

1 MS. GAMBARDELLA: May I proceed, Your Honor?

2 THE COURT: Please.

3 MS. GAMBARDELLA: That was faster than you said  
4 it was going to be.

5 THE COURT: I was hoping it was going to be  
6 quick.

7 MS. GAMBARDELLA: That's speedy. Okay.

8 BY MS. GAMBARDELLA:

9 Q. Jack, I think where we left off was we were moving  
10 from the atmosphere in '07-'08 when you introduced roster  
11 management amongst the coaches and the goals, and let's  
12 now go to '08 and '09. All right?

13 Can you describe to the court the level of  
14 commitment -- strike that.

15 Can you describe to the court the change that you  
16 observed in the level of commitment, if any, amongst the  
17 coaches with respect to roster management moving into  
18 2008, 2009?

19 A. Like an implementation of roster management, now  
20 we're dealing with phase two of, shall we say, enforcing  
21 it and taking out a lot of the gray area of it. So as we  
22 looked at '07-'08, clearly there was some things that  
23 should not happen again. In '08-'09 it's better. Keeping  
24 in mind that add and deletes will always occur.

25 Q. Okay.

1 A. And so --

2 Q. In fact, returning to Exhibit 13, let's go to the  
3 form that is date stamped 0122 and 0123 which is the  
4 2008-'09 change in status list. All right.

5 Now, we still see add, deletes, withdrew on this  
6 list, correct?

7 A. Correct.

8 Q. And just briefly, again, would the types of reasons  
9 for adds and deletions that you gave to the judge as  
10 examples in your career remain true for '08 and '09?

11 A. Yes.

12 Q. All right. Do the change in status list necessarily  
13 allow you to calculate the total number of athletic  
14 participation opportunities on any given team for this  
15 academic year?

16 A. You have to run that one by me again.

17 Q. These forms are specifically to reflect what?

18 A. This will reflect the squad lists for the NCAA and  
19 those that have been added or deleted.

20 Q. Okay. And so, you testified that you saw a level of  
21 commitment evolve for the better in '08 and '09, is that  
22 correct?

23 A. Yes.

24 Q. Have you discussed roster management with coaches for  
25 the upcoming year?

1 A. Yes.

2 Q. In what context did you have that discussion? And I  
3 don't -- I'm not going to ask you what they said to you;  
4 I'm specifically focusing on what you said to them.

5 A. Clearly, as the unfortunate things happened on  
6 March 4th, roster management, adherence to gender equity,  
7 Title IX became even a higher priority, and I think the  
8 coaches, as soon as last Wednesday, we discussed roster  
9 management and its implementation next year. They will be  
10 getting numbers from me shortly. They know that things  
11 have happened. They know of our commitment to it. They  
12 know things could change, so I think they know what the  
13 roster management numbers were last year. I have told  
14 them there could be some tweaking of those numbers up or  
15 down based on a few things and then I'll be giving them  
16 those numbers soon.

17 Q. Is one of the few things that could end up resulting  
18 in a tweak the actual number of students who arrive on  
19 campus?

20 A. It could be a factor, and clearly because of this  
21 situation, because of everybody in college admissions is  
22 wondering what their population is going to be next  
23 September, so --

24 Q. Or next term?

25 A. -- a lot could happen.

1 Q. All right. And did you in your experience witness,  
2 and just let me briefly say in '07-'08 we had a few  
3 coaches with adds/deletes that counsel pointed out for you  
4 before the court. Did you witness the same kind of  
5 phenomenon on '08-'09?

6 A. No.

7 Q. Okay. I mean there are add/deletes for other  
8 reasons, correct?

9 A. And there should be.

10 Q. All right. Now, do you have any reason, based on  
11 anything you've observed or heard, to believe that  
12 Quinnipiac will be unable to achieve the proportionality  
13 that it has represented it will achieve for next year?

14 A. No.

15 Q. And on what do you base that level of confidence?

16 A. Well, as we went through this, the unfortunate  
17 process of dropping sports, prong one became a very, very  
18 important criteria. And we have sort of added some  
19 sports, we deleted two mens sports, we've tweaked and/or  
20 improved roster management. And we think -- and again,  
21 none of this you say is an exact science but we think our  
22 commitment from the gender equity, our commitment from  
23 prong one has gone from somewhere around 54, 55 percent  
24 all the way to 63 percent. It's a significant jump. It's  
25 a significant commitment.

1           But we don't know what the class will be in the Fall,  
2 but clearly to improve your proportionality for women by  
3 almost ten percent is significant and everybody's aware of  
4 that number, from university president to the coaches.

5 Q.    But Quinnipiac didn't just wake up a couple weeks ago  
6 and say, okay, now we're going to do proportionality?

7 A.    No.

8 Q.    Okay.  So can you tell me why proportionality has  
9 been a goal?

10 A.    Well, you can go back to the certification process.  
11 It was clearly the planned improvement was to increase  
12 women's opportunities by four to seven percent long before  
13 2008, 2009.  When there was discussion of dropping sports,  
14 I made an effort and succeeded in getting all of the  
15 university's administration aware of our commitment to  
16 gender equity and the need for the prong one to be met.

17 Q.    But that's been a goal that Quinnipiac has been  
18 articulating it would like to achieve starting before  
19 March 4th of this year?

20 A.    Absolutely.

21 Q.    Okay.  Now, I just want to briefly touch on the  
22 documents that were marked as Plaintiff's Exhibit 28 --  
23 no, Exhibit 28.  Which, for the record, are the website  
24 rosters for men's cross country track, women's cross  
25 country track, it looks like '08 rosters.  And that was

1 Number 28, Jack.

2 A. Got it.

3 Q. Now, counsel asked you a few questions about updating  
4 this website, and your answer was we do the best we can,  
5 correct?

6 A. Correct.

7 Q. With respect to calculation of actual athletic  
8 participation, athletic participants, how reliable are the  
9 on line rosters?

10 A. Again, the rosters, as we said in deposition, are a  
11 media tool to be sure that everybody that is involved with  
12 the program is on the site.

13 Q. Did you say -- I'm sorry, did you say a media tool or  
14 immediate tool?

15 A. Media, publicity.

16 Q. Thank you.

17 A. So that those people are there -- for example, you  
18 know, to talk about add/delete again, there may be people  
19 added and deleted for a variety of reasons, injury,  
20 academics, discipline, that might be deleted from the  
21 official roster but will remain on the website.

22 Q. Why would they remain on the website if they were  
23 deleted from the official roster?

24 A. Because they are still essentially a part of the  
25 program in, say, managers, eligible athletes, students

1 that were a fifth year eligibility, red shirts. There are  
2 a wide variety of kids who are part of the program. The  
3 parents would like to see their names there. The coaches  
4 there, the student athletes want to see their names there.  
5 You click on the name and you get a nice commentary with  
6 their photos and bios. So it's a marketing term.

7 When I say the need to be accurate, it's true, and  
8 that's more is the name spelled right, is the bio up to  
9 date, is the home town right, Mom's and Dad's name spelled  
10 right; those kinds of things that, you know, all websites  
11 should be.

12 Q. Now, I'd like to go to -- well, we have it as  
13 Defendant's A but I think plaintiffs marked it already as  
14 three. It's the Janet Judge letter. It is Plaintiff's 3,  
15 Your Honor.

16 All right, Jack, tell me when you're there.

17 A. I'm there.

18 Q. Are you there? Page two of Janet Judge's letter  
19 where you were asked about this chart yesterday. Can you  
20 please explain to the court how you arrived at the numbers  
21 that are reflected on this chart?

22 A. Well, your first starting point is the previous year  
23 and the original document that I've been using along with  
24 my senior staff and sent to the university senior staff  
25 had two sets of data. One was the '08-'09 rosters and

1 participation numbers, and then obviously men's golf,  
2 men's outdoor track, women's volleyball were dropped, we  
3 then needed to get to our number. So the starting point  
4 for this document was the '08-'09 numbers. For example,  
5 starting at the top, basketball team was 15 for men, 15  
6 for women, and that's what we started with.

7 Q. And, by the way, just season of eligibility, you  
8 testified that as long as one competition, even one  
9 competition is played, I mean -- you said 20 percent of  
10 the season, if they play that, have they exhausted their  
11 season of eligibility?

12 A. Different sports, different little nuances to it, but  
13 they all have a criteria --

14 Q. Got it.

15 A. -- of once you reach a certain level of competition  
16 you've exhausted your eligibility.

17 Q. All right. Now, this chart that's represented by  
18 Plaintiff's Exhibit 3 on page two, that is based on the  
19 projected male/female enrollment for academic year  
20 '09-'10, correct?

21 A. Yes.

22 Q. All right. What are the various things in your  
23 experience -- strike that.

24 Is that based on -- what is that based on, the  
25 projected enrollment? At this point in time how can



1 Quinnipiac project enrollment? What's the best way to do  
2 that?

3 A. As I say, the bench mark for this was the '07-'08  
4 rosters and on that same spread sheet there was EADA  
5 criteria I included in it. That had 61.7 percent which  
6 was the female enrollment at Quinnipiac in '07-'08 that we  
7 reported to the EADA. So that 61.7 is a number that we  
8 have, we have documented, it's been reported. We don't  
9 know what '09-'10's proportionality will be.

10 Q. Right. But 63 percent is based on what? The  
11 projection in this chart?

12 A. This is the athletic chart.

13 Q. Understood.

14 A. Okay.

15 Q. But it's based on an understanding of 63 percent  
16 possible enrollment of females; gender breakdown is 37.08  
17 males and 62.92 percent --

18 A. In the athletic department.

19 Q. -- in the athletic department. Page one, I'm sorry.  
20 And the paragraph that starts the bigger paragraph, "As a  
21 result."

22 A. Okay.

23 Q. The letter says that "As detailed below, Quinnipiac  
24 University will have approximately 165 male and 280 female  
25 athletes in '09-'10;" do you see that?

1 A. Yes.

2 Q. Is that based on acceptance letters that we knew --  
3 that went out by mid April?

4 A. Well, again, this is a two part question. Based on  
5 our projections in '09-'10, we'll have 165 male athletes  
6 and 280 female athletes. That's not the University's  
7 number. So basically saying it would be 37, 62 for the  
8 athletic department proportional numbers.

9 Q. Proportional to undergraduate enrollment?

10 A. Well, it's proportional to the Athletic Department.  
11 It's 37, 63 within the pool of current athletes.

12 Q. What's your understanding of prong one?

13 A. Prong one is adherence to the University's  
14 proportional male and female numbers.

15 Q. So, the male/female athletic participation  
16 opportunities have to be proportional to what?

17 A. To the University's male and females on campus.

18 Q. Got it, okay.

19 A. I think we're there --

20 Q. That's right, all right.

21 A. I'm fine.

22 Q. So, the projection of the undergraduate population as  
23 represented in this letter is the projection of the  
24 undergraduate total population, correct?

25 A. Correct.

1 Q. Okay. Now, after acceptance letters go out, when are  
2 deposits due for '09-'10?

3 A. They were May 1st.

4 Q. Okay. All right. In your experience, does  
5 everybody, every student who puts down a deposit end up  
6 coming to school in September?

7 A. Not necessarily.

8 Q. Why would that be?

9 A. Oh, students will deposit at two or three different  
10 schools based on scholarship possibility, based on  
11 financial aid, based on not just not being sure. So, most  
12 deposits are 2- to \$500 and parents and students will  
13 sometimes throw their deposits in two or three different  
14 places.

15 Q. So, out of all the acceptance letters that go out,  
16 does every student who gets an acceptance letter put down  
17 a deposit?

18 A. Not necessarily.

19 Q. And does every student who puts down a deposit end up  
20 coming to school in September?

21 A. Not necessarily.

22 Q. All right. So, if anything, 63 percent projected  
23 female undergraduate enrollment was based on the highest  
24 possible number of females that could come to school next  
25 year, correct?

1 MR. ORLEANS: Objection, Your Honor. Leading.

2 THE COURT: Well, it is. I'll allow it.

3 BY THE WITNESS:

4 A. Yes.

5 Q. It's yes. Now, can you tell us your understanding of  
6 NCAA guidelines? Not for the whole day. Just an  
7 overview.

8 Let's start this way. What is the purpose of NCAA  
9 guidelines?

10 A. Wow. Toughest question of the day. I've seen a lot  
11 of publicity on some of that stuff lately, but the NCAA  
12 association is based on -- the rules that are there are  
13 rules implemented and designed by us as members,  
14 athletic directors and coaches, and over the span of time,  
15 most of it has involved recruiting, playing, practicing  
16 and scholarships, travel, championships. It's a 500 page  
17 document that encompasses a lot about how we manage our  
18 institution. The self study that you saw earlier is  
19 pretty much nothing missing.

20 Q. What are championship travel squad sizes?

21 A. The NCAA, through the fortunate financial agreement  
22 they have with CBS television, is able to pay for student  
23 athletics that qualify for the NCAA championship.

24 So, for example, in this case, if the basketball team  
25 wins our league, we obtain a berth to the NCAA tournament,

1 the NCAA pays our way, okay? But in the same they do for  
2 volleyball, they do for track, they do all the sports. If  
3 you make the NCAA tournament, you're reimbursed by the  
4 NCAA. On many occasions they buy the plane tickets in  
5 advance to go.

6 That being said, the NCAA, in addition to that, has a  
7 championship policy. How many athletes can you bring, how  
8 many administrators, in some cases, how many are in the  
9 pep band and all other support people.

10 So, their travel squad size in the championship  
11 handbook has been used by a lot of us as what they think  
12 is an acceptable amount of people, athletes, to travel to  
13 a championship game.

14 Q. And that was going to be my next question.

15 Let me ask you this. Do championship travel squad  
16 sizes differ from just normal average squad sizes for NCAA  
17 purposes?

18 A. Yes.

19 Q. And how, and why is it that they would differ?

20 A. I'm just going to pick out -- well, there's -- again,  
21 just to be specific here, there's what they call the  
22 travel party, and I'm just going to use, I'll use ice  
23 hockey just as an example. Their travel party, that gets  
24 reimbursed by the NCAA. You're allowed to bring 35  
25 people, for example, and that's in the book. They will

1 reimburse Quinnipiac for 35 individuals, planes, lodging,  
2 meals.

3 There's also a policy in the book that only 21  
4 members of that hockey team can dress for the game. So  
5 there's 35 travel, 21 dress, and it's up to Quinnipiac.  
6 So, from 21 to 35, who are those people going to be?

7 Q. So you have discretion there.

8 A. Correct.

9 Q. And so, do you know what the championship travel  
10 squad sizes were for softball in '08 under NCAA  
11 guidelines?

12 A. Why do I think -- I don't -- I did look this up  
13 recently. I'm drawing a blank. But it's probably 25?  
14 I'm not sure. I have it.

15 Q. All right. And the projected roster size for women's  
16 softball for Quinnipiac is -- I'm going back to the chart.  
17 Looks like 22 for women's softball. You can go back to  
18 Exhibit 3.

19 THE COURT: Yes, I see it.

20 MS. GAMBARDELLA: All right, you got it.

21 BY MS. GAMBARDELLA:

22 Q. Now, there was some testimony -- you were here for  
23 Ms. Sparks' testimony, correct?

24 A. Yes.

25 Q. And she was asked a question about NCAA certification

1 and she testified she's NCAA certified. What does that  
2 mean?

3 A. Well, she passed a test and it's a requirement of the  
4 NCAA that before athletes are allowed to recruited off  
5 campus, you need to pass a certification exam.

6 Q. How many of Quinnipiac's coaches are required to  
7 obtain that certification?

8 A. Everybody.

9 Q. So that wasn't unique to Ms. Sparks?

10 A. No.

11 Q. You heard Ms. Sparks' testimony about indoor/outdoor  
12 track at Quinnipiac, and she gave some testimony about  
13 sprints and -- I can't read my own writing, but it might  
14 be relays?

15 A. Sprint and field events.

16 Q. Thank you. All right. Was she correct?

17 A. No.

18 Q. Tell me what was inaccurate about what she testified  
19 to?

20 A. Quinnipiac does have sprinters on their men's and  
21 women's track team, indoor and outdoor. This is a  
22 subjective decision what people think sprints are but I  
23 think 200-meters is a sprint.

24 Q. Okay. What's your experience with track, by the way?

25 A. Coached at Boston College track and field for ten

1 years.

2 Q. Was your son on one of the track teams that got cut?

3 A. Yes.

4 Q. Which one?

5 A. Men's outdoor track team -- or which son?

6 Q. How many sons do you have?

7 A. I have four.

8 Q. That participate in athletics?

9 A. I have four. Two of them participated in outdoor  
10 track.

11 Q. Okay, and so they are no longer going to have an  
12 outdoor track team at Quinnipiac, correct?

13 A. One has graduated, one is graduating, so --

14 Q. All right. And what was the other men's sport that  
15 was eliminated?

16 A. Golf.

17 Q. Okay. With respect to indoor track, outdoor track  
18 and cross country track, I want to go to that specifically  
19 and ask you first, Jack, why does Quinnipiac on its roster  
20 for next year count those sports separately?

21 A. Because the NCAA has three separate championships for  
22 men's cross country, for men's indoor track and for men's  
23 outdoor track. The EADA reporting, which has always been  
24 a moveable beast at times, some reports require that we  
25 input the data separately of the three sports and other



1 reports has what they refer to as all track combined. So  
2 we consider them three sports. The NCAA has a minimum  
3 that you must have 14 sports to be Division I, and there  
4 are many schools in this country who have 14 sports using  
5 the three tracks separately. So if they were to combine  
6 the tracks, they would not meet Division I standards and  
7 couldn't be Division I. So, in my lifetime, cross  
8 country, indoor track and outdoor track are three separate  
9 sports.

10 Q. There was an expert called in this case, you're aware  
11 of that, correct?

12 A. Yes.

13 Q. And she's not here and the Judge is going to deal  
14 with the testimony separately, but I'm going to ask you  
15 some questions. I'm going to ask you to respond to some  
16 of the testimony by the expert on indoor, outdoor and  
17 cross country track counting, okay?

18 The expert testified that there were years that  
19 Quinnipiac counted them once and years they counted them  
20 more than once. Why would that be?

21 A. To my knowledge, again, if you were to go through all  
22 these EADA years, there were years when the EADA report  
23 and, again, up to about 2002 it was one report that we  
24 submitted to the NCAA. After 2002, 2003, there was a  
25 report submitted to the NCAA and there was a report

1 submitted to the Department of Education. Without being  
2 exact, one of those two reports recorded individuals by  
3 the three sports and the other one recorded all track  
4 combined as a referred term.

5 But to be Division I, we are actually reimbursed by  
6 the NCAA by the number of sports that you sponsor, and we  
7 are reimbursed by having three separate tracks for men and  
8 three separate tracks for women.

9 Q. The expert testified that based on the website  
10 rosters, that the participants in those three sports, for  
11 example, the participants on the outdoor track team really  
12 aren't losing any opportunities because they are going to  
13 be able to do the same amount of competitions and the same  
14 things on an indoor track team or a cross country track  
15 team. What is your response to that?

16 A. I wish she was in the room with me when I told those  
17 kids they no longer have a sport. But the answer to the  
18 question is it's not true. There's many events in outdoor  
19 track that cannot be participated in indoor track.

20 Q. Can you give the judge an example?

21 A. Ten thousand --

22 THE COURT: Javelin.

23 THE WITNESS: Well, that's a fair point.

24 Javelin -- you're pretty good. Javelin, discus, hammer  
25 are the field events but we don't have field events. So

1 specifically for running events, ten thousand meters,  
2 steeple chase, 400-meters, we do not sponsor an indoor  
3 track. And likewise, there's events in indoor track that  
4 are not sponsored in outdoor track.

5 BY MS. GAMBARDELLA:

6 Q. She also testified, looking at the website, and I  
7 don't profess to know where she got it from, but she says  
8 you have the very same kids doing all three things; they  
9 are all the same kids. Your response to that, Jack?

10 A. That's true and that's good. Just like other sports,  
11 one sport can be for the entire year. Traditional and  
12 nontraditional seasons of all sports, the year of  
13 athletics is always a year round thing so the athletes  
14 have an opportunity to play in three different events that  
15 are counted by the NCAA, counted by the Department of Ed  
16 and they are counted by everybody else.

17 Q. Well, she says the NCAA requires one combined  
18 scholarship number for cross country and/or  
19 indoor/outdoor; it treats it as one team. Your response  
20 to that?

21 A. The response is that the reporting that we do  
22 accounts for the duplicated or unduplicated athletes  
23 scholarships, it's all recorded in the track and  
24 uniqueness of tracks. It has always been there and it's  
25 properly recorded by the two organizations that ask us the

1 information, Department of Ed and the NCAA.

2 Q. Now, she then testifies and admits that "I think in a  
3 case by case analysis, a school could justify cross  
4 country being a separate sport but in my looking at this  
5 Quinnipiac situation, I don't think there's any question  
6 that these three sports, here is a distance built cross  
7 country, indoor and outdoor track team. They don't care  
8 about throwing, they don't care about sprints, they are  
9 just doing distances." What's your response to that?

10 A. We do just distances and we do extremely well at it.  
11 Just like Quinnipiac only has certain majors, we only have  
12 certain events in track and field and we're excellent at  
13 both.

14 Q. What about sprints?

15 A. We have some sprints.

16 Q. Okay. I want to point your attention to Plaintiff's  
17 Exhibit 10.

18 MS. GAMBARDELLA: Your Honor, some of these  
19 exhibits overlap. I'm not going to -- I mean I don't know  
20 if you want me to go through the exercise of marking them  
21 as one of ours either.

22 THE COURT: It's easier for me if you use the  
23 ones we worked with.

24 MS. GAMBARDELLA: Great.  
25

1 BY MS. GAMBARDELLA:

2 Q. Plaintiff's 10. The first page was the only one, I  
3 think, submitted, Judge.

4 We've already identified what this chart is, just the  
5 first page, Jack. And what is represented by the right  
6 hand column which starts with year and then under it, you  
7 see archery, badminton and so forth. What does that  
8 column represent?

9 A. The year column?

10 Q. Yes, yes, yes, the year column.

11 A. That's the series of years that these reports have  
12 been accumulated by the NCAA since they started doing  
13 this.

14 Q. Are indoor/outdoor and cross country track listed  
15 separately on this chart?

16 A. Yes, because they have separate championships.

17 MR. ORLEANS: Excuse me. Just for the record,  
18 according to my notes, both pages of Exhibit 10 --

19 MS. GAMBARDELLA: I stand corrected.

20 MR. ORLEANS: -- are in evidence. It's Exhibit  
21 8 that's only the first --

22 MS. GAMBARDELLA: Thank you. I stand corrected,  
23 Judge. I'm only looking at 10.

24 MR. ORLEANS: Okay.

25

1 BY MS. GAMBARDELLA:

2 Q. On the second page of Exhibit 10, the sports  
3 continue. That is the average squad size, NCAA men's  
4 teams. The first page was women's, the second page is  
5 men, and are those three sports listed separately?

6 A. Yes, they are.

7 A. Actually -- yes, they are.

8 Q. Now, the expert testified also -- sorry, Judge.

9 "Quinnipiac's budget for these sports is all one budget  
10 for all three." Do you have a response to that?

11 A. They are three separate budgets.

12 Q. Okay. I don't need to do this because it's the same  
13 exact -- can you just briefly describe the different  
14 competitions that don't overlap for those three sports at  
15 Quinnipiac?

16 A. I'm not sure what you mean by "don't overlap."

17 Q. Do they have different seasons?

18 A. Yes.

19 Q. What are the three seasons?

20 A. Fall season, which basically goes -- the championship  
21 seasons ends at Thanksgiving. And then the indoor track  
22 season starts December 1st and goes to their championship.  
23 Indoor track is the second week of March and then  
24 following that, they start and their championship will be  
25 June 1st, so it's there's really no overlap.

1           THE COURT: So, just to be clear, it's cross  
2 country in the Fall, indoor track in the Winter, outdoor  
3 track in the Spring?

4           THE WITNESS: Yes.

5           MS. GAMBARDELLA: All right.

6 BY MS. GAMBARDELLA:

7 Q. Are there events in, in outdoor track, let's take the  
8 program that was eliminated, that don't exist in the other  
9 two sports?

10 A. Yes.

11 Q. Which ones?

12 A. According to the NCAA, there's a bunch of them and --

13 Q. Let's talk about Quinnipiac.

14 A. Okay. Again, as I just mentioned, the 400 meters,  
15 the ten thousand meter run, the steeple chase are three  
16 that just jump out. There's the sprinters that have done  
17 the 200 but there is a 200 indoors but, again, a half a  
18 lap outdoors and full lap indoors, they are really two  
19 different standards. They don't run as fast indoors so  
20 it's a lot different.

21           So, I think in the events that Quinnipiac has,  
22 there's three distinct events in the 400-meter hurdles,  
23 the ten thousand and the steeple chase, as well as the 200  
24 and the 400 indoors and the indoor laps -- outdoors it's  
25 one lap. I would defer the argument whether they are

1 different but they could be different. But for  
2 Quinnipiac's sake, there are three distinct events outdoor  
3 track.

4 Q. I suppose your son wasn't all that happy with you?

5 A. I don't think I can say what he told me in this room.

6 Q. Okay. So you went home and dealt with some  
7 disappointment as well?

8 A. Yes.

9 Q. And possible some profanity, I would guess. I'll  
10 withdraw that question.

11 The expert also, in opining that your roster numbers  
12 projected for next year were unrealistic, said the  
13 following. She looked at your projected roster for  
14 baseball and she said that 25 was unrealistic. When I  
15 pointed out to her it was only two numbers off from last  
16 year's, she said, "Well, I think 27 was unrealistic, too.  
17 I feel there's pressure on baseball to have a higher  
18 number."

19 So, let's talk about whether or not you agree that  
20 your roster numbers are unrealistic.

21 A. They certainly -- like the budgets that were just  
22 reduced by ten percent, it's tight. We had a game on this  
23 weekend. There were 27 people in uniform, 25 -- which is  
24 probably not something that the coach is happy with -- and  
25 if it goes to 25, it's going to be tighter, particularly



1 in our -- and again using baseball as an example, when  
2 pitchers are incredibly important and you play a four game  
3 series on Friday, two Saturday and one Sunday, things can  
4 get really jammed up with the roster. So I would say that  
5 25 -- is it doable? Yes. Is it satisfactory? No.

6 Q. No, but the roster is committed to 25 spots?

7 A. Correct.

8 Q. And they were committed to 27 last year, correct?

9 A. That is correct.

10 Q. When was the most recent men's baseball game on  
11 campus?

12 A. Last weekend.

13 Q. Did you go and count the players in uniform?

14 A. I did.

15 Q. How many were there?

16 A. Twenty-seven.

17 Q. Now, the expert also, looking at the NCAA self study  
18 that has been talked about as well, says that Quinnipiac  
19 misunderstands prong two. And when I asked her what she  
20 meant, she says that "Quinnipiac believes that we're  
21 complying with ongoing expansion solely with dollars."

22 And then I say to her, well, Quinnipiac talked about  
23 sports that have been added and also dollars, correct?  
24 She says, "No, it's only about expansion in scholarship  
25 dollars."

1           What's your response to that?

2       A.    I have great respect for the expert but I don't  
3       agree.

4       Q.    Tell me why you don't agree.

5       A.    It's about history of program expansion, and the  
6       first and foremost way to do that, and this is why  
7       proportions are -- when you add a team and you add an  
8       athlete, the ripple effect of that is you will be adding  
9       dollars, you'll be adding scholarships, you'll be adding  
10      practice space, you'll be adding athletic training and  
11      you'll be adding sports information.  So by adding an  
12      opportunity for one individual or adding a new team, you  
13      are adding support.

14           So my question -- my answer to that is when you add  
15      women's sports, as we've done, along with that, and  
16      clearly the budget history shows, the dollars,  
17      scholarships, space, administrative support has also  
18      increased.  But the most important thing to do here is to  
19      add a sport and then the support is falling in line.

20      Q.    Is Quinnipiac suggesting in its self study -- and I'm  
21      confining myself to the excerpts that were already  
22      admitted -- was Quinnipiac suggesting in its self study  
23      that it would meet prong two simply because dollars went  
24      up?

25      A.    No.

1 Q. Now, I want to revisit the decision-making process  
2 which ended up getting us where we are with the specific  
3 sports programs being eliminated, Jack, okay?

4 THE COURT: Let me interrupt, because here's the  
5 scheduling issues I've got. I have actually a luncheon  
6 engagement that started a few minutes ago which I probably  
7 need to get to. What I'd like to do is hold lunch for 45  
8 minutes, come back at 1:15. I have a 2:00 o'clock  
9 argument next door which is likely to be at least half an  
10 hour, and then I need to leave today at 4:30. So it's not  
11 clear to me that you are -- that you're going to finish.

12 MS. GAMBARDELLA: I have about 40 to 45 minutes  
13 left, if we keep going the way we're going.

14 THE COURT: Okay. We've got to sort out how and  
15 when I see the expert testimony and then I understand the  
16 plaintiff's case is finished at that point.

17 MR. ORLEANS: We do intend to renew our offer of  
18 Germaine Fairchild, the softball coach.

19 THE COURT: Okay, we'll take that up.

20 MR. ORLEANS: I assume we would take that up.

21 THE COURT: Okay. I have tomorrow morning.

22 MS. GAMBARDELLA: Sure.

23 MR. ORLEANS: Sure.

24 THE COURT: It would be wonderful if we could  
25 finish the evidence by tomorrow lunchtime. So I don't

1 know how that works for everybody but --

2 MR. ORLEANS: It's fine.

3 MS. GAMBARDELLA: Our witnesses should be fairly  
4 swift.

5 MR. ORLEANS: I think we can do it.

6 MS. GAMBARDELLA: Tracey is going to be -- I  
7 mean a lot of it has been covered. She's going to be here  
8 just for pieces. You can imagine which pieces.

9 MR. ORLEANS: Right.

10 MS. GAMBARDELLA: And then the competitive cheer  
11 coach, half hour, 35 minutes?

12 MR. ORLEANS: And my cross of her is likely to  
13 be around that long as well. I think we have a very good  
14 shot at being done by noon tomorrow, Judge. I apologize  
15 it's been taking so longer than we thought.

16 MS. GAMBARDELLA: And if the additional coaches  
17 are put on, I want my two others.

18 THE COURT: I understand.

19 MS. GAMBARDELLA: They should be, I'm hoping,  
20 short.

21 THE COURT: Well, in any event, let's recess now  
22 until 1:15. We'll have 45 minutes at that point and then  
23 I will be back as quickly as I can and see where we can  
24 go. Thank you all. We'll stand in recess.

25 MR. ORLEANS: Thank you.