

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

IN RE: NATIONAL COLLEGIATE
ATHLETIC ASSOCIATION ATHLETIC
GRANT-IN-AID CAP ANTITRUST
LITIGATION,

No. md 14-2541 CW
CASE MANAGEMENT
ORDER

_____/

MARTIN JENKINS, et al.,
Plaintiffs,

No. C 14-2758 CW
CASE MANAGMENT
ORDER

v.

NATIONAL COLLEGIATE ATHLETIC
ASSOCIATION, et al.,
Defendants.

_____/

A case management conference was held on October 9, 2014, and the Court set the following deadlines:

Discovery may begin immediately. No later than October 30, 2014, the parties shall conduct a Rule 26 conference and shall file a joint memorandum addressing a briefing schedule for anticipated motions for class certification. Plaintiffs' deadline to add additional parties or claims is October 30, 2014.

Defendants' answer is due no later than November 6, 2014.

The Jenkins Plaintiffs' opening class certification motion may be filed on November 6, 2014.

Upon agreement of the parties, the case is hereby referred to private mediation with Judge Edward A. Infante (retired), within ninety days of the date of this order, or as soon thereafter as is

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1 convenient to the mediator's schedule, unless the parties agree
2 upon another mediator or schedule.

3 Discovery disputes are hereby referred to Magistrate Judge
4 Nathanael Cousins. After the parties have met and conferred, the
5 parties shall prepare a joint letter of not more than 8 pages
6 explaining the dispute. Up to 12 pages of attachments may be
7 added. The joint letter must be electronically filed under the
8 Civil Events category of "Motions and Related Filings >Motions--
9 General > Discovery Letter Brief." Magistrate Judge Cousins will
10 advise the parties of how he intends to proceed. He may issue a
11 ruling, order more formal briefing, or set a telephone conference
12 or a hearing. All further discovery matters shall be filed
13 pursuant to Judge Cousins's procedures.

14 Motions for Summary Judgment: Absent permission from the
15 Court, all case-dispositive motions in a case will be briefed and
16 heard together, on the case-dispositive motion hearing cut-off
17 date, or on an earlier available date agreed to by the parties.
18 Multiple parties should file joint briefs if possible. If
19 Plaintiffs wish to file a motion for summary judgment, they shall
20 do so 6 weeks before the cut-off date. If Defendants wish to file
21 a cross-motion as well as an opposition to the motion, any cross-
22 motion shall be contained within the opposition to the motion,
23 which may contain up to 25 pages in total, and shall be filed 14
24 days after the filing of the motion. The reply to the motion
25 shall include the opposition to any cross-motion, may contain up
26 to 15 pages in total, and shall be filed 7 days after the filing
27 of the opposition. A reply to any cross-motion may contain up to
28 15 pages, and shall be filed 7 days after the filing of the

1 opposition. If Plaintiffs do not file a motion for summary
2 judgment, Defendants may file one 5 weeks before the case-
3 dispositive motion hearing cut-off date and the schedule in Local
4 Rule 7-3 shall apply. Courtesy copies of multi-page exhibits for
5 chambers should be clearly marked with tabbed dividers.

6 A further case management conference is set for January 7,
7 2015, at 2:00 p.m.

8 The Court's standard Order for Pretrial Preparation,
9 attached, also applies.

10 IT IS SO ORDERED.

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12 Dated: October 10, 2014


CLAUDIA WILKEN
United States District Judge

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ORDER FOR PRETRIAL PREPARATION

PRETRIAL CONFERENCE

1. Not less than 28 days prior to the pretrial conference, counsel shall **exchange** (but not file or lodge) the papers described in Civil L.R. 16-10(b)(7), (8), (9), and (10), and their motions in limine.

2. At least 21 days before the final pretrial conference, lead counsel who will try the case shall meet and confer with respect to:

(a) Preparation and content of the joint pretrial conference statement;

(b) Resolution of any differences between the parties regarding the preparation and content of the joint pretrial conference statement and the preparation and exchange of pretrial materials to be served and lodged pursuant to this Order for Pretrial Preparation. To the extent such differences are not resolved, the parties will present the issues in the pretrial conference statement so that the judge may rule on the matter during the pretrial conference; and

(c) Settlement of the action.

3. Not less than 14 days prior to the pretrial conference, counsel shall submit the following.

(a) Pretrial Conference Statement. The parties shall file a joint pretrial conference statement containing the following information:

(1) The Action.

(A) Substance of the Action. A brief description of the substance of claims and defenses which remain to be decided.

(B) Relief Prayed. A detailed statement of all the relief claimed, particularly itemizing all elements of damages claimed.

(2) The Factual Basis of the Action.

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(A) Undisputed Facts. A plain and concise statement of all relevant facts not reasonably disputed.

(B) Disputed Factual Issues. A plain and concise statement of all disputed factual issues which remain to be decided.

(C) Agreed Statement. A statement assessing whether all or part of the action may be presented upon an agreed statement of facts.

(D) Stipulations. A statement of stipulations requested or proposed for pretrial or trial purposes.

(3) Disputed Legal Issues. Without extended legal argument, a concise statement of each disputed point of law concerning liability or relief.

(4) Further Discovery or Motions. A statement of all remaining discovery or motions.

(5) Trial Alternatives and Options.

(A) Settlement Discussions. A statement summarizing the status of settlement negotiations and indicating whether further negotiations are likely to be productive.

(B) Consent to Trial Before a Magistrate Judge. A statement whether the parties consent to a court or jury trial before a magistrate judge, with appeal directly to the Ninth Circuit.

(C) Bifurcation, Separate Trial of Issues. A statement of whether bifurcation or a separate trial of specific issues is feasible and desired.

(6) Miscellaneous. Any other subjects relevant to the trial of the action, or material to its just, speedy and inexpensive determination.

(b) Exhibit List and Objections. The exhibit list shall list each proposed exhibit by its number (see Civil L.R. 30-2(b)), description, and sponsoring witness, followed by blanks to accommodate the date on which it is marked for identification and the date on which it is admitted into evidence. **No party shall be permitted to offer any exhibit in its case-in-chief that is not disclosed in its exhibit list without leave of the Court for good cause shown.** Parties shall also deliver a set of premarked exhibits to the

1 Courtroom Deputy. The exhibit markers shall each contain the
2 name and number of the case, the number of the exhibit, and
3 blanks to accommodate the date admitted and the Deputy
4 Clerk's initials. (Appropriate sample forms are available on
5 the Court's website at www.cand.uscourts.gov). Any
6 objections to exhibits which remain after the pretrial
7 meeting shall be indicated in the pretrial statement.

8 (c) Witness List. In addition to the requirements of
9 FRCivP 26(a)(3)(A), a brief statement describing the
10 substance of the testimony to be given by each witness who
11 may be called at trial. **No party shall be permitted to call
12 any witness in its case-in-chief who is not disclosed in its
13 pretrial statement without leave of Court for good cause
14 shown.**

15 (d) Use of Discovery Responses. In addition to the
16 requirements of FRCivP 26(a)(3)(B), a designation of any
17 excerpts from interrogatory answers or from responses for
18 admissions intended to be offered at trial. Counsel shall
19 indicate any objections to use of these materials and that
20 counsel have conferred respecting such objections.

21 (e) Trial briefs. Briefs on all significant disputed
22 issues of law, including foreseeable procedural and
23 evidentiary issues, which remain after the pretrial meeting.

24 (f) Motions in Limine. Any motions in limine that could
25 not be settled at the pretrial meeting shall be filed with
26 the pretrial statement. All motions in limine shall be
27 contained within one document, limited to 25 pages pursuant
28 to Civil L.R. 7-2(b), with each motion listed as a
subheading. Opposition to the motions in limine shall be
contained within one document, limited to 25 pages, with
corresponding subheadings, and filed seven (7) days
thereafter.

(g) Joint Proposed Voir Dire. The attached voir dire
questionnaire will be given to the venire members, and copies
of the responses will be made available to counsel at the
beginning of voir dire. Counsel may submit a set of
additional requested voir dire, to be included in the
questionnaire or posed by the Court, to which they have
agreed at the pretrial meeting. Any voir dire questions on
which counsel cannot agree shall be submitted separately.
Counsel may be allowed brief follow-up voir dire after the
Court's questioning.

1 (h) Joint Proposed Jury Instructions. As applicable,
2 jury instructions §1.1A, §1.1C, §1.2 through §1.17, §1.19,
3 §2.1 through §2.13, §3.1 through §3.3 from the Manual of
4 Model Civil Jury Instructions for the Ninth Circuit (most
5 recent edition) will be given absent objection. Counsel
6 shall jointly submit one set of additional proposed jury
7 instructions, to which they have agreed at the pretrial
8 meeting. The instructions shall be ordered in a logical
9 sequence, together with a table of contents. A ny instruction
10 on which counsel cannot agree shall be marked as "disputed,"
11 and shall be included within the jointly submitted
12 instructions and accompanying table of contents, in the place
13 where the party proposing the instruction believes it should
14 be given. Argument and authority for and against each
15 disputed instruction shall be included as part of the joint
16 submission, on separate pages directly following the disputed
17 instruction.

18 The parties shall email to cwpo@cand.uscourts.gov a copy
19 of their proposed jury instructions in WordPerfect or Word
20 format. The subject of the email should include the name of
21 the parties, the case number and a description of the
22 document.

23 (i) Proposed Verdict Forms, Joint or Separate.

24 (j) Proposed Findings of Fact and Conclusions of Law
25 (Court Trial only). The Court requests that the parties
26 hyperlink each proposed Finding of Fact to any supporting
27 evidence. The parties shall email to cwpo@cand.uscourts.gov
28 a copy of their proposed findings of fact and conclusions of
law in WordPerfect or Word format. The subject of the email
should include the name of the parties, the case number and a
description of the document.

21 JURY SELECTION

22 The Jury Commissioner will summon 20 to 25 prospective
23 jurors. The Courtroom Deputy will select their names at random
24 and seat them in the courtroom in the order in which their names
25 are called. Copies of their questionnaires will be provided to
26 counsel.

27 Voir dire will be asked of sufficient venire persons so that
28 eight (or more for a lengthy trial) will remain after all

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1 peremptory challenges and an anticipated number of hardship
2 dismissals and cause challenges have been made.

3 The Court will then take cause challenges, and discuss
4 hardship claims from the individual jurors, outside the presence
5 of the venire. The Court will inform the attorneys which hardship
6 claims and cause challenges will be granted, but will not announce
7 those dismissals until the process is completed. Each side may
8 then list in writing up to three peremptory challenges. The
9 attorneys will review each other's lists and then submit them to
10 the Courtroom Deputy.

11 Then, from the list of jurors in numerical order, the Court
12 will strike the persons with meritorious hardships, those excused
13 for cause, and those challenged peremptorily, and call the first
14 eight people in numerical sequence remaining. Those people will be
15 the jury.

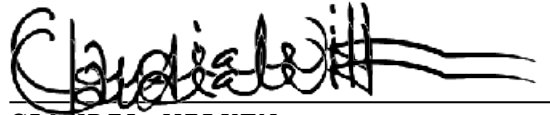
16 All jurors remaining at the close of the case will
17 deliberate. There are no alternates.

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19 SANCTIONS

20 Failure to comply with this Order is cause for sanctions
21 under Federal Rule of Civil Procedure 16(f).

22 IT IS SO ORDERED.

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24 Dated: October 10, 2014



CLAUDIA WILKEN
United States District Judge

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