

EXHIBIT A

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE NCAA STUDENT-ATHLETE) Case No. 4:09-CV-1967 CW
NAME & LIKENESS LICENSING)
LITIGATION)
_____)

VIDEOTAPED DEPOSITION OF
ROBERT DANIEL BEEBE
JANUARY 8, 2013

VIDEOTAPED DEPOSITION of
ROBERT DANIEL BEEBE, produced as a witness at the
instance of the Plaintiffs, and duly sworn, was taken
in the above-styled and -numbered cause on the 8th day
of January, 2013, from 9:39 a.m. to 4:34 p.m., before
Therese J. Casterline, Registered Merit Reporter,
Certified Realtime Reporter, Certified Shorthand
Reporter in and for the State of Texas, reported by
machine shorthand, at the offices of Polsinelli
Shughart, 2501 North Harwood Street, Suite 1900, in the
City of Dallas, County of Dallas, State of Texas,
pursuant to the Federal Rules of Civil Procedure and
the provisions stated on the record.

23

Q. Would you state your name, please.

24

A. Robert Daniel Beebe.

14 Q. All right. Where do you currently reside?

15 A. Here in Dallas.

16 Q. All right. And where do you work?

17 A. I'm self-employed. I've formed a -- a risk
18 management firm called BMT Risk Management.

13 Q. Did you ever become the director of
14 enforcement in NCAA?

15 A. I did. I returned in -- from Wichita State in
16 1987 and then became a director shortly after that.

17 Now, that's -- there were a few directors.
18 It wasn't just -- it wasn't just I who was a direc- --
19 the director of the whole department.

20 Q. All right. So how many --

21 A. There were four of us, I think, at the time.

22 Q. And -- and who were they?

23 A. At that point, I think it was me, Chuck
24 Smrt -- hmm. I don't remember who the other two -- you
25 know, there are a lot of folks in and out. I -- I

1 don't remember who the other two were.

2 Q. And -- and how long did you stay as director
3 of enforcement in NCAA?

4 A. Then I -- I left in -- I think in June of 1989
5 to become the commissioner of the Ohio Valley
6 Conference.

16 What were your job responsibilities as
17 director of enforcement?

18 A. Overseeing investigations by investigators or
19 enforcement representatives who reported to me.

9 Q. So now let me give you a clean question.

10 Back when you were working at the NCAA
11 during the 1980s, did you have an understanding of what
12 an amateur athlete was?

13 A. Yes.

14 Q. And what was that?

15 A. It was an enrolled student who -- you know,
16 whose avocation was participating in athletics, and --
17 you know, and then there were certain rules that the
18 membership adopted, which, as an enforcement
19 representative, I had the responsibility to enforce --

20 Q. All right. So --

21 A. -- that -- that pertained to those
22 student-athletes.

25

Q. Okay. Do you -- as you sit here today, do you

1 believe that if athletes that play either football or
2 basketball receive some type of compensation beyond
3 grant-in-aid, that that will destroy college athletics?

4 A. Destroy college -- yeah, I think it would have
5 a huge detrimental effect.

19 Q. What's the basis for your opinion that
20 compensation beyond grant-in-aid will be detrimental to
21 NCAA sports?

22 A. My personal opinion is it -- it would become
23 indistinguishable from the professionals, that the
24 student -- we have to -- you know, as commissioners,
25 I -- I always said, as commissioners, when I was a

1 commissioner in college athletics, we had a different
2 responsibility than the commissioners in the
3 professional leagues that were just focused on the
4 entertainment value. We had both entertainment, which
5 we saw last night -- well, it wasn't much
6 entertainment -- in the national championship game,
7 and -- and the -- the role of the student-athlete.

8 And having been one myself and been
9 afforded that opportunity, I think it's -- it was
10 critical to ensure that there was a relationship with
11 the student and the university, and I thought a
12 grant-in-aid was a fair -- a fair provision for
13 student-athletes and it didn't need to go beyond that.
14 That's, again, all my personal view on that.

14 Q. Do you believe the grant-in-aid is a form of
15 pay for play?

16 A. No. No.

17 Q. Why not?

18 A. I -- I view it as similar to what,
19 unfortunately, none of the Beebe kids were able to
20 obtain, which is a -- some type of award for a talent,
21 either, you know, strictly academic or musical or some
22 other form that an institution provides to attract --
23 to attract students with special talents.

24 Q. Do you -- do you think --

25 A. So -- and, I guess, to fill that out, I don't

1 view that -- you know, there are students that my son
2 is going to school with who are being provided grants
3 at institutions -- not related to athletics -- for
4 other talents, and I'd love for him to have one, but I
5 don't view those to be pay for singing on the --
6 singing in the -- in the choir or being a chemist or
7 any of that kind of stuff.

8 So I -- I -- my viewpoint is that the
9 student-athlete grant-in-aid is -- is similar to those
10 arrangements.

11 Q. Just so I understand, is it your position that
12 if someone receives a grant because they're a talented
13 musician, that's the same as someone getting
14 grant-in-aid because they're a good football player?

15 A. Yes.

3 Q. Do you believe that the collegiate model can
4 evolve without it harming the collegiate game?

5 A. Yes.

7 Q. How -- how could it evolve?

10 A. I was a supporter of the -- of increasing the
11 grant-in-aid limit to approach cost of attendance.

12 Q. Okay. And -- and by that, you mean that
13 the -- the amount of grant-in-aid would be level with
14 the actual expense of attending school for an athlete?

17 A. Not necessarily level at all -- because you
18 have the fluctuation between institutions.

19 Q. Yes, I --

20 A. So --

21 Q. -- understand.

22 A. So increase it closer to that, with a
23 common -- with a common -- the \$2,000 limit was one
24 that I supported where the -- a grant-in-aid would be
25 redefined as room and board, tuition fees and books and

1

up to \$2,000 for cost of attendance.

25

Q. Okay. As you sit here today, do you have any

1 facts which you believe would support a position that
2 payment to players, once they've exhausted their
3 eligibility for the use of their names, image and
4 likenesses, will be detrimental to college athletics?

6 A. No.

8 Q. You started at Big 12 in 2007; is that right?

9 A. 2003.

10 Q. 2003. I apologize.

11 A. Yeah.

12 Q. Okay. And you were there from 2003 until

13 2000 --

14 A. '11.

15 Q. -- '11?

16 A. Yes, uh-huh.

4 You were -- when you joined the Big 12 in
5 2003, you were deputy commissioner?

6 A. I was chief operating officer and senior
7 associate --

8 Q. I should --

9 A. -- commissioner.

10 Q. I should have done this earlier.

11 A. That's right.

12 Q. I apologize.

13 A. Yeah.

14 Q. And when did you become commissioner?

15 A. In September of 2007.

16 Q. Okay. That's -- that was why I said --

17 A. Okay.

18 Q. -- 2007.

19 A. Okay. All right.

9 Q. If we go a little bit into your job
10 responsibilities between 2003 and 2011 -- I want to get
11 through it as fast as I can.

12 A. Sure.

13 Q. So maybe we could just start with your entry
14 position in 2003 as COO. What were your job
15 responsibilities at that time?

16 A. I was primarily responsible for the staff,
17 operation of the staff, internal operations. I oversaw
18 the work of the outside legal counsel. I was the
19 primary liaison to the board of directors.

20 Q. The Big 12 board of directors?

21 A. Correct.

1 Q. Okay. And when did your job responsibilities
2 change?

3 A. When I became commissioner in September of
4 2011.

5 Q. 2007?

6 A. I mean -- I'm sorry. I became interim
7 commissioner in July of 2011, and then full-time
8 commissioner in. --

9 MS. DEAN: Not '11.

10 A. I mean '7, '7, sorry, 2007. July of 2007
11 became interim commissioner, and then September was
12 named full-time commissioner.

15 Q. And how did your job responsibilities change,
16 if at all?

17 A. I was in -- responsible for all activities of
18 the conference and, you know, charged staff with
19 carrying out various responsibilities.

18 Q. Okay. Now, when was the first time you
19 negotiated a television contract at the Big 12?

20 A. Probably 1989 -- oh, Big 12, I'm sorry.

21 Q. Yes.

22 A. I was thinking OVC. Well, I was involved with
23 the negotiation with the commissioner when I first got
24 there in 2003. We did an extension of our FOX
25 television deal on our secondary football rights.

1 Then I was involved with him again in the
2 spring of 2007 with an extension of our ABC/ESPN
3 agreement. And then I -- when I became commissioner in
4 the spring of 2011, we did an extension with FOX for
5 our secondary football rights.

6 MS. DEAN: You just said you became the
7 commissioner in the spring of 2011.

8 THE WITNESS: I did again?

9 Q. You did that again.

10 A. Sheesh. Why is '11 and -- and -- I don't
11 know. It's 2007.

12 THE WITNESS: Thank you. Keep track on
13 that.

21 Q. On any of the occasions that you've just
22 listed, the 2003 FOX extension, the 2007 ABC/ESPN
23 agreement, and the -- the last extension with FOX that
24 you negotiated --

25 A. In 2011?

1 Q. -- in 2011 --

2 A. Yeah.

4 A. Yeah, that one was in 2011.

6 Q. -- was there anybody involved in any of those
7 negotiations on behalf of the student-athletes?

9 A. Well, I would say that all of us who were, you
10 know, responsible for considering student-athletes in
11 that -- in the negotiations.

12 Q. Okay. And when you say all of us, you're
13 referring to who?

14 A. Me, the committee, the -- I mean, the -- the
15 board of directors that ultimately approved the
16 contract, athletics directors who ultimately approved
17 the contract.

18 Q. Okay. And did you consider at that time that
19 you were representing their interests?

20 A. Yes.

21 Q. Okay. And how were you doing that?

22 A. Well, if -- we wouldn't agree to playing games
23 at inordinate times that would, you know, provide a
24 hardship for student-athletes.

25 Q. What else?

1 A. The -- you know, student-athletes are
2 attracted to as much exposure as they can get. It's
3 part of what helps in recruiting to institutions.

4 Coaches, when they recruit, you know,
5 report that they might have lost a student-athlete to
6 another conference because of the exposure that
7 conference got versus what your conference has. So
8 there was a -- a -- you know, a dedication to try to
9 provide the most exposure that we could.

10 You know, women's basketball and baseball
11 and soccer and all those sports that needed to have as
12 much -- I mean, you know, they wanted -- those
13 student-athletes wanted as much exposure, and it got
14 down to when you recru- -- as crass as it was in
15 recruiting, a volleyball player out of Lake Highlands,
16 which has a great volleyball program, you know, you
17 wanted to try to get as much -- as much -- as many of
18 those games on as you could.

19 And in the high-profile sports, you know,
20 it made a difference in recruiting student-athletes
21 that you had exposure. That's part of the reason why,
22 you know, student-athletes will attend some schools
23 versus others.

24 Q. Because the games are on television?

25 A. Yeah. That's a big -- a big deal for

1 student-athletes, yeah.

13 Q. Okay. Well, Mr. Beebe, thank you. Is that a
14 complete list of how you represented the interests of
15 the student-athletes during the negotiations of these
16 contracts?

17 A. As I sit here now, yes. I mean, I might think
18 of more things later, but ...

13 Q. When you were negotiating the contracts in
14 2003, 2007 and 2011, did you have an understanding that
15 those contracts would touch upon rebroadcasts of
16 athletic events?

19 A. Yes.

20 Q. Was that true for -- on each occasion?

21 A. I don't remember the earlier --

22 Q. Okay.

23 A. -- negotiations.

24 Q. But at least for 2007 and 2011, rebroadcast
25 was one of the issues that was on the table?

1 A. Yes. It was a very important one.

8 A. And there -- you know, and there wasn't deemed
9 to be much value. I think probably when ESPN Classic
10 came on-line and started to rebroadcast games, there
11 became more of an interest in the value of the
12 rebroadcast, and so it was a -- a big item in
13 negotiations for conferences and institutions to try to
14 recapture those rights -- or I shouldn't say
15 recapture -- to capture those rights.

16 Q. And -- and you understood, I take it, that
17 that -- that important issue of capturing the rights to
18 the rebroadcasts was not something that was just
19 inherent to the Big 12; it was also true of other
20 conferences, right?

23 A. That -- that was my understanding, yes.

24 Q. When you were negotiating the contracts, did
25 you have an opportunity to see other contracts from

1 oth- -- from -- between networks and other conferences?

2 A. I did not.

6 Q. Okay. Now, during this -- during the time the
7 negotiated -- negotiation of the contracts, let's just
8 say between the 2007 and 2011 period, did you
9 understand that some of these rebroadcasts would
10 include the use of images of athletes who had already
11 exhausted their eligibility?

14 A. Yes.

15 Q. In other words, people, for example, had
16 graduated and they couldn't play anymore, and then the
17 games would be shown on TV and there they would be,
18 right?

19 A. Yes.

20 Q. Okay. Was there any discussion that those
21 athletes that had exhausted their eligibility would be
22 entitled to compensation?

23 A. No.

24 Q. Why not?

2 A. I don't think it entered our minds, at least
3 not mine.

4 Q. Is the reason for that because you were under
5 the impression, as you are today, that the -- the
6 athletes are not entitled to receive anything beyond
7 the grant-in-aid that they get from the universities?

10 A. Yeah, I think that's too broad.

11 Q. Okay. Can you narrow it for me?

12 A. Well, I mean -- you mean in perpetuity they're
13 not allowed to get -- to -- no, I never had that view.

14 Q. Well, what was your view?

15 A. Well, as participants in a contest that was
16 televised --

17 Q. Right.

18 A. -- you know, they -- they -- you know, by
19 walking on the field or court or, you know, sand
20 volleyball court or baseball diamond or softball
21 diamond, you know, they -- they agreed -- in fact, you
22 know, like I reported earlier, they wanted and demanded
23 that they get as much exposure as they could.

24 Q. Right.

25 A. So -- so for that -- for that purpose, then,

1 there was never -- and for the rebroadcast of that
2 contest that they were in, you know, my feeling was
3 always that's what they -- you know, that's what they
4 came to school for, that's what they -- that's what
5 they actually demanded in a lot of ways.

6 The -- the -- however, if there was a
7 broadcast of a tremendous event, you know, that Vince
8 Young in the Rose Bowl kind of a deal, and later, as a
9 student-athlete, he was -- you know, he went to the
10 rights holders for that game and he wanted to, you
11 know, put together clips of that game and other games
12 or him in high school or whatever else he could get
13 together to have a Vince Young show, then, and profit
14 from that, I didn't -- that's not a problem. He was
15 outside of his eligibility, and, you know, so if he
16 wanted to gain -- if he wanted to get clips, like
17 anybody else -- you know, I've come -- there are a lot
18 of producers that say, hey, we'd like to get clips of
19 this, this and this, and we go to CLC and how much is
20 that -- you know, how much do we sell it for or
21 whatever --

22 Q. Yeah. You've got to pay for that, right?

23 A. Yeah, right. Exactly.

24 Q. Okay. So --

25 A. So -- so that -- that -- yeah, that -- that

1 was never -- so -- so when you talk in those broad
2 terms, no, I never got the -- I never had the view that
3 outside of their athletics eligibility they couldn't --
4 you know, they couldn't use their use and image for
5 whatever kind of profit that they could get, you know.

12 Q. Did -- and I think we had agreed that you
13 understood at the time that there would be rebroadcasts
14 where players would be -- would be on television in a
15 rebroadcast situation where they had exhausted their
16 eligibility; you --

17 A. Yes.

18 Q. -- understood that?

19 Okay. And then just to pick up the
20 thread, you -- you had explained that you understood
21 the clips, if requested, could be made available to a
22 player that had exhausted its elig- -- his eligibility?

23 A. Yes.

24 Q. Did you -- did you ever consider whether or
25 not the players would be entitled to compensation for

1 the use of their name, image and likeness where they
2 were no longer athletes, but their image was still
3 being used in a rebroadcast situation?

4 A. No.

5 Q. Why not?

6 A. I can't tell you why not.

7 Q. It was just something that you -- you
8 understood that --

9 A. No.

10 Q. -- was the way it was going to be?

11 A. Correct.

12 Q. Was there anybody -- was there any effort made
13 to include the -- the athletes as being able to
14 participate in the compensation that was being paid by
15 the networks in connection with these contracts?

19 A. More than their student -- their grant-in-aid,
20 no.

15 Q. As you sit here today, do you believe that if
16 some portion of the rebroadcast royalties, for lack of
17 a better word, were provided to athletes that were no
18 longer eligible, that that would have any detrimental
19 effect on college sports?

23 A. Yeah, I -- I -- I don't know. First of all,
24 the value of those rebroadcast rights isn't very high.

25 Q. Okay.

1 A. So I don't think we really thought about any
2 of that beyond, you know, what all was being provided
3 for -- of that money that would go toward grant-in-aid
4 for all the student-athletes, you know, not just the
5 ones that were appearing in the broadcast.

18 Q. I'm just looking for your best answer --

19 A. Yeah.

20 Q. -- today.

21 A. Yeah. I mean --

25 A. Yeah. I -- I just -- there's too many -- too

1 many variables that I have to consider.

2 Q. Could -- for the record, could you just
3 provide the variables to me, and then we'll move on to
4 another topic?

7 A. Yeah, I -- I think as -- maybe this is from my
8 old -- you know, the -- the foundation of a lot of that
9 intercollegiate athletics is the -- is recruiting and
10 the fact that you try to make it as level as you can
11 for institutions to recruit.

12 So I always come at it -- and being an old
13 enforcement guy, too -- from the position of, could
14 School A provide a lot more incentive to a recruit to
15 come because of, you know, saying, well, if you come
16 here and the rebroadcast rights are going to be worth X
17 and you're going to have, you know, 50,000 more dollars
18 than if you go to School B, and then -- and then that's
19 going to --

20 Q. In a different conference?

21 A. Well, even in the same conference. Ohio --
22 Iowa State versus Texas --

23 Q. Right.

24 A. -- you know. And even if it wasn't defined --
25 I mean, there's -- that's what I mean by the variables.

1 So that would have to be understood.

2 It's not -- we don't have a draft, you
3 know. And I think everybody would be -- object to
4 drafting 17-year-olds to say, sorry -- I mean, God --
5 they'd have to go to Michigan or Penn, for God sakes.

6 And so -- so I -- so I think that
7 that's -- that's -- that's the prism that you have to
8 view a lot of that stuff through.

9 Q. You think there would be less fan interest if
10 that were to occur?

11 A. Absolutely.

12 Q. Why is that?

13 A. Because then if it imbalances the recruiting,
14 then you'll have only a handful -- you can -- the Boise
15 States of the world may not exist.

16 Q. Do you think that the money is so significant
17 that it would have a material impact on either
18 recruiting or fan interest?

19 A. No question.

Re:
Book,
Drop
per 5:20
Order

9 Q. I think the point that I'm just trying to
10 generally get at
is that when you
12 play college football and basketball, there are certain
13 constraints put on your ability to market your name,
14 image and likeness. Would you agree with that?

16 A. I would agree --

18 A. Yeah, I would agree. Yes, I would agree.
19 Yeah.

20 Q. Okay.

21 A. If that's the route you choose, there are
22 certain constraints.

23 Q. And who makes those constraints?

24 A. The membership of the NCAA.

13 Do you recall whether there was an
14 issue at the Big 12 about whether or not the football
15 players and basketball players were graduating at a --
16 at a rate comparable to nonfootball and nonbasketball
17 players?

18 A. It -- yes. That was always part of the
19 discussion, and the genesis for the Group of Six is to
20 try to continue to improve the graduation rates for all
21 student-athletes, and there was a focus on football and
22 men's basketball.

23 Q. And -- and why are the football and basketball
24 players lagging behind?

25 A. Yeah. In my view --

1 Q. Uh-huh.

2 A. -- a number of those athletes have come into,
3 you know, institutions that are prominent institutions
4 that are -- with -- with -- and they're not as prepared
5 necessarily as the regular student body. So there's
6 some -- there's some -- there's a lot of effort,
7 energy, resources committed to providing those
8 student-athletes with the -- catching up with the
9 preparedness. And a number of them are not as focused
10 on academics as they are on the -- on the sport.

11 Q. In other words, some of them are just there to
12 play sports and not to go to school, right?

18 A. I mean, some, perhaps, but I don't -- I'd have
19 to talk to them about that.

17 Q. Okay. What -- when -- when did you actually
18 become the commissioner of the Big 12?

19 A. Sep -- well, September 5, 2007.

20 Q. All right. And in the calendar year 2007, one
21 of your job responsibilities included participating in
22 the negotiations with FOX, right?

23 A. Yeah. It was with ABC/ESPN.

24 Q. I'm sorry.

25 A. Yeah.

1 Q. Yes, ABC --

2 A. Right.

3 Q. -- ESPN, and later on with -- with FOX, right?

4 A. In 2 -- in 2003, with FOX; 2007 with ABC/ESPN;
5 and 2000 --

6 Q. '11.

7 A. -- '11 with FOX --

8 Q. Right.

9 A. -- right.

6 Q. Do NCAA rules prohibit EA from paying former
7 student-athletes for the use of their name, image or
8 likeness?

10 A. My understanding is they do not.

16 Q. Do any -- well, it's the same question as to
17 the Big 12. Does -- do any Big 12 rules prohibit EA
18 from paying former student-athletes for the use of
19 their name, image or likeness?

20 A. And my answer is the same: No.

9 Q. All right. And I take it that, again,
10 throughout this -- well, let me back up.

11 In negotiating this -- this contract that
12 you signed, you had an understanding that there was no
13 need to consult with the players on the issue of
14 compensation -- former players, because by
15 participating in the contest, there was no need to
16 compensate them for any fashion, even if there was a
17 rebroadcast under this contract?

23 A. There were no former players that were at the
24 point in time of this contract -- that were subject to
25 this contract.

1 Q. Okay. There were -- this contract --

2 A. Because this was all about future football

3 games.

4 Q. I understand.

5 A. Okay.

6 Q. Okay. It's a 13-year contract or a 12-year

7 contract?

8 A. Yes.

9 Q. Okay. And it called for rebroadcasts, right?

10 A. Correct, of future games.

11 Q. Of future games --

12 A. Okay.

13 Q. -- right.

14 And so by -- by definition, at some point,

15 as I think you've explained, you understood that they

16 would -- there would -- there was the potential for

17 rebroadcasts, including rebroadcasts of games where

18 players would be shown on television that were no

19 longer eligible, right?

20 A. That's correct.

17 So, again, from your perspective, no need
18 to consult with the -- with any players who might
19 become former players in the future because by virtue
20 of participation in the live broadcasts, there was no
21 obligation to pay them anything in the future, right?

24 A. Yes.

2 A. And I wouldn't even know who those players
3 were. How would I know which players were coming into
4 the Big 12 institutions and which ones I would have to
5 talk to? The other thing is I didn't have any -- any
6 consultation by legal counsel --

7 Q. Right.

8 A. -- that there was any issue with that either.

9 Q. Right.

10 Well, you understood that at some point
11 players that were on the roster as of April 1, 2011,
12 when this was signed, would be participating in live
13 games, right?

14 A. Well, how would I know they wouldn't transfer
15 or quit or something like that or leave in some form or
16 fashion?

21 Are you aware of any facts, as opposed to
22 maybe perhaps opinion, that paying former athletes
23 either for rebroadcasts, royalties or the use of their
24 images -- name, image and likeness in video games would
25 somehow upset the competitive balance that presently

1 exists in college football and college basketball?

3 A. I mean, you'll have to tell me if this is a
4 fact, but in my 30 years of experience, including being
5 an investigator, and then talking to a number of
6 student-athletes and understanding their -- and my own
7 experience as a student-athlete and the background I
8 came from without having any resources whatsoever
9 available to me --

10 Q. Uh-huh.

11 A. -- and having to not only just be on a partial
12 scholarship, which was challenging, but also work, that
13 that -- that fact and the fact of statements that
14 those -- those student-athletes, prospective
15 student-athletes told me, I know for sure that the
16 ability to -- to receive more money would have been a
17 factor in what school they would have chosen and,
18 therefore, disrupting the competitive balance within
19 the NCAA.

14 Do you have any objective facts like
15 research or, you know, polls or any of those kind of
16 things?

19 A. No, other than my own facts that I've
20 gathered.