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Antitrust Plaintiffs' Class Counsel

Attorneys for Defendant
National Collegiate Athletic Association

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

Case No. 09-cv-3329-CW

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

**STIPULATION AND [PROPOSED]
ORDER CONCERNING DISMISSAL OF
CLAIMS**

Plaintiffs,

v.

Judge: Hon. Claudia Wilken
Crtrm: 2, 4th Floor

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

Defendants.

1 WHEREAS, the individual named Antitrust Plaintiffs are defined as Ed O’Bannon, Oscar
2 Robertson, William Russell, Harry Flournoy, Alex Gilbert, Sam Jacobson, Thad Jaracz, David
3 Lattin, Patrick Maynor, Tyrone Prothro, Damien Rhodes, Eric Riley, Bob Tallent, Danny
4 Wimprine, Ray Ellis, Jake Fischer, Jake Smith, Darius Robinson, Chase Garnham, and Moses
5 Alipate (“Antitrust Plaintiffs”);

6 WHEREAS, on May 14, 2014, Antitrust Plaintiffs informed the National Collegiate
7 Athletic Association (NCAA) and the Court that the Antitrust Plaintiffs do not seek a jury trial on
8 their claims but rather intend to try their claims exclusively to the Court;

9 WHEREAS, on May 19, 2014, Antitrust Plaintiffs filed a statement informing the Court
10 that they are dismissing with prejudice all claims against the NCAA for individual damages,
11 disgorgement of profits, and an accounting, while preserving their claims for injunctive and
12 declaratory relief;

13 **IT IS HEREBY STIPULATED AND AGREED THAT:**

14 1. Each individual named Antitrust Plaintiff dismisses with prejudice all of their
15 claims against the NCAA for individual damages (a) asserted in the Third Consolidated Amended
16 Complaint (“TCAC”) or (b) arising from the Antitrust Plaintiffs’ allegations in the TCAC.

17 2. Each individual named Antitrust Plaintiff dismisses with prejudice all of their
18 claims against the NCAA for any disgorgement of profits or unjust enrichment (a) asserted in the
19 TCAC or (b) arising from the Antitrust Plaintiffs’ allegations in the TCAC.

20 3. Each individual named Antitrust Plaintiff dismisses with prejudice all of their
21 claims against the NCAA for any type of accounting.

22 4. The individual named Antitrust Plaintiffs confirm that it is their intention to dismiss
23 — and they do hereby dismiss — with prejudice any and all of their claims or requests for relief
24 (a) asserted in the TCAC or (b) arising from the Antitrust Plaintiffs’ allegations in the TCAC
25 against the NCAA or its member institutions that seek a monetary remedy, regardless whether
26 such remedy or relief might be styled as “equitable” in some circumstances. This stipulation bars
27 the individual named Antitrust Plaintiffs from replicating in a new action against the NCAA or its
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1 member institutions the Antitrust Plaintiffs' claims or requests for relief (a) asserted in the TCAC
2 or (b) arising from the Antitrust Plaintiffs' allegations in the TCAC that seek a monetary remedy,
3 regardless whether such remedy or relief might be styled as "equitable" in some circumstances.

4 5. Consistent with previous submissions to the Court and the NCAA, the Antitrust
5 Plaintiffs will not pursue monetary remedies, however styled, or an accounting at the upcoming
6 June 9, 2014 bench trial.

7 6. Nothing in this stipulation is intended to, or does, waive the NCAA's objections to
8 proceeding with a trial of any of the claims of the Antitrust Plaintiffs, including for injunctive and
9 declaratory relief, as a bench trial, rather than as a trial before a jury, or as a bench trial before a
10 jury trial in any related matters.

11 7. Nothing in this stipulation is intended to, or does, waive the Antitrust Plaintiffs'
12 claims against the NCAA and its member institutions for injunctive and declaratory relief.

13 8. Nothing in this stipulation is intended to, or does, waive the Antitrust Plaintiffs'
14 claims against Electronic Arts, Inc. and Collegiate Licensing Company, as asserted in the TCAC.

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17 Respectfully submitted,

18 HAUSFELD LLP

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20 By: /s/ Michael Hausfeld
21 Michael D. Hausfeld
22 *Antitrust Plaintiffs' Class Counsel*
1700 K St. NW, Suite 650
Washington, DC 20006

23 Dated: June 8, 2014

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By: /s/ Rohit Singla¹
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Dated: June 8, 2014

[PROPOSED] ORDER

Pursuant to the stipulation of counsel, IT IS SO ORDERED.

Dated: _____

The Honorable Claudia Wilken
Chief United States District Judge

¹ I, Sathya S. Gosselin, attest that I have obtained concurrence from Rohit K. Singla in the filing of this Stipulation and [Proposed] Order Concerning Dismissal of Claims. *See* N.D. Cal. Civ. L.R. 5-1(i)(3).

CERTIFICATE OF SERVICE

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I hereby certify that on June 8, 2014, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification to the e-mail addresses registered.

By: /s/ Sathya S. Gosselin
Sathya S. Gosselin
Antitrust Plaintiffs' Class Counsel
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