

EXHIBIT R

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 OAKLAND DIVISION

4

5 In Re: NCAA Student-Athlete Name and
6 Likeness Licensing Litigation

7 Case No. 409-cv-1967-CW

8

9 MAY CONTAIN CONFIDENTIAL INFORMATION

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12 VIDEOTAPED DEPOSITION OF

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DAMIEN RHODES

14

Volume II

15

MARCH 6, 2014

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3:00 p.m.

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ACTION REPORTING SERVICE, LLC

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SYRACUSE, NEW YORK

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REPORTED BY: PAMELA PALOMEQUE, RPR

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Certified Livenote Reporter

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

1 damage claims. He's not a class
2 representative for damage claims.

3 MS. LUEDTKE: Damage claims are what need
4 to be calculated. One way to calculate that
5 is whether he actually receives the same
6 amount as the other 85 to 100 players on the
7 team.

8 BY MS. LUEDTKE:

9 Q. You can answer the question, Mr. Rhodes.

10 A. Well, all 85 to 100 players, as you spoke of,
11 all played equal part in winning a game, whether it's big
12 or small. How that gets divvied up, I'm not sure.

13 Q. When you played football at Syracuse,
14 approximately how many people were on the roster each
15 year?

16 A. They were anywhere from 85 to 100.

17 Q. Were there people who were red-shirted?

18 A. Yes.

19 Q. What does it mean to be red-shirted?

20 A. That's a coach's and player's decision amongst
21 themselves whether they could play or not.

22 Q. If you're red-shirted, you don't play in any
23 games during that season, correct?

24 A. Correct.

25 Q. When you were at Syracuse, did red shirt

1 players participate in practice?

2 A. They did.

3 Q. Did they wear uniforms and stand on the
4 sidelines during games?

5 A. For home games they did.

6 Q. Not away games?

7 A. No.

8 Q. Do you know whether red shirt players appeared
9 in televised Syracuse football games when you were there?

10 A. Well, if it was a home game, they would have
11 been on the side line and the camera often got the
12 sideline, so I would say yes.

13 Q. So when you were a running back at Syracuse --
14 you were a starting running back for at least your junior
15 and senior year; right?

16 A. Correct.

17 Q. Did you start your sophomore year?

18 A. I did not.

19 Q. So during your junior and senior year, when
20 you were a starting running back, should you have been
21 paid more or less than a red shirt player who stood on
22 the sideline and didn't participate in the televised
23 game?

24 MR. EISLER: Objection to form, outside
25 the scope of the Court's order. You can

1 MR. EISLER: Objection to the form.

2 Mr. Rhodes is here on his own personal damage
3 claim. Calls for speculation, calls for
4 expert testimony, calls for a legal
5 conclusion. You can answer if you can.

6 A. They were on the team.

7 Q. So they should be paid?

8 A. How that happens, I'm not sure but they were
9 on the team.

10 Q. Your attorney keeps objecting that you're here
11 for your own personal damage claim. Describe to me what
12 your own personal damage claim is, Mr. Rhodes.

13 A. It would be the using my likeness and image
14 for the NCAA to make money.

15 Q. How did the NCAA use your likeness and image
16 to make money?

17 A. Well, there's television games that you're
18 speaking of. We were not allowed to participate in any
19 of the revenue that was made off our efforts on the field
20 that drew the attention and the revenue in.

21 Q. Did the NCAA get any revenue from your
22 televised Syracuse football game?

23 A. I believe so.

24 Q. What revenues did the NCAA get from your live
25 televised football games at Syracuse?

1 A. That I don't know. I don't see the books.

2 Q. Did Syracuse get money from your televised
3 football games?

4 A. I imagine so.

5 Q. Are you asking Syracuse to pay you damages for
6 playing in those live televised football games?

7 A. The class is with the NCAA, not Syracuse.

8 Q. Do you think it would be appropriate for the
9 jury to make Syracuse pay a percentage of the broadcast
10 revenue to the football players who appear in games?

11 MR. EISLER: Objection to form. Calls
12 for a legal conclusion.

13 A. I'm not sure. It's just never been done
14 before.

15 Q. Are you -- do you think that the cheerleaders
16 who appear in live televised Syracuse football games
17 should be paid some of the revenue that comes in?

18 A. I never thought about it but they are not part
19 of this suit, so I guess that's something they have to
20 think about.

21 Q. Well, sitting here today, what do you think?
22 Should the cheerleaders be paid part of the live
23 broadcast revenue that comes in from a Syracuse football
24 game?

25 MR. EISLER: Objection to form. Outside

1 happened so I don't know what to base it off.

2 Q. Why did you say it would be extreme to pay
3 kids to go to college and pay football on live televised
4 games? Strike that.

5 Why did you say it would be extreme to pay
6 kids to go to college and play football?

7 A. I'm not sure. I answered that a few years
8 ago, so I don't really remember my thought process when I
9 answered that.

10 Q. Do you agree that it would be extreme to pay
11 kids to go to college and play football?

12 A. I'm not sure.

13 Q. Did you already receive a benefit for playing
14 football at Syracuse from 2002 until 2005?

15 MR. EISLER: Objection to form.

16 A. I didn't even hear what you said, I'm sorry,
17 it was muffled.

18 Q. Did you already receive a benefit for playing
19 football for Syracuse from 2002 until 2005?

20 A. What sort of benefit?

21 Q. That's what I'm asking you. Did you already
22 receive any benefits for playing football when you were
23 at Syracuse?

24 MR. EISLER: Objection to form. You can
25 answer.

1 A. I received a great education and a lot of
2 great memories.

3 Q. What are your great memories?

4 A. We could be here for a long time.

5 Q. You had a great experience playing football at
6 Syracuse?

7 A. I had a great time at Syracuse.

8 Q. What was your favorite part about being a
9 college student at Syracuse?

10 A. It's not every day that everybody just gets to
11 go to Syracuse University, so every day is kind of
12 special.

13 Q. It's a great university, isn't it?

14 A. It is indeed.

15 Q. Did you get a great education there?

16 A. I did.

17 Q. Did you have wonderful coaches?

18 A. Some great coaches.

19 Q. Did you receive a full-ride athletic
20 scholarship for all four years at Syracuse?

21 A. Yes.

22 Q. You graduated, correct?

23 A. I did.

24 Q. What was your degree?

25 A. Child and Family Studies.

1 Q. Did you graduate with any debt?

2 A. I did not.

3 Q. What would you say was the value of your
4 full-ride scholarship that you received as a football
5 player at Syracuse?

6 MR. EISLER: Object to the form. You can
7 answer.

8 A. I'm not really sure.

9 Q. Do you remember how much the tuition was at
10 Syracuse when you were there?

11 A. I do not.

12 Q. Was the full-ride scholarship that you
13 received from Syracuse that allowed you to graduate
14 debt-free not a sufficient benefit for the fact that you
15 played in football games that were televised?

16 MR. EISLER: Objection to form, calls for
17 a legal conclusion. You can answer.

18 A. I'm not sure. I mean, I don't know.

19 Q. I'm asking you sitting here today, do you feel
20 like it was enough that Syracuse gave you a full-ride
21 scholarship to play football for games that were
22 televised?

23 A. Not really or else we wouldn't be going
24 through this case.

25 Q. Why was it not enough?

1 A. Well, there is other -- there was revenue made
2 that we weren't allowed to partake in so --

3 Q. Do you think you should get a piece of that
4 revenue?

5 A. How it works, that's why I have people to
6 figure out how to divvy that up.

7 Q. Do you know what that revenue is used for that
8 comes in from -- used from the live broadcast of Syracuse
9 football game?

10 A. I do not know.

11 Q. Do you know that that revenue goes to support
12 other sports that don't make money like football?

13 MR. EISLER: Objection to form, assumes
14 facts not in evidence. You can answer.

15 A. I know now, if that's what you're saying.

16 Q. Do you know that the money that comes into
17 Syracuse from the broadcast of the football games you
18 played in goes to support other sports that aren't
19 fortunate enough to be on television; right?

20 MR. EISLER: Objection to form.

21 A. Sure.

22 Q. And you think some of that money should have
23 gone to you instead of to those sports?

24 MR. EISLER: Objection to form.

25 A. Never really thought about it with regard to

1 other sports. This is based it on who I'm here with.

2 Q. Have you thought about the consequences of the
3 lawsuit you filed and what that might mean for other
4 sports at Syracuse?

5 A. I don't know what it would mean.

6 Q. Have you thought about whether or not this
7 lawsuit that you filed might mean that there will be
8 fewer women's sports at Syracuse?

9 A. I do not know what it will mean.

10 Q. And you haven't given that any thought?

11 A. I do not know.

12 Q. I'm just asking whether you've given that any
13 thought?

14 A. No, I have not.

15 Q. Let's talk about the other benefits that you
16 received while you were playing football. In addition to
17 your full-ride scholarship, did you receive a stipend to
18 pay for living expenses, like room and board?

19 A. Did not receive a stipend.

20 Q. Where did you live when you were at Syracuse?

21 A. We lived on what was called South Campus.

22 Q. You lived in a dormitory?

23 A. They were student housing.

24 Q. So you lived in housing that was provided by
25 Syracuse?

1 A. Correct.

2 Q. Did you have to pay for that housing?

3 A. I did not.

4 Q. When you were playing in football games for
5 Syracuse, did you receive food plans of some sort?

6 A. Yes.

7 Q. They provided you food?

8 A. Yes.

9 Q. Did you get enough food to eat when you were
10 playing football for Syracuse?

11 A. Well, I gained a little weight.

12 MR. EISLER: Object to the form.

13 Q. There was just too much food while you were
14 playing football for Syracuse?

15 A. Just like anybody else in college, you know
16 that Freshman 15.

17 Q. Did Syracuse pay for your textbooks that you
18 needed for your classes while you were playing football
19 for Syracuse?

20 A. They did.

21 Q. Did Syracuse provide any academic support for
22 you as a member of the varsity football team there?

23 MR. EISLER: Objection to form.

24 A. Yes, they did.

25 Q. What academic support did Syracuse provide to

1 you?

2 A. If you needed a tutor, they would arrange for
3 a tutor and they helped us academically to make sure that
4 we would be able to learn so we could graduate just like
5 any other student that needed to learn.

6 Q. When you say "they" arranged for this, who
7 arranged for it?

8 A. That would be the academic staff that worked
9 in the athletic building.

10 Q. So the Syracuse Athletic Department had its
11 own academic staff to help it support football players?

12 A. Yes.

13 Q. Did they support other athletes, too, like
14 women's volleyball players or men's soccer players?

15 A. Yes.

16 Q. When you were there, did you ever get any
17 additional academic support from that staff?

18 A. Nothing outside of the norm of just helping if
19 we needed help.

20 Q. Did you ever have to get a tutor?

21 A. Yes.

22 Q. In which classes?

23 A. Good Lord, I can't even remember.

24 Q. Did the tutor help you?

25 A. They did. I graduated.

1 Q. Was there ever a time that you asked for
2 academic assistance that Syracuse did not help you?

3 A. If I needed a tutor, they were able to get me
4 a tutor.

5 Q. Do you know if those special tutors and
6 academic assistance resources were available for other
7 nonvarsity athletes -- strike that.

8 Do you know whether those special resources to
9 provide academic support were available to students who
10 were not student-athletes?

11 A. I'm not sure but I had friends that were
12 regular students and they could get tutors just as
13 easily.

14 Q. Tutors helped the nonstudents as well?

15 MR. EISLER: You mean nonathletes,
16 Counsel?

17 MS. LUEDTKE: Yes.

18 Q. Syracuse helped the nonathletes with academic
19 assistance as well?

20 A. Yes, Syracuse University would definitely help
21 other students.

22 Q. Did you feel that you had the academic support
23 you needed in order to get a great education and graduate
24 at Syracuse?

25 A. I did.

1 Q. And that was a benefit that was provided to
2 you while you were playing football, correct?

3 MR. EISLER: Objection to form.

4 A. Yes.

5 Q. Did anybody ever pressure you to take easy
6 classes to help you graduate?

7 MR. EISLER: Objection to form. You can
8 answer.

9 A. No.

10 Q. Did anybody ever -- sorry to ask this but did
11 anybody ever take a test for you or write a paper for
12 you?

13 MR. EISLER: Objection to form. You can
14 answer.

15 A. No, because usually my handwriting was pretty
16 bad so they knew it was mine.

17 Q. Did your coaches encourage you to go to class?

18 A. Yeah.

19 Q. What did your coaches tell you about the value
20 of getting an education while you were playing football
21 at Syracuse?

22 MR. EISLER: Objection to form, assumes
23 facts not in evidence. You can answer.

24 A. Well, education is important so it can take
25 you further than the 1 percent of athletes that make it

1 to the NFL, so make sure you graduate.

2 Q. And the coaches told you that?

3 A. Oh, yeah.

4 Q. What did your coaches do to encourage you to
5 make sure you graduated?

6 MR. EISLER: Objection to form. You can
7 answer.

8 A. Well, the only one I have a conversation with
9 about not going to class so is kind of not having to do
10 anything.

11 Q. What do you mean? What do you mean?

12 A. As in you don't want to end up in the office
13 asking, why didn't you go to class, so you just kinda go
14 to class.

15 Q. So if you skipped class, the coach would come
16 down on you hard?

17 A. It wasn't soft.

18 Q. If you skipped class, the coach would call you
19 into his office and say, cut it out, go to class?

20 A. Pretty much.

21 Q. Did people on the team ever get punished for
22 not going to class?

23 A. There were a few of those.

24 Q. Where do you think the money should come from
25 that you're asking for as payment for appearing in live

1 whether coaches should make less money so that players
2 can make more money?

3 MR. EISLER: Objection to form. You can
4 answer.

5 A. I don't know.

6 Q. Did Syracuse ever cut a football player's
7 scholarship because they got injured while you were
8 there?

9 A. No.

10 Q. Were there players on your team who got
11 injured but continued to get a full-ride scholarship to
12 Syracuse?

13 A. Yes.

14 Q. How many do you think?

15 A. I dont, I don't recall.

16 Q. Did you get injured while you were playing
17 football at Syracuse?

18 A. I did.

19 Q. Did you miss games because of an injury?

20 A. I did.

21 Q. Did Syracuse pay for all the medical care you
22 needed to treat that injury?

23 A. I guess so, yes.

24 Q. Did Syracuse pay for physical therapy and
25 training to help you come back from any of those

1 didn't get the share in.

2 Q. Did the NCAA ever sell your jersey?

3 A. Oh, not my actual with my name on it but just

4 the only person who wore my number at my time playing

5 when the jersey was for sale would have been me.

6 Q. Does someone else wear that number for

7 Syracuse now?

8 A. Yes, but it's no longer for sale,

9 coincidentally.

10 Q. Has it ever been for sale with your number

11 when you weren't a student there?

12 A. No.

13 Q. Do you know whether the NCAA or Syracuse got

14 the money for that sale?

15 A. Yes, definitely NCAA got money for that sale.

16 Q. Do you know whether the NCAA or Syracuse got

17 the money for you playing on television?

18 A. Yes.

19 Q. How do you know -- who got the money?

20 A. I know the NCAA did.

21 Q. How do you know that?

22 A. Public knowledge.

23 Q. How did the NCAA get money for you playing in

24 televised regular season football games?

25 A. Well, you saw the commercial time that's

611b

1 A. I did not. Much to the chagrin of my boss.

2 Q. Why did you not?

3 A. Because that's not who I was. It was just a
4 part of my life.

5 Q. Do people still recognize you as a running
6 back from Syracuse?

7 A. They know me of that but people I associate
8 with now know me for me, not for that.

9 Q. They know you as a college graduate who's gone
10 on to have a great career; correct?

11 MR. EISLER: Objection to form. You can
12 answer.

13 A. They know me as Damien Rhodes.

14 Q. Did Syracuse provide you with training that
15 helped you try to make a run as a professional football
16 player?

17 A. They did.

18 Q. They provided that to you for free; correct?

19 MR. EISLER: Objection to form.

20 A. Yes.

21 Q. What kind of training did you get as a benefit
22 of being a Syracuse student-athlete?

23 A. A lot of running and lifting.

24 Q. Were there strength coaches?

25 A. There were.

1 \$1,000, should the jury believe me?

2 MR. EISLER: Objection, Counsel,
3 argumentative. I mean, come on. We're
4 outside the scope of the Court's order. I
5 don't want to direct him not to answer but ask
6 him a respectful question.

7 Q. You can answer.

8 A. I'm not sure.

9 Q. You don't know who the jury should listen to
10 in making that decision?

11 MR. EISLER: Objection to form,
12 argumentative, calls for speculation, calls
13 for expert testimony. You can answer.

14 A. I'm not sure.

15 Q. When you were recruited to play football at
16 Syracuse, what were the factors that you considered in
17 choosing to play at Syracuse?

18 A. Let's see. There was really my feel, how I
19 felt about the place, graduation rate, and Syracuse had
20 100 percent at the time, so that was important; to make
21 sure my family could be within a radius to be able to see
22 me play, for both home and away games. Yeah.

23 Q. When you attended Syracuse, 100 percent of the
24 football players graduated?

25 A. Before I went, I said, when I was looking at

1 them, they won an award from the NCAA for highest
2 graduation rate in the country.

3 Q. What was the graduation rate when you played
4 for Syracuse?

5 A. I think we were like 97 percent, something
6 like that maybe. I'm not sure.

7 Q. What did Syracuse do to achieve such a high
8 graduation rate for their football?

9 MR. EISLER: Objection to form, calls for
10 speculation. You can answer.

11 A. Well, I think one is having the right mindset
12 that, you know, it's not just about football. We are
13 there to be student-athletes, so we're not just athletes.
14 We're students first; hence, the phrase student-athlete.

15 Q. How did Syracuse communicate that mindset that
16 you're a student-athlete and not just athletes?

17 MR. EISLER: Objection to form. You can
18 answer.

19 A. As I referred to earlier, they make sure that
20 you go to class. They make sure that you take care of
21 the academic side first.

22 Q. And they provided you the academic support you
23 needed to succeed; is that right?

24 A. Correct.

25 Q. Would your high school recruitment experience

1 payments for appearing in football games?

2 A. I'm not sure.

3 Q. Looking back, are you glad that you played
4 football for Syracuse?

5 A. Of course.

6 Q. Are you glad that you chose to attend college
7 and graduate from Syracuse?

8 A. I am.

9 Q. Has that education and degree you received
10 from Syracuse been beneficial to you in your life and
11 career?

12 A. Yes.

13 Q. If you had to do it all over again, would you
14 choose to play football for Syracuse again?

15 MR. EISLER: Objection to form. You can
16 answer.

17 A. Yeah.

18 MS. LUEDTKE: I don't have any further
19 questions for Mr. Rhodes. Thank you so much
20 for your time today.

21 THE WITNESS: Thank you.

22 MR. EISLER: I have no questions.

23 Counsel on the phone?

24 MS. FREEMAN: No questions.

25 MR. LEVINE: No questions.

1 REPORTER'S CERTIFICATE

2

3 I, PAMELA PALOMEQUE, Court Reporter and
4 Notary Public, certify:

5 That the foregoing proceedings were taken before me at
6 the time and place therein set forth, at which time the
7 witness was put under oath by me;

8 That the testimony of the witness and all objections made
9 at the time of the examination were recorded
10 stenographically by me and were thereafter transcribed;

11 That the foregoing is a true and correct transcript of my
12 shorthand notes so taken;

13 I further certify that I am not a relative or employee of
14 any attorney or of any of the parties nor financially
15 interested in the action.

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PAMELA PALOMEQUE, RPR CLR

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