the distinct commercial appeal of football played in
26 the Football Bowl Subdivision Labor Market, the NCAA and the colleges and universities
27 in the relevant market generate substantial revenues by selling tickets to sporting events,
28

1 selling broadcast rights to television and radio outlets, and related licensing and
2 concession activities.

3 73. The television broadcast revenues attributable to Football Bowl Subdivision
4 teams dwarf those attributable to Football Championship Subdivision teams,
5 demonstrating the marketplace's recognition of the Football Bowl Subdivision Labor
6 Market as a distinct submarket where Football Bowl Subdivision schools participate in
7 Major College Football.

8 74. The Football Bowl Subdivision Labor Market includes all of the colleges
9 and universities in the Football Bowl Subdivision, which the NCAA itself defines as the
10 highest level of competition in college football. This includes all colleges and universities
11 that are members of the Power Conference Defendants, as well as those schools they
12 collude with through NCAA agreements to fix the maximum price paid for the labor
13 services of Football Bowl Subdivision athletes. To compete in the Football Bowl
14 Subdivision Labor Market, a college football program must be a member of the NCAA's
15 Football Bowl Subdivision, and thus must meet game attendance levels specified by the
16 NCAA and must play nearly all of its games against other teams that compete in that
17 market. It also must agree to abide by the Football Bowl Subdivision's specific and
18 Division I's general rules mandating price fixing in the relevant market and its two
19 submarkets.

20 75. From the standpoint of a prospective college football player, there is no
21 reasonable substitute for the Football Bowl Subdivision Labor Market. Participating in
22 Major College Football provides prospective student-athletes the opportunity to compete
23 at the highest level of college football while earning a college degree, and also offers
24 prospective college football players a far greater prospect to advance to a professional
25 football career than is available anywhere else. Because of the unique combination of
26 athletic and academic benefits associated with competing in the Major College Football
27 offerings of the schools and conferences competing in the Football Bowl Subdivision
28 Labor Market, prospective college football players who have the opportunity to participate

1 in Football Bowl Subdivision programs very rarely choose to pursue any alternatives to
2 the Football Bowl Subdivision.

3 76. Consistent with the status of the Football Bowl Subdivision Labor Market as
4 a distinct product market, each of the Power Conference Defendants markets its brand of
5 football as a distinct product. Thus, for example, Defendant Southeastern Conference
6 creates a product called Southeastern Conference Football that includes a full season of
7 Southeastern Conference football competition (including a pre-season against other
8 conferences) that culminates in the Southeastern Conference Championship Game in
9 Atlanta, Georgia. Southeastern Conference members then also compete against other
10 conference's members in post-season bowl games, and starting in 2014-15, in a newly
11 formed post-season playoff. Similarly, each of the other four Defendant conferences (as
12 well as the five non-Defendant co-conspirator Football Bowl Subdivision conferences)
13 produces a conference season of Major College Football. Defendant NCAA's expert in
14 other litigation has also testified to this effect:

15
16 It would be more accurate to say the NCAA is sponsoring
17 sports leagues. It's not the league itself.... The NCAA is a
18 collaboration of universities and conferences, and it sponsors
and coordinates sports leagues, so the league itself would be,
you know, say one of the collegiate leagues, like the Big Ten.

19 77. While these ten conferences serve as substitutes for each other (with the
20 Power Conferences having substantially more overlap among each other and also higher
21 market share among broadcasters and consumers), members of the live and television
22 audiences for Major College Football do not view other football games, other sporting
23 events, other entertainment options or any other product or category of products as an
24 acceptable substitute for the Major College Football produced by participants in the Football
25 Bowl Subdivision Labor Market.

26 **B. Grants-in-Aid are Commercial Transactions**

27 78. Despite the nonprofit status of NCAA member schools, the transactions
28 those schools make with premier Division I football athletes – full “grants-in-aid” in

1 exchange for athletic services – cannot be termed “noncommercial,” since schools make
2 millions of dollars annually as a result of these transactions. In recent oral argument in the
3 Northern District of California, the NCAA cited case precedent it acknowledged defines
4 its activities as commercial.⁴ Thus, the transactions between NCAA schools and student-
5 athletes are commercial in nature, and therefore take place in a relevant market with
6 respect to the Sherman Act.

7 79. To field teams that can compete effectively on the field of play and generate
8 increased revenues for their athletic programs, the colleges and universities that acquire
9 talent in the Football Bowl Subdivision Labor Market compete in marketing their services
10 to the talented college athletes whose participation is necessary for the products to exist.
11 As in all economic transactions, each party provides goods and services of benefit to the
12 other party, on a number of dimensions. The dimensions in which this competition to
13 recruit and retain student-athletes takes place includes the quality of the educational
14 experiences provided to student-athletes, the quality of coaching services, the quality of
15 training amenities, the quality of athletic and non-athletic opportunities following
16 graduation, and the quality of the athletic competition on the field of play.

17 80. Of particular relevance to this case, the participants in the Football Bowl
18 Subdivision Labor Market also compete in offering student-athletes admission to their
19 institutions and financial incentives to accept their offers of admission that take the form
20 of grants-in-aid. A grant-in-aid can be provided purely in-kind (through tuition grants,
21 room and board, and books), or in many cases in a mix of in-kind compensation and direct
22 cash payments. These cash payments occur most commonly when students choose to live
23 off campus and so in place of room and board, schools simply give each player a monthly
24 check.

25 81. In exchange, athletes agree to compete on the school’s football team, and
26 their access to both in-kind and cash compensation is conditional on participation – an

27 _____
28 ⁴ See O’Bannon SJM Hearing Tr. at page 84.

1 athlete who voluntarily leaves the team is not kicked out of school, but he is denied
2 continued payment of a grant-in-aid for the remaining years of his college attendance.

3
4 **C. The Football Bowl Subdivision Labor Market Constitutes a Separate**
5 **Market from NCAA Division II, NCAA Division III, NAIA, and**
6 **Community / Junior Colleges**

7 82. NCAA Division II football programs are not in the same market as Division
8 I football programs, especially those who compete for talent in the Football Bowl
9 Subdivision Labor Market. The total number of Division II scholarships is limited to 36. A
10 typical NCAA college football squad totals approximately 100 players. So, almost no
11 Division II football athletes are awarded a full scholarship. Division II football programs
12 have smaller budgets, play close to home, and do not generate excess revenue for the
13 school as a whole. They provide lower quality facilities and coaching, and limited (if any)
14 opportunities to showcase an athlete's talent on national television. There are few, if any,
15 recorded instances of an athlete being offered the maximum allowed grant-in-aid to play at
16 a Division I school (whether Football Championship Subdivision or Football Bowl
17 Subdivision) choosing instead to accept a Division II scholarship.

18 83. NCAA Division III football programs are prohibited from awarding athletic
19 scholarships so they are not in the relevant market.

20 84. The NAIA is the largest of only a few other associations sponsoring four-
21 year college football. It is made up of smaller schools, and NAIA rules permit only 24
22 scholarships. So, almost no player receives a full scholarship to play football. NAIA
23 football programs are also not in the relevant market. Nor are other college football
24 sanctioning associations such as the National Christian Collegiate Athletic Association
25 ("NCCAA") or the United States Collegiate Athletic Association ("USCAA").

26 85. Two-year junior colleges cannot award college degrees. Superior high
27 school football players do not choose to play at a junior college unless they are unable to
28 meet NCAA academic eligibility standards.

1 86. The differences between the NCAA divisions, and between the NCCAA and
2 the NAIA (and other minor associations), are demonstrated by a variety of additional
3 factors. Total football revenue is probably the most critical factor in differentiating the
4 market. Total football revenue for the 242 Division I schools in 2011 was well over \$3
5 billion, with the majority coming from the 120 Football Bowl Subdivision schools
6 (\$2,956,499,371). Total football revenue for the 122 Football Championship Subdivision
7 schools was \$375,774,921 in 2011.

8 87. In contrast, total football revenue for the 157 Division II football schools
9 was less than half of the Football Championship Subdivision revenue (\$181,929,450).
10 Football revenue for all NAIA schools was \$83.6 million. For 2011, average football team
11 revenue for Football Bowl Subdivision schools was \$24.6 million. Average team revenue
12 for Football Championship Subdivision schools was \$3.1 million. Average football team
13 revenue for Division II schools was \$1.2 million. Average football revenue for NAIA
14 schools was even less, approximately \$1 million.

15 88. The large differences in revenue between Division I schools and NAIA and
16 Division II schools are driven in part by the differences in total attendance. In 2012,
17 Football Bowl Subdivision schools had a total attendance of 37,170,235 fans; Football
18 Championship Subdivision schools had an attendance of 5,967,272 fans, and all 157
19 Division II football teams drew 3,006,297 fans. Total 2011 attendance figures for the 81
20 NAIA football schools were not available but the number is insignificant when compared
21 to NCAA Division I attendance figures, especially those for Football Bowl Subdivision.
22 As one such example, it has been reported that attendance at the NAIA championship
23 game in 2012 was 5,263. In contrast, the most recent Football Bowl Subdivision
24 championship game drew over 94,000 attendees.⁵

25 89. Average attendance figures also differentiate the relevant market. In 2012,
26 Football Bowl Subdivision schools averaged 45,440 per game. Football Championship

27 _____
28 ⁵ http://en.wikipedia.org/wiki/2012_NAIA_Football_National_Championship.

1 Subdivision schools averaged 9,041 per game. Division II football averaged 3,520 per
2 game. NAIA schools play in much smaller stadiums. Marion University, a NAIA
3 school, has a stadium with a maximum capacity of 3,000. Several Division I football
4 schools compete in stadiums with a capacity in excess of 100,000.

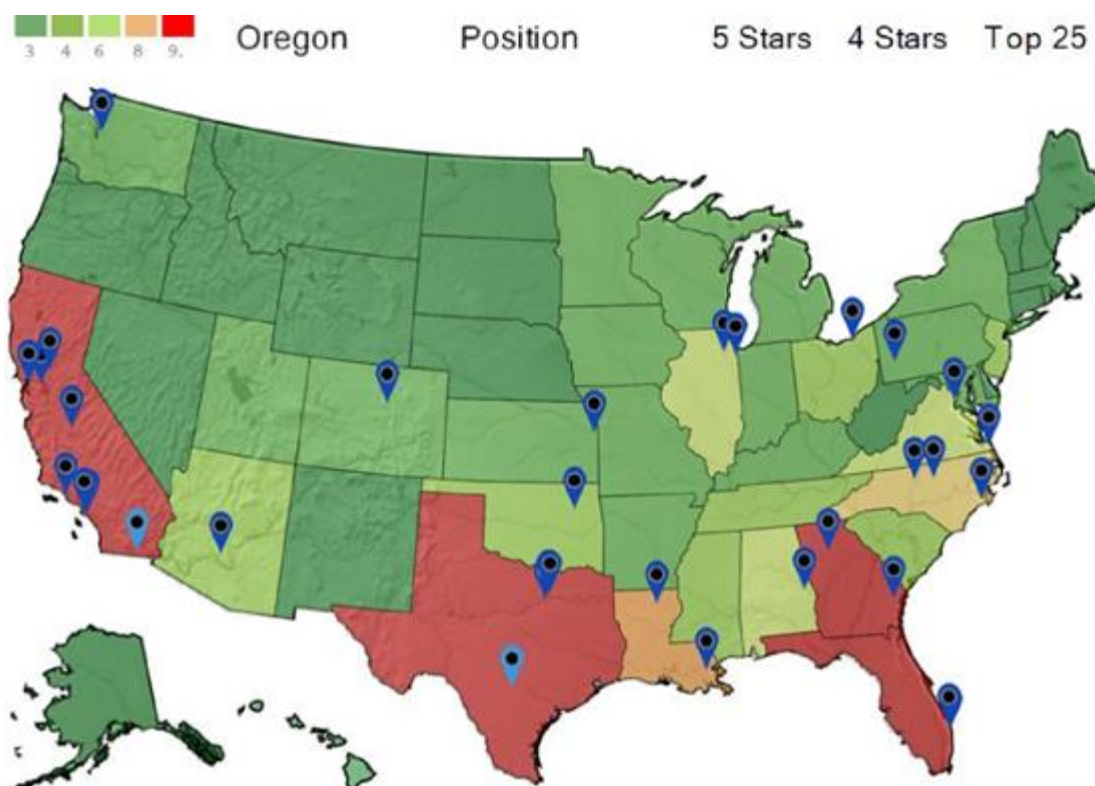
5 90. The differences between college football divisions in the quality of
6 competition and the level of institutional support cause superior high school football
7 players to choose Division I Football Bowl Subdivision schools and scholarships over
8 other Division I, Division II, or NAIA scholarships. For these players Division I, Division
9 II and NAIA football is not a substitute for Division I Football Bowl schools.

10 91. The intense recruitment of talented high school football players has led to
11 the growth of companies which scout and rate thousands of players. The most prominent
12 company, rivals.com, rates high school players on a 0 to 5 star scale. Of the 21,198
13 athletes tracked by rivals.com between 2007 and 2011 who received a Division I
14 scholarship offer, 90% accepted. The vast majority of the other 10% opted out of college
15 football rather than accept a scholarship at a Division II or NAIA school. Again, this
16 demonstrates that Division II and/or NAIA football is not an adequate substitute. The very
17 fact that most NAIA and Division II athletes do not even rate a zero-star rating from
18 Rivals is evidence that they are of a far different caliber than those in the Rivals database.

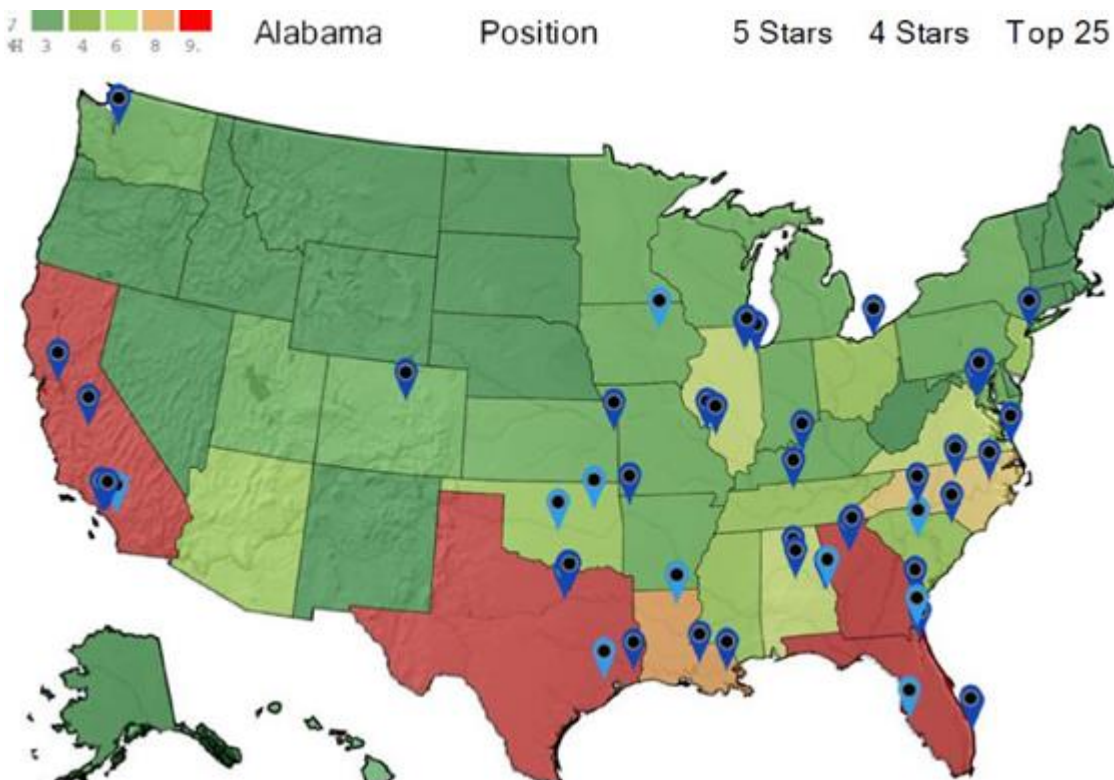
19 92. The relevant geographic market is the United States. All Division I football teams
20 are located in the U.S. American-style football is a uniquely American sport, and 99.9% of all
21 Division I football players are from the United States. Schools that participate in the Football
22 Bowl Subdivision Labor Market recruit athletes throughout the nation, as is demonstrated in the
23 recruiting maps published by the sports website "The Bleacher Report." These maps, *available at*
24 [http://bleacherreport.com/articles/1659569-top-200-college-football-recruits-for-2014-interactive-](http://bleacherreport.com/articles/1659569-top-200-college-football-recruits-for-2014-interactive-map)
25 [map](http://bleacherreport.com/articles/1659569-top-200-college-football-recruits-for-2014-interactive-map), show that schools from states as distant as Alabama and Oregon clearly compete for talent
26 on a nationwide basis, with both programs focusing on the talent-rich state of California as well as
27 throughout the Southeast.

28 //

Oregon:



Alabama:



E. NCAA Members Compete In Other Respects in the Football Bowl Subdivision Labor Market to Recruit and Retain College Football Players, But Not in GIAs

93. There is competition in some respects among Division I schools to recruit and retain the athletic services of college football players. This competition is most intense among the Power Conference Defendants that compete in the Football Bowl Subdivision Labor Market, but also exists at the Football Championship Subdivision level. The colleges and universities in the relevant market compete against one another to recruit and retain college athletes to participate in their athletic programs through agreements under which the athletes commit to attend a particular college or university in exchange for a GIA. The only reason that NCAA Division I schools do not engage in price competition to recruit and retain those athletes is due to the fact the NCAA Bylaws and agreements at issue prevent them from doing so.

94. NCAA members compete for Class Members, primarily through in-kind benefits. For instance, colleges may compete to hire the coach that will be best able to potentially launch players from the NCAA to 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 are expressly designed to attract and retain collegiate football players. Many future collegiate football players 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 college football players, whose athletic labor can result in many benefits for a college, including economic gain.

95. The NCAA prohibits its member institutions from simply paying student-athletes salaries or even offering deferred trust-funds or other forms of payment. Instead, competition among schools results in students with the desired athletic ability often receiving the maximum allowed (per the restraint in suit) Division I football grants-in-aid. 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-

1 athletes because student-athletes bring substantial collateral benefits to the school in the
 2 form of: (a) enhanced publicity and recruiting, which increases overall tuition revenue; (b)
 3 increased alumni donations; and (c) millions of dollars in gate receipts and licensing
 4 revenue and if they were to offer less than the maximum allowed per the restraint, a rival
 5 school would make the maximum offer and gain the benefits of that athlete's services
 6 instead.

7 **F. NCAA Members' Competition is Constrained by the Unlawful Grant-**
 8 **in-Aid Cap**

9 96. The schools in the Football Bowl Subdivision Labor Market engage in
 10 virtually unfettered competition for athletes in numerous respects. However, because all of
 11 the NCAA members competing in the Football Bowl Subdivision Labor Market have
 12 agreed to abide by the NCAA's grant-in-aid cap, the schools do not compete against one
 13 another with respect to the amount of financial aid and other forms of direct compensation
 14 they provide to college athletes. The NCAA and the colleges and universities in the
 15 relevant markets are able to enforce that agreement because, from the standpoint of
 16 prospective student-athletes, there are no acceptable substitutes for the Major College
 17 Football offered by Power Conference Defendants and their co-conspirators in the
 18 Football Bowl Subdivision Labor Market. Absent the agreement not to compete on this
 19 dimension, Defendants' member schools and those of their co-conspirator conferences
 20 would compete vigorously to attract talent using increased financial aid and other direct
 21 forms of compensation, but having secured an agreement of 100% of the schools and
 22 conferences in the Football Bowl Subdivision Labor Market, the NCAA and the
 23 conferences in the relevant market thus collectively wield market and monopoly power in
 24 the relevant market and are able to dictate the terms upon which the student-athletes who
 25 participate in Major College Football receive grants-in-aid.

26 97. The demand for college athletes is such that, absent the unlawful grant-in-
 27 aid cap, the colleges and universities in the Football Bowl Subdivision Labor Market
 28 would have competed against one another by offering higher amounts of athletics-based

1 financial aid to college athletes, up to and likely past the true Cost of Attendance. Grants-
 2 in-aid are therefore “capped” by the artificial rules imposed by the NCAA at amounts
 3 lower than the amounts that would prevail in a truly competitive market. All or nearly all
 4 of the college athletes in the proposed Class receive the maximum grant-in-aid amount
 5 that the colleges and universities are permitted to give under the NCAA’s rules and
 6 regulations. The Commissioners of the five Power Conference Defendants have all
 7 publicly stated that, absent the NCAA restraint which they and their coconspirators have
 8 collectively imposed upon the market, each Power Conference Defendant would allow and
 9 provide compensation in excess of the current cap.

10 98. As one such example, Defendant Big Ten’s Commissioner Jim Delaney has
 11 argued in favor of providing Big Ten athletes with “a yearly stipend that would provide a
 12 set amount of extra money to cover the difference between the actual cost of attending a
 13 school versus what a full ride scholarship provides. He identified a fixed cost of anywhere
 14 from \$2000 to \$5000 per athlete.”⁶ Defendants’ own public statements make clear that for
 15 the members of the Class, increased competition on the terms of athletics-based financial
 16 aid upon the elimination of the grant-in-aid cap would result in additional compensation,
 17 primarily in the form of increased athletics-based financial aid for all members of the
 18 proposed Class.

19 V. FACTUAL ALLEGATIONS

20 A. An Overview of the NCAA

21 1. The NCAA’s basic structure

22 99. The NCAA’s publicly available documents confirm that it operates by way
 23 of horizontal agreements among its members. The NCAA, in its “Consolidated Financial
 24 Statements as of and for the Years Ended August 31, 2012 and 2011” (the “Financial
 25 Statements”), describes itself as an “unincorporated not-for-profit educational
 26 organization,” “through which the colleges and universities of the nation speak and act on

27 ⁶ [http://www.cornnation.com/2013/7/25/4556982/jim-delany-and-the-ncaa-the-times-they-are-a-](http://www.cornnation.com/2013/7/25/4556982/jim-delany-and-the-ncaa-the-times-they-are-a-changin)
 28 changin.

1 athletic matters at the national level.” The NCAA additionally states that it “is a voluntary
 2 association of more than 1,200 institutions, conferences, and organizations devoted to the
 3 sound administration of intercollegiate athletics in all its phases.” The NCAA further
 4 states that “[t]hrough the NCAA, its members consider any athletics issue that crosses
 5 regional or conference lines and is national in character,” and it “serves as the colleges’
 6 national athletics governing agency.”

7 100. The NCAA further states in its 2011 Internal Revenue Service Form 990
 8 (“IRS Tax Return”) that its “active member institutions and voting conferences are the
 9 ultimate voice in all Association decisions.”

10 101. The NCAA states on its website that it “oversees 89 championships in 23
 11 sports. There are more than 400,000 student-athletes competing in three divisions at over
 12 1,000 colleges and universities within the NCAA.” The NCAA further states:

13 Each member school is able to choose a level of competition
 14 that best fits its mission. Competition is offered in Division I
 15 (the largest programs that provide the most athletically related
 financial aid for student-athletes), Division II (limited financial
 aid) and Division III (no athletically related financial aid).

16 There are 1,066 active member schools in the NCAA
 17 membership – 340 in Division I, 290 in Division II and 436 in
 18 Division III. The NCAA also contains 95 member conferences
 in all three divisions. Overall membership – counting schools,
 conferences and related associations – is 1,273.

19 Division I is subdivided based on football affiliation. A total of
 20 120 schools are members of the Football Bowl Subdivision
 21 (FBS). That subdivision is characterized by postseason play
 22 outside the NCAA structure and also by higher financial aid
 23 allocations. The second Division I subdivision is the Football
 Championship Subdivision, which contains 122 schools that
 participate in the NCAA’s Division I Football Championship.
 The remaining 98 Division I schools do not sponsor football.

24 102. The NCAA, in Article 3.01 of its Constitution, states that “Division I offers
 25 three classes of membership: active, conference and affiliated.”

26 103. NCAA Constitution Article 3.02.3, titled “Membership Categories,” states:

1 **3.02.3.1 Active Member.** An active member is a four-year
 2 college or university that is accredited by the appropriate
 3 regional accrediting agency and duly elected to active
 4 membership under the provisions of this article (see
 5 Constitution 3.2.3). Active members have the right to compete
 6 in NCAA championships, to vote on legislation and other issues
 before the Association, and to enjoy other privileges of
 membership designated in the constitution and bylaws of the
 Association.

7 **3.02.3.2 Member Conference.** A member conference is a
 8 group of colleges and/or universities that conducts competition
 9 among its members and determines a conference champion in
 10 one or more sports (in which the NCAA conducts
 11 championships or for which it is responsible for providing
 12 playing rules for intercollegiate competition), duly elected to
 13 conference membership under the provisions of this article (see
 14 Constitution 3.3.3). A member conference is entitled to all of
 15 the privileges of active members except the right to compete in
 16 NCAA championships (see Constitution 3.3.2). Only those
 conferences that meet specific criteria as competitive and
 legislative bodies (see Constitution 3.02.1 and 3.02.2) and
 minimum standards related to size and division status are
 permitted to vote on legislation or other issues before the
 Association.

17 104. The NCAA states on its website that “each division creates its own rules
 18 governing personal, amateurism, recruiting, eligibility, benefits, financial aid, and playing
 19 and practice seasons – consistent with the overall governing principles of the Association.
 20 Every program must affiliate its core program with one of the three divisions.”

21 105. The NCAA further states this on its website:

22 Division I is subdivided based on a school’s football
 23 sponsorship. Schools that have football teams that participate in
 24 bowl games belong to the Football Bowl Subdivision. Those
 that participate in the NCAA-run football championship belong
 to the Football Championship Subdivision. Other schools don’t
 sponsor football at all.

25 Schools that belong to the Football Bowl Subdivision have
 26 different requirements from other schools. For example, they
 27 must sponsor a minimum of 16 varsity sports, including
 28 football. Other Division I schools must sponsor 14 sports.
 Additionally, Football Bowl

1 Subdivision schools must meet stricter requirements for
2 financial aid distribution and home football attendance than
3 schools who classify in the FCS or Division I without football.

4 The subdivisions are based on football sponsorship only. All other sports are considered
5 simply Division I.

6 **2. The NCAA's Purpose**

7 106. The NCAA explains in its Financial Statement that “[a] basic purpose of the
8 NCAA is to maintain intercollegiate athletics as an integral part of the educational
9 program and the athlete as an integral part of the student body.”

10 107. In its 2011 IRS Tax Return, the NCAA states that “[t]he mission of the
11 NCAA national offices is to conduct efficiently the business of the association as directed
12 by the membership” The NCAA therein further states that, “[t]he NCAA’s purpose is
13 to govern competition in a fair, safe, equitable and sportsmanlike manner and to integrate
14 intercollegiate athletics into higher education so that the educational experience of the
15 student-athlete is paramount.”

16 108. Article 1 of the NCAA’s Constitution states that the NCAA’s purposes
17 include “(c) To encourage its members to adopt eligibility rules to comply with
18 satisfactory standards of scholarship, sportsmanship and amateurism;” “(f) To supervise
19 the conduct of, and to establish eligibility standards for, regional and national athletics
20 events under the auspices of this Association;” “(h) To legislate, through bylaws or by
21 resolutions of a Convention, upon any subject of general concern to the members related
22 to the administration of intercollegiate athletics;” and (i) To study in general all phases of
23 competitive intercollegiate athletics and establish standards whereby the colleges and
24 universities of the United States can maintain their athletics programs on a high level.”

25 **3. The NCAA’s detailed governance structure**

26 109. The NCAA explains in its Financial Statement that it “operates through a
27 governance structure, which empowers each division to guide and enhance their ongoing
28 division-specific activities.” It continues that, “[i]n Division I, the legislative system is
based on conference representation and an eighteen member Board of Directors that

1 approves legislation.” The NCAA continues that, “[t]he governance structure also includes
 2 an Executive Committee composed of sixteen chief executive officers (member institution
 3 chief executive officers) that oversee association-wide issues, which is charged with
 4 ensuring that each division operates consistently with the basic purposes, fundamental
 5 policies, and general principles of the NCAA.”

6 110. The NCAA further states that its “Executive Committee serves as the senior
 7 governing body of the NCAA.”

8 111. The NCAA further states on its website: “**Division I Board of Directors.**
 9 Eighteen members comprised of chief executive officers (CEOs). All 11 Football Bowl
 10 Subdivision conferences have a permanent seat. Seven Football Championship
 11 Subdivision and Division I conferences rotate seats.”⁷

12 4. The NCAA Manual

13 112. The NCAA and its members govern themselves through the NCAA’s
 14 “Manuals,” promulgated yearly, with additional quarterly updates. The Manuals include,
 15 among other things, the NCAA’s “Constitution” and “Operating Bylaws.” Through the
 16 NCAA Constitution and Bylaws, the NCAA and its members have adopted regulations
 17 governing all aspects of both men’s and women’s college sports. The NCAA Constitution
 18 and Bylaws were adopted by votes of the member institutions and may be amended by
 19 votes of the member institutions. Thus, the rules set forth in the NCAA Constitution and
 20 Bylaws constitute express, horizontal agreements among the NCAA and its members.

21 113. NCAA Constitution Article 5.2.2 (“Bylaws”) states that “[e]ach division
 22 may adopt legislation to be included in the operating bylaws of the Association, which
 23 provide rules and regulations not inconsistent with the provisions of the constitution and
 24 which shall include, but not be limited to, the following particulars: (a) The administration
 25 of intercollegiate athletics by members of the Association; (b) The establishment and
 26 control of NCAA championships (games, matches, meets and tournaments) and other

27 ⁷ Football Bowl Subdivision has since consolidated its 11 conferences into 10, with schools that
 28 played football in the WAC conference moving to other conferences or becoming independent.

1 athletics events sponsored or sanctioned by the Association; (c) The procedures for
 2 administering and enforcing the provisions of the constitution and bylaws; and (d) The
 3 adoption of rules of play and competition in the various sports, and the delegation of
 4 authority in connection with such subjects to individuals, officers or committees.”

5 **5. The NCAA’s Enforcement Structure**

6 114. The agreement among the NCAA and the other Defendants, the punishment
 7 mechanisms, and the policing mechanisms are each laid out in clear, publicly-available
 8 language.

9 115. The NCAA’s Constitution and Bylaws contain extensive provisions,
 10 constituting express horizontal agreements among competitors, requiring NCAA members
 11 to abide by all provisions of the Constitution and Bylaws, including the athletics grant-in-
 12 aid limitation at issue in this Complaint. The Constitution and Bylaws further contain
 13 extensive provisions provided for discipline of members that do not abide by the rules.
 14 The Constitution and Bylaws further provide detailed monitoring provisions.

15 116. For example, NCAA Constitution Article 1.3.2, titled “Obligations of
 16 Member Institutions,” states that “[l]egislation governing the conduct of intercollegiate
 17 athletics programs of member institutions shall apply to basic athletics issues such as
 18 admissions, financial aid, eligibility and recruiting. Member institutions shall be obligated
 19 to apply and enforce this legislation ...” Article 2.8.1, titled “Responsibility of Institution,”
 20 found within Article 2.8, titled “The Principle of Rules Compliance,” reiterates that “Each
 21 institution shall comply with all applicable rules and regulations of the Association in the
 22 conduct of its intercollegiate athletics programs,” and that “[m]embers of an institution’s
 23 staff, student-athletes, and other individuals and groups representing the institution’s
 24 athletics interests shall comply with the applicable Association rules, and the member
 25 institution shall be responsible for such compliance.” Article 3.1, titled “Eligibility for
 26 Membership,” reinforces that “institutions or organizations must accept and observe the
 27 principles set forth in the constitution and bylaws of the Association.” Constitution Article
 28 3.2.1.2, titled “Compliance with Association Rules,” states that “[t]he institution shall

1 administer its athletics programs in accordance with the constitution, bylaws and other
2 legislation of the Association.”

3 117. Article 3.2.4, titled “Conditions and Obligations of Membership,” states that
4 “[t]he active members of this Association agree to administer their athletics programs in
5 accordance with the constitution, bylaws and other legislation of the Association.”
6 Pursuant to Bylaw 18.4.2.1, each year, by September 15th, each NCAA member must
7 “[c]ertify, though its president or chancellor on a form approved by the Legislative
8 Council, the institution’s compliance with NCAA legislation.”

9 118. The NCAA’s Constitution and Bylaws contain numerous disciplinary
10 provisions detailing the dire consequences for any member that breaks the rules. The
11 penalties can include expulsion from the NCAA. NCAA Constitution Article 1.3.2 states
12 that “the enforcement procedures of the Association shall be applied to an institution when
13 it fails to fulfill this obligation” to apply and enforce NCAA legislation. Article 2.8.3,
14 titled “Penalty for Noncompliance,” states that “[a]n institution found to have violated the
15 Association’s rules shall be subject to such disciplinary and corrective actions as may be
16 determined by the Association.” Article 3.2.5.1, titled “Termination of Suspension,” states
17 that “[t]he membership of any active member ... failing to meet the conditions and
18 obligations of membership may be suspended, terminated or otherwise disciplined”
19 Article 3.01.4 states that “[a]ll rights and privileges of a member shall cease immediately
20 upon termination or suspension of its membership.” Article 3.2.5.1.1, titled “Cessation of
21 Rights and Privileges,” states that “[a]ll rights and privileges of the member shall cease
22 upon any termination or suspension of active membership.”

23 119. In addition to regulating its members, the NCAA directly regulates college
24 athletes themselves. For example, Bylaw 14.1.3, for example, states that each year, a
25 college athlete “shall sign a statement in a form prescribed by the Legislative Council ...
26 related to ... eligibility ... financial aid, amateur status ... [f]ailure to complete and sign the
27 statement shall result in the student-athlete’s ineligibility for participation in all
28 intercollegiate competition.” Bylaw 14.01.3 states that, to be eligible, “a student-athlete

1 shall be in compliance with all applicable provisions of the constitution and bylaws of the
2 Association” Bylaw 14.1.1 states that, “[t]o be eligible for regular-season competition,
3 NCAA championships, and for postseason football games, the student-athlete shall meet
4 all general eligibility requirements.” Constitution Article 3.2.4.3 states that, “[t]he
5 institution shall be obligated immediately to apply all applicable rules and withhold
6 ineligible student-athletes from all intercollegiate competition.” In other words, the NCAA
7 mandates a collective boycott by all members of any athlete found to have deviated from
8 the price-fixing activity alleged in this Complaint.

9 120. To reinforce its rules, the NCAA goes even further. For example,
10 Constitution Article 3.2.4.11, titled “Discipline of Members,” states that, “active members
11 shall refrain from athletics competition with designated institutions as required under the
12 provisions of the Association’s enforcement procedures.” In other words, the NCAA
13 mandates a collective boycott by all members of any school found to have deviated from
14 the price-fixing activity alleged in this Complaint.

15 121. NCAA member conferences further enforce NCAA rules. For example,
16 Defendant the Pac 12 Conference, in its “2013-14 Handbook,” states in its “Statement of
17 Purpose” that “[t]he Conference is formed for the following purposes: a. To provide its
18 members with a jointly governed body for sponsoring, supervising and regulating
19 intercollegiate athletics as a conference member of the National Collegiate Athletics
20 Association (“NCAA”) in accordance with the principles, policies, constitution and
21 bylaws of the NCAA ...” The Pac 12 continues that “[t]he members of the Conference
22 value: ... Compliance with Conference and NCAA rules.” The Pac 12 continues that “[t]he
23 Conference may place a member on probation or suspension, or terminate its membership,
24 by vote of at least three-fourths of all the members of the CEO Group eligible to vote on
25 the matter, for one or more of the following reasons: ... Violating rules and regulations of
26 the NCAA, or becoming ineligible for active membership in Division I of the NCAA, by a
27 written determination of the NCAA; ... Such disciplinary action may also include the
28 assessment of financial penalties.” The Pac 12 continues that “[t]he Conference is a

1 member of the NCAA, therefore, all member institutions are bound by NCAA rules and
2 regulations unless the Conference rules are more demanding.” The Pac 12 continues that
3 “[t]he rules of the National Collegiate Athletic Association shall govern all matters
4 concerning financial aid to student-athletes except to the extent that such rules are
5 modified by the CEO Group.” The Pac 12 continues that “The rules of the National
6 Collegiate Athletic Association shall govern all matters of student-athlete eligibility except
7 to the extent that such rules are modified for practice and competition in Conference sports
8 by regulations adopted by the CEO Group.”

9 122. As a practical matter, any academic institution that sponsors a men’s football
10 program in the Football Bowl Subdivision Labor Market must maintain membership in the
11 NCAA and abide by the rules and regulations promulgated by the NCAA and its
12 members, including the NCAA Constitution, Bylaws, Executive Regulations and Official
13 Interpretations. All colleges and universities that participate in the Football Bowl
14 Subdivision Labor Market are NCAA members, have conferred upon the NCAA the right
15 to sanction and approve games including bowl games, have agreed to restrictions under
16 which they are forbidden from competing on the field against non-NCAA teams, and have
17 agreed to abide by all of the NCAA’s rules and regulations. There is no practical
18 alternative to NCAA membership for any academic institution that wishes to sponsor a
19 Major College Football program. There is no Major College Football program in the
20 United States that is not an NCAA member, abiding by the NCAA rules.

21 123. As a result of the NCAA rules embodied in the grant-in-aid cap, no NCAA
22 member school has provided any college athlete with athletics-based financial aid in
23 excess of the grant-in-aid cap, other than a few noted “scandals” in which the NCAA
24 imposed punishments on schools for exceeding the cap through the provision of “under-
25 the-table” benefits.

26 124. In other respects, the academic institutions in the Football Bowl Subdivision
27 Labor Market aggressively compete against one another on the field of play, in recruiting
28 college athletes, in seeking to recruit and retain talented coaching staffs, in building

1 athletic facilities that will attract athletes and coaches and in soliciting revenues from
 2 television, radio and corporate sponsors. Absent the unlawful grant-in-aid cap, the same
 3 competitive forces would result in more valuable grants-in-aid and other forms of direct
 4 compensation.

5 **B. The NCAA Bylaw Challenged in this Litigation**

6 125. The Plaintiff in this litigation specifically challenges NCAA Bylaw 15.1,
 7 titled “Maximum Limit on Financial Aid – Individual,” which states in pertinent part the
 8 following: “A student-athlete may receive institutional financial aid based on athletics
 9 ability (per Bylaw 15.02.4.1) and educational expenses awarded per Bylaw 15.2.6.4 up to
 10 the value of a full grant-in-aid” Bylaw 15.02.5, entitled “Full Grant-in-Aid,” states that
 11 “A full grant-in-aid is financial aid that consists of tuition and fees, room and board, and
 12 required course-related books.”

13 126. Other NCAA Bylaws reinforce the prohibition. Bylaw 12.01.1 states that
 14 “[o]nly an amateur student-athlete is eligible for intercollegiate athletics participation in a
 15 particular sport.” Bylaw 12.1.2 states that “[a]n individual loses amateur status and thus
 16 shall not be eligible for intercollegiate competition in a particular sport if the individual:
 17 Uses his or her athletics skill (directly or indirectly) for pay in any form in that sport”
 18 Bylaw 12.02.7 states that “[p]ay is the receipt of funds, awards or benefits not permitted
 19 by the governing legislation of the Association for participation in athletics.” Bylaw
 20 12.01.4, titled “Permissible Grant-in-Aid,” states that “[a] grant-in-aid administered by an
 21 educational institution is not considered to be pay or the promise of pay for athletics skill,
 22 provided it does not exceed the financial aid limitations set by the Association’s
 23 membership.” Bylaw 12.1.2.1, titled “Prohibited Forms of Pay,” states that “[p]ay,’ as
 24 used in Bylaw 12.1.2 above, includes, but is not limited to the following: ... Educational
 25 expenses not permitted by the governing legislation of this Association (see Bylaw 15
 26 regarding permissible financial aid to enrolled student-athletes).” Bylaw 15.01.2 states that
 27 “[a]ny student-athlete who receives financial aid other than that permitted by the
 28 Association shall not be eligible for intercollegiate athletics.”

127. Under the grant-in-aid cap, which is set forth in Division I Bylaw 15.02.5, a “Full Grant-In Aid” to a college athlete is defined as “financial aid that consists of tuition and fees, room and board, and required course-related books.” The grant-in-aid for each member institution is thus expressly restricted to cover an amount less than the full Cost of Attendance at any member institution, because the Cost of Attendance is separately and more broadly defined by NCAA Division I Bylaw 15.02.2 to be “an amount calculated by an institutional financial aid office, using federal regulations, that includes the total cost of tuition and fees, room and board, books and supplies, transportation, and other expenses related to attendance at the institution.” It is also expressly restricted below the level that would prevail in a market free of anti-competitive collusion, as is made clear by the statements of the Power Conference Defendants, their member schools, and their co-conspirators and co-conspirator’s member schools. As described below, absent collusion regarding GIA’s, the Power Conference Defendants would raise the amount they offer to athletes in the Football Bowl Subdivision Labor Market above the current maximum allowed GIA.

128. NCAA Bylaw 15.02.2.1, titled “Calculation of Cost of Attendance,” further states: “An institution must calculate the Cost of Attendance for student-athletes in accordance with the cost-of-attendance policies and procedures that are used for students in general. Accordingly, if an institution’s policy allows for students’ direct and indirect costs (*e.g.*, tuition, fees, room and board, books, supplies, transportation, child care, cost related to a disability and miscellaneous personal expenses) to be adjusted on an individual basis from the institution’s standard cost figure, it is permissible to make the same adjustment for student-athletes, provided the adjustment is documented and is available on an equitable basis to all students with similar circumstances who request an adjustment.” Therefore, for every member of the proposed class, each university has already calculated his Cost of Attendance figure, per NCAA requirements.

129. The NCAA enforces the agreed-upon grant-in-aid cap through a further agreement under which any college athlete who receives athletics-based financial aid in

1 excess of the grant-in-aid cap is ineligible to compete in NCAA sports. NCAA members
2 have set up elaborate and sophisticated mechanisms to monitor compliance and penalize
3 violations of the horizontal restraints on trade. Among other things, the NCAA requires
4 members to report each college athlete's financial aid information to the NCAA on or
5 before the first day of outside competition for the sport in which the college athlete
6 participates. This information is compiled onto a form known as a "Squad List" and each
7 Power Conference Defendant's member school maintains control of this document. The
8 NCAA makes available to its members, at no charge, compliance software that applies
9 NCAA regulations to college athletes' information, generates reports to the NCAA and
10 warns the member when the jointly imposed limit on a college athlete's financial aid has
11 been exceeded. Violations are adjudicated and penalties imposed by competing member
12 institutions.

13 130. Any Division I member that deviates from the NCAA rules limiting the
14 amount, terms and conditions of financial aid to college athletes is subject to severe
15 sanctions, including expulsion, under NCAA rules. These punishments have included a
16 complete ban on football participation (the "death penalty") as well as a reduction in the
17 number of grants-in-aid a school can offer. The very fact that a reduction in the number of
18 grants-in-aid is seen as a severe punishment is a clear sign as to how valuable even the
19 least scholarship athlete on a team is.

20 131. Moreover, because NCAA rules prohibit members from playing games with
21 non-NCAA members, an expelled member would be unable to continue participating in
22 major college sports. Because sports businesses, like college football teams, require
23 opponents to provide a game for its consumers, and require multiple opponents to form a
24 league season of football that culminates in a league championship, an organized,
25 collective boycott by all other participants in Major College Football constitutes a
26 tremendous barrier to any one team (or even a small handful of teams) succeeding in
27 forming a rival league if boycotted by all NCAA members. Thus, the NCAA's price-

1 fixing regime is designed with strict enforcement built in that prevents a fracturing of the
2 cartel.

3 132. As a result, Division I schools do not deviate from the rules limiting the
4 amount, terms and conditions of financial aid to college athletes other than the exceptional
5 case of what the NCAA refers to as “cheating” such as providing excessively luxurious
6 accommodations (Reggie Bush) or too many text books (Nebraska).

7 133. For many years, the grant-in-aid cap has restricted the amount of athletics-
8 based financial aid available to college athletes in NCAA Division I, and it continues to do
9 so to this day. As the NCAA itself writes, “[a]n “incidental allowance” of \$15 per month
10 was once justified as an educational expense that was tied to Cost of Attendance, but was
11 eliminated from the NCAA grant-in-aid definition in the 1970s.” This statement refers to
12 the anti-competitive decision in 1976 to take an already collusive limitation on
13 compensation to athletes and further reduce it through a collusive decision to remove
14 certain elements of the then-permitted GIA. While in 1975-76, the NCAA allowed its
15 members to provide direct compensation up to the value of “... commonly accepted
16 educational expenses (i.e., tuition and fees; room and board; required course-related
17 supplies and books, and incidental expenses not in excess of fifteen dollars per month)
18 ...,” as of 1976-77, that limit was lowered to include only “... commonly accepted
19 educational expenses (i.e., tuition and fees, room and board and required course-related
20 books)” Thus, since 1976-77, through the artificial limitations on financial aid
21 embodied in the grant-in-aid cap, the NCAA and its members have agreed among
22 themselves not to include in financial aid such costs as school supplies, recommended
23 text books, laundry expenses, travel costs and incidental expenses. (In addition, a cap
24 prohibiting the provision of health and disability insurance existed until eliminated via a
25 legal settlement in 2008.)

26 134. Without the grant-in-aid cap, the colleges and universities that sponsor
27 Major College Football and compete in the Football Bowl Subdivision Labor Market
28 would provide athletic scholarships in an amount in line with the true cost of attending

1 college and the college athlete's value in a competitive market. The same competitive
2 forces that drive schools to provide coaches with million-dollar salaries and build lavish
3 athletic facilities would also compel those schools to provide athletics-based grants-in-aid
4 at a competitive level. Indeed, the athletic directors of the University of Texas
5 acknowledged this in a 2013 Declaration in other litigation in this District, when they
6 declared that "[i]ntroduction of that kind of commercial recruiting competition for and
7 between student-athletes would heavily impact recruiting throughout NCAA institutions,
8 including Division I. At least some student-athletes would likely gravitate toward schools
9 that would 'pay' them the most amount of money...." The grant-in-aid cap thus enables the
10 NCAA, its member colleges and universities, and the coaches to reap all of the financial
11 benefits of big-time college sports, while depriving Class Members of needed dollars in
12 athletics-based financial aid.

13 135. Through the grant-in-aid cap, the NCAA and its members have thus
14 combined and conspired to fix, depress or stabilize the amount, terms and conditions of
15 athletics-based financial assistance to Class Members in the relevant market.

16 136. The grant-in-aid cap has been successful and effective. As a result of the
17 grant-in-aid cap, Class Members receive lower amounts of financial assistance and other
18 direct compensation than they would receive if Class Members were permitted to receive
19 athletics-based financial aid covering their true costs of attendance.

20 137. Absent Defendants' unlawful horizontal restraint on competition through the
21 grant-in-aid cap, competitive grant-in-aid offers would be an important means by which
22 NCAA Division I members would compete for and recruit Class Members, and Class
23 Members would receive more generous scholarships and other financial aid as a result of
24 competition among those schools. The restraint's anti-competitive effects substantially
25 outweigh any alleged pro-competitive effects that Defendants may offer.

26 **C. Reasonable and less restrictive alternatives exist.**

27 138. There are reasonable and less restrictive alternatives to Defendants'
28 anticompetitive practices. For example, the Power Conference Defendants could be

1 allowed to compete amongst each other as to the financial aid terms that conference
2 members make available to college football players. *See, e.g.*, Jonathan Mahler, Business
3 Week, “College Athletes Should be Paid Exactly This Much,” January 2, 2014 (“Once the
4 NCAA monopoly has been broken, the various conferences would be free to write rules
5 for their respective members. Some conferences might even experiment with salary caps
6 and see how the market reacts. As long as they weren’t colluding to fix prices – as they are
7 doing now – the market would find an equilibrium.”). Such incremental competition
8 would allay the fears (even though unfounded) of those that decry the repercussions of an
9 instantaneous transition to a wide-open free market, with every school making its own
10 independent decisions.

11 139. The Power Conference Defendants already compete with each other in other
12 ways. Among the most obvious is their competition in the Coaching Labor Market to
13 attract the best coaches to help recruit athletes and to win games. In litigation captioned
14 *Law v. NCAA*, the plaintiffs challenged efforts similar to the grant-in-aid cap in suit that
15 were undertaken to fix the price of (basketball) coaching talent. In that case, after applying
16 a quick look, the Court, and the Court of Appeals, both found the NCAA’s nationwide
17 collusion of this labor market violated the antitrust laws. Despite the NCAA’s claim that
18 such rules were necessary to the survival of college sports, no such collapse has occurred.

19 140. In the absence of the anticompetitive, collusive restraint detailed herein, the
20 Power Conference Defendants similarly could be expected to compete on terms of
21 financial aid that their members offer to current and prospective college football players.
22 Each could independently determine a method to compete regarding grants-in-aid, while
23 still preserving consumer interest in Division I Football Bowl Subdivision football.
24 However, given the anticompetitive history detailed herein, such competition should not
25 occur without judicial oversight. Plaintiff therefore requests the appointment of an Antitrust
26 Compliance Monitor to ensure that Defendants do not unlawfully impede competition
27 among themselves even after the NCAA is enjoined from enforcing the current price-
28 fixing agreement.

1 141. Each conference has indicated that if left to design its own compensation
2 plan, each would increase the current levels by at least the difference between the current
3 collusively-set grant-in-aid maximum and the true Cost of Attendance. Ending collusion
4 would widen consumer choice as each Power Conference Defendant (as well as their co-
5 conspirators) could choose the level of payment that best balances its desire to attract the
6 best talent with the perceived reaction of its consumers (broadcasters, alumni, other
7 students, fans).

8 142. Defendant NCAA's expert, in other litigation, has testified that lifting the
9 current cap would be pro-competitive: "For example, I have asked myself, suppose that
10 the NCAA were to define differently what is an appropriate payment that would cover
11 student expenses and tuition and to change that amount. It's a subject that has been under
12 some debate, and I think there are changes in the rules that could be made that would still
13 achieve the pro-competitive purposes that the NCAA has set out, but I have not seen my
14 charge by the NCAA as advising them as to how to change their regulations."

15 143. The ABA's *Antitrust* publication in 2000 published an analysis of the
16 NCAA's price-fixing rules and concluded that less restrictive alternatives, such as
17 conference-based competition, exist. Daniel A. Rascher and Andrew D. Schwarz,
18 "Neither Reasonable nor Necessary: 'Amateurism' in Big-Time College Sports,"
19 *Antitrust*, Spring 2000, pp. 51-56.

20 144. NCAA member conferences already compete: (1) on non-monetary terms to
21 attract the best football players to their conferences; (2) to attract member institutions (a
22 phenomenon known, as of late, by the term "conference realignment"); (3) to retain
23 member institutions; (4) to provide desirable revenue sharing among member institutions
24 (whether equal sharing, or unequal sharing); (5) to provide conference "stability"; (6) to
25 attract favorable television broadcast revenues; (7) to provide conference-owned television
26 networks; (8) to attract sponsorship monies; and (9) to retain the most qualified referees
27 and officials.

D. The NCAA's Public Statements Regarding the Pro-competitive Nature of the Proposed Stipend and Absence of Pro-competitive Justifications for Capping Compensation at Current Levels

145. The NCAA has made a litany of public comments seemingly supporting the concept of a stipend. Each one seems potentially promising, until one realizes they go back to at least as early as 2003 (leaving aside that stipends were provided prior to 1976-77 when they were stopped by the NCAA), and that little change ever followed.

146. As only one of many examples of such statements, in January 2014, NCAA Division I Board of Directors Chairman Nathan Hatch, also the President of NCAA Division I member Wake Forest University, circulated a letter to NCAA members regarding a "template prepared by the Division I Board of Directors' Steering Committee on Governance that is intended to aid participants during the January 16 and 17 Division I Dialogue in San Diego." The "template" includes a "Proposed Legislative Structure" regarding "Legislative Autonomy" that is "[d]efined as the ability, within the current NCAA structure, for the SEC, B10 [sic, i.e. the Big Ten], PAC-12, Atlantic Coast Conference and Big 12 conferences and their institutions to adopt reforms in a regulatory structure that respects the demands on student-athletes in the 21st century and acknowledges the need for these conferences / institutions to define rules that address their unique challenges."

147. The document continues that one of the "Proposed Areas of Autonomy" is to "[d]efine a full grant-in-aid as meeting a student-athlete's cost of attendance in a manner consistent with the core values of the collegiate model and not to exceed total cost of attendance."

148. On January 13, 2014, the *Associated Press* reported that "NCAA President Mark Emmert said Monday that providing a stipend to student-athletes seems less threatening to the schools that earlier knocked down a proposal to increase the value of a scholarship to cover the full cost of attendance. 'It seems to be a much less controversial notion today than it was 18 months ago,' Emmert said of the stipend proposal. 'As we've

1 talked about it more and the membership has had a chance to digest it, it's being seen as
2 less threatening.'"

3 149. Each of the Power Conference Defendants has made public statements
4 indicating that absent the current restraint, it would make competitive offers in the
5 Football Bowl Subdivision Labor Market for at least the full Cost of Attendance.

6 **E. Football Bowl Subdivision Football Players Seek the Ability to Compete**
7 **without Anticompetitive Restraint in the Football Bowl Subdivision**
8 **Labor Market**

9 150. Football Bowl Subdivision Football players have eloquently articulated the
10 burdens they suffer under the current anticompetitive regime. A January 6, 2013,
11 Associated Press article reported the following regarding the proposed stipend:

12 "It kind of goes both ways," said Alabama defensive back
13 Vinnie Sunseri, whose father, Sal, is a college football coach
14 and former NFL player. "A lot of people would say we don't
15 deserve it because we already get enough as college kids that
16 just happen to play a sport. A lot of people don't realize all the
17 work that goes into all the stuff that we have to do throughout
18 the day.

16 "I have no time during the day. I wake up at 6 a.m., lift, go to
17 class, right after class you come back up to the football
18 complex to watch film and get ready for practice. By the time
19 you get out, you've got to go to study hall. By the time you get
20 out of study hall, it's basically bed time. It is really like a full-
21 time job."

20 Alabama long-snapper Carson Tinker made the team as a non-
21 scholarship walk-on, but earned a scholarship this season.

21 "I'm very thankful for my scholarship," Tinker said. "All of
22 us have bills. All of us have expenses, just like every other
23 student. I don't live with football players. I live with two of
24 my good friends. While I'm at practice every day, they have a
25 job. They're able to pay their bills, buy food, stuff like that."

24 151. In an article dated September 24, 2013, the writer Patrick Hruby reported:

25 Speaking of bad situations, Foster says in "Schooled" that his
26 athletic scholarship didn't always leave him with enough
27 money to eat and pay rent, and that a coach once bought him
28 and his teammates "like, 50 tacos for like four or five of us.
Which is an NCAA violation." Foster also claimed he took
under-the-table payments during his senior year. Some
accused him of lying. *Don't college athletes get lavish training*

1 *tables? No way those guys go hungry.* Yet according to a
 2 recent study by Drexel University professor Ellen Staurowsky,
 3 the average difference between scholarship value and the full
 4 cost of attending school for Football Bowl Subdivision players
 5 in 2011-2012 was \$3,285.

6 Former Marshall University quarterback Brian Anderson says
 7 he experienced that gap, particularly when he lived off-campus
 8 his junior and senior years. His scholarship provided roughly
 9 \$900 a month during the school year for food and rent, and
 10 less during summer months. “So you’re spending \$400 bucks
 11 on rent, and the rest is for food, gas, and things like clothes.
 12 For some kids, that isn’t enough. I was lucky. I had parents
 13 who could provide for me.”

14 And what about training tables?

15 “As far as that being provided, it was always provided after
 16 practice if we got out after the cafeteria was closed,” says
 17 Anderson. “But there were a lot of times we didn’t know if we
 18 were going to get paid for a weekend when the lunch room
 19 wasn’t open or something. If we got that money, we were
 20 surprised and excited. If we didn’t, it was what it was. What
 21 the NCAA said the school could pay us. We weren’t going to
 22 speak out about it.”

23 152. On July 26, 2013, Sports Illustrated’s SI.com reported: “During Friday’s
 24 Pac-12 media day, Stanford offensive lineman David Yankey fielded a question about
 25 stipends. He responded by saying: “I definitely think the extra money would help a lot. A
 26 full scholarship doesn’t cover everything, as far as traveling home to see your parents,
 27 especially when you go across the county to a place like Stanford, personally being from
 28 Georgia. That could help a lot of players.”

29 **F. NCAA Members’ Statements against the Stipend Proposal Show that**
 30 **Opposition is Not Based on Valid Antitrust Defenses, but Rather Serve**
 31 **Primarily as Cost-Cutting Efforts or as Means of substituting the**
 32 **Judgment of the Cartel for that of the Market**

33 153. In vigorously opposing the stipend rule, NCAA member institutions laid
 34 bare their anticompetitive motivations, and have repeatedly made public statements
 35 demonstrating the lack of pro-competitive motives for maintaining the current level of
 36 fixed prices. These invalid justifications include a desire to lower costs, a desire to restrict
 37 the choices of athletes in the labor market, or a simple aversion to seeing its labor force
 38 with money to spend.

154. The NCAA, in a press release in December 2011 regarding the override vote that suspended the new rule, made clear the decision was made to hold down cartel members' costs, stating that "[o]ther schools who objected to the legislation stated they can't afford the additional expense but feel it will be necessary to find the money to pay for it in order to compete for recruits."

155. The primary motivation of NCAA institutions in repealing the stipend rule was to reduce price competition thereby holding down their labor costs. Moreover, many explicitly saw that the current cap had the effect of denying their athletes choice among a variety of financial aid packages. That is, as Boise State put it: "That tough decision [where to attend college] becomes more complicated when the student and his/her family have to factor in what school 'offers the best deal' versus where they may want to attend if all offers were for one year without the enticement of \$2,000," but of course that is no different than price-fixers of consumer products arguing that by fixing prices, they make it easier for consumers to choose the car, or laundry soap, or milk products than best fits their families' needs, independent of price.

G. Major College Football Is a Highly Commercialized Business, not a Charitable Endeavor

156. The money generated by the college sports enterprise, presided over and facilitated by the NCAA, is staggering. In March 2013, [ESPN.com](http://espn.com) published the below information regarding the major NCAA conference's television deals.⁸ It explains that "First-tier rights are for football and/or basketball games broadcast nationally. Second-tier rights are for football and/or basketball games not selected by the first-tier rights holder. Third-tier rights are any games not selected by the first- or second-tier rights holders and rights for all sports other than football and basketball and can include digital rights. These rights are often sold on a per-school basis (not negotiated by the conference as a whole) and often go to regional networks (Comcast Sports Southeast, Raycom, or SportsNet New

⁸ http://espn.go.com/blog/playbook/dollars/post/_/id/3163/a-comparison-conference-television-deals (last visited Nov. 8, 2013).

York, for example). They can also be reserved for networks like the Big Ten Network and the Longhorn Network.” The information is as follows:

NCAA CONFERENCE NAME	TELEVISION CONTRACT INFORMATION	DOLLAR AMOUNT
BIG 12	First and second-tier rights, ESPN/FOX, 13 years through 2024-25:	\$2.6 Billion
	Per-year average: Per-school, per-year average:	\$200 Million \$20 Million
PAC 12	First and second-tier rights, ESPN/FOX, 12 years through 2023-24:	\$3 Billion
	Per-year average: Per-school, per-year average:	\$250 Million \$20.8 Million
Southeastern	First-tier rights, CBS, 15 years through 2023-24 (negotiations ongoing):	\$825 Million
	Second-tier rights, ESPN, 15 years through 2023-24 (negotiations ongoing):	\$2.25 Million

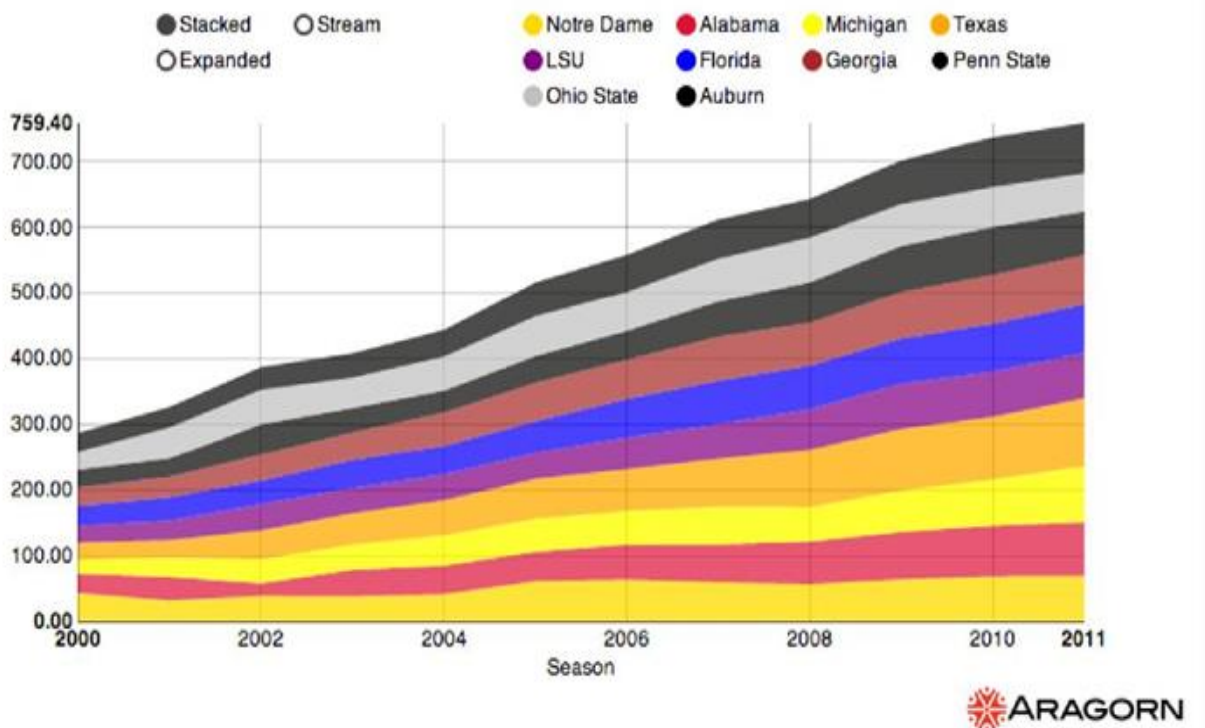
Conference	Per-year average (negotiations ongoing):	\$205 Million
	Per-school, per-year average: (negotiations ongoing):	\$14.6 Million

NCAA CONFERENCE NAME	TELEVISION CONTRACT INFORMATION	DOLLAR AMOUNT
BIG TEN	First-tier rights, ESPN, 10 years through 2016-17:	\$1 Billion
	Second-tier rights, Big Ten Network, 25 years through 2031- 32:	\$2.8 Billion
	Select basketball rights: (minimum of 24 games, men's tournament semifinal and championship games), CBS, six years through 2016-17:	\$72 Million
	Football championship game, FOX, six years through 2016:	\$145 Million
	Per-year average:	\$248.2 Million
	Per-school, per-year average:	\$20.7 Million
Atlantic Coast Conference	First, second and third-tier rights, ESPN, 15 years through 2026-27:	\$3.6 Billion
	Per-year average:	\$240 Million
	Per-school, per-year average:	\$17.1 Million

FORMER BIG EAST	First-tier rights: ESPN, seven years for basketball (2013-2020); six years for football (2014-2020):	\$126 Million
	Second-tier rights: Basketball, BS, six years through 2012-13 (negotiations ongoing)	\$54 Million

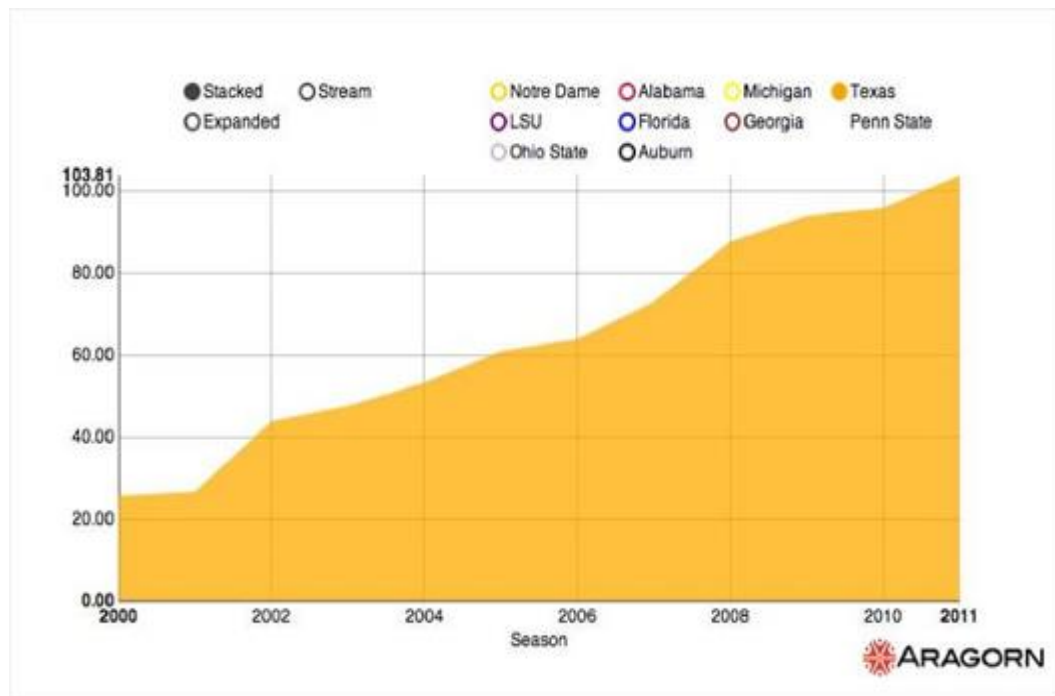
157. Among the many beneficiaries of the largest of the television networks are coaches, many of whom receive multi-million-dollar contracts, assistant coaches, university athletics directors, NCAA executives, NCAA Conference commissioners.

158. The highly lucrative nature of college football is highlighted below. The data researchers at Aragorn Technologies compiled the numbers (see chart below) reported by universities to the U.S. Department of Education as mandated by the Equity in Athletics Disclosure Act. Here are the 10 schools that brought in the most college football money from academic years 2000-2001 through 2011-2012:



159. Notice the revenue increase in football for these schools: from less than \$300 million to more than \$759 million a decade later. That is over 150 percent growth, or about 9 percent annualized.

160. One university exemplifying the exposure football receives is the University of Texas:



161. The Longhorns expanded their football revenue from \$25.6 million in 2000-01 to \$103.8 million in 2011-12. That is a *quadruple* increase in one decade.

162. NCAA licenses are another source of enormous revenue. An NCAA merchandise license allows licensees to produce product leading up to and during its 89 Championship Events.⁹ Even though the NCAA states that a main objective of its merchandising licensing program is to “[g]enerate revenue to support and enhance NCAA programs and to fund scholarships, programs or services to student-athletes of our member schools and conferences,”¹⁰ and even though the value of these licensing agreements is

⁹ NCAA Licensing Program FAQs (<http://www.ncaa.org/championships/marketing/ncaa-licensing-program-faqs>).

¹⁰ *Id.*

1 increasing, a Football Bowl Subdivision player still receives only the GIA-capped amount
2 in exchange for his services.

3 163. NCAA entertainment licenses are as lucrative if not more so. “[Video game
4 company] EA Sports is making millions off players after college and players don’t get
5 anything,” said Mark Conrad, director of sports business specialization at Fordham
6 University.¹¹ Again, notwithstanding these enormous revenues, a Football Bowl
7 Subdivision player is limited to the agreed-upon and capped GIA amount.

8 **H. Reality of College-Athlete Life**

9 164. There is a vast amount of information available that documents the realities
10 of College-Athlete life in the Division I revenue-producing sports, *i.e.*, men’s basketball
11 and football. Those athletes typically do not enjoy an academic experience anything like
12 that of “regular” students. Such athletes frequently are required by the university to devote
13 more than 40 hours a week to their sports, can have enormous travel demands placed upon
14 them, are often spoon-fed a curriculum of athlete-friendly classes that are nothing like
15 those experienced by the general student population, and their graduation rates frequently
16 are abysmal.

17 165. After they spend their college years juggling athletic and academic
18 requirements, many college athletes wind up substantially in debt because their
19 scholarships did not fully cover the basic necessities of life. A recent study illustrated that
20 so-called “full scholarships” can leave college athletes with as much as \$30,000 in normal
21 student expenses uncovered over the course of their collegiate athletic careers.

22 166. College athletes who participate in Division I Football Bowl Subdivision
23 football often spend 30-60 hours per week in practice, team meetings, travel and official
24 games during the season, and many hours per week in athletics-related activities even
25 during the off season. During the most recent NCAA annual meeting in San Diego, NCAA
26 President Mark Emmert stated “... in Division 1 where, you know, student-athletes in

27 ¹¹ Koba, Mark, “How College Athletes Could End Up Getting Paid Like Pros,” CNBC, Feb. 3,
28 2013 (<http://www.cnbc.com/id/100420450>).

1 some sports are putting in 30-to-40 hours a week, well that's a full time, uh, commitment,
 2 ¹² Although NCAA rules theoretically restrict the time college athletes may spend on
 3 their sport to 20 hours per week, the NCAA rules contain a large loophole for so-called
 4 "voluntary" workouts that do not count toward the limit and which college athletes
 5 understand to be mandatory in the eyes of their coaches.

6 167. Because of the tremendous time commitment required to participate in major
 7 college sports, as well as NCAA and institutional rules in force during portions of the
 8 Class Period that precluded college athletes from working part-time jobs during the school
 9 year, college athletes generally are unable to earn additional money from part-time jobs
 10 during the school year.

11 168. The overwhelming majority of players do not turn professional, and those
 12 that do turn professional typically do not remain professionals for very long.

13 169. There is no question that the grant-in-aid cap is in effect an agreement to fix
 14 wages. Any empirical observation of student-athletes' daily activities shows that student-
 15 athletes are closely akin in practice to traditional workers.¹³ For example, "a self-study
 16 performed by the NCAA in 2011" found that "Division I [college] football players
 17 [devoted] an average of 43.3 hours per week to their sport" – more time than they spent on
 18 academic activities, and more than a typical U.S. worker spends on his profession. In
 19 addition, student-athletes seem to meet the Internal Revenue Service's multifactor test for
 20 employment because NCAA coaching staffs exercise year-round behavioral controls over
 21 student-athletes and impose strict limits on their outside financial activities. Furthermore,
 22 in the context of workers' compensation law, at least one court has issued an award to a
 23 student-athlete – thus treating him as a *de facto* employee.

24 _____
 25 ¹² See it on video here, where he almost says "job" before changing it to "commitment."
http://www.youtube.com/watch?v=02aKLJzsV2k&feature=player_detailpage#t=2254.

26 ¹³ See generally Robert A. McCormick & Amy Christian McCormick, The Myth of the Student-
 27 Athlete: The College Athlete As Employee, 81 WASH. L. REV. 71, 129 (2006) (highlighting the
 28 argument made by some that student-athletes cannot be victims of wage fixing because they are
 not employees).

170. All of these factors combine to significantly rebut the longstanding legal fiction advanced by the NCAA that student-athletes are foremost students and not workers. Indeed, there is even some evidence that this legal fiction was created by the NCAA for the specific purpose of trying to avoid antitrust scrutiny.¹⁴ Thus, it would be the most cynical of loopholes to allow the NCAA to evade antitrust scrutiny simply by applying a dubious label to their business practices.¹⁵

I. Defendants' Likely Affirmative Defenses Do Not Apply

171. The NCAA in other antitrust litigation has articulated various affirmative defenses. If Defendants assert them in this case, these alleged defenses lack adequate factual and legal support, and do not excuse Defendants' violation of the Sherman Act and other laws.

1. The notion of amateurism is a façade.

172. There exists a broad consensus among economists and professors of sports management that "amateurism" as the NCAA defines it, is really just a façade to cover up what amounts to the monopolization of the industry via a cartel, and collective price-fixing. This literature includes the popular press, published academic articles, and textbooks.

2. Amateur College Athletics," "Amateur College Football," and "Division I Football Bowl Subdivision Football" all will continue to exist.

173. The NCAA has asserted in another antitrust litigation an alleged affirmative defense that "the NCAA's financial aid, eligibility, and amateurism bylaws and rules promote the creation and enhancement of amateur college athletics as 'products' or activities that are distinct from professional and other amateur athletics. The NCAA's

¹⁴ See McCormick & McCormick, *supra* n.71, at 74 (arguing that the NCAA self-coined the term "student-athlete" to perpetuate a myth of amateurism and "obtain the astonishing pecuniary gain and related benefits of the athletes' talents, time, and energy").

¹⁵ See generally *Am. Needle, Inc. v. NFL*, 130 S. Ct. 2201, 2213 (2010) ("An ongoing § 1 violation cannot evade § 1 scrutiny simply by giving the ongoing violation a name and label.").

1 financial aid rules accordingly allow the creation and maintenance of a ‘product’ –
2 amateur college athletics – that would otherwise not exist, and are accordingly
3 procompetitive.”

4 174. Plaintiff here does not seek any relief that significantly impacts an alleged
5 product of “amateur college athletics.” For example, even within the NCAA’s structure,
6 hundreds of college football teams exist which compete in collegiate football outside of
7 the Division I Football Bowl Subdivision. Specifically, as of the end of the 2012 Season,
8 124 schools compete in collegiate football within the NCAA’s Division I Football
9 Championship Subdivision, 162 schools compete in collegiate football in the NCAA’s
10 Division II, and 241 schools compete in collegiate football in the NCAA’s Division III.
11 “Amateur college football,” even as restrictively defined by the NCAA, will continue to
12 exist, regardless of the outcome of the present litigation.

13 175. Aside from those schools under the NCAA’s preview, there also exist other
14 non-major football associations producing non-major but nonetheless amateur college
15 football. None would be threatened by this ruling. These include the NAIA, the NJCAA,
16 the USCAA, the ACCA, the NWAACC, and the CCCAA.

17 176. Moreover, Division I Football Bowl Subdivision collegiate football will
18 continue to exist. Numerous leading, mainstream publications have published detailed
19 analyses calling for significant change in the artificial financial aid restraints presently
20 imposed on collegiate athletes. None of them have suggested that such changes would
21 eliminate Division I Football Bowl Subdivision collegiate football.

22 3. Competitive balance will not be impacted.

23 177. Elsewhere, the NCAA has asserted as an alleged affirmative defense that
24 “[i]n addition to enabling the creation of amateur college sports, the NCAA rules promote
25 the creation and maintenance of several unique features of NCAA college athletics,
26 including: They promote competitive balance between and among NCAA member
27 institutions in the various sports in which they compete” In actuality, competitive
28 balance does not even presently exist across all NCAA member institutions. As Defendant

1 Pac 12 Commissioner Larry Scott stated in 2011, “I don’t think there is an even playing
2 field,” Scott said. “There’s not an even playing field in TV exposure. There’s not an even
3 playing field in coaches and coaches’ salaries. There’s not an even playing field in
4 stadiums.”

5 178. There exists a broad consensus among economists and professors of sports
6 management that while competitive balance may provide important pro-competitive
7 benefits, the NCAA rules in suit with respect to the fixing of prices offered to athletes
8 across Division I do not contribute to competitive balance and may, in fact, harm it. See,
9 e.g., Peach, Jim, “College Athletics, Universities, and the NCAA,” he 2006 Western
10 Social Science Association Presidential Address, available at
11 <http://www.suu.edu/faculty/berri/PeachNCAA2007.pdf> (last visited April 10, 2014).

12 **4. Education will remain a condition of athletic eligibility**

13 179. Elsewhere, the NCAA has asserted as an affirmative defense that its
14 financial aid rules “help to insure that student-athletes are integrated into the student body
15 as a whole and that education remains an important component of the student-athlete
16 experience.” In the present litigation, any such affirmative defense is a non-starter.
17 Plaintiff herein does not challenge any rules or regulations that require Class members to
18 be students in good standing at their respective academic institutions.

19 180. The business activities of Defendants that are the subject of this action are
20 within the flow of, and substantially affect, interstate trade and commerce.

21 **VI. INTERSTATE TRADE AND COMMERCE**

22 181. During the Class Period, Defendants transacted business in multiple states in
23 a continuous and uninterrupted flow of interstate commerce throughout the United States.

24 182. As alleged in this Complaint, Defendants and their member institutions cap
25 “full” athletic scholarships below Cost of Attendance, or the price tag that each school
26 reports to the U.S. Department of Education, leaving college athletics scholarship
27 recipients with out-of-pocket education-related expenses. These same colleges are free to
28 *give academic* scholarships that fully cover the Cost of Attendance while their “full”

1 *athletic* scholarships must fall short of the Cost of Attendance by agreement among
2 Defendants.

3 **VII. CLASS ACTION ALLEGATIONS**

4 183. Plaintiff brings this action as a class action under Rules 23(a), 23(b)(2) and
5 23(b)(3) of the Federal Rules of Civil Procedure, on behalf of himself and the following
6 Class:

7 All persons who received athletic grants-in-aid (“GIAs”) for participation in
8 college football from a college or university that is a member of the
9 following NCAA conferences, the Pac 12 Conference, the Big Ten
10 Conference, the Big 12 Conference, the Southeastern Conference, the
11 Atlantic Coast Conference, at any time between four years prior to the
12 filing of this Complaint, and the date of judgment in this matter.

13 184. The Class is so numerous that joinder of all members is impracticable. While
14 the exact number of the Class Members is unknown to Plaintiff at this time prior to
15 discovery, Plaintiff believes that there are several thousand Class Members.

16 185. Plaintiff’s claims are typical of the claims of the other members of the Class.
17 Plaintiff and other Class Members sustained damages arising out of Defendants’ common
18 course of conduct in violation of law as complained herein. The injuries and damages of
19 each member of the Class were directly caused by Defendants’ wrongful conduct as
20 alleged herein.

21 186. Plaintiff will fairly and adequately protect the interests of the members of
22 the Class and has retained counsel competent and experienced in class action litigation,
23 including antitrust class action litigation.

24 187. Common questions of law and fact exist as to all members of the Class, and
25 these common questions predominate over any questions affecting only individual
26 members of the Class. In many instances, Defendants admit that they have engaged in the
27 conduct alleged in this Complaint. Among the questions of law and fact common to the
28 Class are:

- a. Whether Defendants combined or conspired to unreasonably restrain trade by limiting the monetary amount of grants-in-aid given to the Class;
- b. Whether such conduct caused members of the Class to receive less in grants-in-aid than they would have in a competitive market;
- c. Whether Plaintiff and other members of the Class were injured by Defendants' conduct, and, if so, the appropriate class-wide measure of damages for the Class; and
- d. Whether the Class is entitled to, among other things, injunctive relief, and if so, the nature and extent of such injunctive relief.

188. Defendants have acted in a manner applicable to the Class, thereby making final injunctive relief appropriate for the Class as a whole.

189. Plaintiff's claims are typical of those of members of the Class because the cap on grants-in-aid has injured both Plaintiff and the members of the Class.

190. Plaintiff is an adequate representative of the Class and will protect the claims and interests of the Class. Plaintiff does not have interests that conflict with those of the Class. Plaintiff will vigorously prosecute the claims alleged herein and has retained competent counsel with extensive antitrust and class action litigation experience.

191. A class action is superior to other available methods for the fair and efficient adjudication of this controversy because joinder of all Class Members is impracticable. The prosecution of separate actions by individual members of the Class would impose heavy burdens upon the courts and Defendants, and would create a risk of inconsistent or varying adjudications of the questions of law and fact common to the Class. A class action, on the other hand, would achieve substantial economies of time, effort and expense, and would assure uniformity of decision as to persons similarly situated without sacrificing procedural fairness or bringing about other undesirable results.

192. The interest of members of the Class in individually controlling the prosecution of separate actions is theoretical rather than practical. The Class has a high degree of cohesion, and prosecution of the action through representatives would be unobjectionable. The amounts at stake for Class Members, while substantial in the aggregate, are not great enough individually to enable them to maintain separate suits against Defendants. Plaintiff does not anticipate any difficulty in the management of this action as a class action.

VIII. ANTITRUST ALLEGATIONS

193. Defendants' combination and conspiracy described herein consisted of a continuing horizontal and vertical agreement, understanding, and concert of action among the Defendants and their co-conspirators, the substantial terms of which were to artificially fix, depress, maintain, and/or stabilize amounts paid to Plaintiff and Class Members for their collegiate football athletic services in the United States, its territories and possessions.

194. In formulating and effectuating the combination or conspiracy, Defendants and their co-conspirators did those things that they unlawfully combined and conspired to do, including, among other things:

- a. Agreeing to artificially fix, depress, maintain, and/or stabilize amounts paid to Plaintiff and Class Members for their collegiate football athletic services; and
- b. Implementing and monitoring the conspiracy among cartel members.

195. The activities described above have been engaged in by Defendants and their co-conspirators for the purpose of effectuating the unlawful agreement to fix, depress, maintain and/or stabilize amounts paid to Plaintiff and Class Members for their collegiate football athletic services.

196. Defendants' actions constitute an unreasonable restraint of trade.

197. As a result of Defendants' unlawful actions as alleged in this Complaint, Plaintiffs and the Class have suffered antitrust injury and damages in an amount to be determined, and will continue to do so unless Defendants are enjoined.

FIRST CLAIM FOR RELIEF
PER SE VIOLATION OF § 1 OF THE SHERMAN ACT, 15 U.S.C. § 1
(Against All Defendants)

198. Plaintiff realleges and incorporates by reference each allegation set forth in this Complaint.

199. Throughout the Class Period, and continuing through the resolution of this case, the NCAA and its member institutions participating in the Football Bowl Subdivision Labor Market, including the Power Conference Defendants, have engaged and continue to engage in a combination and conspiracy, through the cap on grants-in-aid, to fix the amount of financial aid and awards available to Class Members and otherwise unreasonably restrain competition in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1.

200. This combination and conspiracy, organized and coordinated through the NCAA, which possesses a dominant position in the relevant market, has produced and, unless restrained, will continue to produce, the following anti-competitive effects, among others:

- a. competition in the amount, terms and conditions of financial aid and awards to Class Members at NCAA member institutions that compete in the Football Bowl Subdivision Labor Market has been and will continue to be unreasonably restricted and artificially eliminated; and
- b. Class Members have been and will continue to be deprived of the benefits of competition as to the amount, terms and conditions of grants-in-aid from NCAA member institutions that compete in the Football Bowl Subdivision Labor Market.

201. As a direct and proximate result of Defendants' actions, Plaintiff and the members of the Class have suffered antitrust injury and have been, are being, and will continue to be, injured and financially damaged in amounts which are yet to be determined.

202. The NCAA and its members' abridgement of Class Members' economic rights are a per se restraint of trade.

203. The amount of damages suffered by Plaintiff and the members of the Class has not yet been ascertained. Pursuant to Section 4 of the Clayton Act, Plaintiff is entitled to recover from Defendants treble the amount of actual damages as well as an award of reasonable attorneys' fees and costs of suit.

204. Plaintiff and Class Members are entitled to a declaratory judgment declaring as void and unenforceable the NCAA Bylaws referenced herein that cap the value of grants-in-aid.

205. Plaintiff and the Class are entitled to a permanent injunction that enjoins Defendants from engaging in the ongoing violations described in this Complaint.

206. Plaintiff and the Class are further entitled to relief in the form of appointment of an External Antitrust Compliance Monitor detailed herein.

**SECOND CLAIM FOR RELIEF
VIOLATION OF § 1 OF THE SHERMAN ACT, 15 U.S.C. § 1
UNREASONABLE RESTRAINT OF TRADE
"QUICK LOOK" RULE OF REASON ANALYSIS
(Against All Defendants)**

207. Plaintiff realleges and incorporates by reference each allegation set forth in this Complaint.

208. If the Court determines that Defendants' conduct does not constitute, in whole or in part, a per se antitrust violation as alleged in Plaintiff's First Claim For Relief, Plaintiff alternatively pleads that Defendants' conduct, as analyzed in whole or in part via the "quick look" rule of reason antitrust analysis, violates the Sherman Act. The anti-competitive nature of Defendants' agreement is so blatant that a detailed review of the

1 surrounding marketplace is unnecessary. Under this analysis, as the Supreme Court has
2 stated, “an observer with even a rudimentary understanding of economics could conclude
3 that the arrangements in question would have an anti-competitive effect on customers and
4 markets.” Those words equally apply to the present case.

5 209. Throughout the Class Period, and continuing through the resolution of this
6 case, the NCAA and its member institutions participating in the Football Bowl
7 Subdivision Labor Market, including the Power Conference Defendants, have engaged
8 and continue to engage in a combination and conspiracy, through the cap on grants-in-aid,
9 to fix the amount of financial aid and awards available to Plaintiff and Class Members and
10 otherwise unreasonably restrain competition in violation of Section 1 of the Sherman Act,
11 15 U.S.C. § 1.

12 210. This combination and conspiracy, organized through the NCAA, which
13 possesses a dominant position in the relevant market, has produced and, unless restrained,
14 will continue to produce, the following anti-competitive effects among others:

- 15 a. competition in the amount, terms and conditions of financial
16 aid and awards to Class Members at NCAA member
17 institutions that compete in the Football Bowl Subdivision
18 Labor Market has been and will continue to be unreasonably
19 restricted and artificially eliminated; and
- 20 b. Plaintiff and Class Members have been and will continue to
21 be deprived of the benefits of competition as to the amount,
22 terms and conditions of grants-in-aid from NCAA member
23 institutions that compete in the Football Bowl Subdivision
24 Labor Market

25 211. As a direct and proximate result of Defendants’ actions, Plaintiff and the
26 Class Members have suffered antitrust injury and have been, are being, and will continue
27 to be, injured and financially damaged in amounts which are yet to be determined.

1 212. Defendants' abridgement of Plaintiff's and Class Members' economic rights
2 are a restraint of trade, and are not connected to any legitimate non-commercial goals. The
3 purpose of the NCAA's and its members' actions is solely to enhance revenue for
4 themselves by cutting costs, specifically, to eliminate the need to compete, and to pay any
5 compensation to Plaintiff and Class Members above the artificially depressed, capped
6 grant-in-aid limit.

7 213. The anti-competitive effects of Defendants' scheme substantially outweigh
8 any alleged pro-competitive effects or justifications that may be offered by Defendants,
9 including that their collusive conduct is shielded by their self-crafted concept of
10 "amateurism."

11 214. Reasonable and less restrictive alternatives are available to Defendants'
12 current anticompetitive practices.

13 215. The amount of damages suffered by Plaintiff and Class Members has not yet
14 been ascertained. Pursuant to Section 4 of the Clayton Act, Plaintiff and the Class are
15 entitled to recover from the NCAA treble the amount of actual damages as well as an
16 award of reasonable attorneys' fees and costs of suit.

17 216. Plaintiff and Class Members are entitled to a declaratory judgment declaring
18 as void and unenforceable the NCAA Bylaws referenced herein that cap the value of
19 grants-in-aid.

20 217. Plaintiff and the Class are entitled to a permanent injunction that enjoins
21 Defendants from engaging in the ongoing violations described in this Complaint.

22 218. Plaintiff and the Class are further entitled to relief in the form of
23 appointment of an External Antitrust Compliance Monitor detailed herein.

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THIRD CLAIM FOR RELIEF
VIOLATION OF § 1 OF THE SHERMAN ACT, 15 U.S.C. § 1
UNREASONABLE RESTRAINT OF TRADE
FULL RULE OF REASON ANALYSIS
(Against All Defendants)

219. Plaintiff realleges and incorporates by reference each allegation set forth in this Complaint. As an alternative to Plaintiff's First and Second Claims for Relief, if the Court determines that Defendants' conduct does not constitute, in whole or in part, a per se antitrust violation, and that Defendants' conduct should not be analyzed, in whole or in part, via the "quick look" "rule of reason" analysis, Plaintiff alternatively pleads that Defendants' conduct, as analyzed in whole or in part via the full rule of reason antitrust analysis, violates the Sherman Act.

220. Throughout the Class Period, and continuing through the resolution of this case, the NCAA and its member institutions participating in the Football Bowl Subdivision Labor Market, including the Power Conference Defendants, have engaged and continue to engage in a combination and conspiracy, through the cap on grants-in-aid, to fix the amount of financial aid and awards available to Plaintiff and Class Members and otherwise unreasonably restrain competition in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1.

221. This combination and conspiracy, organized through the NCAA, which possesses a dominant position in the relevant market, has produced and, unless restrained, will continue to produce, the following anticompetitive effects among others:

- a. competition in the amount, terms and conditions of financial aid and awards to Plaintiff and Class Members at NCAA member institutions that compete in the Football Bowl Subdivision Labor Market has been and will continue to be unreasonably restricted and artificially eliminated; and
- b. Plaintiff and Class Members have been and will continue to be deprived of the benefits of competition as to the amount,

1 terms and conditions of grants-in-aid from NCAA member
2 institutions that compete in the Football Bowl Subdivision
3 Labor Market.

4 222. As a direct and proximate result of Defendants' actions, Plaintiff and Class
5 Members have suffered antitrust injury and have been, are being, and will continue to be,
6 injured and financially damaged in amounts which are yet to be determined.

7 223. The NCAA and its members' abridgement of Plaintiff and Class Members'
8 economic rights are a restraint of trade, and are not connected to any legitimate non-
9 commercial goals. The purpose of Defendants' actions is solely to enhance revenue for
10 themselves by cutting costs, specifically, to eliminate the need to compete, and to pay any
11 compensation to Plaintiff and Class Members above the artificially depressed, capped
12 grant-in-aid limit.

13 224. The anti-competitive effects of Defendants' scheme substantially outweigh
14 any alleged pro-competitive effects or justifications that may be offered by Defendants,
15 including that their collusive conduct is shielded by their self-crafted concept of
16 "amateurism."

17 225. Reasonable and less restrictive alternatives are available to Defendants'
18 current anticompetitive practices.

19 226. The amount of damages suffered by Plaintiff and Class Members has not yet
20 been ascertained. Pursuant to Section 4 of the Clayton Act, Plaintiff and Class Members
21 are entitled to recover from the NCAA treble the amount of actual damages as well as an
22 award of reasonable attorneys' fees and costs of suit.

23 227. Plaintiff and Class Members are entitled to a declaratory judgment declaring
24 as void and unenforceable the NCAA Bylaws referenced herein that cap the value of
25 grants-in-aid.

26 228. Plaintiff and the Class are entitled to a permanent injunction that enjoins
27 Defendants from engaging in the ongoing violations described in this Complaint.
28

229. Plaintiff and the Class are further entitled to relief in the form of appointment of an External Antitrust Compliance Monitor detailed herein.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff and the members of the Class request judgment against Defendant NCAA and the Power Conference Defendants as follows:

- A. For actual damages according to the proof at trial;
- B. For treble damages pursuant to 15 U.S.C. § 15;
- C. For a declaratory judgment declaring as void the NCAA's Bylaws that operate to impose a cap on grants-in-aid that NCAA members may provide;
- D. For an injunction restraining the NCAA from enforcing its unlawful and anticompetitive agreement to cap the amount of financial aid available to Class Members;
- E. For the attorneys' fees, costs and expenses of Plaintiff and the Class;
- F. For such other relief that the Court may deem just and equitable; and
- G. For the appointment of an Antitrust Compliance Monitor.

DEMAND FOR JURY TRIAL

Plaintiff on behalf of himself and all others similarly situated hereby requests a jury trial on any and all claims so triable.

DATED: April 17, 2014

PRITZKER | LAW

By:



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