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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO – UNLIMITED JURISDICTION

ROBERT BEASLEY,

Plaintiff,

vs.

NATIONAL COLLEGIATE ATHLETIC
ASSOCIATION; and DOES 1-10
inclusive,

Defendants.

Case No.

COMPLAINT

CGC-23-610573

1. Violation of California's Unfair Competition
Law (Cal. Bus. & Prof. Code, §17200 et seq.)

Plaintiff Robert "Robby" Beasley ("Plaintiff"), through his counsel of record, alleges and avers the following based on personal knowledge as to the facts known to him, and upon information and belief as to all other matters, against Defendant NATIONAL COLLEGIATE ATHLETIC ASSOCIATION ("NCAA"); and DOES 1-10 inclusive, as follows:

I. INTRODUCTION

1. Plaintiff is collegiate basketball player who recently transferred from the University of California, Davis ("Davis") to the University of San Francisco ("USF") to allow him to obtain specialized and necessary medical care to treat an acute injury and chronic condition, and to otherwise be closer to his family while dealing with a myriad of

1 personal tragedies; including Covid-related deaths and hospitalizations of several close
2 family members and the recent murder of his 16-year-old cousin. Pursuant to the NCAA's
3 policies, Plaintiff should have maintained his eligibility, and have been granted immediate
4 eligibility to play, as his transfer was necessary for medical treatment and due to exigent
5 circumstances beyond his control that adversely affected his mental health and physical well-
6 being. In January 2023, however, the NCAA decided to tighten the rules for allowing
7 college players to transfer and adopted guidelines that restrict player mobility and
8 competition, and which are harmful to Plaintiff and similarly situated college players.

9 2. Per NCAA policies, Plaintiff was precluded from requesting a waiver, and
10 could not participate directly in the process. USF submitted the request on his behalf, and
11 provided contemporaneous medical records (including MRIs taken in 2018, January 2023,
12 and May 2023, physician statements) documenting the severity of his medical condition and
13 need for treatment by his longstanding medical providers near his home. In violation of its
14 own restrictive policies, the NCAA imposed a one-year ban on Plaintiff, which prohibits him
15 from playing in any Division 1 collegiate basketball game for the 2023-2024 season; his final
16 year of college.

17 3. As a result of this unfair business practice and restrictive covenant, Plaintiff
18 also cannot fairly compete in the collegiate marketplace for Name, Image, and Likeness
19 ("NIL") contracts, for athletic scholarships, or for any other business opportunities that are
20 available to his peers. Plaintiff is also being punished, harshly so, for exercising the right to
21 make important medical decisions for his own health and safety.

22 4. The NCAA should be preliminarily enjoined from enforcing this new and ill-
23 conceived rule against the Plaintiff, or otherwise be directed to grant the eligibility waiver
24 per its own stated guidelines. Plaintiff not only satisfied the express requirements of those
25 guidelines, but he satisfied the spirit of the NCAA's objectives of safeguarding college
26 players and ensuring that they can fairly compete both on the court and in the lucrative
27 marketplace of collegiate sports.
28

II. PARTIES

5. Plaintiff ROBERT (“ROBBY”) BEASLEY is resident of the City and County of San Francisco, California, and currently is an enrolled undergraduate student at the University of San Francisco (“USF”), located in the City and County of San Francisco. Plaintiff is a member of USF’s men’s NCAA Division I basketball team, but due to an NCAA determination, as described in more detail herein, Plaintiff currently is ineligible to participate in intercollegiate games in the 2023-2024 season, underway now, and including in numerous upcoming home games to be played in San Francisco (of which there are at least 15 remaining), and in another at least 6 games to be played elsewhere in California.

6. Defendant NATIONAL COLLEGIATE ATHLETIC ASSOCIATION (“NCAA”) is an unincorporated association with its principal place of business located in Indianapolis, Indiana. At all relevant times, the NCAA has conducted business in the City and County of San Francisco.

7. Plaintiff is unaware of the true names and capacities of the Defendants sued herein as DOES 1 to 10, inclusive, and therefore sues those Defendants by such fictitious names. Plaintiff will amend this Complaint to allege their true names and capacities when ascertained.

8. Plaintiff is informed and believes, and thereon alleges, that Defendants and each of them are responsible under the law in some manner for the unlawful actions and unlawful practices complained of herein.

9. Plaintiff is informed and believes, and thereon alleges, that at all times material hereto and mentioned herein, each Defendant sued (both named and DOE Defendants) was the successor in interest, predecessor in interest, agent, servant, employer, joint-employer, joint venture, contractor, contractee, partner, division owner, co-owner, subsidiary, division, alias and/or alter ego of each of the remaining Defendants and was, at all times, acting within the purpose and scope of such agency, servitude, employment, contract, ownership, subsidiary, alias and/or alter ego and with the authority, consent, approval, control, influence and ratification of each remaining Defendant sued herein.

10. Plaintiff is informed and believes, and thereon alleges, that each and all of the acts

1 and omissions alleged herein were performed by, and/or are attributed to, all Defendants, each
2 acting as agents, employees, and/or co-conspirators, and/or under the direction and control, of
3 each of the other Defendants; and that these acts and failures to act were within the course and
4 scope of the agency, employment, conspiracy and/or direction and control.

5 **III. JURISDICTION AND VENUE**

6 11. Subject matter jurisdiction exists in this matter pursuant to Code of Civil
7 Procedure section 410.10, and Business and Professions Code section 17203. This is a court of
8 general subject matter jurisdiction, and Plaintiff's claims are not subject to any exception.

9 12. Defendant NCAA is subject to specific personal jurisdiction in California. In
10 regard to specific jurisdiction, Defendant NCAA has voluntarily, purposely, and continuously
11 directed its collegiate athletics eligibility-related education, determination and enforcement
12 services at California residents and institutions, including Plaintiff, and at thousands of other
13 prospective and actual college athletes residing in California, as well as at numerous NCAA-
14 member colleges and universities located in California, including the University of San Francisco
15 ("USF"), and many others such as NCAA Division I men's basketball members.

16 13. The present litigation results from Plaintiff's injuries that arise out of, and relate
17 to, Defendant NCAA's eligibility-related services directed at California residents and institutions,
18 including Plaintiff and the University of San Francisco. Defendant NCAA's actions in regard to
19 its eligibility determination and enforcement regarding Plaintiff and actions that the NCAA took
20 after it failed to follow its own guidelines, as further detailed herein, specifically harmed Plaintiff
21 in California, and will continue to harm Plaintiff in California unless enjoined.

22 14. Venue in this Court is proper pursuant to Code of Civil Procedure section 395
23 because Plaintiff sustained injuries, and will continue to sustain injuries, in the City and County
24 of San Francisco because of Defendant NCAA's unlawful actions as alleged herein.

25 **VI. FACTS AND ALLEGATIONS**

26 15. Plaintiff incorporates by reference into this section the facts and allegations stated
27 above, including in the Introduction, and further alleges the following:
28

Overview and Structure of the NCAA

16. The NCAA states on its website that it is a “member-led organization, [and] was founded in 1906 to regulate the rules of college sport and protect young athletes.” The NCAA, in its Consolidated Financial Statement, dated August 31, 2022, describes itself as follows: The NCAA is the organization through which colleges and universities of the nation speak and act on athletic matters at the national level, “and serves as the colleges’ national athletics governing agency.”

17. The NCAA on its website describes its “Governance” as follows: “The NCAA governance structure consists of legislative bodies made up of volunteers from member schools. These legislative bodies, as well as a group of committees, govern each division and set Association-wide policy. Committees manage topics affecting sports rules, championships, health and safety, matters impacting women in athletics and opportunities for minorities.” The NCAA continues that “[t]he Board of Governors, the NCAA’s highest governing body, consists primarily of presidents and chancellors from each division, as well as two independent members. The board provides strategic planning for the Association as a whole, such as adopting and implementing policies to resolve core issues and other Association-wide matters.”

18. The NCAA organizes its member schools into three divisions, Division I, Division II, and Division III. The NCAA states on its website that “[a]mong the three NCAA divisions, Division I schools generally have the biggest student bodies, manage the largest athletics budgets and offer the highest number of athletics scholarships.” The NCAA further states on its website that “[w]hen people think about college sports, they most often think about Division I. Its teams are usually the ones broadcast on television, they have the highest profile, and they are frequently subjected to public scrutiny.”

19. The NCAA states on its website that “[m]ore than 500,000 college athletes across all three divisions compete for about 1,100 member schools in all 50 states, the District of Columbia, Puerto Rico, and even Canada.” In regard to Division I, the NCAA states that “[w]ith more than 350 member schools, Division I provides opportunities for over 190,000 student-athletes to compete in NCAA sports each year.”

1 20. The NCAA’s revenue is vast, and largely derived from Division I men’s
2 basketball. For its 2022 fiscal year, the NCAA reported its revenue as being \$1.14 billion.
3 Similarly, for its 2021 fiscal year, the NCAA reported \$1.15 billion in revenue. The NCAA states
4 on its website that it “receives most of its annual revenue from two sources: television and
5 marketing rights for the Division I Men’s Basketball Championship and ticket sales for all
6 championships.”

7 **The NCAA’s Rules**

8 21. NCAA members vote upon and enact NCAA rules, including rules relating to
9 player eligibility, and the NCAA enforces those rules. The NCAA employs staff members
10 dedicated to rules enforcement, and the NCAA actively monitors potential violations of its rules,
11 investigates them, provides notice to affected schools and individuals.

12 22. All NCAA member institutions must comply with NCAA rules, and the NCAA
13 can penalize them for noncompliance. The NCAA authorizes its Committee on Infractions to
14 impose penalties for noncompliance, which can be severe. For instance, penalties available to the
15 Committee to administer include prohibitions or restrictions on recruiting college players,
16 elimination of scholarships, reprimands, postseason competition bans, the prohibition of outside
17 competition for sports seasons, the relinquishment of NCAA voting privileges, and the so-called
18 “death penalty” for repeat violators, meaning, rendering the school itself ineligible to participate
19 in an NCAA sport.

20 23. NCAA college players do not have substantive voting rights as to proposed NCAA
21 rules or proposed rules modifications, and do not have collective rights in regard to rules
22 investigation and enforcement proceedings.

23 **The NCAA’s Power as a “Monopsony”**

24 24. College players lack a myriad of rights because of the NCAA’s power as a
25 monopsony, explained more below. In 2021, in a landmark United States Supreme Court
26 decision, *Nat’l Collegiate Athletic Ass’n v. Alston*, 141 S. Ct. 2141, 2151–56, the Court upheld a
27 California federal district court judgment that the NCAA had violated federal antitrust law by
28 prohibiting its member colleges and universities from providing college players with various

1 education-related benefits, via NCAA rules that limited scholarships for graduate or vocational
2 school, payments for academic tutoring, or paid post-eligibility internships.

3 25. In *Alston*, the Court detailed various facets of the NCAA’s power that the Court
4 noted were *uncontested* by the NCAA in the Supreme Court:

5 “[T]he district court began by observing that the NCAA enjoys ‘near complete
6 dominance of, and exercise[s] monopsony power in, the relevant market’—which it
7 defined as the market for ‘athletic services in men's and women's Division I basketball and
8 FBS football, wherein each class member participates in his or her sport-specific market.’.
The ‘most talented athletes are concentrated’ in the ‘markets for Division I basketball and
FBS football.’

9 There are no ‘viable substitutes,’ as the ‘NCAA's Division I essentially *is* the relevant
10 market for elite college football and basketball.’ In short, the NCAA and its member
11 schools have the ‘power to restrain student-athlete compensation in any way and at any
time they wish, without any meaningful risk of diminishing their market dominance.’

12 . . .

13 [The NCAA does] not contest that the NCAA enjoys monopoly (or, as it's called on the
14 buyer side, monopsony) control in that labor market—such that it is capable of depressing
15 wages below competitive levels and restricting the quantity of student-athlete labor. Nor
16 does the NCAA dispute that its member schools compete fiercely for student-athletes but
remain subject to NCAA-issued-and-enforced limits on what compensation they can offer.

17 . . .

18 “The NCAA *accepts* that its members collectively enjoy monopsony power in the market
19 for student-athlete services, such that its restraints can (and in fact do) harm competition.
20 Unlike customers who would look elsewhere when a small van company raises its prices
above market levels, the district court found (and the NCAA does not here contest) that
student-athletes have nowhere else to sell their labor.”

21
22 26. The NCAA wields enormous power over college players in numerous ways. For
23 example, when making critical determinations concerning players’ rights, the NCAA does not
24 provide any mechanisms for mediation or arbitration, or for any independent oversight or
25 investigation. The NCAA does not provide guaranteed rights for players to participate in matters
26 directly affecting them, for a guaranteed hearing, for guaranteed participation of a player in a
27 hearing, for guaranteed participation of a player’s counsel in a proceeding or hearing, or for
28 numerous other safeguards for players.

1 27. The NCAA renders its rulings regarding players by in-house paid staff. In some
2 instances, an NCAA member institution may appeal an adverse decision to the NCAA's
3 Committee on Legislative Relief, which is primarily comprised of employees from several NCAA
4 member institutions. The NCAA thus is the "judge, jury and executioner" in regard to issues
5 about players.

6 28. The Courts and the court of public opinion have been the primary source of
7 protection for college players, as the NCAA has repeatedly proven itself unwilling and incapable
8 of properly policing itself.

9 **The NCAA's Public Statements Regarding its Role as to Fairness, Health and Well-Being**
10 **For College Athletes**

11 29. The NCAA has maintained and executed a long-running, calculated public
12 relations strategy to tout its alleged concern for college athletes. For example, in March 2009, the
13 NCAA's Director of Communication Strategy, Chuck Wynne, was quoted in a publication titled
14 "PR Week" (as in Public Relations Week), that "The thread that runs through everything we do is
15 academics tied to athletics," explains Wynne. *"We want to make sure people understand that*
16 *we're about academics and student-athlete well-being.* We're about [how] what happens on the
17 court can be as educational as what you learn in a classroom." (emphasis added).

18 30. The NCAA on its website states its "Mission" as being to "[p]rovide a world-class
19 athletics and academic experience for student-athletes that fosters *lifelong well-being.*"
20 (emphasis added). The NCAA's first sentence in the "Overview" section of its website is: *"The*
21 *National Collegiate Athletic Association is a member-led organization dedicated to the well-*
22 *being and lifelong success of college athletes.*" (emphasis added).

23 31. The NCAA on its website lists its *"core values"* as *"fairness, safety* and equal
24 opportunity for all student-athletes." (emphasis added).

25 32. The NCAA, in its Division I "Constitution," states in the "Preamble" the
26 following: "The National Collegiate Athletic Association is a voluntary, self-governing
27 organization of four-year colleges, universities and conferences *committed to the well-being and*
28 *development of student-athletes,* to sound academic standards and the academic success of

1 student-athletes, and to diversity, equity and inclusion . . . *The basic purpose of the Association*
2 *is to support and promote healthy and safe intercollegiate athletics*, including national
3 championships, as an integral part of the education program and the student-athlete as an integral
4 part of the student body.” (emphasis added).

5 33. The NCAA, in its Division I “Constitution,” states one of its “Principles” as being
6 *“Student Athlete Well Being,”* and the NCAA further states: *“Intercollegiate athletics programs*
7 *shall be conducted by the Association*, divisions, conferences and member institutions *in a*
8 *manner designed to protect, support and enhance the physical and mental health and safety of*
9 *student-athletes*. Each member institution shall facilitate *an environment that reinforces*
10 *physical and mental health within athletics* by ensuring access to appropriate resources and open
11 engagement with respect to *physical and mental health*. Each institution is responsible for
12 ensuring that coaches and administrators exhibit *fairness, openness and honesty* in their
13 relationship with student-athletes. *Student-athletes shall not be discriminated against or*
14 *disparaged because of their physical or mental health.*” (emphasis added).

15 34. The NCAA, in its “Division I 2023-2024 Manual” describes its *“Commitment to*
16 *Student-Athlete Well-Being,”* as follows: “Intercollegiate athletics programs shall be conducted
17 in a manner designed to enhance the *well-being of student-athletes* who choose to participate and
18 to prevent undue commercial or other influences that may interfere with their scholastic, athletics
19 or related interests . . . Each member institution should also provide an environment that
20 fosters *fairness*, sportsmanship, *safety, honesty* and positive relationships between student-
21 athletes and representatives of the institution.” (emphasis added).

22 35. The NCAA in its publicly-available Consolidated Financial Statement, dated
23 August 31, 2022, states that it is *“dedicated to promoting the well-being of student-athletes* and
24 equipping them with the skills to success on the playing field, in the classroom and throughout
25 life.” (emphasis added).

26 36. In response to a recent adverse federal court decision against it in California, the
27 NCAA in November 2023 issued a public statement stating: “The NCAA fully supports all
28 student-athletes profiting from their NIL rights and *the Association is increasing benefits for*

1 *student-athletes — including new health and well-being requirements* and guaranteed academic
2 supports for all of Division I.” (emphasis added).

3 37. The NCAA has created and maintains a “Division I Committee for Legislative
4 Relief” (as discussed in more detail below). The NCAA, in its “Policies and Procedures” for that
5 Committee, updated in June 2023, states that “The central purpose of the NCAA Division I
6 Committee for Legislative Relief is to review requests to waive the normal application of the
7 legislation while considering the purpose or intent of the legislation, the involvement and *the*
8 *overall well-being of the student-athlete* and any competitive or recruiting advantages to
9 determine if relief is appropriate.” (emphasis added). The NCAA reiterates that “In reaching a
10 decision, [Committee] staff shall consider the purpose and intent of any involved NCAA
11 legislation, *the well-being of involved student-athletes*, possible competitive or recruiting
12 advantages, case precedent and other factors it considers relevant.” (emphasis added). The
13 NCAA further reinforces that the Committee itself, as opposed to just staff members, “shall
14 consider” “*the well-being of involved student-athletes*” along with the other factors.

15 38. The NCAA disregarded each of those objectives and public statements in
16 punishing Plaintiff for transferring to obtain necessary medical care and for otherwise
17 safeguarding his physical safety and mental well-being.

18 **The NCAA’s Purpose Behind its Public Statements**

19 39. The NCAA currently faces lawsuits and legislative action that seeks to hold it
20 accountable for its conduct, and to erode its seemingly near-immunity to challenges from, and on
21 behalf of, college players. Faced with continuing litigation and governmental action scrutinizing
22 its errant treatment of college athletes, the NCAA has rolled out a new and intensive public
23 relations campaign to clean up its image, in part, by expressing concern for the physical and
24 mental well-being of college athletes. The NCAA has embarked on this campaign at the same
25 time it is actively lobbying for more power through federal and state legislative relief, including
26 an exemption from the federal antitrust laws.

27 40. On October 17, 2023, the NCAA submitted written testimony of newly selected
28 NCAA President, Mr. Charlie Baker, to the United States Senate Committee on the Judiciary, in

1 which Mr. Baker, on behalf of the NCAA, requested all sorts of legal protection and action from
2 Congress, including to regulate NIL payments to players, deem players not to be employees, and
3 requesting immunity to antitrust laws. In the course of this highly publicized request, Mr. Baker
4 repeatedly touted the NCAA's alleged efforts to protect athlete "**health and well-being**" in his
5 three pages of testimony.

6 41. Mr. Baker also appointed Tim Buckley to lead the NCAA's public relations
7 efforts. Mr. Buckley was quoted as stating that "I thought it was important as much as possible to
8 reset the relationship with members of media." Mr. Buckley continued that "What we try to do as
9 a communications team is work within the bylaws **to shed as much light on the regulatory**
10 **decisions as possible . . .**" (emphasis added). In the present matter, the NCAA has not shed *any*
11 light on its determination regarding Plaintiff's eligibility. It has not even spoken to Plaintiff about
12 its decision or the reason for the denial of a legitimate and qualified transfer request.

13 42. The NCAA on its website intermingles protection of its business model with its
14 alleged efforts to protect the well-being of players. NCAA lists "Our Division I Priorities" as
15 including "**Commitment to amateurism . . .** maintaining a line of demarcation between student-
16 athletes and professional athletes" along with "**Student-athlete well being.**" (emphasis in
17 original).

18 43. What the NCAA is *actually* committed to is far different than what it publicly
19 espouses. In January 2020, ESPN.com published an article stating the following:

20
21 The man who played a lead role in helping the NCAA earn its status as a
22 billion-dollar organization says there is no longer a way to justify the current
limits on how college athletes can make money.

23 From 2012 through 2016, Mark Lewis oversaw a division of the NCAA that
24 organizes and stages 90 championship events each year. During his time in that
25 role, Lewis increased corporate partnerships and completed a landmark \$8.8
26 billion, eight-year extension to the contract that gives CBS and Turner the
27 television rights to the annual men's basketball March Madness tournament.
28 The proliferation of television contracts at the school and conference level,
Lewis said, has been a driving force that has fundamentally changed college
sports in the last several decades.

1 *"The priority is to monetize the sport,"* Lewis told ESPN this past week.
2 *"That's taken precedent over everything else.* If that's the model -- and there's
3 nothing wrong with that -- *then you can't expect the players to live by the*
 same set of rules [as they did in the past]. To me, it's just a question of
 fairness.

4 "If you go back 30 or 40 years to all the ways pro sports tried to be financially
5 successful and compared that to college sports, you didn't check all those
6 boxes. There were legitimately differences," Lewis said. "Then, you could say
7 the focus was an academic-oriented situation. But in this drive for revenue
 now, the boxes line up the same. *Colleges are doing everything that pro sports*
 leagues are doing to make money. So how come you're treating the
 participants radically different? You can't justify it."

8 44. In regard to "student-athletes," the NCAA in fact very specifically created the now
9 ubiquitous term "student-athlete" for legal purposes, specifically to prevent injured college
10 players from receiving any protections under workers' compensation and thwart determinations
11 that players had any rights akin to employees. As documented by Senator Chris Murphy in
12 "Madness, Inc. How College Sports Can Leave Athletes Broken and Abandoned (p. 5-6), "[i]n
13 college football alone, there are more than 20,000 injuries a year, including more than 4,000 knee
14 injuries and 1,000 spinal injuries. Those injuries, especially when mistreated (such as here) or
15 untreated entirely, carry physical and financial consequences for athletes throughout their lives.
16 They do not carry consequences for the coaches, trainers, and administrators who make millions
17 without the threat of losing everything in an instant."

18 45. The NCAA's first Executive Director, Walter Byers, wrote in his whistleblowing
19 1995 book "Unsportsmanlike Conduct: Exploiting College Athletes," that "We crafted the term
20 *student-athlete*, and soon it was embedded in all NCAA rules as a mandated substitute for such
21 words as players and athletes. We told the college publicists to speak of 'college teams,' not
22 football or basketball 'club,' a word common to the pros." (emphasis added). As Mr. Byers
23 wrote, of most concern was a Colorado case where "[a] widow applied for workmen's
24 compensation death benefits after her husband, Ray H. Dennison, died of a head injury while
25 playing football on the Fort Lewis A&M team." The NCAA's strategy was a massive success,
26 insulating it from liability from all manner of claims for decades. Because the NCAA also does
27 not mandate that member institutions pay for or provide college athletes with medical insurance,
28

1 the full cost of injuries are almost always borne by the student-athletes. Here, Robby's medical
2 care has been provided for, and fully funded by, his parents' insurance.

3 46. The NCAA has recently revived and reinvented its public relations campaign to
4 use and repeat terms such as "well-being" and "fairness" and its concern for players' "mental and
5 physical health" in order to create a misleading narrative similar to its campaign to brand college
6 players as "student-athlete" to avoid providing basic protections that would typically be afforded
7 for their skill and services. As set forth herein, the NCAA's public rhetoric still does not match
8 its conduct behind closed doors.

9 **The Vast Reach of the NCAA's Eligibility-Related Services and Powers**

10 47. The NCAA states on its website, in its "Mission and Priorities" section, that one of
11 its "Priorities" is to *"[p]rovide world-class services to student athletes* and members that leverage
12 the NCAA's collective scale . . ." (emphasis added). The NCAA markets and provides athletic
13 eligibility-related services to players, as well as to its members, as well as to others such as
14 parents of potential players. Those services are at issue here.

15 48. The NCAA markets its eligibility determination process, as well as makes actual
16 determinations on player eligibility for certain consumers. The NCAA also provides these
17 services to its member schools in regard to players. Some services are optional, *i.e.*, the
18 education, but the determination service is mandatory and requires that potential college athletes
19 pay a fee to the NCAA. The NCAA thereafter provides continuing enforcement services as to its
20 eligibility determinations.

21 49. The NCAA's direct relationship with college players in regard to athletic
22 eligibility services often starts early in a player's high school playing days, and even earlier,
23 according to the NCAA's own words.

24 50. The NCAA targets prospective college athletes well before they are college age.
25 For instance, in a section of its website titled "WANT TO PLAY COLLEGE SPORTS?," the
26 NCAA states: "College-bound student-athletes preparing to enroll in a Division I or II school
27 need to register with the NCAA Eligibility Center to ensure they have met amateurism standards
28 and are academically prepared for college coursework."

1 51. The NCAA then provides “Quick Hits” and Comprehensive Guides” to eligibility
2 resources. The first “Quick Hit” is a link to the “Initial-Eligibility Brochure,” which states at the
3 top: “Initial-Eligibility Standards” and then states “If you want to compete in NCAA sports, you
4 need to register with the NCAA Eligibility Center at eligibilitycenter.org. Plan to register *before*
5 *your freshman year of high school.*” The NCAA then provides a year-by-year chart for high
6 school students, specifically directing them what to do during each year of *high school*.

7 52. The NCAA operates its online “Eligibility Center” in which it prominently states:
8 “Want to Play College Sports? Creating an account is the first step toward becoming a student-
9 athlete.”

10 53. The NCAA further states: “To get started, review the three account options and
11 choose the one that's right for you! You'll only need to create one account with the Eligibility
12 Center. Starting with the free Profile Page is best practice, as you can transition it later to the
13 Certification account needed for your circumstances.” To obtain certification, prospective college
14 athletes must pay a fee to the NCAA. Such fee was charged to and paid by Plaintiff in exchange
15 for the NCAA’s promised services.

16 54. The NCAA further states that “Option 1” is a “Free Profile Page Account.” The
17 NCAA states that “A free Profile Page account is the right account if you are a college-bound
18 student-athlete, and specifically targets students in high school and “[i]n middle school or
19 **earlier and wanting to learn more about college athletics.**”

20 55. Option 2 is an “Amateurism-Only Certification Account.” The NCAA states “An
21 Amateurism-Only Certification account is the right account for only a small number of students.”
22 This account (which does NOT include an academic certification) **requires a registration fee of**
23 **\$70 for all students.**” (emphasis added).

24 56. Option 3 is an “Academic and Amateurism Certification Account.” The NCAA
25 states that it is “[o]ur most common account for future NCAA student-athletes, an Academic and
26 Amateurism Certification account is the right account for college-bound student-athletes who are
27 planning to: Compete at an NCAA Division I or II school. Take an official visit. Sign
28 a National Letter of Intent. This account **includes a registration fee of \$100**

1 **for domestic students and \$160 for International students.”** (emphasis added). This is the type
2 of account that Plaintiff created and paid for on or about March 26, 2019.

3 57. The NCAA further offers direct phone contact with players, stating: “If you need
4 more help, contact the Eligibility Center's Customer Service team at 877-262-1492, 9 a.m. to 5
5 p.m. Eastern time Monday-Friday for assistance.”

6 58. The NCAA also provides extensive video content for prospective college athletes
7 in regard to eligibility, for example, on the NCAA Eligibility Center’s YouTube channel,
8 providing videos for “College-Bound Student Athletes.”

9 59. A slide from a 2019 presentation given by NCAA Managing Director Gary
10 deCastro states that the NCAA provides approximately “**100,000 academic and**
11 **certifications/year**” as well as approximately “**7,500 “International certifications**” and notes
12 the **\$90 and \$150 fees** for each one.

13 60. The NCAA, in its Consolidated Financial Statement, dated August 31, 2022,
14 reported the following revenue for “eligibility center certifications”: **\$13,139,902** in 2022, and
15 **\$11,902,109** in 2021.

16 61. After clearing a player for initial eligibility, the NCAA continues to directly
17 provide eligibility-related services to players and enforces such determinations.

18 **The NCAA’s Transfer-Related Services**

19 62. In regard to players seeking to transfer schools, the NCAA directly provides
20 eligibility-related services. For example, the NCAA maintains an extensively-detailed internet
21 webpage titled “Want to Transfer?” There, the NCAA states that “We would like to help make
22 the transition to your next school a smooth one so you may continue your education and, at the
23 same time, continue to participate in your sport.”

24 63. Plaintiff, like all NCAA players, is a consumer of the NCAA’s eligibility
25 education and determination services, both directly, and indirectly via their schools, here, USF.
26 The NCAA is exclusively empowered to provide determination services (at the behest of its
27 members), thus requiring Plaintiff and all other college players to consume its services.
28

The NCAA's Regulation of so-called "Second Transfers"

64. The NCAA has enacted and enforced various rules and procedures regulating the athletic eligibility for players that transfer to a new school. Plaintiff focuses herein on the present state of the NCAA's rules as applicable to college players, like Plaintiff, who have previously attended two prior institutions.

65. The NCAA, in a document titled "NCAA Division I Undergraduate Four-Year Transfer Waiver Process," summarizes its new rules in effect for the 2023-24 season. The NCAA represented that "[a] waiver process remains available for undergraduate transfer student-athletes who do **not** qualify for the one-time transfer exception; however there have been changes made to the types of requests that will be considered." (emphasis in original).

66. The NCAA in a public statement described the new rules, which were not in effect in the prior year, as being the result of a unanimous vote of the NCAA's Division I Council to "*significantly tighten the criteria for undergraduate students who transfer for a second time to be granted a waiver to play immediately.*" (emphasis added).

67. The NCAA continues that "[a]n undergraduate transfer waiver will **only** be considered for student-athletes who transfer:

- (1) For reasons related to the student-athlete's physical or mental health and well-being;
- (2) Due to exigent circumstances outside the student-athlete's control (e.g., physical or sexual assault or discrimination based on a protected class); or
- (3) Assertions involving diagnosed education impacting disabilities." (emphasis in original).

68. The NCAA publishes a list of reasons for which the NCAA will *deny* a waiver request based on "Academic reasons" and for "Athletic reasons." The "Academic Reasons" are: "Degree program does not meet SA's [student-athlete's] expectations (e.g. academic difficulty)"; "Perceived prestige of an institution's degree program does not meet SA's expectations"; and "SA transferred to change majors." The "Athletic Reasons" are "Lack or change of participation: • No participation opportunity. • Reduction in playing time. • Change in position or role on the

team.”; “Change to athletics scholarship”; and “Coaching change.” The NCAA did not determine that Plaintiff transferred for any of the aforementioned reasons.

69. Of relevance here, the NCAA in a section titled “**Assertions of Student-Athlete Injury or Illness**” stated as follows:

(3) Guidelines.

During its January 2023 meeting, the Council discussed the relief that can be provided for waivers involving NCAA Division I Bylaw 14.5.5.1 (four-year college transfers – general rule) in which an institution asserts that an injury or illness to the student-athlete necessitated the student-athlete’s transfer to applicant institution.

The committee approved the following guidelines regarding assertions of injury or illness to the student-athlete:

(4) If the applicant institution is unable to provide contemporaneous medical documentation to substantiate the injury or illness to the student-athlete, the case should be denied.

(2) If the applicant institution provides documentation substantiating an injury or illness, but the injury or illness is ancillary to the facts and thus does not relate to the need to transfer, the case should be denied.

(3) If the applicant institution provides contemporaneous medical documentation substantiating that an injury or illness to the student-athlete necessitated the transfer to the applicant institution, the case should be granted. (emphasis provided)

(4) The committee reviewed the common circumstances submitted for such waiver requests and instructed the staff to continue reviewing such requests on a case-by-case basis. In addition, the committee noted immediate eligibility should be considered when the following circumstances are appropriately documented:

(a) Nature of injury or illness. Staff should consider relief of the legislation for circumstances involving a medically documented debilitating injury or illness (including mental illness) to a student-athlete that necessitate the student-athlete’s transfer;

(b) Chronology of events. Staff should consider relief of the legislation when the chronology of events supports that the student-athlete transferred because of the injury or illness. The student-athlete must transfer within or immediately after the academic year during which the injury or illness occurred, or significantly worsened; and

(c) Distance from the student-athlete’s support system. Staff should consider relief of the legislation when the student-athlete transfers to an institution within a 100-mile radius from the student-athlete’s home or support system due to the injury or illness. Additionally, staff may consider other relevant factors regarding the distance from applicant institution to student-athlete’s

1 support system (e.g., student-athlete transferred to the closest institution that
2 would provide an opportunity to participate).

3 b. Information Standards.

4 The committee adopted the following standards for situations in which a
5 waiver of legislation is requested, and the mitigation provided by the
6 institution involves an injury or illness to the student-athlete:

7 (1) Applicant institution must submit contemporaneous medical documentation
8 from the medical professional who diagnosed the student-athlete's condition
9 demonstrating the student-athlete's condition is debilitating and that the
10 student-athlete was receiving medical care and/or treatment at the previous
11 institution for the injury or illness;

12 (2) Applicant institution must provide a statement from the medical
13 professional who treated the student-athlete while enrolled at the previous
14 institution clearly demonstrating the reasons why the student-athlete's injury or
15 illness necessitates the transfer to applicant institution;

16 (3) Applicant institution must submit a letter from the student-athlete
17 explaining the need for relief from the legislation;

18 (4) Applicant institution must submit a statement demonstrating the steps that
19 have been taken (or will be taken upon the student-athlete's enrollment) to
20 treat the student-athlete's injury or illness at the institution;

21 (5) Applicant institution must submit a written statement indicating the
22 student-athlete is in good academic standing and meets all progress toward-
23 degree requirements at the institution; and

24 (6) A written statement from the previous institution's director of athletics
25 indicating the following:

26 (a) Whether the student-athlete would have had an opportunity to return to the
27 previous institution's team;

28 (b) Whether the student-athlete was dismissed from the team for any reason
and, if so, the date of the dismissal; and

(c) Whether the student-athlete was athletically eligible and in good standing
with the team at the time of departure from the institution.

70. USF, on behalf of Plaintiff, provided all of the required documentation in
connection with his requested transfer and met all of the above criteria.

71. The NCAA sets forth similar requirements for seeking an eligibility waiver on
assertion of mental health and extenuating circumstances. When considering assertions based on
mental health, the Council noted that "relief should be provided in cases where the applicant

1 institution provides evidence the student-athlete's mental health condition(s) impaired the
2 student-athlete's daily function at the previous institution and necessitated transfer to applicant
3 institution."

4 72. When considering exigent circumstances, the NCAA is authorized to "provide
5 appropriate legislative relief when faced with rapidly changing situations, particularly those in
6 which no reasonable person could decide that staying at the institution was in the best interest of
7 their well-being. "During its January 2023 meeting, the Council determined that exigent
8 circumstances are those that are pressing, demanding and clearly necessitate a student-athlete's
9 departure from the institution (not just athletics program) or its locale, and are unrelated to the
10 student-athlete's athletic participation (e.g., playing time, position preference, perceived
11 reputation of the athletics program, changes to athletics scholarship or coaching change)."

12 73. In the event NCAA staff initially denies the request for a waiver, the Applicant
13 may appeal to the NCAA Division I Committee for Legislative Relief ("CLR"), which is
14 authorized, indeed, expected, to waive the application of any rule to serve the underlying
15 objectives of the NCAA, which ostensibly include the health of student athletes, including their
16 access to medical care. The NCAA Information Standards, Guidelines and Directives (Updated
17 January 11, 2023) states in pertinent part regarding the work of the CLR:

18
19 At its October 2003 meeting, the Legislative Council approved the Division I
20 Committee for Legislative Relief's recommendation affording the committee
21 authority to waive the application of a rule when the circumstances of the case
22 do not fit the intended consequences of the rule, even when the result could be
23 a temporary rule change. The committee received endorsement from the
24 Legislative Council for a shift in the philosophy of the legislative relief process
25 affording the committee with the authority to waive legislation, prior to
26 Legislative Council input, when circumstances arise that do not seem to be an
27 intended consequence of legislation (i.e., the strict application of the rule based
28 on its intent seems "overreaching" given the fact situation) even if granting
such a waiver will essentially result in a temporary rule change in these limited
instances.

Some potential guidelines for the committee when considering such an issue
are below:

1. Minimal to no competitive or recruiting advantage will result from the
waiver being granted.

2. Student-athletes collectively benefit from the granted waiver (as opposed to a select group of student-athletes benefiting at the cost of others).

3. The activity being prohibited from the rule appears to be an unintended consequence.”

74. The NCAA in the January 11, 2023 Update continues as follows in regard to second transfers:

During its January 2023 meeting, the NCAA Division I Council approved an amendment to the committee policies to specify that immediate eligibility may only be established via a waiver for student-athletes who transfer: (1) for reasons related to the student-athlete’s physical or mental health and well-being; (2) due to exigent circumstances outside the student-athlete’s control; or (3) assertions involving diagnosed education impacting disabilities. Further, the student-athlete’s overall academic record (e.g., meeting progress toward-degree requirements, likelihood of graduation) and the previous institution’s position on the request may be considered in the waiver analysis.

Undergraduate transfer waiver requests will continue to be reviewed on a case-by-case basis; however, staff has been directed to deny cases with mitigating circumstances that are not outlined in the sections below.

75. As noted earlier herein, The NCAA’s publication titled “NCAA Division I Committee for Legislative Relief Policies and Procedures (Updated June 2023)” states the following: “The central purpose of the NCAA Division I Committee for Legislative Relief is to review requests to waive the normal application of the legislation while considering the purpose or intent of the legislation, the involvement and the overall well-being of the student-athlete and any competitive or recruiting advantages to determine if relief is appropriate.”

76. The NCAA states that, in regard to Committee staff, “In reaching a decision, staff shall consider the purpose and intent of any involved NCAA legislation, *the well-being of involved student-athletes*, possible competitive or recruiting advantages, case precedent and other factors it considers relevant. Staff shall strive for consistency in treating issues involving similar circumstances.”

77. The NCAA further reinforces that the Committee itself, as opposed to just staff members, “shall consider” “*the well-being of involved student-athletes*” along with the other factors.

1 78. In the present matter, as described below, the NCAA's eligibility determination
2 services were woefully deficient, deceptive, and unfair, thus injuring Plaintiff as a consumer of
3 those services.

4 **Plaintiff's Background**

5 79. Plaintiff has been playing and competing on the basketball court since even before
6 he began attending elementary school. For most of his life, Plaintiff devoted very significant time
7 to pursuing his goal of playing collegiately, and then potentially professionally. He spent
8 thousands of hours working on his basketball skills and his physical strength and fitness. Plaintiff
9 was a highly-regarded high school basketball player, and graduated in 2020 from Dougherty
10 Valley High School in San Ramon, California in the San Francisco Bay Area.

11 80. In high school, Plaintiff was named the Most Valuable Player in the East Bay
12 Athletic League, was a two-time first team all-Metro Guard in the Bay Area, and was named
13 Northern California Athlete of the Year by *The Mercury News* in 2018. Plaintiff earned first team
14 All-State honors in California in 2018 and 2019 as chosen by Cal-Hi Sports, a leading publication
15 covering California high school athletics. Before being sidelined with a knee injury, Plaintiff
16 finished his final season averaging 23 points and 7.6 rebounds per game and, and was listed as a
17 three-star recruit (a national classification) by ESPN.com.

18 81. While Plaintiff was still in high school, numerous NCAA Division I colleges and
19 universities in California recruited him to play basketball for those schools. Plaintiff received
20 athletic scholarship offers from numerous schools, including the University of California, Davis,
21 San Jose State University, and the University of San Francisco. Plaintiff visited all of those
22 campuses as a part of the recruiting process. Plaintiff ultimately decided to accept an athletic
23 scholarship to play for NCAA Division I member the University of Montana, because he wanted
24 to experience living in a new part of the country during college.

25 **Plaintiff's First Transfer – During the COVID-19 Pandemic**

26 82. Unfortunately, Plaintiff arrived at Montana at the beginning of the COVID-19
27 pandemic, and was prohibited from attending any live classes due to new COVID-19-related
28 protocols. As a college athlete, he was also restricted from socializing with individuals outside of

1 the athletic department, and subject to regular COVID-19 testing. It was a challenging and
2 stressful time to leave home, begin college, and live independently for the first time.

3 83. While Plaintiff was socially isolated and living in Montana, Plaintiff's family was
4 hit incredibly hard by COVID-19. During the course of an 18-month period, four of Plaintiff's
5 family members, including his father, were hospitalized for serious complications. Of note,
6 Plaintiff's 14-year-old cousin and aunt were both intubated and placed in medically-induced
7 comas for extended periods of time, and both required extensive rehabilitation prior to discharge.
8 His aunt suffered permanent lung damage, and still suffers from long-term COVID-19. Worse
9 still, Plaintiff's cousin, Antonio Beasley, died after losing a horrific 3-month battle to the virus in
10 the summer of 2020.

11 84. The isolation and familial trauma of the COVID-19 pandemic understandably had
12 a profound and damaging impact on Plaintiff's mental health, and he needed to return to
13 California to be closer to his family and support system.

14 85. Plaintiff was able to transfer to NCAA Division I member the University of
15 California, Davis ("UC Davis"), accept a basketball scholarship, and be immediately eligible to
16 play without penalty after the NCAA authorized a blanket waiver for one-time transfers.

17 **The Information Submitted to the NCAA in Connection with USF's Request for a Waiver**

18 86. As described below, Plaintiff eventually needed to transfer again due to unforeseen
19 circumstances, specifically, to the University of San Francisco ("USF") located near his home.
20 The following information was all submitted in writing to the NCAA by USF, on Plaintiff's
21 behalf, in an effort to seek a waiver such that Plaintiff would maintain his eligibility for the 2023-
22 2024 season.

23 87. Specifically, on or around August 4, 2023, USF submitted a request for a
24 waiver to the NCAA. On behalf of Plaintiff, USF maintained that he met the NCAA's new
25 criteria for obtaining a waiver, because he transferred for reasons related to his (1) physical
26 health; (2) mental health; and (3) because there were extenuating circumstances beyond
27 Plaintiff's control supporting a waiver. USF provided contemporaneous medical records and
28 documentation supporting each of the three independent grounds, as reflected below.

1 **Medical Waiver.**

2 88. Per NCAA rules, U.C. Davis was not required to provide Plaintiff with primary
3 medical insurance, and he had obtained coverage through his parents' insurance plan, Kaiser
4 Permanente, upon enrolling at U.C. Davis.

5 89. Plaintiff had suffered an on-court injury while playing for U.C. Davis on
6 January 28, 2023. An MRI revealed that he suffered a serious injury to his adductor, and
7 aggravated a prior medical condition, Femoroacetabular Impingement ("FAI").

8 90. In May 2023, some three months after suffering the injury, Plaintiff obtained a
9 second MRI after his symptoms substantially worsened. The MRI showed that Plaintiff's
10 injury had not improved since January, and that he required more invasive treatment to treat
11 his adductor and FAI.

12 91. Since 2018, Plaintiff has been under the care of Dr. Steven Stappaerts, a Sports
13 Medicine Specialist at Kaiser Permanente Medical Group located in San Ramon, California. Dr.
14 Stappaerts had successfully consulted with and treated Plaintiff for his initial FAI diagnosis,
15 several broken bones, and through knee surgery. The relationship between Dr. Stappaerts and
16 Plaintiff was so successful that it was featured in an article published on Kaiser Permanente's
17 "Look Inside KP Northern California" website in March, 2021. Dr. Stappaerts is located near
18 Plaintiff's parents' home in San Ramon, California, and Kaiser Permanente does not authorize
19 nor pay for nonemergency care by any outside providers.

20 92. After his symptoms and condition took a turn for the worse, Plaintiff again
21 consulted with Dr. Stappaerts, and also with Sports Medicine Specialist Dr. Zachary Bailowitz in
22 April and May 2023. Plaintiff was faced with no quick fixes or good options, and required more
23 aggressive interventions, including one or more of the following procedures: (1) a series of
24 prolotherapy injections with extensive physical therapy; (2) blood platelet injections; and/or
25 (3) surgery. The treatment was not only necessary to return Plaintiff to competitive play, but
26 was needed to restore his quality of life and prevent long term complications.

27 93. On April 28, 2023, Plaintiff's again consulted with a Sports Medicine
28 Specialist, and was notified that he now had symptoms commonly referred to as a sports

1 hernia in addition to his other injuries. Plaintiff's doctors could not guarantee that he would
2 not require surgery in order to recover. No matter what, a quick fix was not an option.
3 Extensive treatment, and time to heal, would be required. A further MRI was necessary in
4 order to chart out future treatment options. On that same day, and faced with no good
5 options, Plaintiff notified Davis that he would need to leave the program and return home to
6 San Ramon to take care of his health with his longtime providers. Per NCAA guidelines, he
7 also requested to enter the transfer portal so that he could enroll at a local university while
8 undergoing treatment.

9 94. On April 28, 2023, Plaintiff texted his parents about his doctor's request that
10 he obtain another MRI for his worsening symptoms and confirmed that he entered the
11 transfer portal to address these issues. Plaintiff's mother promptly responded, stating
12 "[t]hat's a great first step. Now. Let's get you healthy." Plaintiff needed to return home and
13 transfer to a local university in order to treat his injuries and fully heal.

14 95. Plaintiff thereafter returned home to the Bay Area to undergo an extensive 4-
15 month treatment plan to address his adductor injury, and FAI in the short term, and to
16 prevent long-term complications. Throughout, Plaintiff was always faced with the possibility
17 of requiring surgery if the treatment plan failed.

18 96. In connection with the waiver request for Plaintiff, USF submitted to the
19 NCAA MRI reports for Plaintiff from 2018, January 2023, and May 2023, along with several
20 statements from Dr. Steven Stappaerts, and Plaintiff's physical therapists, documenting his
21 injury, physical condition, and extensive treatment plan.

22 **Mental Health Waiver.**

23 97. Plaintiff suffered severe stress and anxiety after suffering the acute injury at
24 U.C. Davis in January 28, 2023. Plaintiff felt enormous pressure to return to the court
25 prematurely and feared that he would suffer a more catastrophic injury to his groin or
26 adductor. Plaintiff's trusted physician advised that his injury may not heal with rehabilitation
27 alone, and was advised that he would need to rest for a minimum of eight weeks, and also
28 that his recovery could take longer. Plaintiff's doctor also advised him that he may not fully

1 heal without the need for more invasive interventions, including surgery. Plaintiff had
2 undergone a painful and protracted surgical procedure in 2020 on his knee, and he felt
3 heightened stress and anxiety over the prospect of suffering through a second surgery.

4 98. The culture established at Davis was that players were expected to play through
5 pain. The coaches made numerous comments to players about being soft if they sat out of
6 practice or did not play or practice due to injury. At the end of the season, one of Robby's
7 teammates was "ran-off" or "processed" from the program. That teammate also suffered an
8 injury, and could not get back on the court. Per the new rules, as a second-transfer, he would be
9 unable to compete for an entire year, as the NCAA no longer granted waivers when players lose
10 their athletic scholarship for any reason.

11 99. In February 2023, when Robby and another starter were both sidelined with
12 injuries, the coach showed a video of another player who expressed frustration when placed in
13 concussion protocol. The coaches expressed admiration for the player's toughness. Although
14 Robby had a torn adductor and other documented medical issues, he understood that the coaches
15 expected him to play.

16 100. The pressure on Robby to return to competitive play and risk his health increased
17 exponentially when Davis was forced to cancel a game on February 23, 2023, for lack of player
18 availability. Davis was forced to cancel the game after a parent intervened and expressed concern
19 that Davis continued playing their son while he was still injured. One week later, Robby was
20 inserted back into the lineup; Davis needed to win the last regular season game to secure a bye in
21 the conference tournament. Robby was needed to play even though he continued to report pain,
22 lacked full mobility, and was unable to perform essential maneuvers on the court

23 101. Although he continued to report feeling pain and being unable to perform
24 certain basic basketball maneuvers, Plaintiff was needed to play for U.C. Davis in the
25 conference tournament (playoffs) in March. On March 8, 2023, just one day before the
26 tournament began (and still several weeks before the earliest date that Dr. Stappaerts had
27 advised Plaintiff was appropriate for return to play), Plaintiff sought mental health services
28 via Kaiser Permanente because he was feeling pressured to play while still injured. He had

1 difficulty sleeping, and could not focus. His grades began to suffer as a result, and he
2 dropped a class for the first time. Plaintiff thereafter received counseling from a licensed
3 psychologist to try and manage the stress and anxiety.

4 102. USF submitted to the NCAA contemporaneous notes and exchanges with
5 Plaintiff's medical providers documenting his deteriorating mental health.

6 103. USF's submission to the NCAA also included citations to a 2021 analysis
7 available via the National Library of Medicine (part of the United States Department of
8 Health & Human Services' National Institutes of Health), documenting that "anxiety
9 symptoms post-orthopedic injury are highly prevalent and persistent," and were present in
10 many patients even 10 years after injury. Plaintiff's surgery had been performed less than
11 three years prior, and he had suffered another acute injury in January 2023.

12 **Exigent Circumstances.**

13 104. USF submitted to the NCAA documentation showing that Plaintiff's
14 relationship with the U.C. Davis coaching staff suffered because Plaintiff did not feel they
15 believed that he was injured, and because Plaintiff felt pressured to play while still injured.
16 Plaintiff's fears were not unfounded, as his symptoms worsened and his mental health
17 continued to deteriorate as a result of playing prematurely.

18 105. Plaintiff was also deeply impacted by the deaths and hospitalizations of his
19 close family members, and had a more pressing need to be with his family and support
20 system when dealing with the added stress of his new injury. In addition to having to deal
21 with several tragic deaths and hospitalizations in a short period of time, Plaintiff was more
22 recently traumatized by the brutal murder of his 16-year-old cousin, Daven Beasley, a few
23 months-ago. This would certainly be a factor warranting a transfer at any point in time given
24 the enormity of the trauma.

25 106. USF's submission to the NCAA included contemporaneous documentation
26 concerning the murder and deaths of Plaintiff's cousins. The submission also included citations
27 to studies commissioned by the NCAA itself, documenting that college students consistently
28 report elevated levels of mental health distress since the COVID-19 pandemic, and that **college**

1 **athletes report even higher levels than the average student.** According to the NCAA's
2 executive summary on mental health issues in 2021, "[t]he data indicated rates of mental
3 exhaustion, anxiety and depression [reported by college athletes] have seen little change since fall
4 2020 and remain 1.5 to two times higher than identified before the Covid-19 pandemic." Plaintiff
5 falls within the latter category and, given his devastating familial struggles with the virus, his
6 "mental exhaustion, anxiety and depression" levels likewise remain elevated.

7 107. USF's submission to the NCAA included extensive contemporaneous
8 documentation supporting each of the aforementioned reasons supportive of a waiver.

9 **The NCAA's Internal Waiver Review Process as to Plaintiff**

10 108. On or about September 6, 2023, the NCAA case manager assigned to
11 Plaintiff's eligibility request notified USF that it was protocol to send to the player's prior
12 institution a copy of the waiver request submission and supporting materials to afford the
13 prior institution, here U.C. Davis, a chance to respond.

14 109. USF sent the submission materials to U.C. Davis, and **U.C. Davis elected not**
15 **to respond.** U.C. Davis thus did not oppose the waiver. Plaintiff's contemporaneous
16 medical records and statements, submitted by USF to the NCAA, thus remain unrefuted.

17 110. Nevertheless, on or about October 5, 2023, the NCAA case administrator
18 requested proof from Plaintiff that Plaintiff felt pressured to play at U.C. Davis while injured.
19 USF / Plaintiff thereafter submitted to the NCAA a contemporaneous, written
20 communication (an email) that Plaintiff had sent to his medical provider on March 8, 2023,
21 seeking help for pressure and anxiety because he was "feeling pressured to play while
22 injured." As evidenced in the email, Plaintiff reported to his medical provider having
23 difficulty sleeping and focusing as a result. Plaintiff sent the email one day before he was
24 expected to play for U.C. Davis in the conference tournament.

25 111. On or about October 13, 2023, and despite receiving contemporaneous proof,
26 as requested, the NCAA case administrator verbally notified USF that NCAA staff would not
27 approve Plaintiff's request for a waiver. According to the NCAA's case administrator:
28

- The NCAA did not believe that Plaintiff's contemporaneous, written communication to his provider in March 2023 was sufficient to support that he felt pressured to return early.
- The NCAA did not think it could say that the care at U.C. Davis was bad enough to constitute a transfer to another school.

112. The NCAA case administrator further informed USF that USF would need to submit proof from *someone at U.C. Davis* that Plaintiff felt pressured to play, or a statement from a medical professional at U.C. Davis admitting that U.C. Davis could not provide sufficient care for Plaintiff's medical needs. Such is not required by the NCAA's rules. This appears to be an extra requirement made up to legitimize the NCAA's refusal to grant a properly supported request for a waiver.

113. Plaintiff thereafter contacted a former U.C. Davis teammate to try to obtain a statement, as did Plaintiff's parents. Although understandably reluctant to participate, the former player initially agreed to provide a statement with the understanding that it would not be shared with U.C. Davis. Within a few short hours, however, Plaintiff was informed that the U.C. Davis basketball coaching staff called a meeting with Plaintiff's former teammates to warn them about his request. Plaintiff was informed that Associate Head Coach Kevin Nosak then called the former teammate who had agreed to help, and the teammate promptly reversed course fearing retaliation.

114. On October 15, 2023, Plaintiff's parents texted the head coach at U.C. Davis and asked if he had time for a call in an attempt to obtain the information requested by the NCAA. The head coach did not respond.

115. In another effort, on October 17, 2023, an attorney for Plaintiff, Dawn Ceizler, sent a letter to U.C. Davis's head coach to again attempt to open a dialogue and obtain U.C. Davis' cooperation to obtain whatever information was needed to satisfy the NCAA. No one from U.C. Davis agreed to cooperate and no information was provided.

116. On or about October 19, 2023, USF submitted to the NCAA a request for reconsideration of the NCAA's denial of the waiver, and in an attempt to satisfy the NCAA

1 case administrator's concerns, included new information and documentation concerning
2 Robby's physical and mental health.

3 117. USF included in the submission a joint statement from Plaintiff's parents, the
4 Beasleys, which provided new information and documentation supporting Plaintiff's request
5 for a waiver on medical grounds. The Beasleys explained that Plaintiff did not procure
6 medical insurance from U.C. Davis, and that U.C. Davis did not otherwise provide such
7 coverage. Plaintiff was solely covered under his parents' insurance plan, and his providers
8 were located near their home in San Ramon, California. The Beasleys also addressed the
9 challenges that they faced upon learning that Plaintiff's symptoms worsened at U.C. Davis
10 after he played prematurely, and that several MRIs revealed that his injuries had not
11 improved nearly four months after he suffered an injury on January 28, 2023.

12 118. As the Beasleys explained, "[g]iven the severity of [Plaintiff's] physical
13 condition, that his symptoms worsened, and that there was no improvement from his
14 condition from January to May 2023, the only available and reasonable action to take was for
15 [Plaintiff] to resume treatment with his longtime medical providers and Sports Medicine
16 specialists in the San Francisco Bay Area."

17 119. The Beasleys also detailed their trusted history with Dr. Stappaerts and their
18 extensive involvement in their son's recovery and intensive treatment plan, which extended
19 from May 2023 until he was finally cleared for competitive activity in September 2023.

20 120. USF also submitted new evidence demonstrating that the NCAA should grant
21 the waiver request because Plaintiff also transferred for reasons related to his mental health.
22 The Beasleys' statement offered additional information and evidence, including
23 contemporaneous case notes from Plaintiff's psychologist. The notes were taken from a
24 session with Plaintiff while he was still enrolled at U.C. Davis, and confirmed that he was
25 pressured to play while injured through "harmful messaging" by the coaching staff. The
26 treatment notes also documented that Plaintiff's relationship with the coaching staff suffered
27 because he did not feel that they believed he was injured despite his MRIs and physical
28 condition.

121. On October 20 2023, shortly after receiving the new evidence and information, the NCAA denied the request for reconsideration, stating in writing as follows (SA means Plaintiff):

“The new documentation did not support the assertion that the SA’s injury necessitated the transfer; there was no indication from the medical professional who treated the SA at the previous school clearly demonstrating why the student athlete’s injury or illness necessitated the transfer to applicant institution.”

122. Plaintiff retained additional legal counsel in an effort to work with the NCAA and U.C. Davis to obtain whatever information was still needed to support the waiver. Time was of the essence, as Plaintiff’s waiver request to the NCAA was made in August, and the season was set to commence in two weeks. Counsel promptly sent a letter to a lawyer for the U.C. system asking for cooperation to satisfy the NCAA’s requests.

The NCAA Precludes Plaintiff and His Counsel from Being Heard on Appeal

123. On or about October 23, 2023, pursuant to the NCAA’s procedure, USF initiated an appeal process to with the NCAA’s Committee on Legislative Relief (“CLR”). As detailed herein, the CLR is authorized, indeed, expected, to grant relief from a rule when the outcome does not serve the NCAA’s underlying goals and objectives, and/or appears to overreach.

124. On that same day, Plaintiff’s counsel emailed a letter to Scott Bearby, the NCAA’s Senior Vice President of Legal Affairs and General Counsel, requesting an opportunity to work with the committee to procure whatever information was needed to secure the waiver, as Plaintiff clearly satisfied the guidelines, and they should be able to work together in earnest to correct the mistake. Counsel also requested to be heard on Plaintiff’s behalf.

125. Later that same day, on October 23, 2023, U.C. Davis’ Director of Athletics emailed Plaintiff’s counsel, and stated that “As of the moment, our department has not received any communication from the NCAA regarding this matter. *I also followed up with the NCAA today to see what, if anything, is needed from UC Davis to process Mr.*

1 ***Beasley's transfer. They confirmed there is no additional statement or information needed***
2 ***from UC Davis.***” (emphasis added).

3 126. Plaintiff’s counsel that same day forwarded this information from U.C. Davis
4 to the NCAA’s Mr. Bearby and noted that U.C. Davis’s statement “perfectly illustrates the
5 true absurdity of the situation involving Robby Beasley. Please help Robby regain his
6 eligibility.”

7 127. On October 27, 2023, Plaintiff’s counsel received a letter from Michele
8 Osborne, the NCAA’s Managing Director of Legal Affairs and Sr. Counsel for External and
9 Membership Affairs, responding to his letter and email to Mr. Bearby. In that letter, Ms.
10 Osborne revealed that the NCAA’s “Board of Directors met and affirmed that both staff and
11 the Committee are applying transfer waiver guidelines as intended by its members.” Ms.
12 Osborne did not grant counsel’s request to participate in the appeal process.

13 128. On November 9, 2023, the NCAA denied USF / Plaintiff’s appeal. Plaintiff was
14 not provided with any written determination, but understands that the basis of the denial was that
15 the NCAA did not believe there was sufficient information documenting that Plaintiff transferred
16 from U.C. Davis to USF to facilitate medical care. This was despite the fact that the NCAA
17 received several MRI reports and statements from Plaintiff’s physician confirming his medical
18 condition, diagnosis and treatment plan. It also appeared that the NCAA was still insisting that
19 Plaintiff obtain some sort of information from U.C. Davis.

20 129. On that same day, in an effort to gain both clarity and plea for compassion,
21 Plaintiff’s counsel sent an email to Ms. Osborne (NCAA), Mr. Bearby (NCAA), Ms. Goldstein
22 (U.C. System Litigation Counsel), Mr. DeLuca (U.C. Davis Athletic Director) and Mr. Cosgrove
23 (USF Director of Compliance) requesting immediate cooperation to (1) understand what exact
24 information was being requested by the NCAA; and (2) request immediate cooperation from U.C.
25 Davis and/or the NCAA to obtain such information. After communicating with the NCAA on
26 this issue, U.C. Davis maintained that it was under no obligation to provide any information.

27 130. On November 10, 2023, the NCAA’s Mr. Bearby responded and stated via email:
28

1 “I shared your email and attachments with the NCAA staff who administer the waiver
2 appeals. They confirmed that the waiver process allowed for University of California,
3 Davis (U.C. Davis) to offer a response to be considered as part of the waiver process. The
4 University of San Francisco (USF) was provided instructions and documents for it to
5 forward to U.C. Davis, explaining the following:

6 The application materials include statements or assertions regarding
7 conduct, actions or events that occurred at the University of California,
8 Davis. Pursuant to the NCAA Division I Committee for Legislative Relief
9 policies and procedures, if an institution or conference includes statements
10 or assertions regarding another institution’s conduct or actions as a basis for
11 relief, the institution requesting relief will be required to submit all
12 application materials and supporting documentation to the institution cited
13 as part of the allegations. The institution requesting relief must give the
14 other institution 10 business days for its director of athletics to respond in
15 writing to the committee and provide a copy of the response to the applicant
16 institution. The response will be included in the application materials
17 reviewed by the NCAA staff and potentially by Committee for Legislative
18 Relief members, if necessary.

19 A representative of U.C. Davis informed the NCAA national office that the school elected not to
20 respond.”

21 131. Despite acknowledging that Davis elected not to respond to USF’s submission
22 seeking eligibility, the NCAA’s Mr. Bearby did not identify any information that was still
23 required or needed from U.C. Davis, and did not otherwise request or direct U.C. Davis to
24 provide any information.

25 132. That same day, November 10, 2023, Plaintiff’s counsel responded to the NCAA’s
26 Mr. Bearby, summarizing the state of affairs as follows: “I hope that you can see the challenge
27 that Robby, and I as his legal counsel, face here. The NCAA requires something from U.C.
28 Davis. U.C. Davis initially elected to not respond, but then reached out to NCAA staff and was
told that nothing was required.” Plaintiff’s counsel further stated: “I continue to believe that it
would be extremely helpful to know exactly what will suffice from U.C. Davis, so I can work
with Ms. Goldstein (copied here, litigation counsel for the U.C. system) to obtain the information
today so that Robby can be cleared to play for the game on Sunday.” Plaintiff’s counsel proposed
the text of a written statement from U.C. Davis in an effort to see if it would suffice for the
NCAA’s purposes and if U.C. Davis would agree to submit it.

133. The NCAA did not respond.

The NCAA did not Follow its Own Guidelines in Refusing to Grant a Waiver for Plaintiff

134. The NCAA expressly states that it will grant waiver requests and confirm eligibility when college players transfer a second time “[f]or *reasons related* to the student-athlete’s physical or mental health and well-being” or “[d]ue to exigent circumstances outside the student-athlete’s control.”¹ (Emphasis added.)

135. The NCAA’s own standards, guidelines, and directives, provide as follows: “If the applicant institution **provides contemporaneous medical documentation substantiating that an injury or illness to the student-athlete necessitated the transfer** to the applicant institution, **the case should be granted.**” (emphasis added). That threshold was more than satisfied by USF and Plaintiff here.

136. Plaintiff’s **contemporaneous** MRI reports and accompanying physician statements confirm that Plaintiff had a serious medical injury and aggravated a prior medical condition. On the same day that Plaintiff received a diagnosis and protracted treatment plan from his providers on April 28, 2023, he requested to transfer from U.C. Davis to return home to focus on his health. The contemporaneous documentation shows that Plaintiff’s transfer was not only related to his medical needs, but necessitated by them. Plaintiff’s symptoms worsened and his underlying injury had not improved for nearly 3 months. He needed specialized care and should not be punished for seeking that care from his trusted physicians.² Those facts are unrefuted.

137. The NCAA’s arbitrariness and unfairness are further evidenced by the fact that no one at the NCAA ever bothered to speak with Plaintiff or his counsel about any concerns that they may have about his transfer. Indeed, Plaintiff does not even know the precise reason for the denial, as the NCAA has never provided his counsel with a written determination as to why the appeal was denied on November 3, 2023. The NCAA has taken the position that this issue

¹ See “The NCAA Division I Committee for Legislative Relief Information Standards, Guidelines and Directives (Updated January 11, 2023

² The right of anyone to select their own medical provider, including college players, is essential to our way of life and should not be taken lightly in the college setting. An article by Senator Chris Murphy spotlighted the significant harm to athletes caused by deficient care from coaches and athletic departments that, in many instances, are directly caused by the conflicting interests of the coach and injured college player/patient. See <https://www.murphy.senate.gov/imo/media/doc/Madness%203...pdf>

1 exclusively concerns the two member institutions, USF and U.C. Davis, as if Plaintiff and other
2 college players are merely chattel. The *only* interests the NCAA cares to address are those
3 interests of its members under a shroud of secrecy with no communication whatsoever to the
4 student athletes. As Senator Murphy explained, “as their athletic success earns millions for the
5 adults who profit off college sports, college athletes instead find themselves in a system that
6 regularly treats them like commodities, often failed by those who are supposed to care for them.”

7 138. It appears from the denial of the request for reconsideration on October 23,
8 2023, NCAA staff determined that “[t]he new documentation did not support the assertion
9 that the SA’s injury necessitated the transfer; there was no indication from the medical
10 professional who treated the SA at the previous school clearly demonstrating why the student
11 athlete’s injury or illness necessitated the transfer to applicant institution.” This is confusing
12 and concerning to say the least, given that the Director of Athletics for U.C. Davis stated in
13 an email to Plaintiff’s counsel that he was told by the NCAA that no information was
14 required by UC Davis; a fact later confirmed by Senior Vice President of Legal Affairs and
15 General Counsel, Mr. Bearby, on November 9, 2023. In lieu of those admissions, the NCAA
16 should have immediately confirmed Plaintiff’s eligibility as nothing further was required and
17 all the evidence before the NCAA was unrefuted and illustrated Plaintiff’s need to obtain
18 important medical care and services.

19 139. The determination also conflicts with the contemporaneous documentation, which
20 clearly documents that Plaintiff’s injury and physical condition necessitated the transfer. That
21 evidence remains unrefuted and clearly supports a waiver in this case.

22 140. Moreover, in continuing to mandate that Plaintiff obtain information from
23 U.C. Davis, while at the same telling U.C. Davis that it has no obligation to produce any
24 information, the NCAA has provided UC Davis with a pocket-veto over Plaintiff’s health
25 and well-being, and sent Plaintiff on a fool’s errand. Effectively, by doing nothing, UC Davis
26 was able deny eligibility to Plaintiff.

27 141. The NCAA’s imposition of this insurmountable burden on Plaintiff also runs
28 directly afoul of the NCAA’s new guidelines and directives for the current season. On January

1 11, 2023, the NCAA “updated the existing student-athlete physical injury and injury guidelines to
2 remove the need for the previous institution to provide its understanding of why the student-
3 athlete transferred.”³ In continuing to demand a statement from an employee at Davis “clearly
4 demonstrating why the student athlete’s injury or illness necessitated the transfer to applicant
5 institution,” the NCAA is wrongly demanding that Davis “provide its understanding” on the
6 reason for Plaintiff’s transfer; a requirement that the NCAA expressly removed from its
7 current guidelines.

8 142. The guidelines request the Applicant institution “to provide a statement from the
9 medical professional who treated the student-athlete while enrolled at the previous institution.”
10 Consistent with this requirement, USF provided a statement from the physician who treated
11 Plaintiff while he was still enrolled at U.C. Davis. Dr. Steven Stappaerts evaluated Plaintiff in
12 February and April, *while Plaintiff was enrolled at Davis*, and he provided two statements. USF
13 also provided contemporaneous medical records documenting Plaintiff’s injuries and physical
14 condition. Nothing more is or should be required. The plain language of the guidelines does not
15 provide that the medical professional be employed or affiliated with the prior institution, but only
16 that the medical provider have treated the athlete while he or she was enrolled at the prior
17 institution.

18 143. In rendering its adverse eligibility determination here, the NCAA also acted
19 contrary to many of its stated guidelines for issuing waivers consistent with its underlying
20 objectives. “The central purpose of the NCAA Division I Committee for Legislative Relief is to
21 review requests to waive the normal application of the legislation while considering the purpose
22 or intent of the legislation, the involvement and the overall well-being of the student-athlete and
23 any competitive or recruiting advantages to determine if relief is appropriate.” The NCAA also
24 requires that, “[i]n reaching a decision, staff shall consider the purpose and intent of any involved
25 NCAA legislation,” including “*the well-being of involved student-athletes*.”⁴

26
27 ³ See Undergraduate Transfer Waiver Guidelines (Fairness/Well-Being/Operational) 2(b)
https://ncaaorg.s3.amazonaws.com/committees/d1/council/Jan2023D1Council_Report.pdf

28 ⁴ See The NCAA’s publication titled “NCAA Division I Committee for Legislative Relief Policies and Procedures
(Updated June 2023)”

1 144. The CLR is expressly authorized to waive legislation “when circumstances arise
2 that do not seem to be an intended consequence of legislation (i.e., the strict application of the
3 rule based on its intent seems "overreaching" given the fact situation) even if granting such a
4 waiver will essentially result in a temporary rule change in these limited instances.” The CLR
5 failed to follow this rule in refusing to issue a waiver and confirm Plaintiff’s eligibility on the
6 facts and evidence presented here.

7 145. It is also worth noting that Plaintiff’s transfer to USF is beneficial to his academic
8 career and pursuit of a degree. Through the submission, and as evidenced by his
9 contemporaneous academic records, the NCAA was notified that Robby initially pursued a
10 degree in Business Administration at the University of Montana, and earned a 3.68 GPA and
11 81 credits towards graduation upon transfer to Davis. Although Davis received Plaintiff’s
12 transcripts prior to enrollment and represented that Plaintiff could resume his studies as a business
13 major, his later was told that his coursework did not directly align with the curriculum and he was
14 reassigned to Sociology-Organization Studies upon enrollment; a move that both adversely
15 impacted his choice of major and pushed back his anticipated graduation date. By transferring to
16 USF, Robby was able to re-enroll as a major in Business Administration, and is now back on
17 track to graduate in May of 2024.

18 146. Under the NCAA’s guidelines, Plaintiff’s transfer to USF to earn a degree in his
19 selected major is prohibited even though it is beneficially to him academically and professionally.
20 It is unfair to Plaintiff, as a California consumer and as a consumer of the NCAA’s eligibility
21 services, to be punished for transferring to a college that offered his choice of major by being
22 banned from athletic competition and related business opportunities for an entire year.

23 **Broader Concerns About the NCAA’s Second Transfer Rules and its Application of Those**
24 **Rules**

25 147. The NCAA’s unfair and deceptive conduct when dealing with Plaintiff’s eligibility
26 should not be viewed in a vacuum, as it is part of a concerted effort by the NCAA and the
27 member institutions to restrict player mobility and empowerment in the lucrative sphere of
28 collegiate sports.

1 148. The NCAA has consistently maintained that its primary concern when denying
2 second transfers the right to engage in their craft for one year is to execute the will of the
3 member institutions. As reflected in letters from NCAA counsel Mr. Bearby to the State of
4 Ohio’s Attorney General on October 27, 2023,⁵ and from Ms. Osborne to Plaintiff’s counsel
5 on that same day, the NCAA conceded that the “Board of Directors met and affirmed that
6 both staff and the Committee are applying transfer waiver guidelines as intended by its
7 members.”

8 149. The NCAA’s Division 1 Board of Directors, like all boards of directors of
9 organizations, is not charged with rubber stamping the will of its member institutions, but
10 rather is responsible for providing proper oversight to ensure that the NCAA’s conduct is
11 both lawful and appropriate.

12 150. To that end, numerous State Attorney Generals have sent letters to the NCAA
13 cautioning that the policy of restraining trade and restricting player mobility is clearly
14 harmful to the affected student athlete, and is most likely unlawful. The State of West
15 Virginia Attorney General Morrissey’s October 31st letter to Charlie Baker, President of the
16 NCAA, raises the following issues that are germane here:

- 17 • “The Association’s decision to restrain hundreds of student-athletes each
18 year—thus depriving them of the chance to pursue the athletic and educational
19 opportunities of their choice—raises serious questions under the antitrust laws.
20 That’s especially so given that these opportunities are often tied to name,
21 image, and likeness agreements that in turn provide substantial commercial
22 benefits to athletes at Division I institutions like WVU. Yet to date, the
23 NCAA has never convincingly explained how these restrictions align with
24 either state or federal antitrust law. See 15 U.S.C. § 1 (barring agreements to
25 restrain trade or commerce); W. Va. Code § 47-18-3(a) (same). No wonder,
26 then, that my colleagues in Ohio, North Carolina, and even at the U.S.
27 Department of Justice have already warned that the Association’s transfer-
28 related actions may be unlawful.
- The year-in-residence requirement produces obvious anticompetitive effects.
Because of the rule, student-athletes—who face no other real option for
playing these kinds of sports—are dissuaded from pursuing a transfer. If they

⁵ <https://www.cincinnati.com/story/sports/college/university-of-cincinnati/2023/10/27/ncaa-responds-to-ohio-attorney-general-letter-on-uc-basketball-player/71349636007/>

1 decide to go ahead anyway, they face another year out of the job market and
2 must bear other potential expenses and costs that come with extending college
3 for the length of the “redshirt” year. And the multiple-transfer rule does not
4 even allow for immediate eligibility when a player is forced to transfer after
5 having his scholarship pulled—so players in those circumstances might just
6 end up dropping out entirely or heading to a Division II school. Thus, student-
7 athletes lose the ability to market their services to the schools that would value
8 them most. As a former justice of the North Carolina Supreme Court
9 explained, these harms confirm that “[t]his policy of having to sit out a year of
10 competition has nothing to do with the welfare of the young men and women
11 impacted by the rule.”

12 151. Despite receiving similar letters from numerous attorney generals, governors
13 and state representatives, the NCAA has continued denying waiver requests to college
14 players. When last publicly reported, the NCAA granted **less than 18%** of waiver requests,
15 but it appears that number has dropped significantly given that nearly all transfer requests
16 made by male basketball players have been denied according to recent accounts. Public
17 reporting also suggests that many of the waiver denials were issued to male football players
18 and basketball players; the highest grossing revenue sports with the greatest number of
19 minority athletes.

20 152. The NCAA and its members have not concealed their disdain for what they
21 pejoratively refer to as “second-transfers.” For instance, NCAA President Mr. Baker recently
22 made an off-the cuff publicly reported admission that second transfers are not worth much
23 consideration given that “you’re talking about less than one percent of all transfers.” Mr. Bearby
24 echoed this view by suggesting that Attorney General Yost not waste his time “litigating
25 individual outcomes.” Those “individual outcomes” are college players who have the right to
26 self-determination, to compete in their sport, and to pursue NIL and other business opportunities
27 in the lucrative business of collegiate sports. These “individual outcomes” include Plaintiff.
28 Moreover, it begs the question -- if no one should bother to litigate the “individual outcomes,”
how can college-players, individually or collectively, ever obtain redress?

153. On November 14, Coach Miller of the University of Cincinnati conceded that,
despite the NCAA’s public statements and rules purporting to allow waivers to safeguard player’s
health and well-being, behind the scenes, the member institutions appeared to agree that all

1 transfers will be denied unless the player graduated. This of course, is not a requirement under
2 the new guidelines, but is in line with the narrative the NCAA and member institutions have
3 crafted about athletic transfers when seeking to thwart all mobility. Numerous coaches have
4 publicly maintained that athletes that transfer are merely disgruntled or not good enough.
5 This is false and damaging to college players like Plaintiff, who has served as model student
6 and athlete throughout his entire college career.

7 154. That Mr. Bearby said the quiet part out loud--that no one should concern
8 themselves with an individual athlete--should not be lost on any court, and is reflected in the
9 waiver process that precludes athletes from participating. Although the NCAA recently
10 acknowledged serious problems and arbitrariness with the current process and outcomes, and
11 well knows the harm a one-year ban has on athletes, it refused to suspend or amend the
12 program. This decision not only harms the students affected, like Plaintiff, but is intended to
13 chill future mobility. As Attorney General Morrissey so poignantly recognized, college
14 players, who are subject to the “year-in-residency” requirement, are already “dissuaded from
15 pursuing a transfer.”

16 **Plaintiff has Suffered Economic Injury Directly Due to the NCAA’s Unfair Competition**

17 155. Because Plaintiff is ineligible to play in games this season, USF understandably
18 has not provided him with an athletic scholarship for this year. If Plaintiff was eligible, USF
19 would have done so. A USF basketball scholarship has the approximate financial value of
20 \$70,000 per year, comprised of various components including tuition, room, board, and stipends
21 for other educational and living expenses. In the absence of an athletic scholarship, Plaintiff has
22 incurred, and will incur significant, financial losses, including expenses related to school
23 attendance. In order to assist in paying for his school-related expenses, i.e., tuition, room, board,
24 and other educational and living expenses, Plaintiff has had to take out loans amounting to many
25 thousands of dollars, which also include interest payment obligations.

26 156. Because Plaintiff is ineligible, he additionally has suffered financial losses in the
27 form of losing opportunities for NIL payments that USF basketball players can compete for by
28 marketing their brand through on-court competition, and by generating a loyal fanbase. All team

1 members to some degree participate in these payments. As is obvious, and is in fact the case with
2 Plaintiff, not being eligible to play directly impacts his opportunities for NIL payments, all of
3 which by their very nature are tied to his name, image and likeness as a *player*. Over the course
4 of the season, and due to his lack of eligibility, Plaintiff has lost at least \$50,000 as a direct result
5 of being ineligible, and this amount will continue to grow throughout the season and beyond.

6 157. The NCAA is acutely aware of NIL opportunities for players. In the recent past,
7 the NCAA was massively opposed to players receiving compensation for NIL opportunities.
8 However, due to California legislation outlawing the NCAA's stance (the "Fair Pay to Play Act")
9 discussed more below, the NCAA now not only allows such payments, but purports to support
10 them.

11 158. Indeed, the NCAA has an entire section of its website titled "Name, Image,
12 Likeness" in which it states: "Student-athletes like you are now taking advantage of opportunities
13 using your names, images and likenesses. You are working with businesses across industries and
14 staff on each of your campuses as your NIL opportunities are exploring uncharted territory in
15 college sports. This is an important change that improves the student-athlete experience."
16 Plaintiff's NIL losses thus are eminently foreseeable to the NCAA.

17 159. Plaintiff additionally has sustained further losses in the form of lost or diminished
18 professional basketball opportunities. There are a myriad of professional and semi-professional
19 basketball opportunities in various leagues around the world, for example, in the United States, in
20 numerous European countries, in various Asian countries, and in various countries in South
21 America. Many of the teams in these leagues frequently employ American players that have
22 played collegiately in the United States. Playing collegiately in the United States is a way for
23 players to showcase their skills and abilities, allowing for professional and semi-professional
24 teams to scout the players in person, and additionally allowing for the players' game
25 performances to be recorded by video (for example, via television and/or internet streaming
26 broadcasts) and thus evaluated by the professional and semi-professional teams. Numerous of
27 USF's regular season games are already scheduled to be broadcast via, for example, the CBS
28

1 Sports Network, the ESPN channel, the ESPN+ channel, the ESPN2 channel, the ESPNU
2 channel, and the Mountain West Network. Several of these games have already occurred.

3 160. As is obvious, *not* playing for an entire collegiate basketball season is injurious to
4 a player's professional / semi-professional basketball prospects, and this state of affairs is in fact
5 injurious to Plaintiff's prospects. Among other things, Plaintiff's skills will diminish from not
6 being "game sharp" and going through the intensive experiences of the competitive basketball
7 season. By contrast, if he plays collegiately this season, there is a reasonable likelihood that his
8 professional / semi-professional basketball prospects would be significantly enhanced.

9 161. Plaintiff's own experience demonstrates that nothing is guaranteed in the life of a
10 college player. COVID-19 resulted in massive disruptions. Injuries for anyone are always a
11 possibility. Plaintiff is healthy, and ready, able and willing to play *now*, and USF is ready, able
12 and willing to utilize him *now* as a full-fledged member of its team. But because of the NCAA's
13 misconduct toward Plaintiff, he cannot play. If USF played Plaintiff without an eligibility, it
14 would be in violation of the NCAA's rules and at risk of severe penalty, which could include the
15 forfeiture of games, and scholarships.

16 **Plaintiff has and will Continue to Suffer Irreparable Harm**

17 162. In its preamble, the NCAA acknowledges the intrinsic value of sports, representing
18 that, "[m]ember institutions and conferences believe that intercollegiate athletics programs
19 provide student-athletes with the opportunity to participate in sports and compete as a vital, co-
20 curricular part of their educational experience."

21 163. The NCAA's own business documents likewise recognize that "student-athletes
22 receive national and international exposure during competition. These experiences can open doors
23 for the few who will compete professionally and for the majority who will go pro in something
24 other than sports."⁶ The NCAA further acknowledged that "[b]y competing in college sports,
25 student-athletes learn important skills, like leadership, time management and how to effectively
26 work with others toward a common goal."⁷ By refusing to confirm eligibility where all the

27
28 ⁶ See <https://www.ncaa.org/sports/2014/1/3/benefits-to-college-student-athletes.aspx>

⁷ See <https://www.ncaa.org/sports/2014/1/3/benefits-to-college-student-athletes.aspx>

1 guidelines were satisfied, the NCAA has denied and prevented Plaintiff from the opportunity to
2 compete and engage in collegiate sports and pursuing his passion for an entire year. Such is an
3 irreparable harm, as a college athlete's life is finite, and a year of inactivity cannot be
4 repaired or restored.

5 164. The ongoing harm to Plaintiff's reputation is likewise irreparable. The NCAA
6 and its members have publicly maligned transfer students, characterizing them as disgruntled
7 and "not good enough" to cut it. The NCAA has also publicly stated that it will only grant
8 legitimate medical and mental health transfers per its new guidelines. The refusal to grant
9 Plaintiff's waiver necessarily communicates to the public that his transfer was illegitimate
10 and unworthy, and that he, by extension, is unworthy. Such is an irreparable harm to his
11 reputation.

12 165. Plaintiff has already been precluded from playing the first five games of the
13 season, and is forced, by NCAA rule, to sit on the bench in street clothes, which further
14 alienates and separates him from the team. Indeed, Plaintiff is being publicly branded as
15 "ineligible" through no fault of his own.

16 **California's Strong Policy of Protecting College Athletes**

17 166. Finally, the relief that Plaintiff seeks herein under the Unfair Competition Law
18 also is in accord with the policies and spirit of other provisions of law. Specifically, the State of
19 California has a documented policy and history of being at the forefront of states seeking to
20 protect and expand the rights of college athletes. For example, in 2011, California enacted a first
21 of its kind law, the "Student-Athletes Right to Know Act." See Cal. Educ. Code § 67365.⁸ In
22 2013, California enacted into law the "Student Athlete Bill of Rights," another first of its kind in
23
24

25 ⁸ <<https://www.ncpanow.org/releases-advisories/schwarzenegger-signs-student-athletes-right-to-know-act>> (last
26 visited November 16, 2023) ("California Governor Arnold Schwarzenegger has signed the NCPA-sponsored
27 "Student-Athletes' Right to Know Act" (AB 2079) into law. For the first time, colleges will be required to make
28 public their policies concerning sports-related medical expenses, standards for scholarship renewals, and out-of-
pocket expenses that student-athletes on "full" athletic scholarships are expected to pay.").

1 the nation. *See* Cal. Educ. Code § 67450 et seq.⁹ In 2020, California enacted in to law the “Fair
2 Pay to Play Act,” yet another law at the forefront of protecting college players’ rights. *See* Cal.
3 Educ. Code § 67456.¹⁰

4 **VII. LEGAL VIOLATIONS**

5 **FIRST CAUSE OF ACTION**

6 **Violation of the State of California’s Business and Professions Code** 7 **§ 17200 et seq. – Unfair Competition**

8 **(Against All Defendants)**

9 167. Plaintiff incorporates by reference each and every allegation set forth above in this
10 Complaint as though fully set forth herein.

11 168. California Business and Professions Code section 17200 et seq. deems “unfair
12 competition” to be unlawful, and defines it to “mean and include any unlawful, unfair or
13 fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising and any
14 act prohibited by Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the
15 Business and Professions Code.”

16 169. Defendant NCAA’s conduct, as alleged herein, in failing to abide by its own
17 guidelines regarding a determination of Plaintiff’s eligibility, enforcing the improper

18 ⁹<<https://www.ncpanow.org/releases-advisories/california-governor-signs-ncpa-student-athletes-bill-of-rights>> (last
19 visited November 16, 2023) (“California Governor Jerry Brown signed the nation’s first Student-Athletes Bill of
Rights (SB 1525) this afternoon. Sponsored by the National College Players Association (NCPA) and authored by
20 California State Senator Alex Padilla, this new California law guarantees vital protections for California’s college
athletes. SB 1525 requires California’s Pac-12 colleges, which are flush with new TV revenue, to provide continuing
21 education for players on teams with graduation rates below 60%, pay for sports-related medical expenses, cover
medical coverage premiums for low income student-athletes, improve workout safety to avoid preventable deaths,
22 provide financial and life skills workshops, and guarantee student-athletes the same due process rights that are given
to regular students.”).

23 ¹⁰<<https://www.ncpanow.org/releases-advisories/ncpa-bill-to-pay-players-signed-into-law>> (last visited November
24 16, 2023) (“The Fair Pay to Play Act (SB 206), a bill co-sponsored by the National College Players Association
(NCPA), was signed into law today by California governor Gavin Newsom! The law will allow college athletes to
25 hire sports agents and receive compensation for use of their name, image, and likeness beginning in 2023.”).
<<https://www.gov.ca.gov/2019/09/30/governor-newsom-signs-sb-206-taking-on-long-standing-power-imbalance-in-college-sports/#:~:text=The%20Fair%20Play%20to%20Pay,from%20earning%20a%20single%20dollar>> (last
26 visited November 16, 2023) (“The bill, which passed the California Legislature with overwhelming bipartisan
support, becomes the first law of its kind in the nation to allow college student athletes to profit from their name,
27 image and likeness.”).

1 determination, and refusing to allow Plaintiff to participate and be heard in connection with the
2 decision constitutes an “unfair” business act or practice under Section 17200 et seq.

3 170. Defendant’s NCAA’s conduct, as alleged herein, in imposing additional burdens
4 on Plaintiff that go beyond its own guidelines, in making an eligibility determination, and, in
5 particular, in demanding that Plaintiff obtain information from the prior institution while at the
6 same time informing the prior institution that no further information is required, is an “unfair”
7 business act or practice under Section 17200 et. seq.

8 171. Defendant NCAA’s conduct, in failing to grant legislative relief on the facts of this
9 case in violation of its own guidelines and underlying objectives, constitutes an “unfair” business
10 act or practice under Section 17200 et. seq.

11 172. Defendant NCAA’s conduct, as alleged herein, fails any test utilized by courts to
12 evaluate “unfairness” under section 17200 et seq. Defendant NCAA’s conduct violates the State
13 of California’s well-established legislative policy, reflected in numerous laws cited herein, of
14 protecting and expanding the rights of college athletes competing in California. Additionally, and
15 separately, Defendant NCAA’s conduct also violates the State of California’s well-established
16 public policies, reflected in section 16600 of the Business and Professions code, in favor of open
17 competition in California, and in favor of every California’s citizen right to enjoy mobility and
18 pursue any lawful enterprise or business of his or her own choice without restriction.

19 173. Defendant NCAA’s conduct, as alleged herein, “is immoral, unethical, oppressive
20 or unscrupulous” (a test used by some courts) and has caused, and will continue to cause, injury
21 to Plaintiff which outweighs any benefits to the NCAA. There is no legally cognizable benefit to
22 the NCAA in failing to abide by its own guidelines. The NCAA’s conduct has had severely
23 deleterious impacts on Plaintiff, and will continue to do so, and when that harm is balanced
24 against any reasons, justifications and motives of the NCAA (none of which could be legally
25 cognizable), the balancing is overwhelmingly in favor of a determination that the NCAA’s
26 conduct is unjustifiable and thus violative of Section 17200. There is no legally cognizable utility
27 of the NCAA’s conduct that outweighs the gravity of the harm to Plaintiff.
28

174. Plaintiff has standing to maintain a cause of action under Section 17200 et seq. Plaintiff has suffered “injury in fact” in California and “lost money or property” in California as result of Defendant NCAA’s unfair competition, and will continue to do so, thus conferring standing on Plaintiff pursuant to section 17204.

175. Defendant NCAA supplies collegiate athletics eligibility education, determination, and enforcement services in California, and Plaintiff is a consumer of those services in California, directly, as well as through NCAA-member the University of San Francisco, located in California. Plaintiff, as a consumer, thus is among the categories of individuals and entities afforded legal protection by section 17200 et seq.

176. Defendant NCAA, as an unincorporated association, is subject to Section 17200 et seq., as section 17201 states that “[a]s used in this chapter, the term person shall mean and include natural persons, corporations, firms, partnerships, joint stock companies, associations and other organizations of persons.”

177. This Court may enjoin Defendant NCAA, as section 17203 states in pertinent part that “[a]ny person who engages, has engaged, or proposes to engage in unfair competition may be enjoined in any court of competent jurisdiction.”

178. Defendant NCAA’s unlawful conduct, while emanating outside of California, has injured Plaintiff in California, and will continue to injure Plaintiff in California. As such, this Court may enjoin Defendant NCAA pursuant to Section 17200 et seq.

179. Plaintiff requests preliminary and permanent relief as set forth in the Prayer for Relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief as follows:

- (1) Entry of an Order preliminarily enjoining Defendant NCAA from maintaining that Plaintiff is ineligible to compete in intercollegiate men’s Division I basketball games for the University of San Francisco in the 2023-24 season because Plaintiff has not satisfied the NCAA’s guidelines regarding “second transfers”;

- 1 (2) A judicial finding and declaration that Defendant NCAA has committed unfair
2 competition in violation of California Business and Professions Code Section
3 17200 et seq., specifically, by committing unfair acts and practices by failing to
4 follow the NCAA's own guidelines on "second transfers" in regard to Plaintiff,
5 and by determining that Plaintiff is ineligible to compete in intercollegiate men's
6 Division I basketball games for the University of San Francisco in the 2023-24
7 season because Plaintiff has not satisfied the NCAA's guidelines regarding
8 "second transfers";
- 10 (3) Entry of an Order permanently enjoining Defendant NCAA from
11 maintaining that Plaintiff is ineligible to compete in intercollegiate men's Division
12 I basketball games for the University of San Francisco in the 2023-24 season
13 because Plaintiff has not satisfied the NCAA's guidelines regarding "second
14 transfers";
- 16 (4) A final Judgment in favor of Plaintiff, reflecting the judicial finding, declaration,
17 and permanent Order referenced above; and
- 18 (5) For all other appropriate relief that is just and proper.

21 Dated: November 21, 2023

22 LAW OFFICE OF DAWN CEIZLER
23 DAWN CEIZLER
5486 Pine Hollow Road
Concord, CA 94521

24 By 
25 Attorney for Plaintiff Robert Beasley

VERIFICATION

I, Robert Beasley, am the Plaintiff in the above-entitled action. I have read the forgoing Complaint and know the contents thereof. The same is true of my own knowledge, except for those matters stated on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the forgoing is true and correct.

EXECUTED THIS 21ST DAY OF NOVEMBER 2023.

By: _____

ROBERT BEASLEY