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8 Attorneys for Non-Party
9 The Big 12 Conference, Inc.

10 **UNITED STATES DISTRICT COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**
12 **OAKLAND DIVISION**

13 EDWARD C. O'BANNON, JR., on behalf of
14 himself and all others similarly situated,
Plaintiffs

15 v.

16 NATIONAL COLLEGIATE ATHLETIC
ASSOCIATION (NCAA); ELECTRONIC
17 ARTS, INC.; and COLLEGIATE LICENSING
COMPANY,

18 Defendants
19

Case No. 4:09-cv-3329 CW

**DECLARATION OF LEANE K. CAPPS IN
SUPPORT OF NON-PARTY THE BIG 12
CONFERENCE, INC.'S
ADMINISTRATIVE MOTION TO SEAL
CONFIDENTIAL TRIAL EXHIBITS**

Judge: The Honorable Claudia Wilken

20
21 I, Leane K. Capps, declare that the following is true:

22 1. I am an attorney admitted *pro hac vice* to practice before this Court and an
23 attorney at the firm of Polsinelli PC, counsel of record for non-party the Big 12 Conference, Inc.
24 (the "Big 12"). I make this declaration of my own personal knowledge and, if called to do so,
25 could testify competently to the facts stated herein under oath.

26 2. I submit this declaration pursuant to Local Rules 7-11 and 79-5. This declaration
27 supports the Big 12's Administrative Motion to Seal Confidential Trial Exhibits (the "Big 12's
28

**DECLARATION OF LEANE K. CAPPS IN SUPPORT OF NON-PARTY THE BIG 12 CONFERENCE, INC.'S ADMINISTRATIVE
MOTION TO SEAL CONFIDENTIAL TRIAL EXHIBITS**

Case No. 09-cv-3329-CW

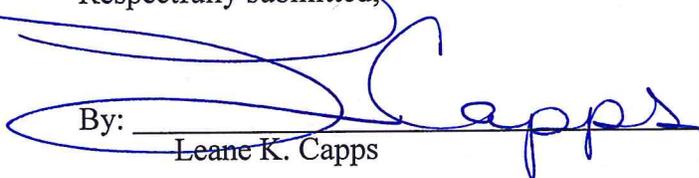
1 Administrative Motion to Seal”) filed on June 4, 2014, in conjunction with the Declarations of
2 Tim Weiser and Karen Brodtkin in Support of the Big 12’s Administrative Motion to Seal.

3 3. I have conferred with counsel for Antitrust Plaintiffs and Defendant NCAA
4 regarding the relief requested in the Big 12’s Administrative Motion to Seal.

5 4. On May 27, 2014, I spoke by telephone with counsel for Defendant NCAA,
6 Thane Rehn and Kelly Klaus, regarding the relief requested in the Big 12’s Administrative
7 Motion to Seal. On June 3, 2014, NCAA counsel, Thane Rehn, consented to the relief requested.

8 5. On June 2, 2014, I spoke with Plaintiffs’ counsel Kelly Tucker and Bryan Clobes.
9 After discussing the matter in detail, the parties were unable to reach an agreement regarding the
10 relief requested in the Big 12’s Administrative Motion to Seal.

11 I declare under penalty of perjury of the laws of the United States of America that the
12 foregoing is true and correct and that this declaration was executed on June 4, 2014 in Dallas,
13 Texas.

14
15 Respectfully submitted,
16
17 By:  _____
18 Leane K. Capps