IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

STEPHANIE BIEDIGER, KAYLA LAWLER, ERIN OVERDEVEST, KRISTEN CORINALDESI, and LOGAN RIKER, individually and on behalf of all those similarly situated; and ROBIN LAMOTT SPARKS, individually,	:	CIVIL ACTION NO: 3:09-CV-00621 (SRU)
Plaintiffs,	:	June 21, 2010
against	:	
QUINNIPIAC UNIVERSITY,	:	
Defendant.	:	

MEMORANDUM OF LAW IN SUPPORT OF DEFENDANT'S MOTION IN LIMINE TO LIMIT SCOPE OF TESTIMONY OF JEFF WEBB AND ATHENA YIAMOUYIANNIS

Plaintiffs' purported "experts," Jeff Webb and Athena Yiamouyiannis, should not be allowed to testify as to areas that are completely beyond the scope of their expertise.

OBJECTION TO TESTIMONY OF JEFF WEBB

Plaintiffs' expert, Jeff Webb, has no knowledge or experience that would allow him to opine as to what qualifies as a varsity sport or as to what may be required to establish a varsity sport. Federal Rule of Evidence 702 provides that "a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise, if (1) the testimony is based upon sufficient facts or data, (2) the testimony is the product of reliable principles and methods, and (3) the witness has applied the principles and methods reliably to the facts of the case." Mr. Webb cannot meet any part of that standard, as he has no knowledge, skill, experience or education that would qualify him to opine as to what is a sport for purposes of Title IX or even as to what the NCAA would require for a sport, and he does not base his opinion on reliable facts or data.

When questioned during his deposition about his area of expertise, Mr. Webb testified that his area of expertise is cheerleading. He explained that he has more than thirty years of experience working in the cheerleading industry. He worked for the Universal Cheerleaders Association, and he founded both the National Cheerleaders Association and Varsity Brands, which he indicated is the "authority on cheerleading." (The relevant excerpts of Webb's deposition transcript are attached as Exhibit A. Webb at 21:14 -22:14.) He admitted, however, that he is not an expert on Title IX and he is not an expert on NCAA rules. (Webb at 23:7-12.) He further admitted that he has never had responsibility for administering a varsity sport. (Webb at 84:5-8.)

When questioned about what qualified him to opine as to what is a varsity sport, he said:

> "I've been involved in sports and associated or – and worked with athletic departments and supporting them primarily, frankly, for my entire professional career. So that's my understanding. And it's also based on at least the knowledge that I've had through the years of reading information relevant to, you know, by the Office of Civil Rights and also looking at other articles that I've seen on this particular topic, especially as it relates to cheerleading." (Webb at 83:17-84:4.)

In essence, he claims that, because his private company provides services to cheerleaders who support their school athletic departments and he has read some articles, he is an expert on what is or is not a varsity sport.

Furthermore, Mr. Webb's opinions are not based upon reliable data. Mr. Webb testified that the only materials that he reviewed regarding Quinnipiac were email correspondence among his employees about Quinnipiac's participation in his company's national championship and about Quinnipiac's participation in a meeting with his employees about the National Competitive Stunts and Tumbling Association ("NCSTA") as well as some news articles about this lawsuit. The only other information upon which he relies is what one of his employees told him about Quinnipiac's involvement in the NCSTA. (Webb at 34:15 – 37:15.) He reviewed no other materials about Quinnipiac. With respect to the NCSTA, Mr. Webb testified at his deposition that he has never been to an NCSTA meet and that he has never reviewed the written materials regarding the meet format. (Webb at 118:11-25.) The sole basis of his knowledge of the NCSTA is what his employee, Bill Boggs, told him.

Mr. Webb should not be permitted to testify about what constitutes a varsity sport, about whether Quinnipiac's Competitive Cheer team should be properly counted as a varsity sport, or about the NCSTA or its meet format because he has no expertise

to qualify him to testify and his purported opinions are not based on reliable facts or admissible evidence. Defendant, therefore, requests that the plaintiffs be precluded from introducing any such testimony at trial.

OBJECTION TO TESTIMONY OF ATHENA YIAMOUYIANNIS

Plaintiffs have stated their intention to call Athena Yiamouyiannis, Ed.D as an expert on NCAA rules and the sports of cross-country, indoor track and field and outdoor track & field. Defendant does not object to her testimony (including submission of her written report) on issues relating to NCAA rules and their application to cross-country and track and field. Dr. Yiamouyiannis, however, is plainly not qualified to testify as an expert on these sports in any other respect.

Dr. Yiamouyiannis's report is filled with broad judgments regarding what is typical and atypical of cross country, indoor track and field and outdoor track and field teams. For example, she opines as to how many events and what types of events a "legitimate" track and field team would enter (Report, Plaintiffs' Trial Exhibit 115, at 20); whether there is an athletic difference between indoor track and field and outdoor track and field (Report at 21); what running times "one would expect" of varsity cross country runners (Report at 27); and the nature of recruiting for "bone fide" track and field teams (Report at 27-28). Dr. Yiamouyiannis should not be permitted to provide her opinion as to whether Quinnipiac has "bona fide" or "legitimate" cross country, indoor track and field and outdoor track and field teams, except to the extent that her opinion is based on NCAA rules.

When asked at her deposition as to the basis of her opinion on collegiate track and field, other than the NCAA aspect of it, she mentioned only that she was a cross-

country and track and field athlete in college almost 20 years ago, and then served as a graduate student assistant coach for six months (Yiamouyiannis at 19-20). She has not attended a collegiate cross-country or track and field meet in the past ten years other than the occasional meet at Ohio University (where she has been on the faculty since 2006), and even then she was "not engaged fully in the competition." (Yiamouyiannis at 18). (The relevant pages of her deposition, taken on June 18, are attached as Exhibit B.)

Dr. Yiamouyiannis's total absence of experience in the sports of cross-country and track and field plainly fails to meet the requirements of Rule 702. Her lack of qualifications in this regard is particularly striking in contrast to the experience of defendant's expert, Samuel Seemes. Mr. Seemes is CEO of the USA Track & Field and Cross Country Coaches Association, coached track and field and cross-country for 12 years, has personally observed the cross-country and track and field teams of over two-thirds of the approximately 300 NCAA Division I schools competing in these sports, has attended every NCAA championship in women's cross country, indoor track and field and outdoor track and field since they began running championships in these sports in the early 1980s and attends some 12 to 15 cross-country and track and field meets each year.

Dr. Yiamouyiannis's proposed testimony (contained in her report) about how a cross-country or track and field team should operate and her opinion about Quinnipiac's teams plainly cannot qualify as expert testimony. She should be limited to testifying within her actual area of expertise regarding NCAA rules and their application to cross-

country and track & field. She is also qualified to testify as to NCAA rules regarding emerging sports for women.

Defendant also does not object to her testimony about the application of Title IX to cross-country and track and field, to the extent that the Court considers testimony as to legal issues under Title IX to be appropriate expert testimony.

Dated: June 21, 2010

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