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13 *Plaintiffs' Class Counsel*

14 UNITED STATES DISTRICT COURT
 15 NORTHERN DISTRICT OF CALIFORNIA
 16 OAKLAND DIVISION

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

20 Plaintiffs,

21 v.

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

24 Defendants.

Case No. 4:09-cv-3329 CW

**DECLARATION OF DANIEL A.
 RASCHER IN OPPOSITION TO NCAA'S
 OBJECTIONS TO PLAINTIFFS'
 SUMMARY EXHIBITS**

Judge: The Honorable Claudia Wilken
 Courtroom: 2, 4th Floor
 Trial: June 9, 2014

1 **Qualifications**

2 1. My name is Daniel A. Rascher. I previously submitted a damages report, a
3 damages reply report, and a declaration in this matter: *Expert Report of Daniel A. Rascher*
4 *Expert Reply Report of Daniel A. Rascher*, and *Declaration of Daniel A. Rascher in Support of*
5 *Motion by Antitrust Plaintiffs for Class Certification* (hereinafter *Rascher Damages Report*,
6 *Rascher Reply Report*, and *Rascher Declaration*, respectively).

7
8 **Scope of Work**

9 2. On June 13, 2014, while I was on the stand, the NCAA objected to my
10 presentation of certain summary exhibits made based on the materials that I also used in my
11 work as an expert in this case. The summary exhibits in question are compilations of data filed
12 by colleges and universities with the Department of Education under the Equity in Athletics
13 Disclosure Act (hereinafter EADA), which is a commonly-used data source among sports
14 economists who study college sports. In my various reports, I have cited these data extensively,
15 in the materials I presented to the NCAA for class certification declaration in April 2013, in my
16 merits report in September 2013, in my reply report in November 2013, and in an update of
17 named plaintiffs' damages that I compiled in March of this year. I specifically used these data
18 in my report.

19
20 **Information on the EADA data and my reliance thereon**

21 3. The EADA data on which these summary exhibits rely are published by the United
22 States Department of Education, based on official disclosures of sport-by-sport spending by all
23 colleges and universities in the United States, whether they are in the NCAA or not.

24 4. The data set published each year is massive. Each year's publication has over
25 2,000 schools, hundreds of which are not in the NCAA. Of those schools that are in the NCAA,
26 only 351 (as of 2014) are in Division I.

27 5. Similarly, the data set has many more columns than I use in compiling these
28 summaries. Many of the columns involve information unrelated to football or basketball. In all

1 of these summary slides, I have excluded data on other sports. Just as the data has over 2,000
2 rows per school, it has over 4,000 columns of information. Thus, in total, there are more than 8
3 million observations in the data, what I present is a partial summary.

4 6. The NCAA's expert, Daniel Rubinfeld, has also relied on these data, indicating in
5 many instances that he received the data from me, through my production of backup materials.
6 As an example, in his Declaration of December 12, 2013, Dr. Rubinfeld provided a "Table 2"
7 for which his source was listed as "EADA Data provided in Professor Rascher's Class
8 Declaration." In Exhibit A to that same report, Dr. Rubinfeld lists his source as "2006-07
9 through 2011-12 EADA Data provided in the Rascher Class Certification Declaration backup
10 materials" as well as other EADA data Dr. Rubinfeld acquired on his own.

11 7. In his most recently filed report, from June 3, 2014 (i.e., last week), Dr. Rubinfeld
12 also relied on EADA data that he stated he had received from me. He wrote: "I matched the
13 RPI team rankings to total team revenues and expenses reported in the Equity in Athletics
14 Disclosure Act ("EADA") school financials data for the years 2006-07 through 2011-12."¹ And
15 then he explained in a footnote that "The EADA data was provided in the Rascher Class
16 Declaration backup materials. They are collected from each school that participates in the
17 federal student financial assistance program. See: "Equity in Athletics Disclosure Act," U.S.
18 Department of Education, available at
19 <<http://www2.ed.gov/finaid/prof/resources/athletics/eada.html>>, accessed May 16, 2014."²

20 8. Below, I will go through each exhibit and explain what data it summarizes.

21
22 **The Summary Exhibits.**

23 9. The first summary exhibit in this set is entitled "Federally-Filed Revenue and
24 Expense Numbers for Major Conference Schools, 2012-2013." Rascher_Demo_2B,
25 Attachment A to June 12, 2014 Letter to Court from Plaintiffs' Counsel (Dkt. No. 210); PX
26 2537. It is the exact parallel of the football data provided in my original Rascher Declaration,

27 ¹ Declaration of Daniel L. Rubinfeld (hereinafter *Rubinfeld Supplemental*), June 3, 2014, para 6,
p. 4.

28 ² *Rubinfeld Supplemental*, June 3, 2014, n.13 (p. 4).

1 with two differences. The first is that it covers basketball rather than football data, and the
2 second is that these numbers reflect the 2012-13 year, which was not yet available when I filed
3 my original declaration. This exhibit shows the reported men’s basketball revenues and
4 expenses of the schools in the then-six major conferences, taken directly from the EADA data,
5 and then provides a column listing the difference between revenue and expense, which I have
6 labelled as “Net Surplus.” At the bottom of this exhibit, I provide a tally of the schools showing
7 positive net surplus (61), zero net surplus (5), and negative net surplus (3).

8 10. The second exhibit, entitled, “Division I Basketball and FBS Football Revenues,
9 2000-01 to 2012-13” is a graphical depiction of the exact reported-revenue figures for all
10 Division I men’s basketball and FBS Football programs from the EADA data from 2000-01
11 through 2012-13. Rascher_Demo_3A; PX 2538. I identified those schools in Division I and/or
12 FBS, I summed their revenue figures for these two sports, and I plotted them as a column chart,
13 showing total revenue for each year.

14 11. The next three exhibits provide subset descriptions of the previous exhibit.

15 a) In the first of these three (the third overall), entitled “Football and
16 Basketball Revenues, FBS Major Conferences” provides the subtotals from
17 the previous exhibit for just schools that play in the then-six so-called “Big
18 Six” conferences (the conferences which automatically qualified to have at
19 least on team in the BCS post-season bowls). Rascher_Demo_3B; PX
20 2539. These conferences were the ACC, Big Ten, Big Twelve, Big East
21 (prior to its splintering), Pac-12 and SEC.

22 b) The second (the fourth overall), entitled “Football and Basketball Revenue,
23 FBS Other Conferences,” focuses on the rest of the FBS schools, i.e., those
24 in conference that did not receive automatic bids for the BCS post-season.
25 Rascher_Demo_3C; PX 2540. These include Conference USA, the
26 Mountain West, Mid-American Conference (MAC), Sun Belt Conference,
27 and (prior to its exit from FBS football), the Western Athletic Conference
28 (WAC).

1 c) The third (the fifth overall), entitled “Basketball Revenue, Non-FBS
2 Conferences” capture the remainder of the schools. Rascher_Demo_3D;
3 PX 2541. These include schools that do not have a football team at all, or
4 who participate in the FCS football subdivision rather than FBS. This only
5 looks at men’s basketball revenue (even for schools that play FCS football)
6 because these schools are not involved in this litigation with respect to their
7 football programs.

8 12. The final two summary exhibits are merely the data from which these graphical
9 depictions were compiled. The first (the sixth overall) is entitled “Division I Men's Basketball
10 Revenue, 2000-01 to 2012-13” and shows the precise EADA Data on revenue for each Division
11 I school’s men’s basketball program. Rascher_Demo_3E; PX 2542. The second (the seventh
12 and last overall), entitled “Division I Men's Football Revenue, 2000-01 to 2012-13”³ lists the
13 same revenue data for the FBS football programs within Division I. Rascher_Demo_3F; PX
14 2543.

15 13. In addition, I prepared a summary exhibit using confidential information from
16 three of Plaintiffs’ trial exhibits regarding revenues from March Madness contracts between the
17 NCAA and CBS/Turner from 1995-2024.

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28 ³ The chart would be more accurately labelled as Division I FBS Men's Football Revenue, 2000-01 to 2012-13

I declare under penalty of perjury that the foregoing is true to the best of my knowledge and belief.



A handwritten signature in black ink, appearing to read "Daniel A. Rascher", is written over a horizontal line.

Daniel A. Rascher

Executed at Oakland, California, on June 14, 2014.

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CERTIFICATE OF SERVICE

I hereby certify that on June 15, 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.

/s/ William A. Isaacson
William A. Isaacson
Plaintiffs' Class Counsel
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