

PEARSON, SIMON & WARSHAW, LLP  
44 MONTGOMERY STREET, SUITE 2450  
SAN FRANCISCO, CALIFORNIA 94104

1 BRUCE L. SIMON (Bar No. 96241)  
bsimon@pswlaw.com  
2 AARON M. SHEANIN (Bar No. 214472)  
asheanin@pswlaw.com  
3 BENJAMIN E. SHIFTAN (Bar No. 265767)  
bshiftan@pswlaw.com  
4 **PEARSON, SIMON & WARSHAW, LLP**  
44 Montgomery Street, Suite 2450  
5 San Francisco, California 94104  
Telephone: (415) 433-9000  
6 Facsimile: (415) 433-9008  
  
7 STEVE W. BERMAN (*pro hac vice*)  
steve@hbsslaw.com  
8 **HAGENS BERMAN SOBOL SHAPIRO LLP**  
1918 Eighth Avenue, Suite 3300  
9 Seattle, WA 98101  
10 Telephone: (206) 623-7292  
Facsimile: (206) 623-0594

11 **Additional Counsel on Signature Page**

12 *Plaintiffs' Interim Co-Lead Class Counsel*

14 **UNITED STATES DISTRICT COURT**

15 **NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION**

17 IN RE: NATIONAL COLLEGIATE  
18 ATHLETIC ASSOCIATION ATHLETIC  
GRANT-IN-AID CAP ANTITRUST  
19 LITIGATION

CASE NO. 14-md-2541-CW  
CASE NO. 4:14-cv-02758-CW

**STIPULATED ~~PROPOSED~~ ORDER  
REGARDING PRODUCTION OF  
DOCUMENTS FROM CERTAIN OTHER  
CASES**

20  
21 This Document Relates to:

22 ALL ACTIONS  
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14-md-2541-CW; 4:14-cv-02758

**STIPULATED ~~PROPOSED~~ ORDER REGARDING PRODUCTION OF DOCUMENTS FROM CERTAIN  
OTHER CASES**

1 WHEREAS the instant multidistrict litigation (the "Instant Actions") involves certain  
2 factual and legal issues which may have been the subject of certain documents and other materials  
3 produced and/or exchanged in the following actions: (1) *O'Bannon v. NCAA*, Case No. 09-cv-  
4 3329-CW (N.D. Cal.);<sup>1</sup> (2) *White v. NCAA*, Case No. 06-cv-0999-VBF (C.D. Cal.); (3) *Agnew v.*  
5 *NCAA*, Case No. 11-3066 (7th Cir.)/*Agnew v. NCAA*, Case No. 11-cv-0293-JMS (S.D. Ind.); and  
6 (4) *Rock v. NCAA*, Case No. 12-cv-1019-JMS (S.D. Ind.) (the "Past NCAA Actions").

7 WHEREAS, without acknowledging or agreeing that such documents and other materials  
8 are relevant or discoverable in the Instant Actions, Defendants are willing to re-produce those  
9 portions of the documents produced in the Past NCAA Actions (the "Documents"), and Plaintiffs  
10 are willing to limit the extent to which they may serve additional requests on Defendants for  
11 documents on the basis that such documents were produced, exchanged, or filed in any of the Past  
12 Actions, thereby limiting the obligation on the NCAA to engage in a costly and time-consuming  
13 review of several hundred thousand duplicative documents and on the other defendants to gather,  
14 review and reproduce duplicative documents.

15 WHEREAS, the NCAA has agreed, pursuant to the terms herein, to produce in the Instant  
16 Actions certain additional materials from the Past NCAA Actions that it may have in its  
17 possession, including: the NCAA's expert reports; the NCAA's discovery responses; NCAA-  
18 witness and/or any Conference Defendant's deposition transcripts, videos, and exhibits; NCAA  
19 and/or any Conference Defendant's declarations and affidavits; and trial transcripts and trial  
20 exhibits from the Past NCAA Actions ("Materials");

21 WHEREAS, the Defendants agree, pursuant to the terms herein, to provide to Plaintiffs the  
22 Documents, and the NCAA agrees to provide to Plaintiffs the Materials, set forth below beginning

23  
24 <sup>1</sup> The *O'Bannon* litigation was at one time consolidated with *Keller v. Electronic Arts, Inc.* as *In re*  
25 *NCAA Student-Athlete Name & Likeness Litig.*, Case No. 09-cv-1967-CW (N.D. Cal.) and then  
26 severed for purposes of trial. All discovery was conducted in connection with the *O'Bannon*  
27 litigation prior to severance—no separate document production was made in *Keller v. NCAA*.  
There are no previous document productions from the *Keller v. NCAA* litigation to reproduce in  
this case.

1 as soon as processing time will allow and a Stipulated Protective Order is entered in the Instant  
2 Actions.

3 WHEREAS, the Parties have agreed to treat the Documents and Materials to be produced  
4 as "Confidential," "Highly Confidential" or "Outside Counsel Only" as their designations in  
5 connection with their production in the Past NCAA Actions may require, in conformity with the  
6 Protective Order to be entered in the Instant Actions, without the Defendants having to review  
7 those designations, so as to avoid imposing on the Defendants a costly re-review of previously  
8 produced documents for confidentiality.

9 WHEREAS, in entering into this Stipulation, no party takes a position concerning the  
10 relevance or discoverability of any of the Documents or Materials, and the parties preserve all  
11 rights to object to the use of the Documents and Materials in this litigation on grounds including,  
12 but not limited to, relevance and admissibility.

13 THEREFORE, the parties hereby stipulate and agree to the following:

- 14 1) The Defendants will reproduce Documents and the NCAA will produce Materials as  
15 set forth below from the Past NCAA Actions as provided and subject to the terms and  
16 limits set forth herein, as soon as processing time will reasonably allow and a  
17 Stipulated Protective Order is entered in the Instant Actions.
- 18 2) The Defendants' reproductions of Documents from the Past NCAA Actions will be  
19 limited to documents that date from March 5, 2010 to the present, with the exception of  
20 the document production from the *White v. NCAA* and the *O'Bannon v. NCAA*  
21 litigation.
- 22 3) *White v. NCAA*: The NCAA will reproduce the document production from the *White*  
23 litigation, as it was reproduced as part of the *Rock v. NCAA* production in early 2014.  
24 The NCAA will also produce from the *White* litigation NCAA written discovery  
25 responses, transcripts of NCAA witness depositions; and subject to Paragraph 8,  
26 below, its expert reports and any remaining Materials in its possession, custody and  
27 control based on a reasonable investigation.

- 1 4) *O'Bannon v. NCAA*: The NCAA will reproduce the NCAA's document productions  
2 from the *O'Bannon* litigation. The NCAA will also produce from the *O'Bannon*  
3 litigation NCAA written discovery responses, and transcripts of NCAA witness  
4 depositions, and subject to Paragraph 8, below, its expert reports and any remaining  
5 Materials.
- 6 5) *Agnew v. NCAA*: The only documents produced in the *Agnew v. NCAA* case prior to its  
7 dismissal for failure to state a claim were also reproduced in *Rock v. NCAA*. The  
8 NCAA will make any reproduction of documents from the *Agnew* case in the course of  
9 the reproduction of documents from the *Rock* case discussed in Paragraph 6, below.
- 10 6) *Rock v. NCAA*: The NCAA will produce NCAA written discovery responses and  
11 transcripts of NCAA witness depositions from *Rock v. NCAA*. The NCAA will also  
12 produce the following documents from the NCAA's document production in *Rock v.*  
13 *NCAA*:
- 14 a. All squad lists, re-processed to eliminate the previous redaction of men's and  
15 women's basketball squad lists;
- 16 b. All supplemental productions dated after August 1, 2014; and
- 17 c. Additional documents from the pre-August 1, 2014 NCAA productions in *Rock*  
18 with a "last modified" date of March 5, 2010 to the present, to the extent those  
19 documents contain hits on the following search terms ("Other NCAA Case  
20 Documents Search Terms"):
- 21 1. amateur! AND (GIA OR "grant in aid" OR grant-in-aid OR COA OR  
22 "cost of attendance" OR cost-of-attendance OR scholarship OR aid OR  
23 award OR benefit)
- 24 2. commercial! AND (GIA OR "grant in aid" OR grant-in-aid OR COA  
25 OR "cost of attendance" OR cost-of-attendance OR scholarship OR aid  
26 OR award OR benefit)
- 27 3. cap! AND (GIA OR "grant in aid" OR grant-in-aid OR COA OR "cost

- 1 of attendance” OR cost-of-attendance OR scholarship OR aid OR award
- 2 OR benefit)
- 3 4. limit! AND (GIA OR “grant in aid” OR grant-in-aid OR COA OR “cost
- 4 of attendance” OR cost-of-attendance OR scholarship OR aid OR award
- 5 OR benefit)
- 6 5. (SA OR student-athlete) AND (GIA OR “grant in aid” OR grant-in-aid
- 7 OR COA OR “cost of attendance” OR cost-of-attendance OR
- 8 scholarship OR aid OR award OR benefit)
- 9 6. (SA OR student-athlete) AND (salary OR pay! OR union! OR employ!
- 10 OR agent OR well-being OR exploit! OR induce! OR certification OR
- 11 boosters)
- 12 7. (“cost of attendance” OR cost of attendance OR COA) AND (“grant in
- 13 aid” OR grant-in-aid” OR GIA)
- 14 8. bylaw AND (12! OR 13! OR 15! OR 16! OR 20!) AND (amateur! OR
- 15 GIA OR “grant in aid” OR grant-in-aid OR COA OR “cost of
- 16 attendance” OR cost-of-attendance OR scholarship OR aid OR award
- 17 OR benefit)
- 18 9. compet! AND (balance OR equity OR fair)
- 19 10. “collegiate model”
- 20 11. pay-for-play
- 21 12. “pay for play”
- 22 13. avocation
- 23 14. “miscellaneous expense allowance”
- 24 15. MEA
- 25 16. stipend
- 26 17. 2011-96
- 27 18. “presidential retreat”

1 19. “rules working group”

2 20. “well-being working group”

3 21. “resource allocation working group”

4 22. governance AND autonomy

5 d. NCAA documents produced in *Rock v. NCAA* with a designation of “Highly  
6 Confidential” will be re-designated to provide that the documents must be  
7 treated as “Outside Counsel Only,” to protect NCAA member confidential  
8 information from being inadvertently distributed to conference defendants.

9 7) *Conference Defendant Documents*: Each of the ten Conference Defendants in the  
10 Instant Actions will reproduce all Documents produced to the plaintiffs in the Past  
11 NCAA Actions by such Conference Defendant, in the forms in which they were  
12 previously produced (including redactions).

13 8) *Third Party Documents and Materials*:

14 a. The NCAA will ask each of its member schools and non-defendant conferences  
15 that produced documents in discovery or trial in the Past NCAA Actions  
16 subject to a confidentiality order in such actions to indicate by January 15,  
17 2015 whether it will consent to production of such documents and/or  
18 information in the Instant Actions subject to a confidentiality order in the  
19 Instant Actions and, if a school or conference refuses, to state the reasons for its  
20 refusal to grant such consent;

21 b. The NCAA will provide, to the best of its ability based on available records, a  
22 list of all non-NCAA member third parties that produced documents in  
23 discovery in the Past NCAA Actions subject to a confidentiality order in such  
24 actions, and Plaintiffs will request the consent of those third parties for the  
25 production of such documents in this action;

26 c. The NCAA will then, to the extent Plaintiffs obtain the consent of the relevant  
27 third parties, produce unredacted versions of any Documents and Materials it

1 previously had redacted based on those third parties' confidential information  
2 and any Documents and Materials it previously had withheld based on those  
3 third parties' confidential information, with the exception of confidential  
4 information referenced in subparagraphs a and b above for such third parties  
5 who have not provided consent; and

6 d. Plaintiffs reserve the right to file a motion to compel the production of any  
7 confidential Materials for any persons who have not consented to the  
8 production of such Materials.

9 9) In exchange for the above-described reproductions of documents and other materials,  
10 the parties agree that the Conference Defendants will have no obligation to produce  
11 copies of the Materials which are produced by the NCAA (if and to the extent that the  
12 Conference Defendants have copies of such Materials) in accordance with this  
13 stipulation.

14 10) The parties agree to accept the reproductions of the Defendants' documents in the  
15 production formats in which they are available and/or were produced in the Past  
16 NCAA Actions, even if that format differs from any agreed ESI Production protocol  
17 that may be entered in this litigation.

18 11) As a part of the reproduction of Documents to occur as provided herein, the NCAA  
19 will provide, where technologically feasible, as metadata, a field listing the production  
20 bates number of the documents being reproduced, as they were labeled when produced  
21 in the prior case.

22 12) All reproduced documents will be re-bates labeled using the prefix "[Defendant  
23 initials]GIA." Defendant-produced documents with other bates-labels will not be used  
24 in the litigation.

25 13) The Defendants will not reproduce documents produced by other parties in past  
26 litigations or by third-parties, except as set forth herein.

27 14) The parties agree that Defendants' production of Documents and Materials pursuant to

1 this Stipulation will satisfy their obligations to produce documents in response to  
2 request numbers 25 and 26 of *Jenkins* Plaintiffs' First Set of Requests for Production of  
3 Documents to All Defendants and request number 26 of Consolidated Plaintiffs First  
4 Set of Requests for Production of Documents to All Defendants. This Stipulation does  
5 not limit plaintiffs' ability to seek documents that are independently responsive to any  
6 other requests for documents served by plaintiffs in the Instant Actions, regardless of  
7 whether such documents previously were produced in the Past Actions. If, however, a  
8 document responsive to a separate document request was previously produced by a  
9 Defendant in the Instant Actions pursuant to this Stipulation, that Defendant need not  
10 produce that document a second time in the Instant Actions due to its responsiveness to  
11 the separate document request. Plaintiffs further agree that they will not serve  
12 additional requests for documents on the basis that such documents were produced,  
13 exchanged, or filed in any of the Past Actions.

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15 IT IS SO STIPULATED.  
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1 DATED: January 7, 2015

**HAGENS BERMAN SOBOL SHAPIRO LLP**

2 By: /s/ Steve W. Berman

3 STEVE W. BERMAN

4 1918 Eighth Avenue, Suite 3300  
5 Seattle, WA 98101  
6 Telephone: (206) 623-7292  
7 steve@hbsslaw.com

8 Jeff D. Friedman (Bar. No. 173886)  
9 Jon T. King (Bar No. 205073)  
10 HAGENS BERMAN SOBOL SHAPIRO LLP  
11 715 Hearst Avenue, Suite 202  
12 Berkeley, CA 94710  
13 Telephone: (510) 725-3000  
14 Facsimile: (510) 725-3001  
15 jefff@hbsslaw.com  
16 jonk@hbsslaw.com

17 Robert Carey  
18 HAGENS BERMAN SOBOL SHAPIRO LLP  
19 11 W Jefferson St,  
20 Phoenix, AZ 85003  
21 Telephone: (602) 840-5900  
22 Facsimile: (602) 840-3012  
23 rob@hbsslaw.com

24 DATED: January 7, 2015

**PEARSON, SIMON & WARSHAW, LLP**

25 By: /s/ Bruce L. Simon

26 BRUCE L. SIMON

27 Aaron M. Sheanin (Bar No. 214472)  
28 Benjamin E. Shiftan (Bar No. 265767)  
44 Montgomery Street, Suite 2450  
San Francisco, CA 94104  
Telephone: (415) 433-9000  
Facsimile: (415) 433-9008  
bsimon@pswlaw.com  
asheanin@pswlaw.com  
bshiftan@pswlaw.com

DATED: January 7, 2015

*Plaintiffs' Interim Co-Lead Class Counsel*

**WINSTON & STRAWN LLP**

By: /s/ Jeffrey L. Kessler  
JEFFREY L. KESSLER

David Feher  
David Greenspan  
200 Park Avenue  
New York, NY 10166  
Telephone: (212) 294-6700  
Facsimile: (212) 294-4700  
jkessler@winston.com  
dgreenspan@winston.com  
dfeher@winston.com

*Attorneys for the Jenkins Plaintiffs,  
Plaintiffs' Interim Co-Lead Class Counsel*

DATED: January 7, 2015

**PROSKAUER ROSE LLP**

By: /s/ Scott P. Cooper  
SCOTT P. COOPER

Jennifer L. Jones (Bar No. 284624)  
Sarah Kroll-Rosenbaum (Bar No. 272358)  
Jacquelyn N. Ferry (Bar No. 287798)  
2049 Century Park East, Suite 3200  
Los Angeles, CA 90067  
Telephone: (310) 557-2900  
Facsimile: (310) 557-2193  
scooper@proskauer.com  
jljones@proskauer.com  
skroll-rosenbaum@proskauer.com  
jferry@proskauer.com

*Attorneys for Defendant Pac-12 Conference*

DATED: January 7, 2015

**MAYER BROWN LLP**

1  
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3  
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25  
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27  
28

By: /s/ Andrew S. Rosenman  
ANDREW S. ROSENMAN

Andrew S. Rosenman (Bar No. 253764)  
Britt M. Miller (pro hac vice)  
71 South Wacker Drive  
Chicago, IL 60606-4637  
Telephone: (312) 782-0660  
Facsimile: (312) 701-7711  
Email: arosenman@mayerbrown.com  
Email: bmillier@mayerbrown.com

Richard J. Favretto (*pro hac vice*)  
MAYER BROWN LLP  
1999 K Street, N.W.  
Washington, D.C. 20006-1101  
Telephone: (202) 263-3000  
Facsimile: (202) 263-3300  
Email: rfavretto@mayerbrown.com

*Attorneys for Defendant The Big Ten Conference, Inc.*

DATED: January 7, 2015

**ROBINSON BRADSHAW & HINSON**

By: /s/ Robert W. Fuller  
ROBERT W. FULLER

Nathan C. Chase, Jr. (Bar No. 247526)  
Robert W. Fuller, III (*pro hac vice*)  
Mark W. Merritt (*pro hac vice*)  
Lawrence C. Moore, III (*pro hac vice*)  
Amanda R. Pickens (*pro hac vice*)  
101 N. Tryon St., Suite 1900  
Charlotte, NC 28246  
Telephone: (704) 377-2536  
Facsimile: (704) 378-4000  
Email: nchase@rbh.com  
Email: rfuller@rbh.com  
Email: mmerritt@rbh.com  
Email: lmoore@rbh.com  
Email: apickens@rbh.com

Mark J. Seifert (Bar No. 217054)

Robert R. Moore (Bar No. 113818)  
ALLEN MATKINS LECK GAMBLE MALLORY &  
NATSIS LLP  
Three Embarcadero Center, 12th Floor  
San Francisco, CA 94111  
Telephone: (415) 837-1515  
Facsimile: (415) 837-1516  
Email: mseifert@allenmatkins.com  
Email: rmoore@allenmatkins.com

*Attorneys for Defendant Southeastern Conference*

DATED: January 7, 2015

**SMITH MOORE LEATHERWOOD LLP**

By: /s/ D. Erik Albright  
D. ERIK ALBRIGHT

D. Erik Albright (*pro hac vice*)  
300 North Greene Street, Suite 1400  
Greensboro, NC 27401  
Telephone: (336) 378-5368  
Facsimile: (336) 433-7402  
Email: erik.albright@smithmoorelaw.com

Jonathan P. Heyl (*pro hac vice*)  
101 N. Tryon Street, Suite 1300  
Charlotte, NC 28246  
Telephone: (704) 384-2625  
Facsimile: (704) 384-2909  
Email: jon.heyhl@smithmoorelaw.com

Charles LaGrange Coleman, III (SBN 65496)  
HOLLAND & KNIGHT LLP  
50 California Street, Suite 2800  
San Francisco, CA 94111-4624  
Telephone: (415) 743-6900  
Facsimile: (415) 743-6910  
Email: ccoleman@hklaw.com

*Attorneys for Defendant Atlantic Coast Conference*

DATED: January 7, 2015

**POLSINELLI PC**

By: /s/ Leane K. Capps

LEANE K. CAPPS

Leane K. Capps (*pro hac vice*)  
POLSINELLI PC  
Saint Ann Court  
2501 N. Harwood Street, Suite 1900  
Dallas, TX 75201  
Telephone: (214) 397-0030  
Email: lcapps@polsinelli.com

Amy D. Fitts (*pro hac vice*)  
POLSINELLI PC  
120 W. 12<sup>th</sup> Street  
Kansas City, MO 64105  
Telephone: (816) 218-1255  
Email: afitts@polsinelli.com

Wesley D. Hurst (SBN 127564)  
POLSINELLI LLP  
2049 Century Park East, Suite 2300  
Los Angeles, CA 90067  
Telephone: (310) 556-1801  
Email: whurst@polsinelli.com

*Attorneys for Defendant The Big 12 Conference, Inc. and  
Conference USA*

DATED: January 7, 2015

**SKADDEN ARPS SLATE MEAGHER & FLOM  
LLP**

By: /s/ Karen Hoffman Lent  
KAREN HOFFMAN LENT

Raoul D. Kennedy (Bar No. 40892)  
525 University Avenue, Suite 1100  
Palo Alto, California 94301  
Telephone: (650) 470-4500  
Facsimile: (650) 470-4570  
Email: raoul.kennedy@skadden.com

Jeffrey Mishkin (*pro hac vice*)  
Karen Hoffman Lent (*pro hac vice*)  
Four Times Square  
New York, NY 10036  
Telephone: (212) 735-3000

Facsimile (212) 735-2000  
Email: jeffrey.mishkin@skadden.com  
Email: karen.lent@skadden.com

Robert J. Wierenga (Bar No.183687)  
Gregory L. Curtner (pro hac vice)  
Kimberly K. Kefalas (pro hac vice)  
Jacob K. Danziger (SBN 278219)  
SCHIFF HARDIN LLP  
350 S. Main St., Suite 210  
Ann Arbor, MI 48104  
Telephone: (734) 222-1500  
Facsimile: (734) 222-1501  
Email: rwierenga@schiffhardin.com  
Email: gcurtner@schiffhardin.com  
Email: kkefalas@schiffhardin.com  
Email: jdanziger@schiffhardin.com

*Attorneys for Defendant National Collegiate Athletic Association*

DATED: January 7, 2015

**COVINGTON & BURLING LLP**

By: /s/ Benjamin C. Block  
BENJAMIN C. BLOCK

Benjamin C. Block (*pro hac vice*)  
One CityCenter  
850 Tenth Street, N.W.  
Washington, DC 20001-4956  
Telephone: (202) 662-5205  
Facsimile: (202) 778-5205  
Email: bblock@cov.com

Matthew D. Kellogg (Bar No. 280541)  
One Front Street  
San Francisco, CA 94111-5356  
Telephone: (415) 591-6000  
Facsimile: (415) 591-6091  
Email: mkellogg@cov.com

*Attorneys for American Athletic Conference*

DATED: January 7, 2015

**JONES WALKER LLP**

1  
2  
3  
4  
5  
6  
7  
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22  
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25  
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27  
28

By: /s/ Mark A. Cunningham  
MARK A. CUNNINGHAM

Mark A. Cunningham (pro hac vice)  
201 St. Charles Avenue  
New Orleans, LA 70170-5100  
Telephone: (504) 582-8536  
Facsimile: (504) 589-8536  
Email: mcunningham@joneswalker.com

*Attorneys for Defendant Sun Belt Conference*

DATED: January 7, 2015

**WALTER | HAVERFIELD LLP**

By: /s/ R. Todd Hunt  
R. TODD HUNT

R. Todd Hunt (pro hac vice)  
The Tower at Erieview  
1301 E. 9th Street, Suite 3500  
Cleveland, OH 44114-1821  
Telephone: (216) 928-2935  
Facsimile: (216) 916-2372  
Email: rthunt@walterhav.com

*Attorneys for Defendant Mid-American Conference*

DATED: January 7, 2015

**BRYAN CAVE LLP**

By: /s/ Adam Brezine  
ADAM BREZINE

Adam Brezine (Bar No. 220852)  
560 Mission Street, 25th Floor  
San Francisco, CA 94105  
Telephone: (415) 674-3400  
Facsimile: (415) 675-3434  
Email: adam.brezine@bryancave.com

Richard Young (pro hac vice application to be filed)

Brent Rychener (*pro hac vice* application to be filed)  
90 South Cascade Avenue, Suite 1300  
Colorado Springs, CO 80903  
Telephone: (719) 473-3800  
Facsimile: (719) 633-1518  
Email: richard.young@bryancave.com  
Email: brent.rychener@bryancave.com

*Attorneys for Defendant Mountain West Conference*

DATED: January 7, 2015

**BRADLEY DEVITT HAAS & WATKINS, P.C.**

By: /s/ Jon T. Bradley

JON T. BRADLEY

Jon T. Bradley (*pro hac vice* application to be filed)  
2201 Ford Street  
Golden, CO 80401  
Telephone: (303) 384-9228  
Facsimile: (303) 384-9231  
Email: jon@goldenlawyers.com

*Attorneys for Defendant Western Athletic Conference*

**PURSUANT TO STIPULATION,  
IT IS SO ORDERED.**

DATED: January 8, 2015



THE HON. CLAUDIA WILKEN  
UNITED STATES DISTRICT JUDGE