	Case 4:20-cv-03919-CW	Document 137	Filed 12/22/20	Page 1 of 8
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12	UN	ITED STATES 1	DISTRICT COU	RT
13		HERN DISTRI	CT OF CALIFO DIVISION	
14				
15	GRANT HOUSE, et al.,		Case No. 4:20-c	v-03919 CW
16	Plaintiffs,			
17	V.		STIPULATION	N AND <del>[PROPOSED]</del> C ORDER
18	NATIONAL COLLEGIATE A	THLETIC	PROTECTIVE	CORDER
19	ASSOCIATION, et al.,  Defendants.			
20	TYMIR OLIVER, on behalf of	himself and	Case No. 4:20-c	y 04527 CW
21	all others similarly situated,	innisen una	Case 110. 4.20-c	V-04327 C VV
22   23	v.	laintiffs,		
24	NATIONAL COLLEGIATE ATHLETIC ASSOCIATION, e	et al.,		
25	Def	fendants.		
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27				
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		_	1-	
	13520200			ion and <del>[Proposed]</del> Protective Order

#### Case 4:20-cv-03919-CW Document 137 Filed 12/22/20 Page 2 of 8

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At the case management conference in the above-captioned actions held on November 18, 2020, the Court directed that all documents produced in the actions captioned *In re NCAA Athletic Grant-in-Aid Cap Antitrust Litigation* (Case Nos. 4:14-md-2541-CW and 4:14-cv-2758-CW) (herein "Alston") would be deemed to have been produced in discovery in these actions. The Alston documents deemed to have been produced in discovery in these actions include documents produced in *In re Student-Athlete Name and Likeness Licensing Litigation* (Case Nos. C 09-1967-CW and C 09-3329-CW) (herein "O'Bannon").

Certain of the *Alston* documents produced in discovery were subject to multiple protective orders entered in the *Alston* action, as follows:

- 1. Protective Order entered on January 1, 2015 [14-md-2541; Dkt. 189] (including provisions concerning designation of documents as Confidential or as Highly Confidential/Attorney Only Information), attached herewith as Exhibit A;
- 2. Addendum to Protective Order entered on July 9, 2015 [14-md-2541; Dkt. 234] (including provisions concerning designation of documents as Highly Confidential NCAA Member Financial Data), attached herewith as Exhibit B;
- 3. Second Addendum to Protective Order entered on October 12, 2016 [14-md-2541; Dkt. 512] (including provisions concerning designation of documents as Conference Strictly Confidential and Network Strictly Confidential Information Outside Counsel Only), attached herewith as Exhibit C;
- 4. Third Addendum to Protective Order entered on November 11, 2016 [14-md-2541; Dkt. 539 & 540] (including additional provisions concerning designation of documents as Network Strictly Confidential Information Outside Counsel Only), attached herewith as Exhibit D;
- 5. Stipulation Regarding Second Addendum to Protective Order entered on September 4, 2018 [14-md-2541; Dkt. 1027] (concerning disclosures at trial of certain confidential information), attached herewith as Exhibit E; and
- 6. Fourth Addendum to Protective Order entered on September 15, 2019 [14-md-2541; Dkt. 1237 & 1238] (concerning certain billing records), attached herewith as Exhibit F.

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These protective orders (collectively the "Alston Protective Orders"), with the modifications reflected below, remain in effect with respect to the Alston documents deemed to have been produced in these actions. Additional documents not produced in Alston may also be produced in these actions pursuant to the provisions of the applicable Alston Protective Orders with the exception of documents that may be eligible for the designations Conference Strictly Confidential Outside Litigation Counsel Only or Network Strictly Confidential
 Outside Litigation Counsel Only. In the event that documents or information that could be designated Conference Strictly Confidential – Outside Litigation Counsel Only and/or Network Strictly Confidential – Outside Litigation Counsel Only under the Alston Protective Orders is to be produced in this litigation in the future, the parties will negotiate appropriate protections for those documents in a separate stipulation or submit any disagreements to the Court for resolution. The parties will negotiate in good faith to reach agreement on appropriate protections for any Conference Strictly Confidential - Outside Litigation Counsel Only and/or Network Strictly Confidential - Outside Litigation Counsel Only documents to be produced in this litigation and by February 1, 2021 either submit a separate stipulation to the Court, or, if agreement cannot be reached, submit any disagreements for resolution by the Court.

NOW, THEREFORE, through counsel, the parties to this action stipulate and move the Court to order that:

- 1. Each of the *Alston* Protective Orders is deemed to have been and is hereby entered in these actions with the following modifications and exceptions.
- 2. To the extent the *Alston* Protective Orders reference or name specific counsel of record in that case, they are hereby amended to reference and apply to counsel in parallel positions in these actions.
- 3. Paragraph 11 of Exhibit C is hereby deleted in its entirety and replaced with the following: No disclosure of Conference Strictly Confidential Outside Litigation Counsel Only Information or Network Strictly Confidential Outside Litigation Counsel Only Information to a consultant or expert witness or their necessary support personnel shall occur until that person has accurately completed and signed the certification annexed to this Second Addendum as Exhibit A,

a signed copy has been provided to the applicable Network(s) referenced in the document; and to the extent there has been an objection under Paragraph 13 with respect to Network Strictly Confidential – Outside Litigation Counsel Only Information, that objection is resolved as discussed below. A separate certification annexed to this Second Addendum as Exhibit A shall not be required for staff members working under the supervision of an individual signing the certification annexed hereto as Exhibit A. An individual signing the certification annexed to this Second Addendum as Exhibit A, however, shall accept full responsibility for taking measures to ensure that staff members working under his or her supervision comply with the terms of this Second Addendum. Neither the parties in this action nor their counsel shall seek information regarding the identity of any consultant or expert witness or their necessary support personnel that is provided to any Network(s) pursuant to this stipulation. If a party or its counsel learns the identity of any consultant or expert witness or their necessary support personnel from any Network(s), that party's counsel shall inform the party who retained the consultant or expert witness of the disclosure.

and, in the case of Network Strictly Confidential – Outside Litigation Counsel Only Information,

- 4. Paragraphs 12-15 of Exhibit C are amended as follows: any reference to "Disclosing Party" is replaced with "applicable Network(s) referenced in the document" and any reference to "parties" or "the party" includes, where applicable, the Network(s) referenced in the document(s) at issue.
- 5. The modifications to Exhibit C reflected in paragraphs 3 and 4 above shall be incorporated into Exhibit D only to the extent Exhibit D sets forth the rights and obligations with respect to the NCAA, including documents for which the NCAA was the "Disclosing Party," and their media networks. These modifications reflected in paragraphs 3 and 4 above shall not be incorporated into Exhibit D to the extent Exhibit D sets forth the rights and obligations with respect to the Six Conferences, as defined in Exhibit D and who are not defendants in these actions, including documents for which any of the Six Conferences were the "Disclosing Party," and their media networks.

- 6. Neither the parties in this action nor their counsel shall seek information regarding the identity of any consultant or expert witness or their necessary support personnel that is provided to any of the "Six Conferences" or "media networks" pursuant to Exhibit D. If a party or its counsel learns the identity of any consultant or expert witness or their necessary support personnel from any of the Six Conferences or media networks, that party's counsel shall notify the party who retained the consultant or expert witness of the disclosure.
- 7. Exhibits C, D and E will not apply to documents produced in these cases that were not previously produced in *Alston*. To the extent documents and information that were not produced in *Alston* will be produced in these cases and would be eligible for the designations Conference Strictly Confidential Outside Litigation Counsel Only or Network Strictly Confidential Outside Litigation Counsel Only under the *Alston* Protective Orders, the parties will negotiate appropriate protections for those documents and by February 1, 2021 either submit a separate stipulation to the Court, or, if agreement cannot be reached, submit any disagreements for resolution by the Court.
- 8. If and to the extent any of the certifications annexed to the *Alston* Protective Orders are provided in accordance with this Order, the party(ies) obtaining the certification will first update the certification to reflect the case name(s) and docket number(s) of these cases. Any failure to do so, however, shall not result in the document(s) and/or information losing their protection in these cases pursuant to this Stipulation.
- 9. If and to the extent that documents were publicly filed as trial exhibits without being placed under seal in *Alston* and have thus become publicly available, such documents shall not be governed by the *Alston* Protective Orders.
- 10. By entering into this Stipulation, no party concedes or agrees, or otherwise compromises its position, concerning whether any documents are (a) discoverable or admissible in evidence, (b) properly deemed to be confidential and/or subject to enhanced confidentiality treatment pursuant to the provisions of any of the *Alston* Protective Orders, or (c) properly redacted, in light of the issues in this action.

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2	By:/s/ D. Erik Albright
<ul><li>3</li><li>4</li><li>5</li><li>6</li><li>7</li><li>8</li></ul>	D. Erik Albright (pro hac vice) Gregory G. Holland (pro hac vice) 230 North Elm Street, Suite 1200 Greensboro, NC 27401 Telephone: (336) 378-5368 Facsimile: (336) 378-5400 ealbright@foxrothschild.com gholland@foxrothschild.com
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15	Attorneys for Defendant THE ATLANTIC COAST CONFERENCE
17	PURSANT TO STIPULATION, IT IS SO ORDERED,
20	DATED: December <u>22</u> , 2020
21	Chrolieleit
22	The Hon. Claudia Wilken
23	UNITED STATES DISTRICT JUDGE
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## **EXHIBIT A**

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10	OAKLAND	DIVISION
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12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27	ATHLETIC ASSOCIATION ATHLETIC GRANT-IN-AID CAP ANTITRUST LITIGATION  This Document Relates to:	CASE NO. 14-md-2541-CW CASE NO. 14-cv-2758-CW  STIPULATED [PROPOSED] PROTECTIVE ORDER REGARDING CONFIDENTIALITY OF DOCUMENTS AND MATERIALS
28		14-md-2541-CW 14-cv-2758-CW
	STIPULATED [PROPOSED] PROTECTIVE O	

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follows:

1.

**PURPOSES AND LIMITATIONS** 

parties or nonparties in connection with this litigation and pursuant to the Court's authority under

Federal Rule of Civil Procedure 26(c) and Federal Rule of Evidence 502, the parties submit as

In order to protect confidential information obtained from or disclosed by the respective

Disclosure and discovery activity in these actions are likely to involve production

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of trade secrets, confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation would be warranted. The unrestricted disclosure of such information would cause undue damage to the parties and their businesses or to third parties. The disclosure of trade secrets, proprietary information, and confidential business and financial information would harm the disclosing party if it was made known to the disclosing party's competitors, and in some cases, could violate the confidentiality agreements between the disclosing party and third parties or parties to those agreements. Disclosure of private information and educational information is also governed by statute and other laws such that disclosure of that information may be inconsistent with those statutes and other laws. Accordingly, the parties in these actions hereby stipulate to and petition the Court to enter the following Protective Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery, and that the protections outlined herein extend only to the limited information or items that are entitled to treatment as confidential under applicable legal principles. This Protective Order is, therefore, entered into pursuant to Rule 26(c) of the Federal Rules of Civil Procedure to protect information entitled to be kept confidential.

- 2. The parties further acknowledge, as set forth in Paragraph 17, below, that this Protective Order creates no entitlement to file confidential information under seal; the relevant court rules (e.g., Civil Local Rule 79-5) set forth the procedures that must be followed, and reflect the standards that will be applied, when a party seeks permission from the Court to file material under seal.
  - 3. Documents and other information produced by the parties or nonparties in

connection with these actions shall be used solely for purposes of prosecuting, defending or attempting to settle these actions, whether such information is designated "Confidential" or "Highly Confidential – Counsel Only" or not.

- 4. The protections outlined in this Order apply only to information appropriately designated as "Confidential" or "Highly Confidential Counsel Only" pursuant to the terms of this Order (collectively, the "Protected Information").
- 5. The parties have reviewed the Case Management Order (Dkt. 132), which includes Judge Wilken's Civil Pretrial Order, and Magistrate Judge Nathanael M. Cousins' Civil Standing Order. The parties represent that nothing contained in this Protective Order conflicts with any of the provisions in those orders.

#### NONDISCLOSURE OF PROTECTED INFORMATION

- 6. Except with the prior written consent of the party or non-party originally designating a document, discovery response, or deposition transcript (the "Disclosing Party"), Protected Information may not be disclosed to any person except as specifically authorized herein.
- 7. Any Disclosing Party may designate as Confidential (by stamping the relevant page or portion "Confidential") any document, response to discovery, or deposition transcript which that Disclosing Party considers in good faith to contain information involving trade secrets, proprietary information, confidential business, educational or financial information, private information or other information subject to protection under California or federal law, or another applicable legal standard ("Confidential Information"). Where a document or response consists of more than one page, the first page and each page on which Confidential Information appears shall be so designated. Confidential Information may only be disclosed to those persons set forth in Paragraph 12 below.
- 8. Any Disclosing Party may designate as Highly Confidential (by stamping the relevant page or portion "Highly Confidential Counsel Only") any document, response to discovery, or deposition transcript which that Disclosing Party considers in good faith to contain Confidential Information, the disclosure of which to another party or non-party would create a substantial risk of serious harm that could not be avoided by less restrictive means ("Highly

Confidential – Counsel Only Information"). Where a document or response consists of more than one page, the first page and each page on which Highly Confidential Information appears shall be so designated. Highly Confidential – Counsel Only Information may only be disclosed to those persons set forth in Paragraph 13 below.

- 9. A Disclosing Party may designate information disclosed by it during a deposition or in response to written discovery as "Confidential" or "Highly Confidential Counsel Only" by so indicating in said responses or on the record at the deposition. Additionally a party may designate in writing, within 21 days after receipt of said responses or of the deposition transcript for which the designation is proposed, the specific pages of the transcript and/or specific responses that are "Confidential" or "Highly Confidential Counsel Only." Any party may object to such proposal, in writing or on the record. Upon such objection, the parties shall follow the procedures described in Paragraph 14 below. Unless otherwise designated during the deposition, deposition transcripts shall be treated in their entirety as "Highly Confidential Counsel Only" Information for 21 days after receipt. All parties shall affix the relevant legend required by paragraphs 7 and/or 8 of this Order on each page of the deposition transcript designated "Confidential" or "Highly Confidential Counsel Only" at the deposition or by subsequent written notice.
- 10. The inadvertent failure to designate Protected Information that has been disclosed as Confidential or Highly Confidential Counsel Only shall be without prejudice to any claim by the Disclosing Party that it is Confidential or Highly Confidential Counsel Only and shall not waive the Disclosing Party's right to secure protection under this Order for such material. In the event a Disclosing Party designates material as Confidential or Highly Confidential Counsel Only after it has been inadvertently disclosed, the receiving party will treat such material pursuant to the relevant designation pursuant to this Order and shall make arrangements with the Disclosing Party to have the Protected Information, including copies, marked "Confidential" or "Highly Confidential Counsel Only."
- 11. If it comes to a Disclosing Party's attention that information or items that it designated for protection do not qualify for protection, the Disclosing Party must promptly notify all other parties that it is withdrawing the designation.

#### 1 PERMISSIBLE DISCLOSURES 12. Confidential Information that is designated as such in accordance with the terms of 2 3 this Protective Order shall not be disclosed to any person other than the following, and only to the extent necessary to litigate these actions: 4 5 counsel for the respective parties to this litigation, including in-house a. counsel and co-counsel retained for these actions; 6 7 b. employees of such counsel, including a party's in-house legal staff; 8 c. plaintiffs, or any officer or employee of a party, to the extent deemed 9 necessary by counsel for the prosecution or defense of these actions; d. 10 consultants or expert witnesses retained for the prosecution or defense of these actions, provided that each such person shall execute a copy of the certification annexed to 11 12 this Protective Order as Exhibit A before being shown or given any Confidential Information; 13 e. the original author, addressees, or recipients of the Confidential Information: 14 f. 15 the Court, court personnel and court reporters; and witnesses (other than persons described in Paragraph 12(d)) who testify at **16** g. 17 deposition or at trial, provided that such witnesses shall execute a copy of the certification annexed 18 to this Protective Order as Exhibit A before being shown or given any Confidential Information;

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and

- h. persons or entities that provide litigation support services (e.g., photocopying; videotaping; translating; preparing exhibits or demonstrations; organizing, storing, retrieving data in any form or medium; etc.) and their employees and subcontractors, provided that such persons or entities shall execute a copy of the certification annexed to this Protective Order as Exhibit A before being shown or given any Confidential Information.
- 13. Highly Confidential Counsel Only Information that is designated as such in accordance with the terms of this Protective Order shall not be disclosed to any person other than the following, and only to the extent necessary to litigate these actions:
  - a. counsel for the respective parties to this litigation, including in-house

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counsel and co-counsel retained for these actions; b. employees of such counsel, including a party's in-house legal staff; c. consultants or expert witnesses retained for the prosecution or defense of these actions, provided that each such person shall execute a copy of the certification annexed to this Protective Order as Exhibit A before being shown or given any Highly Confidential – Counsel Only Information; d. the original author, addressees, or recipients of the Highly Confidential – Counsel Only Information; the Court, court personnel and court reporters; e. f. persons or entities that provide litigation support services (e.g., photocopying; videotaping; translating; preparing exhibits or demonstrations; organizing, storing, retrieving data in any form or medium; etc.) and their employees and subcontractors, provided that such persons or entities shall execute a copy of the certification annexed to this Protective Order as Exhibit A before being shown or given any Confidential Information; and 15 g. witnesses (other than persons described in Paragraph 13(c)) who testify at deposition or at trial, provided that (1) the Receiving Party has a good faith belief that such **16** witness previously had access to or otherwise had obtained knowledge of the Highly Confidential - Counsel Only Information; and (2) such witnesses shall execute a copy of the certification annexed to this Protective Order as Exhibit A before being shown or given any Highly Confidential – Counsel Only Information. RESOLVING DISPUTED CLASSIFICATIONS

- 14. Should a party wish to object to a Confidential or Highly Confidential – Counsel Only designation of any material, that party shall make a written Designation Objection to the Disclosing Party, as set forth below:
- Designation Objection: The objecting party shall identify with specificity a. (i.e., by document control numbers, deposition transcript page and line reference, or other means sufficient to locate such materials) each document bearing a disputed Confidential or Highly Confidential – Counsel Only designation. A Designation Objection will trigger an obligation on

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the part of the Disclosing Party to make a good faith determination of whether the disputed designation(s) is entitled to be treated as Confidential Information or Highly Confidential – Counsel Only Information pursuant to the terms of this Protective Order. Within ten (10) court days the Disclosing Party shall respond in writing to the Designation Objection either agreeing to remove the disputed designation(s) or stating the Disclosing Party's refusal to do so. During that period, the parties will meet and confer in good faith.

- b. Court Determination: If the Disclosing Party refuses to agree to remove the Confidential or Highly Confidential Counsel Only designation pursuant to subsection (a) above, the Objecting Party may make a written application to the Court to remove the protective treatment in compliance with applicable court rules and orders. The application will be made within ten (10) court days of receiving the Disclosing Party's refusal to remove the disputed designation(s). In any judicial proceeding challenging a Confidential or Highly Confidential Counsel Only designation, the burden of persuasion with respect to the propriety of the designation shall remain upon the Disclosing Party. If the Objecting Party fails to make such timely application, the Disclosing Party's designation will remain in effect.
- c. Pending a ruling, all parties shall continue to treat the information subject to the Designation Objection pursuant to the disputed designation under the terms of this Protective Order.

#### PROTECTED INFORMATION AT TRIAL

15. The terms of this Protective Order do not preclude, limit, restrict or otherwise apply to the use of documents at trial. Subject to the Federal Rules of Evidence, Protected Information may be offered at any court hearing (including trial) provided that the offering party confers in good faith with the Disclosing Party (and, if the Disclosing Party is not a party to these actions, a representative of the offering party's opposing parties (hereinafter together the "Affected Parties")) over the proposed use of that information five days prior to the anticipated use. If it is not practicable for the offering party to provide the Affected Parties with five days' notice, the offering party must provide the Affected Parties with as much notice as practicable. Regardless of the notice provided, the offering party must take all reasonable steps to ensure that the Affected

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Parties are provided a meaningful opportunity to be heard by the Court regarding the proposed use of Protected Information at any court hearing or trial, and may not offer such information until the Affected Parties have been given an opportunity to provide an objection on the record.

16. Any party or interested non-party may move the Court for an order that the evidence be received in camera or under other conditions to prevent unnecessary disclosure. That court will then determine whether the proffered evidence should continue to be treated as either Confidential Information or Highly Confidential – Counsel Only Information and, if so, what protection, if any, may be afforded to such information at the trial.

### PROTECTED INFORMATION SUBPOENAED OR ORDERED PRODUCED IN OTHER LITIGATION

17. If at any time any Protected Information is subpoenaed by a court, administrative or legislative body, or by any other person or entity purporting to have authority to require the production of such information, the person to whom the subpoena is directed shall give written notice thereof to the Disclosing Party as soon as reasonably practicable but in no event more than five (5) days after receipt of the subpoena. After receipt of the notice specified under this paragraph, the Disclosing Party shall have the sole responsibility for obtaining any order it believes necessary to prevent disclosure of the Protected Information that has been subpoenaed. If the Disclosing Party does not move for or obtain a court order prohibiting such production or disclosure within the time allowed for production by the subpoena (or within such time as a court may direct or as may be agreed upon between the Disclosing Party and the subpoenaing party) and give written notice of such motion to the subpoening party and the person to whom the subpoena is directed, the person to whom the subpoena is directed may commence production in response thereto. The person to whom the subpoena is directed shall not produce any Protected Information while a motion for a protective order brought pursuant to this paragraph is pending or while any appeal from or request for appellate review of such motion is pending, unless ordered by a court to do so.

#### FILING DOCUMENTS UNDER SEAL

18. No Protected Information shall be filed in the public record without the written

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permission of the Disclosing Party, or a court order. The parties shall comply with the relevant court rules (e.g., N.D. Cal. Civil L.R. 79-5) regarding filing of documents under seal. Copies of any pleading, brief, or other document containing Protected Information which is served on opposing counsel shall be stamped "CONFIDENTIAL PURSUANT TO PROTECTIVE ORDER" or "HIGHLY CONFIDENTIAL – COUNSEL ONLY PURSUANT TO PROTECTIVE ORDER", shall be transmitted via email or cover letter and envelope bearing similar designation, and shall be treated in accordance with the provisions of this Protective Order.

#### **NON-TERMINATION**

- 19. All provisions of this Protective Order restricting the communication or use of Protected Information shall continue to be binding after the conclusion of this action unless otherwise agreed or ordered. In addition, the court retains jurisdiction to resolve any dispute concerning the disclosure of Protected Information in violation of the terms of this Order, unless otherwise agreed or ordered.
- 20. Unless otherwise ordered or agreed to in writing by the Disclosing Party, within sixty (60) days after the final termination of this litigation by settlement or exhaustion of all appeals all parties in receipt of Protected Information shall use reasonable efforts to either return such materials and copies thereof to the Disclosing Party or destroy such Protected Information and certify that fact. The Receiving Party's reasonable efforts shall not require the return or destruction of Protected Information that (i) is stored on backup storage media made in accordance with regular data backup procedures for disaster recovery purposes, (ii) is located in the email archive system or archived electronic files of departed employees, or (iii) is subject to legal hold obligations. Backup storage media will not be restored for purposes of returning or certifying destruction of Protected Information, but such retained information shall continue to be treated in accordance with the Order. Counsel for the parties shall be entitled to retain copies of court papers (and exhibits thereto), correspondence, pleadings, deposition and trial transcripts (and exhibits thereto), expert reports and attorney work product that contain or refer to Protected Information, provided that such counsel and employees of such counsel shall not disclose such Protected Information to any person, except pursuant to court order.

21. Nothing in this Order shall be interpreted in a manner that would violate any applicable canons of ethics or codes of professional responsibility.

#### MODIFICATION PERMITTED

22. Nothing in this Protective Order shall prevent any party or other person from seeking modification of this Protective Order or from objecting to discovery that it believes to be otherwise improper.

#### **RESPONSIBILITY OF ATTORNEYS**

- 23. The counsel for the parties are responsible for employing reasonable measures, consistent with this Protective Order, to control duplication of, access to, and distribution of copies of Protected Information.
- 24. The counsel for the parties are responsible for administering and keeping the executed original copy of Exhibit A pursuant to  $\P 12(d)$ , 12(g), 12(h), 13(c), 13(f) and 13(g) above.

#### **NO WAIVER**

- 25. Nothing herein shall be deemed to waive any applicable privilege or work product protection or to affect the ability of a party to seek relief for an inadvertent disclosure of material protected by privilege or work product protection. Pursuant to the Court's authority under Federal Rule of Evidence 502 and any other applicable law, rule, or legal principal, the inadvertent production of documents or information subject to the attorney-client privilege or work-product immunity shall not waive the privilege or immunity if a request for the return of such documents or information is made promptly after the Disclosing Party learns of its inadvertent production.
- 26. Nothing contained in this Protective Order and no action taken pursuant to it shall prejudice the right of any party to contest the alleged relevancy, admissibility or discoverability of the confidential documents and information sought.

IT IS SO STIPULATED.

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13	Attorneys for Defendant Western Athletic Conference	
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16	FILER'S ATTESTATION	
17	I, KAREN HOFFMAN LENT, am the ECF user whose identification and password are	
18	being used to file this STIPULATED [PROPOSED] PROTECTIVE ORDER REGARDING	
19	CONFIDENTIALITY OF DOCUMENTS AND MATERIALS. In compliance with Local	
20	Rule 5-1(i)(3), I hereby attest that all signatories hereto concur in this filing.	
21	/s/ Karen Hoffman Lent	
22		
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	19 14-md-2541-C	

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1	EXHIBIT A
2	
3	I,, state:
4	My address and telephone number are:
5	2. My present employer and my employer's address are:
6	3. I have received a copy of the Stipulated Protective Order Regarding Confidentiality of
7	Documents and Materials (the "Protective Order") entered in the case of <i>In re: National Collegiate Athletic Association Athletic Grant-in-Aid Cap Antitrust Litigation</i> , in the United States District
8	Court for the Northern District of California, No. 4:14-MD-2541-CW.
9	4. I have carefully read the Protective Order and understand its provisions.
10	5. I will comply with all the provisions of the Protective Order.
11	6. I will hold in confidence and will not disclose to anyone not qualified under the Protective Order any documents designated Confidential or Highly Confidential – Counsel Only,
12	and I will use such Confidential Information and/or Highly Confidential – Counsel Only Information only for the allowed purposes stated in the Order.
13	
14	7. I will return all documents that are designated Confidential or Highly Confidential – Counsel Only to counsel for the party from whom I obtained such documents.
15	8. I will submit to the jurisdiction of the United States District Court for the Northern
16	District of California for purposes of the enforcement of the Protective Order, and understand that violation of the Protective Order can constitute contempt of Court.
17	I declare under penalty of perjury under the laws of the United States that the foregoing
18	is true and correct.
19	SIGNED:, 201
20	C'avactava.
21	Signature:
22	Printed Name:
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	21 14-md-2541-CW

### **EXHIBIT B**

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8	UNITED STATE	S DISTRICT COURT
9	NORTHERN DIST	RICT OF CALIFORNIA
10	OAKLA	ND DIVISION
11		
12	IN RE: NATIONAL COLLEGIATE ATHLETIC ASSOCIATION ATHLETIC	CASE NO. 14-md-2541-CW CASE NO. 14-cv-2758-CW
13	ATHLETIC ASSOCIATION ATHLETIC GRANT-IN-AID CAP ANTITRUST LITIGATION	STIPULATION AND [PROPOSED]
14		ORDER REGARDING ADDENDUM TO STIPULATED PROTECTIVE ORDER
15	This Document Relates to:	
16	ALL ACTIONS	
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	STIPULATION AND PROPOSED ORDER RE:	ADDENDUM TO STIPULATED PROTECTIVE ORDER

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All parties, by their respective counsel, hereby agree and stipulate to this proposed Addendum to the "Stipulated Protective Order Regarding Confidentiality of Documents and Materials" (the "Protective Order") (Dkt. 189) entered by the Court on January 15, 2015:

- 1. Unless otherwise defined herein, all capitalized terms shall have the meanings ascribed to such terms in the Protective Order.
- 2. The Protective Order will recognize a new category of discovery called "Highly Confidential NCAA Member Financial Data." Any party may designate as "Highly Confidential NCAA Member Financial Data" (by stamping the relevant page or portion "Highly Confidential NCAA Member Financial Data - Lead Counsel Only") any document, response to discovery, or deposition transcript which includes NCAA member institution financial data (including summaries or analyses of such data and all identification keys that match member institution financial data to member institution names) that the Disclosing Party considers in good faith to contain Highly Confidential Information, the disclosure of which to another party or non-party would create a substantial risk of serious harm that could not be avoided by less restrictive means. Where a document, response to discovery, or deposition transcript consists of more than one page, the first page and each page on which Highly Confidential NCAA Member Financial Data appears shall be so designated. Highly Confidential NCAA Member Financial Data may only be disclosed to those persons set forth in Paragraph 3 below.
- 3. Highly Confidential NCAA Member Financial Data that is designated as such in accordance with the terms of the Protective Order and this Addendum shall not be disclosed to any person other than the following, and only to the extent necessary to litigate these actions:
- Plaintiffs' Interim Co-Lead Class Counsel as appointed by the court (namely, Winston & Strawn LLP, Hagens Berman Sobol Shapiro LLP and Pearson, Simon & Warshaw LLP) (Dkt. 82) and employees of such counsel;
- b. counsel for Defendants in this litigation, including in-house counsel and cocounsel retained for these actions and employees of such counsel, including a Defendant's inhouse legal staff;
  - c. consultants or expert witnesses retained for the prosecution or defense of

these actions, and anyone assisting said consultants or expert witnesses in connection with these actions, provided that each such person shall execute a copy of the certification annexed to this Addendum as Exhibit A before being shown or given any Highly Confidential NCAA Member Financial Data;

- d. the original author, addressees, or recipients of the Highly Confidential NCAA Member Financial Data;
  - e. the Court, court personnel and court reporters;
- f. persons or entities that provide litigation support services (e.g., photocopying; videotaping; translating; preparing exhibits or demonstrations; organizing, storing, retrieving data in any form or medium; etc.) and their employees and subcontractors, provided that such persons or entities shall execute a copy of the certification annexed to this Addendum as Exhibit A before being shown or given any Highly Confidential NCAA Member Financial Data; and
- g. witnesses (other than persons described in Paragraph 3(c) above) who testify at deposition or at trial, provided that (1) the Receiving Party has a good faith belief that such witness previously had access to or otherwise had obtained knowledge of the Highly Confidential NCAA Member Financial Data; and (2) such witnesses shall execute a copy of the certification annexed to this Addendum as Exhibit A before being shown or given any Highly Confidential NCAA Member Financial Data.
- 4. Except as set forth herein, for purposes of all paragraphs of the Protective Order except Paragraph 13, Highly Confidential NCAA Member Financial Data will receive the same treatment under each such paragraph as Highly Confidential Counsel Only Information. Without limitation, any challenges or objections concerning the designation of information as Highly Confidential NCAA Member Financial Data shall be made pursuant to Paragraph 14 of the Protective Order.
- 5. The parties agree that they will file documents that use Highly Confidential NCAA Member Financial Data regarding any NCAA institution identified by name (as opposed to an institution identified by unique identifier) if and only if they have a good faith need to identify the

### Casas629-44-1028928-41-1/CVPODWORM612834 Filed 0-7/09/29 Page 127 9487

institution by name. The parties further agree that any such filing shall be filed under seal. IT IS SO STIPULATED. 4 14-md-2541-0 STIPULATION AND (PROPOSED) ORDER RE: ADDENDUM TO STIPULATED PROTECTIVE ORDER

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		5 14-md-2541-CW

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	CTIDLII ATION AND IDDODOGEDA	6 14-md-2541-CW ORDER RE: ADDENDUM TO STIPULATED PROTECTIVE ORDER
	STIPULATION AND PROPOSED	UNDER RE: ADDENDUM TO STIPULATED PROTECTIVE URDER

# Casase 29-44-103-928-42-14cvp opur nane 122-34 Filed 0-2/0-9/125 Page 739 9487

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		7 14-md-2541-CW	
	STIPULATION AND PROPOSE	ORDER RE: ADDENDUM TO STIPULATED PROTECTIVE ORDER	
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## Cases: 29-44-102028-21VC vPopulante 122:14 Filed 0: 7/09/25 Pages 34 9487

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# Casas: 49-44-108028-41/6-vipopuniciante 12234 Filed 0-7/09/25 Pages 33-9487

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1	DATED: July 8, 2015	SKADDEN ARPS SLATE MEAGHER & FLOM LLP
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27		
28		R. Todd Hunt ( <i>pro hac vice</i> ) The Tower at Erieview
		11 14-md-2541-CW
	STIPULATION AND PROPOSE	ORDER RE: ADDENDUM TO STIPULATED PROTECTIVE ORDER

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14	Richard Young (pro hac vice)	
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18 19	Attorneys for Defendant Mountain West Conference	
	Tittorneys for Defendant West Conference	
20		
21	ECF ATTESTATION	
22	Pursuant to Civil Local Rule 5-1(i)(3), the filer of this document attests that concurrence in	
23	the filing of this document has been obtained from each of the other signatories above.	
24		
25		
	<u>/s/ Karen Hoffman Lent</u> Karen Hoffman Lent	
26	Karen Homman Lent	
27		
28		
	12 14-md-2541-CW	

13 14-md-2541-0 STIPULATION AND [PROPOSED] ORDER RE: ADDENDUM TO STIPULATED PROTECTIVE ORDER

1	EXHIBIT A
2	
3	I,, state:
4	1. My address and telephone number are:
5	2. My present employer and my employer's address are:
6	3. I have received a copy of the Stipulated Protective Order Regarding Confidentiality of
7	Documents and Materials (the "Protective Order") entered in the case of <i>In re: National Collegiate</i> Athletic Association Athletic Grant-in-Aid Cap Antitrust Litigation, in the United States District  Court for the Northern District of Collifornia, No. 4114 MD 2541 CW, entered by the Court on
8	Court for the Northern District of California, No. 4:14-MD-2541-CW, entered by the Court on January 15, 2015, and the Stipulation and Order Regarding Addendum to Stipulated Protective Order ("Addendum") entered by the Court on
10	4. I have carefully read the Protective Order and Addendum and understand their provisions.
11	5. I will comply with all the provisions of the Protective Order and Addendum.
12	6. I will hold in confidence and will not disclose to anyone not qualified under the
13	Protective Order and Addendum any documents designated Confidential, Highly Confidential – Counsel Only or Highly Confidential NCAA Member Financial Data – Lead Counsel Only, and I
14	will use such Confidential Information and/or Highly Confidential – Counsel Only Information and/or Highly Confidential NCAA Member Financial Data only for the allowed purposes stated in
15	the Protective Order and Addendum.
16 17	7. I will return all documents that are designated Confidential, Highly Confidential – Counsel Only or Highly Confidential NCAA Member Financial Data – Lead Counsel Only to counsel for the party from whom I obtained such documents.
18	8. I will submit to the jurisdiction of the United States District Court for the Northern
19	District of California for purposes of the enforcement of the Protective Order and Addendum, and understand that violation of the Protective Order and Addendum can constitute contempt of Court.
20	I declare under penalty of perjury under the laws of the United States that the foregoing is
21	true and correct.
22	SIGNED, 201
23	Signature
24	Duinted Name
25	Printed Name
26	
27 28	
40	14 md 2541 CW

# **EXHIBIT C**

#### $\texttt{Casec44204cm63392534CA0WDdbbbcbcmentr1t35412} \quad \textbf{Filed 10/18/26} \quad \textbf{Page 3} \textbf{9} \textbf{0} \textbf{6} \textbf{18} \textbf{7}$

	. [	
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9	[Additional counsel listed on signature page]	
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11	UNITED STATE	ES DISTRICT COURT
12	NORTHERN DIST	CRICT OF CALIFORNIA
13	SAN JO	SE DIVISION
14		
15 16 17 18	IN RE: NATIONAL COLLEGIATE ATHLETIC ASSOCIATION ATHLETIC GRANT-IN-AID CAP ANTITRUST LITIGATION THIS DOCUMENT RELATES TO:	Case No. 4:14-md-02541-CW (NC) Case No. 4:14-cv-02758-CW (NC)  STIPULATION AND [PROPOSED] ORDER REGARDING SECOND ADDENDUM TO STIPULATED PROTECTIVE ORDER
19 20	ALL ACTIONS	
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28	STIDIII ATION AND ORDER REGARDING SECO	OND ADDENDUM TO STIPLIFATED PROTECTIVE ORDER

STIPULATION AND ORDER REGARDING SECOND ADDENDUM TO STIPULATED PROTECTIVE ORDER CASE Nos. 4:14-md-02541-CW (NC); 4:14-CV-02758-CW (NC)

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All parties, by their respective counsel, hereby agree and stipulate to this proposed Second Addendum to the "Stipulated Protective Order Regarding Confidentiality of Documents and Materials" (the "Protective Order") (Dkt. 189) entered by the Court on January 15, 2015:

1. Unless otherwise defined herein, all capitalized terms shall have the meanings ascribed to such terms in the Protective Order.

#### ADDITIONAL CATEGORIES OF PROTECTED INFORMATION

- 2. The Protective Order will recognize a new category of discovery called Conference Strictly Confidential Outside Litigation Counsel Only. The Protective Order will also recognize a new category of discovery called Network Strictly Confidential Outside Litigation Counsel Only.
- 3. Any party or non-party may designate as Conference Strictly Confidential – Outside Litigation Counsel Only (by stamping the relevant page or portion "Conference Strictly Confidential - Outside Litigation Counsel Only") any document, response to discovery, deposition transcript, or anything else furnished during the course of these actions that includes or concerns financial information, contractual terms, or other sensitive business information of a Conference Defendant (including summaries or analyses of such information that may identify the nature of such terms), that the Disclosing Party or their contractual counterparty considers in good faith to contain information, the disclosure of which to in-house counsel or specific individual outside counsel of another party or non-party would create a substantial risk of serious competitive, business, or financial harm ("Conference Strictly Confidential – Outside Litigation Counsel Only Information"). Where a document, response to discovery, deposition transcript, or anything else furnished during the course of these actions consists of more than one page, each page on which Conference Strictly Confidential – Outside Litigation Counsel Only Information appears shall be so designated. Conference Strictly Confidential – Outside Litigation Counsel Only Information may be disclosed only to those persons set forth in Paragraph 6 below.
- 4. Any party or non-party may designate as Network Strictly Confidential Outside Litigation Counsel Only (by stamping the relevant page or portion "Network Strictly Confidential Outside Litigation Counsel Only") any document, response to discovery, deposition transcript, or

anything else furnished during the course of these actions that includes or concerns a term of any current, expired, or future media, network, or broadcasting contract, agreement, arrangement, or understanding (including summaries or analyses of such information that may identify the nature of such terms), that the Disclosing Party or their contractual counterparty considers in good faith to contain information, the disclosure of which to in-house counsel or specific individual outside counsel of another party or non-party would create a substantial risk of serious competitive, business, or financial harm ("Network Strictly Confidential – Outside Litigation Counsel Only Information"). Where a document, response to discovery, deposition transcript, or anything else furnished during the course of these actions consists of more than one page, each page on which Network Strictly Confidential – Outside Litigation Counsel Only Information appears shall be so designated. Network Strictly Confidential – Outside Litigation Counsel Only Information may be disclosed only to those persons set forth in Paragraph 7 below.

5. If any document, response to discovery, deposition transcript, or anything else furnished during the course of these actions is designated as Conference Strictly Confidential – Outside Litigation Counsel Only Information and then later designated (or is discovered to have been previously designated) as Network Strictly Confidential – Outside Litigation Counsel Only, it shall be treated and regarded as Network Strictly Confidential – Outside Litigation Counsel Only for all purposes.

#### PERMISSIBLE DISCLOSURES OF INFORMATION CONFERENCE STRICTLY CONFIDENTIAL – OUTSIDE LITIGATION COUNSEL ONLY

- 6. Conference Strictly Confidential Outside Litigation Counsel Only Information (that is designated as such in accordance with the terms of the Protective Order and this Second Addendum) shall not be disclosed, except to the following persons, and then only to the extent necessary to litigate these actions:
- a. Plaintiffs' Interim Co-Lead Class Counsel as appointed by the court (namely, Winston & Strawn LLP, Hagens Berman Sobol Shapiro LLP and Pearson, Simon & Warshaw LLP)
   (Dkt. 82);

- b. Outside litigation counsel of record for Defendants in this litigation, including those law firms' paralegals, assistants, and other employed staff;
- c. Consultants or expert witnesses retained for the prosecution or defense of these actions, as well as members of said consultants' or expert witnesses' staffs assisting them in connection with these actions, provided that each such person shall execute a copy of the certification annexed to this Addendum as Exhibit A before being shown or given any Conference Strictly Confidential Outside Litigation Counsel Only Information;
- d. The original author, addressees, or recipients of the Conference Strictly
   Confidential Outside Litigation Counsel Only Information;
  - e. The Court, court personnel and court reporters;
- f. Persons or entities that provide litigation support services (e.g., photocopying; videotaping; translating; preparing exhibits or demonstrations; organizing, storing, retrieving data in any form or medium; etc.) and their employees and subcontractors, provided that such persons or entities shall execute a copy of the certification annexed to this Addendum as Exhibit A before being shown or given any Conference Strictly Confidential Outside Litigation Counsel Only Information; and
- g. Witnesses (other than persons described in Paragraph 6(c) above) who testify at deposition or at trial, provided that (1) the Receiving Party has a good faith belief that such witness previously had access to or otherwise had obtained knowledge of the Conference Strictly Confidential Outside Litigation Counsel Only Information; and (2) such witnesses shall execute a copy of the certification annexed to this Addendum as Exhibit A before being shown or given any Conference Strictly Confidential Outside Litigation Counsel Only Information.

#### PERMISSIBLE DISCLOSURES OF INFORMATION NETWORK STRICTLY CONFIDENTIAL – OUTSIDE LITIGATION COUNSEL ONLY

7. ESPN, Inc., ESPN Enterprises, Inc., American Broadcast Companies, Inc.

("ESPN/ABC"), Fox Broadcasting Company, Fox Cable Networks, Inc., Fox International Channels,
Fox Sports Net, Inc., Big Ten Network, LLC ("Fox Networks"), CBS Broadcasting Inc., CSTV

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Networks, Inc. d/b/a CBS Sports Network ("CBS"), or any future affiliates that move to intervene are hereby referred to as the "Network Intervenors". Network Strictly Confidential – Outside Litigation Counsel Only Information (that is designated as such in accordance with the terms of the Protective Order and this Second Addendum) shall not be disclosed, except to the following persons, and then only to the extent necessary to litigate these actions:

a. Defendants' outside litigation counsel of record, including lawyers and other members and employees of those law firms assisting with litigation-related tasks in this case ("Authorized Outside Litigation Counsel"), provided that (1) absent written permission from each Network Intervenor, no individual attorney who has in the past been involved directly or indirectly in negotiating any media, network, or broadcasting contract, agreement, arrangement or understanding with any Network Intervenor may review Network Strictly Confidential – Outside Litigation Counsel Only Information to which such attorney did not have access prior to production of such Information in this action; and (2) any individual attorney who reviews Network Strictly Confidential – Outside Litigation Counsel Only Information of a Network Intervenor to which such attorney did not have access prior to production of such Information in this action may not, absent written permission from such Network Intervenor, participate directly or indirectly on or before March 31, 2021 in negotiating any media, network, or broadcasting contract, agreement, arrangement, or understanding with such Network Intervenor, except that nothing in this Addendum shall be construed to require a Network Intervenor's permission for any individual attorney's participation in negotiating any agreements, arrangements, or understandings pertaining to discovery, motion practice, or other litigation-related matters in this lawsuit pertaining to Network Strictly Confidential – Outside Litigation Counsel Only Information of a Network Intervenor.

- i. Defendants' law firms acting as outside litigation counsel of record in these actions shall erect and maintain ethical walls limiting access to Network Strictly Confidential – Outside Litigation Counsel Only Information to Authorized Outside Litigation Counsel.
- ii. Absent a good faith basis for belief that any attorney other than
   Authorized Outside Litigation Counsel has reviewed Network Strictly Confidential Outside

Litigation Counsel Only Information, no Network Intervenor will assert the provisions of this Addendum as a basis to bar such attorney from engaging in future negotiations of any media, network, or broadcasting contract, agreement, arrangement, or understanding with such Network Intervenor. In the event a Network Intervenor asserts the provisions of this sub-paragraph as a basis to bar an attorney from engaging in negotiations of any media, network, or broadcasting contract, agreement, arrangement, or understanding with such Network Intervenor, that Network Intervenor will withdraw its invocation of this sub-paragraph upon the subject attorney proffering an affidavit or declaration, subject to penalty of perjury, that he/she has not reviewed Network Strictly Confidential – Outside Litigation Counsel Only Information.

iii. No Network Intervenor shall assert that the provisions of this

Addendum are a basis to bar an entire law firm from engaging in future negotiations of any media,
network, or broadcasting contract, agreement, arrangement, or understanding with such Network
Intervenor on the basis that the firm acted as outside litigation counsel of record in these actions;

- b. Plaintiffs' Interim Co-Lead Class Counsel as appointed by the court (namely, Winston & Strawn LLP, Hagens Berman Sobol Shapiro LLP and Pearson, Simon & Warshaw LLP) (Dkt. 82) and employees of such counsel;
- c. Consultants or expert witnesses retained for the prosecution or defense of these actions, as well as members of said consultants' or expert witnesses' staffs assisting them in connection with these actions, subject to the provisions of Paragraphs 10-15 herein, and who have executed a copy of the certification annexed to this Second Addendum as Exhibit A before being shown or given any Network Strictly Confidential Outside Litigation Counsel Only Information, provided that such individuals will not be involved directly or indirectly in negotiating any media, network, or broadcasting contract, agreement, arrangement, or understanding with any Network Intervenor, on or before January 1, 2021 (for the sake of clarity, subject to his/her compliance with this Protective Order, this Protective Order shall not preclude any such individuals from negotiating and/or entering into any contract or other arrangement or understanding with a Network Intervenor

solely on his or her own behalf, including but not limited to any agreement to appear on any programming of a Network Intervenor);

- d. The original authors or recipients of the Network Strictly Confidential –
  Outside Litigation Counsel Only Information and in circumstances where the Network Strictly
  Confidential Outside Counsel Only Information is an executed agreement, the parties to the agreement and their respective employees with access to such agreement in the ordinary course of business;
  - e. The Court, court personnel and court reporters; and
- f. Persons or entities that provide litigation support services (e.g., photocopying; videotaping; translating; preparing exhibits or demonstrations; organizing, storing, retrieving data in any form or medium; etc.) and their employees and subcontractors, provided that such persons or entities shall execute a copy of the certification annexed to this Second Addendum as Exhibit A before being shown or given any Network Strictly Confidential Outside Litigation Counsel Only Information.

#### FILING DOCUMENTS UNDER SEAL

8. No Network Strictly Confidential – Outside Litigation Counsel Only Information shall be filed in the public record without either the written permission of each Network Intervenor discussed or referenced therein, or a court order denying an Administrative Motion to File Under Seal such Network Strictly Confidential – Outside Litigation Counsel Only Information, provided that in the event any Administrative Motion to File Under Seal such Network Strictly Confidential – Outside Litigation Counsel Only Information is denied, the Network and the filing party agree to meet and confer within three (3) calendar days to discuss in good faith alternatives to filing the Network Strictly Confidential – Outside Litigation Counsel Only Information on the public record. The Network Intervenors preserve their rights to seek a writ of mandamus from the Ninth Circuit and/or a stay of any order denying an Administrative Motion to File Under Seal. No party may file such Network Strictly Confidential – Outside Litigation Counsel Only Information until seven (7) calendar days after the denial of any Administrative Motion to File Under Seal. At least five (5)

business days in advance of the date or deadline on which any party or non-party seeks to file an Administrative Motion to File Under Seal regarding any Network Strictly Confidential – Outside Litigation Counsel Only Information, the filing entity shall provide written notice to each Network Intervenor discussed or referenced therein, as well as one (1) redacted copy and one (1) unredacted copy of the Information so designated. However, if multiple Network Intervenors are discussed or referenced in the same document, no unredacted copies shall be provided to the Network Intervenors unless each of the applicable Network Intervenors discussed or referenced individually consent. The parties shall otherwise comply with the applicable court rules (e.g., N.D. Cal. Civil L.R. 79-5) regarding filing of documents under seal. Copies of any pleading, brief, or other document containing Network Strictly Confidential – Outside Litigation Counsel Only Information which is served on opposing counsel shall be stamped "NETWORK STRICTLY CONFIDENTIAL – OUTSIDE LITIGATION COUNSEL ONLY INFORMATION PURSUANT TO **PROTECTIVE ORDER"**, shall be transmitted via email or cover letter and envelope bearing similar designation, and shall be treated in accordance with the provisions of the Protective Order, as amended.

#### INCORPORATION OF PROTECTIVE ORDER

9. Except as set forth herein, for purposes of all Paragraphs of the Protective Order except Paragraph 13, both Conference Strictly Confidential – Outside Litigation Counsel Only Information and Network Strictly Confidential – Outside Litigation Counsel Only Information will receive the same treatment under each such Paragraph as Highly Confidential – Counsel Only Information. Except as set forth herein, any challenges or objections concerning the designation of information as Conference Strictly Confidential – Outside Litigation Counsel Only Information or Network Strictly Confidential – Outside Litigation Counsel Only Information shall be made pursuant to Paragraph 14 of the Protective Order.

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#### DISCLOSURE TO CONSULTANTS AND EXPERT WITNESSES

- 10. Information designated Conference Strictly Confidential Outside Litigation Counsel Only Information or Network Strictly Confidential Outside Litigation Counsel Only may be furnished and disclosed to the receiving party's consultants and expert witnesses and their necessary support personnel as is reasonably necessary for maintaining, defending or evaluating these actions. The terms "consultants" and "expert witnesses" shall mean an independent, outside expert witness or consultant with whom counsel may deem it appropriate to consult and whom (with respect to information designated Network Strictly Confidential Outside Litigation Counsel Only) complies with Paragraph 11.
- Information or Network Strictly Confidential Outside Litigation Counsel Only Information or Network Strictly Confidential Outside Litigation Counsel Only Information to a consultant or expert witness or their necessary support personnel shall occur until that person has accurately completed and signed the certification annexed to this Second Addendum as Exhibit A, and a signed copy has been provided to the Disclosing Party; and to the extent there has been an objection under Paragraph 13 with respect to Network Strictly Confidential Outside Litigation Counsel Only Information, that objection is resolved as discussed below. A separate certification annexed to this Second Addendum as Exhibit A shall not be required for staff members working under the supervision of an individual signing the certification annexed hereto as Exhibit A. An individual signing the certification annexed to this Second Addendum as Exhibit A, however, shall accept full responsibility for taking measures to ensure that staff members working under his or her supervision comply with the terms of this Second Addendum.
- 12. A party desiring to disclose Network Strictly Confidential Outside Litigation Counsel Only Information to a consultant or expert witness shall give prior written notice to the Disclosing Party as applicable, who shall have ten (10) business days after such notice is given to object in writing. The party desiring to disclose Network Strictly Confidential Outside Litigation Counsel Only Information to a consultant or expert witness must provide the following information for each consultant or expert witness: the name, title, business address, residence state and country,

present occupation (or job description), past and present business relationships with the party retaining them or other party to the litigation, curriculum vitae, a list of all instances in which, during the last four (4) years, the consultant or expert witness testified by trial or deposition, and a certification annexed to this Second Addendum as Exhibit A signed by such consultant or expert witness. No Network Strictly Confidential – Outside Litigation Counsel Only Information shall be disclosed to such consultant or expert witness until after the expiration of the foregoing ten (10) days' notice period.

- 13. A party objecting to disclosure of Network Strictly Confidential Outside Litigation Counsel Only Information to a consultant or expert witness shall state with particularity the ground(s) of the objection. The objecting party's consent to the disclosure of Network Strictly Confidential Outside Litigation Counsel Only Information to a consultant or expert witness shall not be unreasonably withheld.
- dispute/objection within seven (7) days from the date of electronic delivery of the objection. If the parties cannot resolve the dispute, the party seeking disclosure may move the Court for an order that access to Network Strictly Confidential Outside Litigation Counsel Only Information be provided to the designated consultant or expert witness. If the parties cannot resolve the dispute and the party seeking disclosure does not make such a motion within ten (10) business days of the electronic delivery of the objection, disclosure of Network Strictly Confidential Outside Litigation Counsel Only Information shall not be made to the designated consultant or expert witness. The parties agree to cooperate in good faith to shorten the time frames set forth in this Paragraph if necessary to abide by any discovery or briefing schedules. If a motion is made by the party seeking disclosure, it shall be the burden of the party seeking disclosure to demonstrate by a preponderance of the evidence that Network Strictly Confidential Outside Litigation Counsel Only Information should be allowed to be disclosed to the consultant or expert witness.
- 15. Failure to object to a consultant or expert witness shall not preclude the non-objecting party from later objecting to continued access by that consultant or expert witness where facts

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1	suggesting a basis for objection could not have been discovered by the objecting party or its counsel,
2	exercising due diligence, within the period for making a timely objection. A later objection to a
3	consultant or expert witness cannot be made on the basis of information disclosed pursuant to
4	Paragraph 12, except to the extent that said disclosure contained a material omission or
5	misrepresentation.
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1	Dated: October 6, 2016	Respectfully submitted,
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	Interim Co-Lead Class Counsel	
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24	Counsel for The Big Ten Conference, Inc.	
25	·	Counsel for Southeastern Conference
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### $\textbf{Cassee} \ 44204 \ \text{cm} \ \textbf{4082594C0W} \ \ \textbf{DDcccommene} \ \textbf{11.54.21} \quad \textbf{Filled} \ \textbf{1102/1128/1260} \quad \textbf{Prangee} \ \textbf{1542} \ \text{off} \ \textbf{1877}$

1 2 3 4 5 6 7 8 9 10 11 12 13 14	Leane K. Capps Caitlin J. Morgan POLSINELLI PC 2950 N. Harwood Street, Suite 2100 Dallas, TX 75201 Telephone: (214) 397-0030 lcapps@polsinelli.com  Amy D. Fitts POLSINELLI PC 120 W. 12th Street Kansas City, MO 64105 Telephone: (816) 218-1255 afitts@polsinelli.com  Wesley D. Hurst POLSINELLI PC 2049 Century Park East, Suite 2300 Los Angeles, CA 90067 Telephone: (310) 556-1801 whurst@polsinelli.com  Counsel for the Big 12 Conference, Inc.	By /s/ J. Wesley Earnhardt Evan R. Chesler (admitted to N.D. Cal. on September 24, 1982) Roger G. Brooks (pro hac vice) J. Wesley Earnhardt (pro hac vice) CRAVATH, SWAINE & MOORE LLP Worldwide Plaza 825 Eighth Avenue New York, NY 10019-7475 Telephone: (212) 474-1000 Facsimile: (212) 474-3700 echesler@cravath.com rgbrooks@cravath.com wearnhardt@cravath.com  Attorneys for intervenors ESPN, Inc., ESPN Enterprises, Inc., and American Broadcasting Companies, Inc.
15 16 17 18 19 20 21 22 23 24 25 26 27	rstone@jenner.com David R. Singer (Cal. Bar No. 204699) dsinger@jenner.com Jeffrey A. Atteberry (Cal. Bar No. 266728) jatteberry@jenner.com JENNER & BLOCK LLP 633 West 5th Street, Suite 3600 Los Angeles, California 90071 Telephone: (213) 239-5100 Facsimile: (213) 239-5199  Counsel for intervenors Fox Broadcasting Company, Fox Cable Networks, Inc., and Fox International Channels (US), Inc.	Email: chris.cox@weil.com DAVID R. SINGH (Bar No. 300840) Email: david.singh@weil.com WEIL, GOTSHAL & MANGES LLP 201 Redwood Shores Parkway Redwood Shores, CA 94065 Telephone: (650) 802-3000 Facsimile: (650) 802-3100  JAMES W. QUINN (pro hac vice) Email: james.quinn@weil.com YEHUDAH L. BUCHWEITZ (pro hac vice) Email: yehudah.buchweitz@weil.com WEIL, GOTSHAL & MANGES LLP 767 Fifth Avenue New York, NY 10153 Telephone: (212) 310-8000 Facsimile: (212) 310-8007  Attorneys for intervenor CBS Broadcasting Inc.
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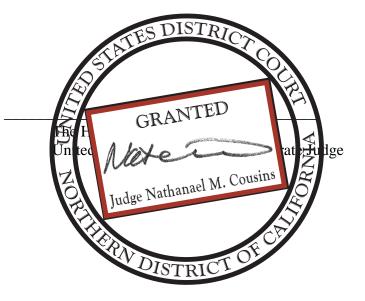
#### ATTESTATION PURSUANT TO CIVIL LOCAL RULE 5-1(i)(3)

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

/s/ Scott P. Cooper SCOTT P. COOPER

SO ORDERED.

Dated: October 12, 2016



- 14 -

1	EXHIBIT A
2	I,, state:
3 4	1. My business address is:
<ul><li>5</li><li>6</li></ul>	2. My present employer is:
7 8	3. My present occupation or job description (including my title) is:
9 10	4. My past and present business relationships with the parties to this litigation are:
11 12	5. For experts or consultants only, a copy of my curriculum vitae is attached hereto.
13 14	6. For experts or consultants only, in accordance with the Protective Order, First Addendum, and Second Addendum, I have provided a list of all instances in which, during the last four (4) years I testified at trial or deposition.
15 16 17 18 19	7. I have received a copy of the Stipulated Protective Order Regarding Confidentiality of Documents and Materials (the "Protective Order") entered in the case of <i>In re: National Collegiate Athletic Association Athletic Grant-in-Aid Cap Antitrust Litigation</i> , in the United States District Court for the Northern District of California, No. 4:14-MD-2541-CW, entered by the Court on January 15, 2015, the Stipulation and Order Regarding Addendum to Stipulated Protective Order ("First Addendum") entered by the Court on July 9, 2015, and the Stipulation and Order Regarding Second Addendum to Stipulated Protective Order ("Second Addendum") entered by the Court on [].  8. I have carefully read the Protective Order, First Addendum, and Second Addendum and understand their provisions.
21	9. I will comply with all the provisions of the Protective Order, First Addendum, and Second Addendum.
22 23 24 25 26 27	10. I will hold in confidence and will not disclose to anyone not qualified under the Protective Order, First Addendum, or Second Addendum any documents designated Confidential, Highly Confidential – Counsel Only, Highly Confidential NCAA Member Financial Data – Lead Counsel Only, Conference Strictly Confidential – Outside Litigation Counsel Only Information, or Network Strictly Confidential – Outside Litigation Counsel Only, and I will use such Confidential Information and/or Highly Confidential – Counsel Only Information and/or Highly Confidential NCAA Member Financial Data and/or Network Strictly Confidential – Outside Litigation Counsel Only Information only for the allowed purposes stated in the Protective Order, First Addendum, and Second Addendum.
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1 2 3	11. I will return all documents that are designated Confidential, Highly Confidential – Counsel Only, Highly Confidential NCAA Member Financial Data – Lead Counsel Only, Conference Strictly Confidential – Outside Litigation Counsel Only Information, or Network Strictly Confidential – Outside Litigation Counsel Only, to counsel for the party from whom I obtained such documents.
4	12. I will submit to the jurisdiction of the United States District Court for the Northern
5	District of California for purposes of the enforcement of the Protective Order, First Addendum, or Second Addendum and understand that violation of the Protective Order, First Addendum, or
6	Second Addendum can constitute contempt of Court.
7	I declare under penalty of perjury under the laws of the United States that the foregoing is true and
8	correct.
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# **EXHIBIT D**

1	Steve W. Berman (pro hac vice)	Jeffrey L. Kessler (pro hac vice)
2	Craig R. Spiegel (SBN 122000) Ashley A. Bede (pro hac vice)	David G. Feher ( <i>pro hac vice</i> ) David L. Greenspan ( <i>pro hac vice</i> )
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17	LINITED STATI	ES DISTRICT COURT
18		CRICT OF CALIFORNIA
19	OAKLA	ND DIVISION
20	IN RE: NATIONAL COLLEGIATE	Case No. 4:14-md-02541-CW
21	ATHLETIC ASSOCIATION ATHLETIC GRANT-IN-AID CAP ANTITRUST	Case No. 4:14-cv-02758-CW
	LITIGATION	STIPULATION AND [PROPOSED] ORDER
22		REGARDING THIRD ADDENDUM TO
23	THIS DOCUMENT RELATES TO:	STIPULATED PROTECTIVE ORDER
24		
25	ALL ACTIONS	
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	STIPULATION AND [PROPOSED] ORDER REGARD	DING THIRD ADDENDUM TO STIPULATED PROTECTIVE

ORDER- CASE NOS. 4:14-MD-02541-CW; 4:14-CV-02758-CW

All parties, by their respective counsel, hereby agree and stipulate to this proposed Third Addendum to the "Stipulated Protective Order Regarding Confidentiality of Documents and Materials" (the "Protective Order") (Dkt. 189) entered by the Court on January 15, 2015:

- 1. The Second Addendum to Stipulated Protective Order (Dkt. 508) was negotiated and signed between Plaintiffs and only five of the Conference Defendants in the Consolidated Action: (1) Atlantic Coast Conference; (2) The Big Ten Conference, Inc.; (3) The Big 12 Conference, Inc.; (4) Pac-12 Conference; and (5) Southeastern Conference. The parties now wish for the Court to order this stipulated addendum such that the Second Addendum to Stipulated Protective Order applies to the six other Conference Defendants in the Consolidated Action and the National Collegiate Athletic Association ("NCAA"). The six other Conference Defendants in the Consolidated Action are: (1) the American Athletic Conference; (2) Conference USA; (3) the Mid-American Conference; (4) the Mountain West Conference; (5) the Sun Belt Conference; and (6) the Western Athletic Conference (collectively, the "Six Conferences").
- 2. By way of this stipulation, the Six Conferences in the Consolidated Actions and the NCAA shall have the same rights and obligations under the Second Addendum to Stipulated Protective Order as the Conference Defendants who negotiated and signed the Second Addendum to Stipulated Protective Order, and Plaintiffs will have the same rights and obligations with regard to the Six Conferences and the NCAA as they do with regard to the Conference Defendants who negotiated and signed the Second Addendum to the Stipulated Protective Order.
- 3. The Second Addendum to Stipulated Protective Order was signed by certain media networks that formally intervened into this litigation: (1) ESPN entities (ESPN, Inc., ESPN Enterprises, Inc., and American Broadcasting Companies, Inc.); (2) Fox entities (Fox Broadcasting Company, Fox Cable Networks, Inc., and Fox International Channels (US), Inc.); and (3) CBS Broadcasting Inc. (collectively, the "Network Intervenors"). By way of this stipulation, the rights and obligations of the Network Intervenors under the Second Addendum to Stipulated Protective Order will apply not just to the Network Intervenors but to all media networks (including their various entities, affiliates and assigns) that are partners of any of the eleven Conference Defendants in this litigation or the NCAA, and which have an interest in the litigation, regardless of whether 871859.1

each has formally intervened in this litigation. Each such media network will be consider parties to be—and will receive the same treatment as—a Network Intervenor solely for parties to be—and will receive the same treatment as—a Network Intervenor solely for parties to be—and will receive the same treatment as—a Network Intervenor solely for parties to be—and will receive the same treatment as—a Network Intervenor solely for parties to be—and will receive the same treatment as—a Network Intervenor solely for parties to be—and will be consider the party from intervenor solely for parties to be—and will not otherwise be treated as a Network Intervenor solely for parties to be—and will not otherwise be treated as a Network Intervenor solely for parties to be—and will not otherwise be treated as a Network Intervenor solely for parties to be—and will not otherwise be treated as a Network Intervenor solely for parties to be—and will not otherwise be treated as a Network Intervenor solely for parties to be—and will not otherwise be treated as a Network Intervenor solely for parties to be—and shall not otherwise be treated as a Network Intervenor solely for parties to be—and shall not otherwise be treated as a Network Intervenor solely for parties to be treated as a Network Intervenor solely for parties to be treated as a Network Intervenor solely for parties to be treated as a Network Intervenor solely for parties to be treated as a Network Intervenor solely for parties to the Sean D. Meenan (SBN 260466).
the Second Addendum to Stipulated Protective Order and shall not otherwise be treated intervened in this litigation absent a formal motion to intervene by such network. Howe in this stipulation shall prevent any media network or any other party from intervening in litigation.  IT IS SO STIPULATED.  Dated: November 11, 2016  By /s/ Steve W. Berman Steve W. Berman (pro hac vice) Craig R. Spiegel (SBN 122000) Ashley A. Bede (pro hac vice) HAGENS BERMAN SOBOL SHAPIRO LLP 1918 Eighth Avenue, Suite 3300 Seattle, WA 98101 Telephone: (206) 623-7292 Facsimile: (206) 623-7292 Facsimile: (206) 623-7292 Steve@hbsslaw.com ashleyb@hbsslaw.com ashleyb@hbsslaw.com Jeff D. Friedman (SBN 173886) HAGENS BERMAN SOBOL SHAPIRO LLP
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### ATTESTATION PURSUANT TO CIVIL LOCAL RULE 5-1(i)(3) Pursuant to Civil Local Rule 5-1(i)(3), the filer of this document attests that concurrence in the filing of this document has been obtained from the signatory above. /s/ Jeffrey L. Kessler Jeffrey L. Kessler 871859.1

### IT IS SO ORDERED. Dated: THE HON. NATHANAEL COUSINS UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

Cases 4: 201-4 vn 028 929 401 VC VID o Doortsenne 128 45 319 FFFi leed 122 / 128 / 2016 FFE appe 673 off 787

STIPULATION AND [PROPOSED] ORDER REGARDING THIRD ADDENDUM TO STIPULATED PROTECTIVE ORDER- CASE NOS. 4:14-MD-02541-CW; 4:14-CV-02758-CW

871859.1

11/11/2016	540	Order granting 539 Stipulation entered by Magistrate Judge
		Nathanael M. Cousins. (This is a text-only entry generated by the
		court. There is no document associated with this entry.) (Entered:
		11/11/2016)

# **EXHIBIT E**

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20		ES DISTRICT COURT
21	NORTHERN DIS'	TRICT OF CALIFORNIA AND DIVISION
22   23	IN RE NATIONAL COLLEGIATE	Case No. 4:14-md-02541-CW
24	ATHLETIC ASSOCIATION ATHLETIC GRANT-IN-AID CAP ANTITRUST	Case No. 14-ev-02758-CW
25	LITIGATION	STIPULATION AND [PROPOSED] ORDER REGARDING SECOND ADDENDUM TO
26	THIS DOCUMENT RELATES TO:	STIPULATED PROTECTIVE ORDER
27	ALL ACTIONS.	Judge: Hon. Claudia Wilken
28		

All parties and Network Intervenors, by and through their respective counsel, hereby agree and stipulate to the below as it relates to the Second Addendum to the "Stipulated Protective Order Regarding Confidentiality of Documents and Materials" (the "Second Addendum") (Dkt. 512) entered by the Court on October 12, 2016:

- 1. The Second Addendum was negotiated and signed between Plaintiffs and only five of the Conference Defendants in the Consolidated Action: (1) Atlantic Coast Conference; (2) The Big Ten Conference, Inc.; (3) The Big 12 Conference, Inc.; (4) Pac-12 Conference; and (5) Southeastern Conference. (Dkt. 508.)
- 2. On November 11, 2016, Magistrate Judge Nathaniel M. Cousins entered via minute entry (Dkt. 540) the Third Addendum to the Stipulated Protective Order (Dkt. 539) (the "Third Addendum"). The Third Addendum was signed and entered for the purpose of applying the terms of the Second Addendum to the six other Conference Defendants in the Consolidated Action and the National Collegiate Athletic Association ("NCAA"). The six other Conference Defendants in the Consolidated Action are: (1) the American Athletic Conference; (2) Conference USA; (3) the Mid-American Conference; (4) the Mountain West Conference; (5) the Sun Belt Conference; and (6) the Western Athletic Conference (collectively, the "Six Conferences").
- 3. The Second Addendum was also signed by certain media networks that formally intervened in this litigation: (1) ESPN entities (ESPN, Inc., ESPN Enterprises, Inc., and American Broadcasting Companies, Inc.); (2) Fox entities (Fox Broadcasting Company, Fox Cable Networks, Inc., and Fox International Channels (US), Inc.); and (3) CBS Broadcasting Inc. (collectively, the "Network Intervenors"). By way of the Third Addendum, the rights and obligations of the Network Intervenors under the Second Addendum were extended to apply not just to the Network Intervenors, but to all media networks (including their various entities, affiliates and assigns) that are partners of any of the eleven Conference Defendants in this litigation or the NCAA, and which have an interest in the litigation, regardless of whether each has formally intervened in this litigation.
- 4. Absent Network Intervenor permission, the Second Addendum and Third Addendum limit the involvement of defense counsel who receive information that is designated "Network Strictly Confidential Outside Litigation Counsel Only" ("NSC"), which is defined in Paragraph 4 of the

Second Addendum. Specifically, Paragraph 7(a)(2) of the Second Addendum provides:

[A]ny individual attorney who reviews Network Strictly Confidential – Outside Litigation Counsel Only Information of a Network Intervenor to which such attorney did not have access prior to production of such Information in this action may not, absent written permission from such Network Intervenor, participate directly or indirectly on or before March 31, 2021 in negotiating any media, network, or broadcasting contract, agreement, arrangement, or understanding with such Network Intervenor, except that nothing in this Addendum shall be construed to require a Network Intervenor's permission for any individual attorney's participation in negotiating any agreements, arrangements, or understandings pertaining to discovery, motion practice, or other litigation-related matters in this lawsuit pertaining to Network Strictly Confidential – Outside Litigation Counsel Only Information of a Network Intervenor.

- 5. Trial of this matter is scheduled to begin on September 4, 2018. The parties' pretrial filings identify as proposed exhibits and testimony for trial certain information that is designated NSC pursuant to the Second Addendum. A number of defense counsel implicated by the terms of Paragraph 7(a)(2) of the Second Addendum intend to attend the trial, in whole or in part. Counsel for the Network Intervenors may also attend the trial, in whole or in part.
- 6. The parties and Network Intervenors therefore stipulate and agree that the restriction imposed by Paragraph 7(a)(2) of the Second Addendum be modified as follows for purposes of the forthcoming trial only: to the extent NSC information is inadvertently revealed at trial by any exhibit, witness, the Court, or oral presentation by counsel, defense counsel and counsel for the Network Intervenors shall not, solely as a result of such disclosure, be barred from future negotiations under Paragraph 7(a)(2) of the Second Addendum. To the extent NSC Information is permissibly used at trial, including over the objection of a Network Intervenor, and regardless of whether the information is later sealed, then defense counsel and counsel for the Network Intervenors shall not, solely as a result of such disclosure, be barred from future negotiations under Paragraph 7(a)(2) of the Second Addendum.

IT IS SO STIPULATED.

## COASE4294CMD 956400ANE 1/131627 FIMEd 186/186/198 PARG 62 OF 87

1	Dated: September 4, 2018	Respectfully submitted,
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22	SO OR	DERED		IT IS SO ORDERED
23	Dated:	September 4, 2018		Chidele H
23			7	w Wilken 10.
24			The	O Judge Clauma Wilken
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1	ATTESTATION PURSUANT TO CIVIL LOCAL RULE 5-1(i)(3)
2	Pursuant to Civil Local Rule 5-1(i)(3), the filer of this document attests that concurrence in the
3	filing of this document has been obtained from the signatories above.
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	NORTHERN DIS	TRICT OF CALIFORNIA
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	OAKL	AND DIVISION
	DIDE MARKET COLLEGE	I a
	IN RE: NATIONAL COLLEGIATE	Case Nos. 4:14-md-2541-CW (NC)
	ATHLETIC ASSOCIATION ATHLETIC	4:14-cv-02758-CW (NC)
	GRANT-IN-AID CAP ANTITRUST	
	LITIGATION	STIPULATION AND [PROPOSED] ORDER
		REGARDING FOURTH ADDENDUM TO
		STIPULATED PROTECTIVE ORDER
		SIII OLATED I ROTECTIVE ORDER
	This Document Relates to:	
	ALL ACTIONS	
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All parties, by their respective counsel, hereby agree and stipulate to this proposed Fourth Addendum to the "Stipulated Protective Order Regarding Confidentiality of Documents and Materials" (the "Protective Order") (Dkt. 189) entered by the Court on January 15, 2015:

1. Unless otherwise defined herein, all capitalized terms shall have the meanings ascribed to such terms in the Protective Order.

### ORDER REGARDING PRODUCTION OF BILLING RECORDS

- 2. On August 21, 2019, the Court held a hearing on the following motions: Plaintiffs' Motion for Attorney Fees, Expenses and Service Awards (Dkt. 1169) ("Plaintiffs' Motion for Fees and Costs"); Joint Statement of Discovery Dispute Regarding Plaintiffs' Motion for Attorney Fees (Dkt. 1184) (the "Discovery Dispute"); Motion for Review of Clerk's Taxation of Costs (Dkt. 1193); and Administrative Motion to Vacate Taxed Costs Order (Dkt. 1194).
- 3. As to the Discovery Dispute (Dkt. 1184), the Court ordered Plaintiffs to produce the billing records underlying Plaintiffs' Motion for Fees and Costs to enable Defendants to review time entries for tasks, if any, that Defendants contend are non-compensable, and not for any other purpose.<sup>1</sup>
- 4. The Court did not compel waiver of privilege and ordered the parties to meet and confer regarding a protective order.

### ADDITIONAL CATEGORY OF PROTECTED INFORMATION

5. The Protective Order will recognize a new category of discovery called "Highly Confidential Billing Records – Outside Counsel Only." Any party or non-party may designate as "Highly Confidential Billing Records – Outside Counsel Only" any document, production, filing, or anything else furnished during the course of these actions that includes or concerns information in any party or non-party's billing records (by stating on the first page or in an accompanying letter that it is "Highly Confidential Billing Records – Outside Counsel Only"). Highly Confidential Billing Records – Outside Counsel Only Information may be disclosed only to those persons set forth in Paragraph 6 below.

<sup>&</sup>lt;sup>1</sup> The parties reserve all rights with respect to potential disputes related to (1) the scope of challenges Defendants are permitted to make; and (2) the production of expense reports.

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#### PERMISSIBLE DISCLOSURES AND USES OF INFORMATION

- 6. Highly Confidential Billing Records Outside Counsel Only Information (that is designated as such in accordance with the terms of the Protective Order and this Fourth Addendum) shall not be disclosed or used, except to the following persons, and then only to the extent necessary to litigate Plaintiffs' Motion for Fees and Costs:
- a. Defendants' outside litigation counsel of record, including lawyers and other members and employees of those law firms assisting with litigation-related tasks in this case;
  - b. The Court, court personnel and court reporters; and
- c. Persons or entities that provide litigation support services (e.g., photocopying; videotaping; translating; preparing exhibits or demonstrations; organizing, storing, retrieving data in any form or medium; etc.) and their employees and subcontractors, provided that such persons or entities shall execute a copy of the certification annexed to this Addendum as Exhibit A before being shown or given any Highly Confidential Billing Records Outside Counsel Only Information.

### FILING DOCUMENTS UNDER SEAL

7. No Highly Confidential Billing Records – Outside Counsel Only Information shall be filed in the public record without either the written permission of Plaintiffs' counsel or a court order denying an Administrative Motion to File Under Seal such Highly Confidential Billing Records – Outside Counsel Only Information, provided that in the event any Administrative Motion to file Under Seal such Highly Confidential Billing Records – Outside Counsel Only Information is denied, the Plaintiffs and the filing party agree to meet and confer within three (3) calendar days to discuss in good faith alternatives to filing the Highly Confidential Billing Records – Outside Counsel Only Information on the public record. Plaintiffs preserve their rights to seek a writ of mandamus from the Ninth Circuit and/or a stay of any order denying an Administrative Motion to File Under Seal. The parties shall otherwise comply with the applicable court rules (*e.g.*, N.D. Cal. Civil L.R. 79-5) regarding filing of documents under seal. Copies of any pleading, brief, or other document containing Highly Confidential Billing Records – Outside Counsel Only Information which is served on opposing counsel shall be stamped "HIGHLY CONFIDENTIAL BILLING RECORDS – OUTSIDE COUNSEL ONLY

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INFORMATION PURSUANT TO PROTECTIVE ORDER", shall be transmitted via email or cover letter and envelope bearing similar designation, and shall be treated in accordance with the provisions of the Protective Order, as amended. Defendants agree not to oppose a motion to seal Highly Confidential Billing Records – Outside Counsel Only Information.

### **NO WAIVER**

8. While Plaintiffs reserve the right to redact billing records and Defendants reserve the right to challenge Plaintiffs' redaction of such records, the production of billing records, regardless of content, shall not be deemed to waive any applicable privilege or work product protection or to affect the ability of a party to seek relief for an inadvertent disclosure of material protected by privilege or work product protection. Pursuant to the Court's authority under Federal Rule of Evidence 502 and any other applicable law, rule, or legal principal, the inadvertent production of documents or information subject to the attorney-client privilege or work-product immunity shall not waive the privilege or immunity if a request for the return of such documents or information is made promptly after the Disclosing Party learns of its inadvertent production.

### INCORPORATION OF PROTECTIVE ORDER

- 9. Except as set forth herein, for purposes of all Paragraphs of the Protective Order except Paragraph 13, Highly Confidential Billing Records Outside Counsel Only Information will receive the same treatment under each such Paragraph as Highly Confidential Counsel Only Information.
- 10. Except as set forth herein, any challenges or objections concerning the designation of information as Highly Confidential Billing Records Outside Counsel Only Information shall be made pursuant to the procedures set forth in Paragraph 14 of the Protective Order.
- 11. Except as set forth herein, the Protective Order, including but not limited to all provisions related to the nondisclosure of protected information, and the return or destruction of protected information after the final termination of the litigation, are expressly incorporated into this Fourth Addendum and remain in full force and effect.

IT IS SO STIPULATED.

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## ATTESTATION PURSUANT TO CIVIL LOCAL RULE 5-1(i)(3) Pursuant to Civil Local Rule 5-1(i)(3), the filer of this document attests that concurrence in the filing of this document has been obtained from the signatories above. <u>/s/ Jeffrey L. Kessler</u> Jeffrey L. Kessler

1	[PROPOSED] ORDER	
2	PURSUANT TO THE FOREGOING STIPULATION OF THE PARTIES,	
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4	IT IS SO ORDERED.	
5	Dated:	
6		
7	The Honorable Claudia Wilken United States District Judge	
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7 8	UNITED STATES D	DISTRICT COURT	
9	NORTHERN DISTRICT OF CALIFORNIA		
10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	fourth addendum to the protective order. For put the standards or procedural requirements for fill Civil Local Rule 79-5. The parties must comply materials under seal.  IT IS SO ORDERED.  Date: September 13, 2019	ing materials under seal under N.D. Cal.	
	Case No. 14-md-02541 CW (NC)		