

EXHIBIT I

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

in re NCAA Student-Athlete Name and
Likeness Licensing Litigation

Case No.
09-cv-1967-CW

* MAY CONTAIN CONFIDENTIAL INFORMATION *

- - -

VIDEOTAPED DEPOSITION OF
THAD JARACZ
NOVEMBER 30, 2011
9:00 A.M.

KILPATRICK TOWNSEND & STOCKTON LLP
1100 PEACHTREE STREET, SUITE 2800
ATLANTA, GEORGIA

REPORTED BY:

STEVEN S. HUSEBY, RPR
CCR-B-1372

Designation Color Key
Blue = NCAA Affirm Desigs.
Orange = Pls' Counter Desigs.
Fuchsia = NCAA Rebuttal Desigs

1 MR. SLAUGHTER: James Slaughter,
2 Keker & Van Nest, on behalf of Electronic
3 Arts.

4 MR. BOARDMAN: Thomas Boardman,
5 Pearson, Simon, Warshaw & Penny. I represent
6 the antitrust plaintiffs.

7 MR. CLOBES: Bryan Clobes,
8 Cafferty Faucher, for the plaintiffs.

9 MS. BASS: Camille Bass, from
10 Hagens Berman, representing plaintiffs.

11 THAD JARACZ,
12 being first duly sworn, was examined and
13 testified as follows:

14 EXAMINATION

15 BY MR. CURTNER:

16 Q. Good morning, sir.

17 A. Good morning.

18 Q. Would you state for the record your
19 full name, please?

20 A. Thad Jaracz.

21 Q. Where do you live, Mr. Jaracz?

22 A. I live in Crestwood, Kentucky.

23 Q. And what is the address?

24 A. 4001 Bowen Circle, Crestwood,
25 Kentucky, 40014.

1 Louisville for awhile?

2 A. I was.

3 Q. And was that prior to West Texas?

4 A. No, when I came from San Antonio in
5 1986 to Louisville, I was the professor of
6 military science at the University of
7 Louisville.

8 Q. So now I've interrupted the train
9 here, so where did you reside before Texas?

10 A. Before which time?

11 Q. Well, let's see, you were in Europe
12 and then Texas. I'm just trying to go back in
13 time. So before your first time in Texas?

14 A. I have to think. It's been a long
15 time. I have to think this through. I went
16 to Texas the first time in 1976 to the West
17 Texas State University. Prior to that
18 assignment I was in Fort Knox, Kentucky and
19 doing work at the armory school doing some
20 work there.

21 Q. And you graduated from the University
22 of Kentucky?

23 A. I did.

24 Q. With a degree in what?

25 A. Political science.

1 Q. And what year did you graduate?

2 A. 1976.

3 Q. '76?

4 A. 1976.

5 Q. Okay. But you played earlier than
6 that, correct, when you played basketball?

7 A. I played basketball earlier than that,
8 yes.

9 Q. So what did you -- if I understand
10 correctly, you played basketball during the
11 '60s?

12 A. I arrived in 1964 and I left in 1968.

13 Q. So you did not finish your degree
14 while you were there but you finished your
15 degree later. Is that accurate?

16 A. I completed my degree after I entered
17 the military.

18 Q. I see. So you left Kentucky in 1966
19 and if I understand correctly you were drafted
20 by the Boston Celtics in the NBA draft; is
21 that right?

22 A. No. I left Kentucky in 1968.

23 Q. '68, I'm sorry.

24 A. And I was drafted by the Celtics that
25 fall.

1 Q. And if I understand correctly you had
2 a tryout or a time with the Celtics but then
3 didn't make the team and they asked you to go
4 on a backup team or some other alternate team
5 and you did that for awhile and then you were
6 drafted. Is that accurate?

7 A. No.

8 Q. I should ask, or let you answer.

9 A. What is the question?

10 Q. Why don't you tell me what you did
11 after you left Kentucky in 1968.

12 A. I was drafted by the Celtics, I was
13 cut by the Celtics, I was drafted by the Army,
14 and that's what happened after I left
15 Kentucky.

16 Q. Okay. When you were with the Celtics,
17 did you have a contract?

18 A. No.

19 Q. So you were trying out for a contract
20 and never got one?

21 A. That's true, yes.

22 Q. Were you ever a member of the NBA
23 Players Association?

24 A. No.

25 Q. Was there a player's association in

1 the media has portrayed the game over time as
2 being different from what it was at the time?

3 A. Yes.

4 Q. Do you own a copy of this book?

5 A. Yes.

6 Q. So it's on your bookshelf at home?

7 A. Yes.

8 Q. You agreed to be interviewed for this
9 and allow your name to be used and your words
10 to be used?

11 A. Yes.

12 Q. Did you get paid for that?

13 A. No.

14 Q. Did you ask to be paid?

15 A. No.

16 Q. So you realize that you were a
17 participant in an event of historical
18 significance; is that right?

19 A. No.

20 Q. Do you agree that that 1966
21 championship game was at the time and has
22 become more so an event of historical
23 significance?

24 A. In terms of historical significance, I
25 thought you were talking about this book.

1 Q. I was. But I'm now asking a different
2 question, I'm asking about the game.

3 A. So the question is then?

4 Q. Do you agree that it was a
5 historically significant event?

6 A. I do agree.

7 Q. And it would have been a historically
8 significant events even if it was just a NCAA
9 championship final game, right? All those
10 games are of some significance?

11 A. To certain people.

12 Q. Certainly to people who played in them
13 or watched them or rooted for them, right?

14 A. They're certainly significant --

15 MR. CLOBES: Objection, form.

16 THE WITNESS: -- for those that
17 played in them.

18 BY MR. CURTNER:

19 Q. And this game, because of the way it's
20 been portrayed over history has taken on a
21 special significance. You would agree with
22 that?

23 MR. CLOBES: Objection to form.

24 THE WITNESS: Yes, I would agree
25 with that.

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1 BY MR. CURTNER:

2 Q. And that you as a player on one of
3 those teams were a participant in an event of
4 historical significance, correct?

5 A. Yes.

6 Q. And that makes your participation a
7 subject of legitimate public interest,
8 correct?

9 MR. CLOBES: Objection, form.

10 THE WITNESS: Yes.

11 BY MR. CURTNER:

12 Q. I mean, people can reasonably be
13 curious about the first game where there was
14 and all-black team against an all-white team
15 and whether it was about race or whether it
16 was about basketball. Those are all
17 legitimate public issues, correct?

18 MR. CLOBES: Objection, form.

19 THE WITNESS: Yes.

20 BY MR. CURTNER:

21 Q. And so you don't think that somebody
22 needs your permission to write about that game
23 or talk about that game or show photographs of
24 that game, do you?

25 MR. BOARDMAN: Objection, form.

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1 MR. CURTNER: I was afraid you
2 were going to do that. Okay, I'll break it
3 down.

4 BY MR. CURTNER:

5 Q. You agree that it's a matter of
6 legitimate public interest and significance,
7 right?

8 A. The game in 1966?

9 Q. Yes, sir.

10 A. Yes.

11 Q. And you agree that your participation
12 in it thereby becomes a matter of legitimate
13 public interest, correct?

14 MR. CLOBES: Objection, form.

15 THE WITNESS: You're talking about
16 my personal participation?

17 BY MR. CURTNER:

18 Q. Yes, sir.

19 A. Yes.

20 Q. You were there, right? That makes you
21 a semi-famous person, right?

22 A. I was there, yes.

23 Q. And so it's likewise legitimate public
24 interest for somebody to write books or
25 articles or other pieces or to speak on TV

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1 about that event of public significance,
2 correct?

3 MR. CLOBES: Objection to form.

4 THE WITNESS: Yes.

5 BY MR. CURTNER:

6 Q. And the same is true of showing
7 photographs from that event?

8 MR. CLOBES: Same objection.

9 THE WITNESS: Yes.

10 BY MR. CURTNER:

11 Q. And the same is true of showing
12 videotape from that event?

13 MR. CLOBES: Same objection.

14 THE WITNESS: I have no knowledge
15 of that. I mean, I don't really understand
16 exactly what you're trying to ask me here.

17 BY MR. CURTNER:

18 Q. Well, that's my job, you know, but let
19 me try it this way. You would agree that
20 people have a legitimate public interest in
21 that game and what it was really about as well
22 as what it has come to be portrayed as, right?

23 MR. CLOBES: Objection to form.

24 THE WITNESS: I don't
25 understand -- I don't understand the "what it

1 was really about" part of the question.

2 BY MR. CURTNER:

3 Q. Okay, that there's a legitimate public
4 interest in understanding that game or knowing
5 about that game?

6 MR. CLOBES: Objection to form.

7 THE WITNESS: What the game was
8 about was the national championship game
9 between two teams to try to win the national
10 championship. The other public interest parts
11 that we're discussing are parts that I
12 basically have no knowledge of. You know,
13 what I have personal knowledge of is in the
14 game itself at the time.

15 BY MR. CURTNER:

16 Q. But because it has taken on this
17 greater significance in the minds of a lot of
18 people, if not -- but not in your mind, you
19 agree that people have a legitimate interest
20 in understanding that game, right?

21 MR. CLOBES: Objection to form.

22 THE WITNESS: I understand
23 legitimate interest in the game, yes.

24 BY MR. CURTNER:

25 Q. Is it accurate that at the time that

1 of news articles and, you know, things like
2 that from the local papers while I was at the
3 university.

4 Q. And do you still have those things?

5 A. I do.

6 Q. What about jerseys or other
7 memorabilia, programs, photos, things like
8 that, do you have any of those?

9 A. No jerseys. I have one or two
10 programs that were of the period, I think,
11 that were autographed and those kind of
12 things.

13 Q. I take it that you think that you've
14 been pretty fortunate in your career in the
15 military and in business since then; is that
16 right?

17 A. Yes.

18 Q. You feel like you've had a successful
19 life?

20 A. Yes.

21 Q. And do you attribute some of that to
22 the education and the background that you got
23 while you were at Kentucky?

24 A. Yes.

25 Q. Were you a scholarship player?

1 A. Yes.

2 Q. So you went to Kentucky on an athletic
3 Grant-in-Aid?

4 A. Yes.

5 Q. Did you get a full scholarship?

6 A. Yes.

7 Q. Were you recruited by Coach Rupp?

8 A. Yes.

9 Q. Where did you go to high school?

10 A. Lexington Lafayette.

11 Q. And were you recruited by other
12 schools and teams?

13 A. Yes.

14 Q. Who else?

15 A. It's been a long time ago.

16 Q. I was an undergrad at the same time so
17 I -- you and I are the same vintage. I was at
18 Michigan. You guys beat Cazzie Russell when I
19 was there, I remember.

20 A. Wonderful game. I believe I had at
21 least letters and other kinds of initial --
22 you know, we know who you are kinds of things
23 from 40 or so schools.

24 Q. Did you make -- did they have official
25 visits back in those days? I don't remember.

1 A. I don't remember signing anything.

2 Q. Do you remember any forms that you
3 signed in connection with enrolling or playing
4 basketball at Kentucky?

5 A. I don't remember any forms.

6 Q. Do you remember signing anything in
7 connection with your scholarship?

8 A. No.

9 MR. CLOBES: No, you don't
10 remember?

11 THE WITNESS: I don't remember.

12 BY MR. CURTNER:

13 Q. Did you get something every year that
14 said we hereby award you a scholarship for the
15 upcoming academic year?

16 A. I don't remember.

17 Q. And I take it you didn't save any of
18 that sort of stuff?

19 A. No.

20 Q. When you played in high school, were
21 your games covered by the local press?

22 A. Yes.

23 Q. Did your photographs of your games get
24 included in the newspaper?

25 A. Yes.

1 different than it used to be; is that
2 accurate?

3 A. Parts of it I think are a lot -- a lot
4 different.

5 Q. So but isn't it also true that what
6 the student athlete, the sort of support they
7 get from the school has also changed
8 dramatically over time?

9 A. In terms of?

10 Q. Well, they get tutors, they get
11 amazing facilities, they get strength coaches,
12 they get conditioning coaches, you know, they
13 get all kinds of support that back in your day
14 people didn't get. Isn't that true?

15 MR. CLOBES: Objection, form.

16 THE WITNESS: I think there are
17 more resources today than there were when I
18 played.

19 BY MR. CURTNER:

20 Q. And people didn't get Pell grants back
21 in your day either, did they?

22 A. I don't know.

23 Q. Do you know what a Pell grant is?

24 A. No.

25 Q. Do you know that current players if

1 A. No.

2 Q. Did you talk to Pam Vaccaro?

3 A. She called me I'm going to say once or
4 twice but I don't remember if it was -- I
5 don't remember when in the timeline.

6 Q. Anybody else?

7 A. No.

8 Q. Do you know who Ramogi Huma is?

9 A. No.

10 Q. Do you know what the National College
11 Players Association is?

12 A. No.

13 Q. Have you seen any of their literature
14 or their petitions?

15 A. No.

16 Q. Do you think college basketball and
17 football players should be unionized?

18 A. No.

19 Q. Do you think they should be employees
20 of their university?

21 A. No.

22 Q. Do you think they should be students
23 first and athletes second?

24 MR. CLOBES: Objection to form.

25 THE WITNESS: Yes.

1 A. No, but the people that are asking for
2 the autographs are -- are individuals to the
3 best of my knowledge that are, you know,
4 personal use kinds of stuff.

5 Q. Is there anything stopping you or has
6 there been to your mind, anything stopping you
7 over the years from saying I'd be happy to do
8 that but I need five bucks or ten bucks or 500
9 bucks?

10 A. No.

11 Q. In other words, you weren't prohibited
12 by anything you agreed to while you were a
13 student athlete from getting paid for giving
14 your photo or your autograph after you stopped
15 being a student athlete, correct?

16 MR. BOARDMAN: Objection, form.

17 THE WITNESS: No.

18 BY MR. CURTNER:

19 Q. Just to be clear, you were not
20 prohibited from getting paid for doing those
21 sorts of things, correct?

22 MR. BOARDMAN: Same objection.

23 THE WITNESS: No.

24 BY MR. CURTNER:

25 Q. You thought you were prohibited? We

1 a long successful involvement in a sport like
2 Kentucky in basketball, but not so much in
3 football, should not get the benefit of that
4 long success?

5 MR. CLOBES: Objection, form.

6 THE WITNESS: I think they are
7 already getting the benefit of that long
8 success. And I think the benefit that we're
9 potentially discussing, my concept would be
10 that it would be distributed fairly, equally.

11 MR. CURTNER: I think I'm done. I
12 just want to check one thing here.

13 BY MR. CURTNER:

14 Q. You were the captain of the team in
15 the '65/'66 season at Kentucky?

16 A. No.

17 Q. Oh, you were team captain in '68, I'm
18 sorry; is that correct?

19 A. Yes, yes.

20 Q. It's alleged in paragraph 72 of the
21 complaint that you signed one or more of the
22 release forms discussed herein or the
23 precursors to them, including scholarship and
24 eligibility papers. But you as you sit here
25 today cannot testify that you ever signed any

1 document; is that right?

2 A. I don't remember signing any
3 documents. I don't -- I didn't say I didn't
4 sign them, I just --

5 Q. But you cannot offer any evidence that
6 you signed any release forms or precursors to
7 them; is that right?

8 A. I have none of those forms.

9 Q. And you have no knowledge or
10 recollection of having signed any such forms,
11 correct?

12 A. Correct.

13 Q. So you may have or you may not have,
14 you just don't know?

15 A. I just don't know.

16 Q. And that same paragraph goes on to say
17 that the NCAA has interpreted as a release of
18 the student athletes' rights with respect to
19 his image, likeness and/or name. Do you have
20 any knowledge of the NCAA supposedly
21 interpreting documents as a release?

22 MR. CLOBES: Objection, form.

23 THE WITNESS: No.

24 BY MR. CURTNER:

25 Q. When you read this complaint before it

1 be rebroadcast on ESPN Classic or something,
2 do you recall that topic, generally?

3 A. Yes, generally.

4 Q. And do you see there being benefits to
5 having now as you have children and
6 grandchildren for your children and
7 grandchildren to be able to see on ESPN
8 Classic or something like that one of your
9 games that you played when you were playing
10 for the University of Kentucky?

11 A. Yes.

12 Q. And are there -- similarly are there
13 downsides in your view with respect to
14 potential rebroadcasts of games that you were
15 involved in?

16 A. I can't think of a downside of a
17 rebroadcast of a game. The downsides -- I
18 can't think of a downside.

19 Q. Do you think that there might be
20 players on your team who would prefer that
21 that game not be rebroadcast?

22 MR. CLOBES: Objection to form.

23 THE WITNESS: Yes.

24 BY MR. SLAUGHTER:

25 Q. And why?

1 C E R T I F I C A T E

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4 G E O R G I A:

5 F U L T O N C O U N T Y:

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I hereby certify that the foregoing deposition was reported, as stated in the caption, and the questions and answers thereto were reduced to the written page under my direction; that the foregoing pages represent a true and correct transcript of the evidence given. I further certify that I am not in any way financially interested in the result of said case.

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Pursuant to Rules and Regulations of the Board of Court Reporting of the Judicial Council of Georgia, I make the following disclosure:

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25

I am a Georgia Certified Court Reporter. I am here as an independent contractor for Huseby, Inc.

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11 a referral might have been made to cover
12 this deposition. I will charge my usual
13 and customary rates to all parties in the
14 case.

15 This, the 4th day of December, 2011.

16

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STEVE S. HUSEBY, CCR-B-1372
My Commission Expires
January 20th, 2015.

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