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15
 16 **UNITED STATES DISTRICT COURT**
 17 **NORTHERN DISTRICT OF CALIFORNIA**

18 SAMUEL MICHAEL KELLER, on behalf
 of himself and all others similarly situated,
 19
 20 Plaintiff,

21 v.

22 ELECTRONIC ARTS, INC., NATIONAL
 COLLEGIATE ATHLETICS
 ASSOCIATION; COLLEGIATE
 23 LICENSING COMPANY,
 24 Defendants.

Case No. CV 09 1967 (CW)

**PLAINTIFFS SAMUEL MICHAEL
 KELLER'S AND EDWARD C.
 O'BANNON, JR.'S**

**(1) NOTICE OF WITHDRAWAL OF
 JOINT MOTION TO EXTEND ALL
 DEADLINES PENDING
 DETERMINATION ON MOTION TO
 CONSOLIDATE ACTIONS; and**

**(2) CASE SCHEDULING SUGGESTION
 REGARDING OCTOBER 1, 2009
 HEARING AND CASE MANAGEMENT
 CONFERENCE**

Judge: The Hon. Claudia Wilken

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EDWARD C. O'BANNON, JR., on behalf
of himself and all others similarly situated,

Plaintiff,

v.

NATIONAL COLLEGIATE ATHLETIC
ASSOCIATION (a/k/a the "NCAA"); and
COLLEGIATE LICENSING COMPANY
(a/k/a "CLC"),

Defendants.

Case No. CV 09-3329 (CW)

Judge: The Hon. Claudia Wilken

TO THE HONORABLE COURT AND TO ALL PARTIES AND THEIR ATTORNEYS OF
RECORD:

PLEASE TAKE NOTICE that Plaintiffs Samuel Michael Keller and Edward C.
O'Bannon, Jr. ("Plaintiffs"), the plaintiffs in the above-captioned actions, hereby withdraw their
Joint Motion to Extend all Deadlines Pending Determination on Motion to Consolidate Actions
(*Keller* Dkt. Entry No. 70; *O'Bannon* Dkt. Entry No. 56) filed on September 1, 2009 (the
"Motion"). The oppositions to the Motion were filed on September 4, 2009, and the motion was
ripe for adjudication as of that date. *See* Civil L.R. 6-3(d).

The parties have not received a ruling from the Court on the Motion, and the premises
underlying it have changed. In the Motion, the Plaintiffs noted that efficiencies could be gained
by stopping briefing and hearings on ancillary issues until the Court rules on Plaintiffs' pending
Joint Motion to Consolidate Actions. The relevant briefing on various issues is now largely
submitted. Specifically, the reply briefs in support of the motions to dismiss and strike in the
Keller action are now submitted, and a hearing is set on October 1, 2009, along with a Case
Management Conference. That hearing and Case Management Conference appear to be going

1 forward on the designated day. For ease of preparation and planning for all concerned, Plaintiffs
2 have chosen to withdraw their Motion.

3 Additionally, as of tomorrow, the briefing on Plaintiffs' Joint Motion to Consolidate
4 Actions will be fully submitted, and a hearing is set for October 8th. Plaintiffs also submitted a
5 Joint Motion for Appointment of Interim Co-Lead Counsel Pursuant to Federal Rule of Civil
6 Procedure 23(g)(3). *See Keller* Dkt. Entry No. 81; *O'Bannon* Dkt. Entry No. 76. The hearing on
7 that motion currently is set for October 22, 2009. Defendants previously opposed a similar
8 motion by counsel for Plaintiff Keller; Plaintiff Keller has since withdrawn as being moot in view
9 of the joint co-lead counsel appointment filing with counsel for Plaintiff O'Bannon. Defendants
10 contended that any lead counsel appointment is currently unnecessary due to the pendency of
11 their motions to dismiss, and are expected to do the same in connection with the joint lead
12 counsel application.

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15 Defendants NCAA and CLC also have filed a motion to transfer the *O'Bannon* action,
16 which had a hearing date set for October 22, 2009, but the Court's clerk then issued a Notice
17 indicating that the matter will be decided without a hearing. *See O'Bannon* Dkt. Entry No. 78.

18 There are thus three hearings on various matters set in October on the 1st, 8th, and 22nd,
19 and the Court may wish to set all matters for hearing on October 1st for the sake of efficiency,
20 along with a joint Case Management Conference.

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22 Alternatively, if the Court is inclined to keep the consolidation motion set for October 8th,
23 Plaintiffs respectfully suggest that efficiency could still be gained by moving the hearing on co-
24 lead counsel appointment motion (currently set for October 22nd), to October 8th.¹

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27 ¹ Plaintiffs' counsel conferred via email with counsel for the Defendants seeking their consent, but they do
28 not consent to moving all hearing dates to October 1, 2009, and also do not consent to moving the co-lead counsel
appointment hearing to October 8, 2009.

1 Dated: September 22, 2009

Respectfully submitted,

2 HAGENS BERMAN SOBOL SHAPIRO LLP

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3 /s/ Robert B. Carey

/s/ Jon T. King

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25 *Additional Attorneys for Plaintiff Edward*
26 *Charles O'Bannon, Jr.*

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I, Jon T. King, am the ECF User whose ID and password are being used to file this

PLAINTIFFS SAMUEL MICHAEL KELLER'S AND EDWARD C. O'BANNON, JR.'S (1) NOTICE OF WITHDRAWAL OF JOINT MOTION TO EXTEND ALL DEADLINES PENDING DETERMINATION ON MOTION TO CONSOLIDATE ACTIONS; and (2) CASE SCHEDULING SUGGESTION REGARDING OCTOBER 1, 2009 HEARING AND CASE MANAGEMENT CONFERENCE

In compliance with General Order 45, X.B., I hereby attest that Robert B. Carey has concurred in this filing.

1 **CERTIFICATE OF SERVICE**

2 I, Jon T. King, declare that I am over the age of eighteen (18) and not a party to the
3 entitled action. I am a partner in the law firm of HAUSFELD LLP. My office is located at 44
4 Montgomery Street, Suite 3400, San Francisco, California 94104.

5 On September 22, 2009, I filed the following:

6 **PLAINTIFFS SAMUEL MICHAEL KELLER'S AND EDWARD C. O'BANNON,**
7 **JR.'S (1) NOTICE OF WITHDRAWAL OF JOINT MOTION TO EXTEND ALL**
8 **DEADLINES PENDING DETERMINATION ON MOTION TO CONSOLIDATE**
9 **ACTIONS; and (2) CASE SCHEDULING SUGGESTION REGARDING OCTOBER**
10 **1, 2009 HEARING AND CASE MANAGEMENT CONFERENCE**

11 with the Clerk of the Court using the Official Court Electronic Document Filing System which
12 served copies on all interested parties registered for electronic filing.

13 I also certify that I caused true and correct Chambers Copies of the foregoing document(s)
14 to be hand-delivered to the following Judge pursuant to Civil L.R. 3-12(b) by noon of the next
15 day.

16 The Hon. Claudia Wilken, Judge
17 U.S.D.C., Northern District of California
18 Oakland Division
19 1301 Clay Street, Suite 400 S
20 Oakland, CA 94612-5212

21 I declare under penalty of perjury that the foregoing is true and correct.

22 /s/ Jon T. King