

EXHIBIT Q

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
DAMIEN RHODES
NOVEMBER 15, 2011
9:00 A.M.

KILPATRICK TOWNSEND & STOCKTON LLP
1100 PEACHTHREE 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 P R O C E E D I N G S

2 09:06:21

3 **THE VIDEOGRAPHER: This is the** 09:06:21

4 **beginning of tape number one in the deposition** 09:06:28

5 **of Damien Rhodes in the matter of in re NCAA** 09:06:30

6 **Student-Athlete Name and Likeness Licensing** 09:06:35

7 **Litigation, Case Number 09-cv-1967-CW.** 09:06:38

8 Today's date is November 15, 2011. The time 09:06:45

9 on the monitor is 9:06 a.m. 09:06:48

10 My name is John Kreimer. I'm the 09:06:53

11 videographer. The court reporter is Steve 09:06:55

12 Huseby. We're with Huseby Court Reporting. 09:06:57

13 Counsel, please introduce yourselves, after 09:07:00

14 which the court reporter will swear in the 09:07:00

15 witness. 09:07:02

16 MR. CURTNER: Good morning. I'm 09:07:02

17 Greg Curtner with Miller, Canfield, Paddock 09:07:03

18 and Stone. I represent the National 09:07:06

19 Collegiate Athletic Association, and I'll be 09:07:07

20 taking the lead on the deposition this 09:07:10

21 morning. 09:07:12

22 MR. BRAUNIG: Warren Braunig from 09:07:13

23 Keker & Van Nest on behalf of Defendant 09:07:14

24 Electronic Arts. 09:07:18

25 MR. HENN: I'm Charlie Henn with 09:07:18

1	A.	Paul.	09:11:39
2	Q.	Paul what?	09:11:40
3	A.	Janette.	09:11:42
4	Q.	And how do you spell that?	09:11:45
5	A.	I can't do it accurately.	09:11:46
6	Q.	Okay. And so that takes us back four	09:11:52
7		years. What did you do prior to that?	09:11:56
8	A.	Played football.	09:11:59
9	Q.	And if I understand correctly, you	09:12:02
10		played for the Berlin Thunder in the year	09:12:05
11		2007.	09:12:09
12	A.	Yes.	09:12:11
13	Q.	What is the -- what league does the	09:12:13
14		Berlin Thunder play in?	09:12:17
15	A.	The NFL Europe.	09:12:18
16	Q.	And is NFL Europe affiliated with the	09:12:25
17		National Football League in the United States?	09:12:28
18	A.	Yes.	09:12:31
19	Q.	And how many teams are in NFL Europe?	09:12:33
20	A.	Six.	09:12:38
21	Q.	Do you know what cities they're in?	09:12:45
22	A.	Are you asking in the United States or	09:12:50
23		in Europe?	09:12:54
24	Q.	No, in Europe. Well, I assume NFL	09:12:55
25		Europe is in Europe, but maybe I'm wrong.	09:12:59

1 Q. The -- you said the same brace. Did 09:31:58
2 you wear an ankle brace? 09:32:03

3 A. Yes. 09:32:07

4 Q. And you -- can you see that in this 09:32:09
5 picture? 09:32:11

6 A. Yes, I can. 09:32:12

7 Q. So you can tell that there's something 09:32:13
8 under your black sock that is an ankle brace? 09:32:16

9 A. That's not a sock, that's the brace. 09:32:20

10 Q. Oh, I see. Okay. And did you always 09:32:22
11 wear that black pull-up ankle brace? 09:32:28

12 A. Yes. 09:32:34

13 Q. You played at Syracuse in 2002, 2003, 09:32:42
14 2004 and 2005, is that right? 09:32:51

15 A. Yes. 09:32:55

16 Q. Did you actually play all four years? 09:32:59

17 A. Yes. 09:33:05

18 Q. You played in more than one game each 09:33:10
19 of your four years, correct? 09:33:12

20 A. Yes. 09:33:15

21 Q. And did you wear that ankle brace all 09:33:16
22 four years? 09:33:18

23 A. No. 09:33:21

24 Q. When did you start with the brace? 09:33:22

25 A. After an ankle injury. 09:33:31

1	Q.	Were you unhappy with the coaching	09:40:28
2		change at the time?	09:40:30
3	A.	I had my feelings.	09:40:42
4	Q.	And what were they?	09:40:44
5	A.	Personal feelings.	09:40:45
6	Q.	Did you consider transferring at that	09:40:57
7		time?	09:41:09
8	A.	Transferring from Syracuse?	09:41:09
9	Q.	Yes, sir, to a different school.	09:41:11
10	A.	No.	09:41:14
11	Q.	Did you consider trying to declare for	09:41:15
12		the NFL draft and leaving school early?	09:41:18
13	A.	No.	09:41:25
14	Q.	Why not?	09:41:26
15	A.	Just wanted to play one more year.	09:41:32
16	Q.	Did you complete your degree while you	09:41:41
17		were at Syracuse?	09:41:43
18	A.	Yes.	09:41:45
19	Q.	And what is your degree in?	09:41:47
20	A.	Child and family studies.	09:41:51
21	Q.	Did you graduate in December of 2005	09:41:56
22		or in the spring of 2006?	09:42:00
23	A.	Spring '06.	09:42:04
24	Q.	Have you had any formal education	09:42:09
25		since leaving Syracuse?	09:42:15

1	A.	No.	09:42:22
2	Q.	Did you get a full scholarship each of	09:42:23
3		the years that you were at Syracuse, '02/'03	09:42:27
4		through '05/'06?	09:42:34
5	A.	For each season --	09:42:36
6	Q.	Yes.	09:42:37
7	A.	-- each school year, rather?	09:42:38
8	Q.	Yes, sir.	09:42:39
9	A.	Yes.	09:42:40
10	Q.	And what is your understanding of what	09:42:41
11		was included in a full scholarship?	09:42:43
12	A.	Free education, football.	09:42:47
13	Q.	But it covered tuition, room and	09:42:59
14		board, books and miscellaneous expenses?	09:43:01
15	A.	Free education and football.	09:43:03
16	Q.	Did you get a good education?	09:43:09
17	A.	I think I'm pretty smart from	09:43:12
18		Syracuse.	09:43:18
19	Q.	And so would it be accurate that you	09:43:20
20		think that Syracuse held their end of the	09:43:24
21		bargain?	09:43:27
22	A.	Yes.	09:43:27
23	Q.	Were there kids that you went to high	09:43:31
24		school with who weren't maybe quite as	09:43:32
25		talented as you are in terms of academics or	09:43:35

1 THE WITNESS: Went to school. 09:44:37
2 BY MR. CURTNER: 09:44:37
3 Q. When you left Syracuse, did you have 09:44:41
4 any educational debt? 09:44:43
5 A. Free education. 09:44:49
6 Q. Yeah. Did you -- had you had to 09:44:50
7 borrow any money to go to college? 09:44:54
8 A. No. 09:44:57
9 Q. Okay, back to this photograph. A copy 09:45:00
10 of this was in your possession and -- when you 09:45:08
11 went searching for documents, is that right? 09:45:11
12 A. I believe so. 09:45:21
13 Q. And do you know what this stamp on the 09:45:22
14 back means? It says, return to Syracuse 09:45:28
15 University, photo by Mike Okoniewski, SU 09:45:32
16 Athletic Commission or Committee, and it says 09:45:37
17 the date and the subject and your name. 09:45:43
18 Do you know who Mike Okoniewski is? 09:45:48
19 A. I don't recall. 09:46:00
20 Q. Was there an official photographer at 09:46:03
21 Syracuse when you played football there? 09:46:08
22 A. You see a lot of cameras. 09:46:12
23 Q. Was there somebody that was around at 09:46:21
24 practice time and media time before game, 09:46:23
25 after game, locker rooms, during the game? 09:46:26

1 Q. Mr. Rhodes, before we took a break I 10:15:17
2 asked you whether you got tutoring and 10:15:20
3 academic counseling while you were a student 10:15:23
4 athlete at Syracuse, and I'm not sure that you 10:15:26
5 answered -- or that we got an answer to that, 10:15:29
6 but you did, is that right? 10:15:31

7 A. Yes, I received tutoring. 10:15:33

8 Q. And was that helpful to you as a 10:15:37
9 student? 10:15:39

10 A. Yes, it was. 10:15:40

11 Q. What was your grade point when you 10:15:42
12 graduated? 10:15:45

13 A. I honestly can't recall. 10:15:47

14 Q. Was it pretty good? 10:15:50

15 A. I was pleased with it. I didn't fail. 10:15:52

16 Q. Back to this photograph, Exhibit 146, 10:15:59
17 without regard to who took it, you understood 10:16:04
18 that there were people taking photographs, 10:16:06
19 some of whom were professional photographers, 10:16:09
20 some of whom may have worked for Syracuse, 10:16:12
21 some of whom worked for the press, and some of 10:16:15
22 whom might have just been fans in the stands, 10:16:17
23 right? 10:16:20

24 MR. BOARDMAN: Objection to form. 10:16:20

25 THE WITNESS: Yes. 10:16:22

1 playing at the time. 02:04:47

2 Q. All right. And you're aware that 02:04:48

3 under the rules they couldn't put the player's 02:04:50

4 name on a jersey for sale while they were an 02:04:53

5 active player? 02:04:57

6 A. Yes. 02:04:58

7 Q. And it's also true, is it not, that 02:05:00

8 after you graduated there was no restriction 02:05:03

9 against them selling this same jersey with 02:05:05

10 your name on it? 02:05:08

11 A. Sure. 02:05:14

12 Q. And it's also true, is it not, that 02:05:15

13 after you completed your eligibility in 02:05:18

14 football, you could have gone out and made a 02:05:23

15 deal with Nike to sell this jersey and with 02:05:26

16 Syracuse to sell this jersey with your name on 02:05:29

17 it, you could have had a three-way license and 02:05:32

18 you could have gotten some revenue from that? 02:05:36

19 MR. BOARDMAN: Object to form. 02:05:38

20 THE WITNESS: I wouldn't even know 02:05:40

21 where to begin to go about that. 02:05:42

22 BY MR. CURTNER: 02:05:42

23 Q. That's why people get agents, right? 02:05:44

24 A. Agents, attorneys. 02:05:46

25 Q. But there was nothing in the NCAA 02:05:52

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C E R T I F I C A T E

G E O R G I A:
FULTON COUNTY:

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.

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

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

1 I was contacted by the offices of
2 Huseby, Inc. to provide court
3 reporting services for this deposition.
4 I will not be taking this deposition under
5 any contract that is prohibited by O.C.G.A.
6 15-14-7 (a) or (b).

7 I have no written contract to
8 provide reporting services with any party
9 to the case, any counsel in the case, or
10 any reporter or reporting agency from whom
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 21st day of November, 2011.

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