

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

3
4 IN RE NCAA STUDENT-ATHLETE
5 NAME & LIKENESS LICENSING
6 LITIGATION

No. C 09-1967 CW

ORDER ON
DEFENDANTS' MOTION
TO STRIKE

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8 Defendants National Collegiate Athletic Association,
9 Electronic Arts, Inc. and Collegiate Licensing Company move to
10 strike the motion for class certification filed by Antitrust
11 Plaintiffs Ed O'Bannon, Oscar Robertson, Bill Russell, Ray Ellis,
12 Harry Flournoy, Tate George, Alex Gilbert, Sam Jacobson, Thad
13 Jaracz, David Lattin, Patrick Maynor, Tyrone Prothro, Damien
14 Rhodes, Eric Riley, Bob Tallent, and Danny Wimprine. Antitrust
15 Plaintiffs oppose Defendants' motion.

16 Defendants argue that the motion for class certification
17 should be stricken because Antitrust Plaintiffs are precluded from
18 prosecuting the claims for which they seek certification.
19 However, this is not reason to preclude Antitrust Plaintiffs from
20 moving for class certification; instead, these contentions are
21 more properly considered as arguments supporting denial of the
22 motion for class certification on its merits. Accordingly, the
23 Court denies Defendants' motion to strike and construes their
24 brief as their opposition to Antitrust Plaintiffs' motion for
25 class certification.

26 The Court grants Defendants leave to file an additional brief
27 in further opposition to the motion for class certification. In
28 this brief, Defendants shall not repeat any arguments already made

1 in their papers addressing the motion to strike. In addition to
2 presenting any other grounds for opposing the motion for class
3 certification, Defendants shall address why Antitrust Plaintiffs
4 should not be granted leave to amend their complaint if the Court
5 were to find that they have not adequately plead the theories put
6 forward in the motion for class certification.

7 Antitrust Plaintiffs may then file their reply in support of
8 their motion for class certification, without repeating any of the
9 arguments they made in response to the motion to strike.

10 Antitrust Plaintiffs shall address what they would request if the
11 Court were to hold that they have not adequately plead their
12 theories in their operative complaint. If Antitrust Plaintiffs
13 would seek leave to amend the complaint, they shall include
14 grounds for granting such leave in their brief. Antitrust
15 Plaintiffs shall also address how they would proceed if they chose
16 not to seek leave to amend or if leave to amend were found
17 necessary and denied, including whether Antitrust Plaintiffs would
18 instead pursue individual claims or if they would request
19 certification under a different class definition or theory.

20 Defendants are granted leave to file a sur-reply to Antitrust
21 Plaintiffs' reply.

22 The Court resets the case management schedule as follows:

<u>Event</u>	<u>Date</u>
Deadline to depose Antitrust Plaintiffs' class certification experts	Thursday, February 28, 2013

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1	Deadline to file Defendants' Further Opposition to Antitrust Plaintiffs' motion for class certification and Defendants' <u>Daubert</u> motions on Antitrust Plaintiffs' class certification experts, and to disclose Defendants' class certification experts	Thursday, March 14, 2013
2	Each Defendant shall address these matters in a single brief. To the extent possible, Defendants shall file a single joint brief on behalf of more than one, or all, Defendants. Whether filed together or separately, Defendants' briefs shall together total no more than twenty-five pages.	
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8	Deadline to depose Defendants' class certification experts	Thursday, April 11, 2013
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10	Deadline to file Antitrust Plaintiffs' reply in support of their motion for Class Certification, Antitrust Plaintiffs' opposition to Defendants' class certification <u>Daubert</u> motion, and Antitrust Plaintiffs' <u>Daubert</u> motions on Defendants' class certification experts	Thursday, April 25, 2013
11	Antitrust Plaintiffs shall address these matters in a single brief, of no more than twenty-five pages.	
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16	Deadline to file Defendants' sur-reply to Plaintiffs' reply, Defendants' replies in support of their class certification <u>Daubert</u> motions, and Defendants' oppositions to Antitrust Plaintiffs' class certification <u>Daubert</u> motions	Thursday, May 9, 2013
17	Each Defendant shall address these matters in a single brief. To the extent possible, Defendants shall file a single joint brief on behalf of more than one, or all, Defendants. Whether filed together or separately, Defendants' briefs shall together total no more than fifteen pages.	
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23	Deadline to file Antitrust Plaintiffs' reply in support of their class certification <u>Daubert</u> motions	Thursday, May 23, 2013
24	Antitrust Plaintiffs shall address these matters in a single brief, of no more than fifteen pages.	
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27	Deadline for parties to file a joint case management statement	Thursday, June 13, 2013
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1	Hearing on Antitrust Plaintiffs' class certification motion and all parties' <u>Daubert</u> motions on class certification experts, and further case management conference	Thursday, June 20, 2013, at 2:00 p.m.
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3	Parties to exchange opening expert reports on merits	Thursday, July 18, 2013
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5	Deadline to depose parties' liability experts	Thursday, August 15, 2013
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7	Deadline to disclose rebuttal expert reports	Thursday, September 5, 2013
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9	Deadline to depose rebuttal experts	Thursday, September 12, 2013
10	Deadline for Antitrust Plaintiffs to file their dispositive motion and <u>Daubert</u> motions on Defendants' merits experts	Thursday, September 26, 2013
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12	Antitrust Plaintiffs shall address these matters in a single brief of no more than twenty-five pages.	
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14	Deadline for Defendants to file their oppositions to Antitrust Plaintiffs' dispositive motion and <u>Daubert</u> motions, their dispositive cross-motions, and their <u>Daubert</u> motions on Antitrust Plaintiffs' merits experts	Thursday, October 31, 2013
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16	Each Defendant shall address these matters in a single brief. To the extent possible, Defendants shall file a single joint brief on behalf of more than one, or all, Defendants. Whether filed together or separately, Defendants' briefs shall together total no more than twenty-five pages.	
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21	Deadline for Antitrust Plaintiffs to file their reply in support of their dispositive motion and <u>Daubert</u> motions, and oppositions to Defendants' dispositive cross-motions and <u>Daubert</u> motions	Thursday, December 5, 2013
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23	Antitrust Plaintiffs shall address these matters in a single brief of no more than fifteen pages.	
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Deadline for Defendants to file replies in support of their dispositive cross-motions and <u>Daubert</u> motions	Thursday, January 2, 2014
Each Defendant's replies shall be contained in a single brief. To the extent possible, Defendants shall file a single joint brief on behalf of more than one, or all, Defendants. Whether filed together or separately, Defendants' briefs shall together total no more than fifteen pages.	
Deadline for parties to file a joint case management statement	Thursday, January 16, 2014
Hearing on dispositive motions and further case management conference	Thursday, January 23, 2014, at 2:00 p.m.
Final pretrial conference	Wednesday, May 28, 2014, at 2:00 p.m.
Pretrial documents shall be filed in accordance with the Court's Order for Pretrial Preparation.	
15 day Jury Trial	Monday, June 9, 2014, at 8:30 a.m.

Defendants' Motion to Strike (Docket No. 639) is DENIED.

IT IS SO ORDERED.

Dated: 1/29/2013


CLAUDIA WILKEN
United States District Judge