

# EXHIBIT E

1 UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

2 Case No. 4:09-cv-1967 CW

3 -----x

4 IN RE NCAA STUDENT-ATHLETE

NAME & LIKENESS LICENSING

5 LITIGATION

6 -----x

December 12, 2012

7 9:03 a.m.

8

9 - HIGHLY CONFIDENTIAL - OUTSIDE ATTORNEYS' EYES ONLY -

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11 Videotaped deposition of BO KERIN, held at the  
12 offices of Munsch, Hardt, Kopf & Harr, PC, 401 Congress  
13 Avenue, Suite 3050, Austin, Texas, pursuant to Notice  
14 before Steven Stogel, Texas Certified Shorthand Reporter  
15 No. 6174

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The NCAA objects to plaintiffs' affirmative designations of Mr. Kerin's testimony on the grounds that plaintiffs first disclosed these designations on June 18, 2014, weeks after the disclosure deadline of April 30, 2014.

13

Q. Good morning, Mr. Kerin.

7           **Q.    Do you recognize what I just handed you as a**  
8 **copy of your public LinkedIn profile?**

9           **A.    Yes, I do.**

23           **Q.    In looking at the bottom of the page, do you**  
24 **see where it says "Assistant/Associate Director of**  
25 **Membership Services"?**

1 A. Yes.

2 Q. So it sounds like you had two positions during  
3 that period of November 2001 to 2007?

4 A. That's correct.

5 Q. And what were -- what were your  
6 responsibilities as an assistant director for membership  
7 services?

8 A. It was a lot of phone work, answering phone  
9 calls from the general public, from the membership,  
10 assisting them in understanding and correctly applying  
11 NCAA rules. I did a lot of waiver work for academic  
12 waivers such as initial eligibility, continuing  
13 eligibility, worked with athletic certification team for  
14 Division 1, conducted compliance reviews. There was no  
15 supervisory responsibilities associated with that  
16 position, which was different from the associate  
17 athletics director position. So being promoted to  
18 associate director, I tended to focus more in certain  
19 areas, whereas an assistant director, you could be  
20 working on ten different project teams with not a lot of  
21 focus.

22 Q. What were the areas that you then focused on  
23 as associate director?

24 A. Primarily in interpretations, recruiting  
25 Division 1 membership. I continued to do work with

- 1 Division 2 compliance reviews, but those were the main
- 2 focuses, working as liaison to several committees. And
- 3 then internally working and training new staff members,
- 4 continuing education of the existing staff.

402 9 Q. Continuing looking at this paragraph, do you  
10 see where you state, "and understand the legal and other  
11 implications of NCAA rules"? And I'll quote the full  
12 phrase. "Apply and interpret legislation and understand  
13 the legal and other implications of NCAA rules."

14 Do you see that?

15 A. Yes.

16 Q. What did you mean by "understand the legal  
17 implications of NCAA rules"?

18 A. Well, I think anytime as a responsible  
19 employee you try to get the big picture of how things  
20 bubble up, and although I'm not an attorney, we work  
21 with -- you know, we had several attorneys -- or  
22 individuals with law degrees on staff, and so you try to  
23 get an overall understanding of what the effect of this  
24 rule might be, identify when it would be appropriate to  
25 seek legal counsel's advice on a particular issue.

6 Q. Okay. Now, looking at Exhibit 730, is this  
7 the PowerPoint that you had attached to that email?

8 A. I can't be overly sure that it is.

15 Q. Do you know if you were the author of this  
16 PowerPoint deck?

17 A. I don't know. These -- this appears to be  
18 part of a staff training program for new staff members,  
19 and these PowerPoints get -- they reside in a folder on  
20 the server, and they become updated over time by  
21 numerous staff members.

22 Q. Okay. As part of your job responsibilities,  
23 you did new staff training?

24 A. Yes.

25 Q. And is this the type of PowerPoint you would

1 use to train staff?

2 A. Yes.

402 2 Q. Okay. Do you agree with the statement that  
3 the student-athlete has the right of publicity?

10 A. I don't -- I just -- I don't really have an  
11 opinion on it. I mean, that's a legal issue, and that's  
12 not my area of expertise. I've never thought about  
13 whether I agree with that or not.

15 Q. During your time at the NCAA from 2001 to  
16 2007, you had no opinion about whether a student-athlete  
17 has the right of publicity?

18 A. I never had an occasion to form one. They  
19 either do or they don't.

20 Q. You never thought about it?

21 A. No.

22 Q. You never cared what the answer was?

23 A. I cared --

25 A. I cared to the effect that if it impacted my

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- 1 job, I would need to know what that was. But it very
- 2 rarely did, so I did -- I never -- I never gave it --
- 3 gave it much thought.

13 (Exhibit No. 735 marked)

14 BY MS. STEINER:

15 Q. I'm showing you what's been marked as  
16 Exhibit 735. It's Bates stamped NCAAPROD00107857  
17 through 859. Do you see that?

18 Can you identify for the record what this  
19 document is?

20 A. Yes. This was a form that CBA would fill out  
21 and submit to membership services to request a response  
22 to an interpretive issue.

23 Q. On Page 2, it seems that you wrote the  
24 response. Is that correct?

25 A. Let's see. Yes.

1 Q. Why is it that this would have been routed to  
2 you?

3 A. I was one of the ILT contacts for the CBA  
4 group.

5 Q. Okay. And you write that this particular  
6 request is permissible. Correct?

7 A. Yes.