

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

STEPHANIE BIEDIGER, KAYLA LAWLER)
 ERIN OVERDEVEST, and KRISTEN)
 CORINALDESI, individually and on)
 behalf of all those similarly situated;)
 LESLEY RIKER on behalf of her minor)
 daughter, L[REDACTED] R[REDACTED], individually)
 and on behalf of all those)
 similarly situated; and)
 ROBIN LAMOTT SPARKS, individually,)
)
 Plaintiffs,)
 v.)
 QUINNIPIAC UNIVERSITY,)
)
 Defendant.)

CIVIL ACTION NO:

April 16, 2009

**MOTION FOR TEMPORARY RESTRAINING ORDER
(ON NOTICE) AND FOR PRELIMINARY INJUNCTION**

The named student athlete plaintiffs in the accompanying complaint (the "Student Plaintiffs") by their undersigned attorneys and pursuant to Fed. R. Civ. P. 65, hereby move this Court for the entry of a temporary restraining order (TRO) and, separately, for a preliminary injunction against the defendant, Quinnipiac University ("QU" or "Defendant").

Plaintiffs seek the issuance of an immediate temporary restraining order directed to the defendant Quinnipiac University ("QU"), its agents, officers, directors, trustees, employees, and anyone acting in concert with it, as follows:

- a. restraining Defendant from eliminating its women's varsity intercollegiate volleyball team or any other women's teams or athletic participation opportunities;
- b. restraining Defendant from involuntarily terminating the employment of the coaches of its women's varsity intercollegiate volleyball team;

c. restraining Defendant from reducing its support for the women's varsity intercollegiate volleyball team or any women's intercollegiate team; and

d. restraining Defendant from restricting or denying its women's varsity intercollegiate volleyball team access to facilities, coaching, training, or competitive opportunities.

In support of this motion for TRO, Plaintiffs have filed the accompanying Verified Complaint, Declarations of Plaintiffs Stephanie Biediger and Kayla Lawler (appended hereto as Exhibits A and B, respectively), the Declaration of Attorney Jonathan B. Orleans (appended hereto as Exhibit C), and a Memorandum of Law. Plaintiffs state that, as set forth in their Memorandum of Law, the individual Student Plaintiffs and members of the proposed certified class are suffering and will continue to suffer irreparable injury in the absence of a temporary restraining order, the Plaintiffs are likely to succeed on the merits of their claims (or, in the alternative, there are fair grounds for dispute concerning the merits of Plaintiffs' claims and the balance of hardships tips decidedly in their favor), and an immediate temporary restraining order is necessary to prevent further irreparable harm pending a hearing on Plaintiffs' Motion for Preliminary Injunction.

Plaintiffs have provided notice of this motion for TRO to the Defendant by telephone, electronic mail, and overnight mail. See Declaration of Attorney Jonathan B. Orleans, filed herewith.

Plaintiffs also hereby move for a preliminary injunction extending the terms of the TRO until this matter is finally determined on its merits. Plaintiffs have filed herewith their Application for an Order to Show Cause, and proposed Order to Show Cause, setting the matter for a hearing on a date to be determined by the Court.

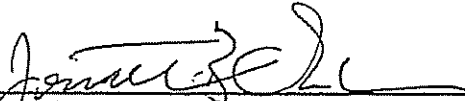
Plaintiffs respectfully request that this matter be scheduled for a prompt hearing, and that such hearing be held so that the funded varsity status of the QU women's volleyball team may be determined in accordance with Plaintiffs' motion for preliminary injunction prior to May 15, 2009.

In support of this request for a prompt hearing and need for a determination prior to May 15, 2009, Plaintiffs state that the elimination of the women's volleyball team as a QU-funded intercollegiate athletic (full varsity) team will compound QU's discriminatory treatment of female athletes, deny the members and potential members of the volleyball team equal opportunities to participate in QU-funded intercollegiate athletics, and prevent the Student Plaintiffs and members of the proposed class from participating in intercollegiate athletics during the 2009 – 2010 academic year. Such discrimination and denial of opportunity constitutes irreparable harm. Plaintiffs will be further irreparably harmed emotionally and psychologically by being deprived of the opportunity to compete and having their reasonable expectations of competing in volleyball for QU dashed by the Defendant's illegal action. Only if Plaintiffs' Motion for Preliminary Injunction can be heard and decided by May 15, 2009 will there be any prospect to salvage the Fall 2009 season for QU volleyball.

The Plaintiffs have filed contemporaneously herewith their Memorandum of Law in Support of Motion for Temporary Restraining Order, their Verified Complaint, the Declarations of Stephanie Biediger, Kayla Lawler, and Jonathan B. Orleans, their proposed Temporary Restraining Order, proposed Order to Show Cause, and proposed Preliminary Injunction.

WHEREFORE, Plaintiffs respectfully request that this Motion be granted.

THE PLAINTIFFS,

By: 

Jonathan B. Orleans (ct05440)
Alex V. Hernandez (ct08345)
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THEIR ATTORNEYS

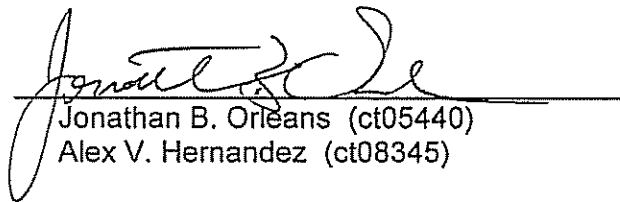
Co-counsel to be admitted *pro hac vice*:

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CERTIFICATION

A copy of this Motion For Temporary Restraining Order (On Notice) And For Preliminary Injunction has been emailed to Defendant on this date, and shall be served on the named Defendant in accordance with the Plaintiff's service obligations under Federal Rule of Civil Procedure 4.

Dated: April 16, 2009


Jonathan B. Orleans (ct05440)
Alex V. Hernandez (ct08345)

Bridgeport/73061.1/JORLEANS/755138v1

EXHIBIT A

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

STEPHANIE BIEDIGER, KAYLA LAWLER)	
ERIN OVERDEVEST, and KRISTEN)	CIVIL ACTION NO:
CORINALDESI, individually and on)	
behalf of all those similarly situated;)	
LESLEY RIKER on behalf of her minor)	
daughter, LESLIE RIKER , individually)	
and on behalf of all those)	
similarly situated; and)	
ROBIN LAMOTT SPARKS, individually,)	
)	
Plaintiffs,)	
)	
v.)	
)	
QUINNIPIAC UNIVERSITY,)	April 15, 2009
)	
Defendant.)	
)	

DECLARATION OF STEPHANIE BIEDIGER

I, Stephanie Biediger, declare as follows:

1. I am nineteen years of age and I understand and appreciate the obligations of an oath.
2. I am currently a freshman at Quinnipiac University, intending to major in psychobiology.
3. I am a member of the women's varsity volleyball team at Quinnipiac University. I have three more years of athletic eligibility.
4. I am a named plaintiff in this action. I make this affidavit in support of plaintiffs' motion for a temporary restraining order and motion for preliminary injunction.
5. I am personally devastated by the prospect that women's volleyball may be eliminated as a varsity sport at Quinnipiac University.

6. My family lives in Texas. I came to Quinnipiac University on an academic scholarship in order to enroll in the university's psychobiology program and to play on the university's varsity women's volleyball team. Ultimately, I hope to attend medical school.

7. As a high school student I participated on the golf and volleyball teams and received a number of awards and recognition for my athletic abilities. Because of my demonstrated athletic abilities I was recruited to attend the following universities: University of California, Berkeley; Wichita State; Lehigh University; and Iowa State.

8. I chose Quinnipiac University over other schools with similar academic programs specifically in order to play Division I Intercollegiate Volleyball. I was recruited by Quinnipiac University's varsity women's volleyball coach, Robin Sparks for this purpose and was awarded an academic scholarship in the amount of \$16,000.00 per year.

9. During the fall volleyball season of 2008, I suffered a painful injury to my knee. Although I was injured, I chose to play out the season for my team. Following the fall volleyball season, I learned that I had injured my knee's anterior cruciate ligament ("ACL"), and I had surgery to repair it. I am currently in a rehabilitative program.

10. I will likely need additional surgery during the summer. As a result of my surgery and rehab, I will have to sit out ("red shirt") my sophomore year which covers the 2009 volleyball season and the 2009-10 academic year. Coach Sparks has promised me a full athletic scholarship for the 2012-13 academic year, which will be my 5th year at Quinnipiac and my final year of eligibility to play varsity women's volleyball.

11. After announcing in early March that it would eliminate the women's varsity volleyball program, Quinnipiac University took our team off of the gym schedule and denied us access to coaching and athletic facilities.

12. As a result of my surgeries and the fact that I will not be able to play during the Fall 2009 season, it will be extremely difficult for me to find another Division I volleyball program that will offer me a slot in the program or an athletic scholarship. It will be even more difficult for me to find another varsity volleyball program at a school which offers a psychobiology academic program comparable to Quinnipiac's.

13. When I was recruited by Quinnipiac, I was told (by Coach Sparks) that the volleyball program would remain in place through at least the 2011 season. If I had known that the volleyball program at Quinnipiac was not secure, I would have looked for another school that offered the combination of academics, volleyball, and financial assistance that I wanted and needed. That will be significantly more difficult now – and probably impossible.

14. It would also be emotionally very difficult for me to leave Quinnipiac at this point, since I have developed strong relationships with teachers and peers.

15. It was particularly distressing that Quinnipiac announced the elimination of the volleyball program in early March, 2009. The timing of the announcement was too late for me and other members of the team to make other plans for next year. We cannot find new volleyball programs that will take us at this late date. We also are very unlikely to obtain athletic, academic, or financial aid scholarships at this late date. The announcement also occurred during mid-term exams. As a result, it was very hard to

focus on exams once I learned that volleyball would be eliminated next year, and I believe that my grades may have suffered as a result.

16. I feel that if I am deprived of the opportunity to play Division I volleyball, I will be cheated out of a significant part of my anticipated college experience which I earned through hard academic and athletic work and determination, and for which Quinnipiac University recruited me.

17. I am currently attending Quinnipiac on an academic scholarship, which covers approximately \$16,000 of the cost of tuition, room and board. My parents are paying the remainder. I do not have the personal resources to post a bond in connection with this lawsuit.

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

Dated at Bridgeport, Connecticut this 15th day of April, 2009.


Stephanie Biediger

EXHIBIT B

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

STEPHANIE BIEDIGER, KAYLA LAWLER,)
ERIN OVERDEVEST, and KRISTEN) CIVIL ACTION NO.
CORINALDESI, individually and on behalf of)
all those similarly situated; LESLEY RIKER on)
behalf of her minor daughter, L [REDACTED] R [REDACTED],)
individually and on behalf of all those similarly)
situated; and ROBIN LAMOTT SPARKS,)
individually,)
Plaintiffs,)
v.)
QUINNIPIAC UNIVERSITY,)
Defendant.) April 15, 2009

DECLARATION OF KAYLA LAWLER

I, Kayla Lawler, declare as follows:

1. I am eighteen years of age and I understand and appreciate the obligations of an oath.
2. I am currently a freshman at Quinnipiac University, intending to major in psychology.
3. I am a member of the women's varsity volleyball team at Quinnipiac University.
4. I am a named plaintiff in this action. I make this affidavit in support of plaintiffs' motion for a temporary restraining order and motion for preliminary injunction.
5. I attended high school in Indiana where I participated in varsity basketball, tennis and volleyball. My family moved to Kentucky after I graduated from high school and they live there now. I was recruited by Quinnipiac to play

varsity women's volleyball and was awarded a full athletic scholarship in the amount of \$43,100.00 per year.

6. As a result of my demonstrated academic and athletic accomplishments, I was recruited by Quinnipiac University and the following additional colleges: Centenary College; University of West Alabama; University of Wisconsin-Parkside; and Quincy University.

7. Some of the other colleges also offered me full athletic scholarships. I chose Quinnipiac, however, because I was told that the University was committed to volleyball for at least four years, and because I felt so much support and excitement from members of Quinnipiac's athletic office who assured me that the women's varsity volleyball program was strongly supported by the school.

8. When I was recruited by Quinnipiac, I was told that the women's volleyball program would remain in place for at least four years. If I had known that the volleyball program was not secure, I probably would have enrolled at one of the other schools which recruited me and which had offered me a full athletic scholarship.

9. Quinnipiac announced the elimination of the volleyball program during the week of midterms which made it extremely difficult for me to focus on my studies. I believe that I did poorly on an exam because of this.

10. The timing of the University's announcement has also created financial and academic problems for me and my family. My parents retired due in part to the fact that I had earned a full athletic scholarship at Quinnipiac which means that any school I may transfer to will have to offer me a nearly full athletic scholarship. At the

time of the announcement, however, other schools had generally finished recruiting for next year's team. Thus, to the extent that other schools may be interested in recruiting me for 2009-10, it is now highly unlikely that they will be in a position to offer me a full athletic scholarship.

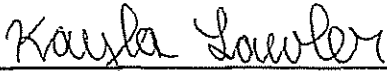
11. Because of the timing of the University's announcement, I am presented with the choice of trying to transfer to another college which may or may not offer me a full athletic scholarship, or staying at Quinnipiac and continuing to receive the benefits of a full athletic scholarship while being denied the opportunity to participate in the varsity sport which brought me here in the first place.

12. After announcing that it would eliminate the women's volleyball program, the University also took the step of eliminating my team's gymnasium time and barred us from working out with coach Robin Sparks. Even if I wanted to transfer to another college to play volleyball, the University's present policy is making it very difficult for me to ever be accepted for another athletic scholarship. Because I am not allowed to practice with my team and coach, my volleyball skills and physical conditioning specific to my sport of interest are daily deteriorating.

13. I am a full-time student attending Quinnipiac on an athletic scholarship. I do not have the personal resources to post a bond in connection with this lawsuit.

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

Dated at Bridgeport, Connecticut this 15th day of April, 2009.



Kayla Lawler

EXHIBIT C

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

STEPHANIE BIEDIGER, KAYLA LAWLER)	
ERIN OVERDEVEST, and KRISTEN)	CIVIL ACTION NO:
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daughter, L [REDACTED] R [REDACTED]; individually)	
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similarly situated; and)	
ROBIN LAMOTT SPARKS, individually,)	
)	
Plaintiffs,)	
)	
v.)	
)	
QUINNIPIAC UNIVERSITY,)	April 16, 2009
)	
Defendant.)	
)	

DECLARATION OF JONATHAN B. ORLEANS

I, Jonathan B. Orleans, declare as follows:

1. I am above the age of eighteen years and understand the obligations of an oath.
2. I am counsel to the Plaintiffs in this matter.
3. On March 27, 2009, I sent to John Lahey, President of Defendant Quinnipiac University, via Federal Express, a letter explaining that the University's announced elimination of its women's varsity volleyball program would violate Title IX, and requesting a dialog about restoration of the program. The letter requested a response by April 1, 2009.

4. On April 1, having had no response, I telephoned President Lahey's office, and spoke with Associate Vice President for Finance and Administration Lucille Marottolo, who advised me that my letter had been directed to counsel for the University. I asked Ms. Marottolo to have the University's counsel contact me as soon as possible.

5. On April 15, 2009, having heard nothing from counsel for the University, at approximately 4:05 p.m., I telephoned Ms. Marottolo and advised her that I intended to file an action against Quinnipiac University in the U.S. District Court for the District of Connecticut on April 16, 2009, seeking restoration of the women's volleyball program. I further advised Ms. Marottolo that the Plaintiffs would seek a temporary restraining order.

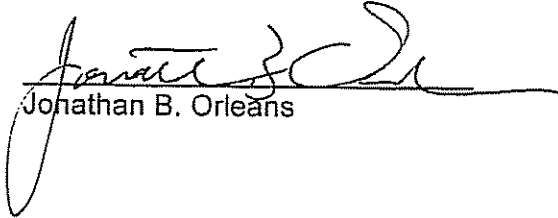
6. I told Ms. Marottolo that I would e-mail to her a set of the papers to be filed with the Court prior to filing. I also promised to notify her as soon as the case is filed and assigned to a judge.

7. A short while later, I received by e-mail a letter from Attorney Janet Judge, who indicated that she represents the University and that all communications should be directed to her.

8. I have e-mailed to Attorney Judge copies of the Verified Complaint, Declarations of Stephanie Biediger and Kayla Lawler, Motion for Temporary Restraining Order and Preliminary Injunction, Memorandum of Law, Proposed Temporary Restraining Order, Proposed Preliminary Injunction, Application for Order to Show Cause, Proposed Order to Show Cause, Motion for Waiver of Security, and this Declaration on April 16, 2009 prior to filing them with the Court.

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

Dated at Bridgeport, Connecticut this 16th day of April, 2009.


Jonathan B. Orleans

Bridgeport/73061.1/JORLEANS/755202v1