

California Federal Judge Rules NCAA Ban on Student-Athlete Compensation Violates Antitrust Law

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On Friday, August 8, 2014, the **Northern District of California** determined that the National Collegiate Athletic Association's (NCAA's) rules banning student-athletes for being compensated for the use of their names, images and likenesses violated antitrust laws. ***In re Student-Athlete Name & Likeness Licensing Litigation***, case number 4:90-cv-01967. During the three week-long bench trial in June 2014, the student athletes argued that the NCAA and its member schools and conferences conspired to fix compensation for the use of athletes' likenesses at zero. The NCAA countered by contending that not paying athletes stopped some schools from being able to compensate students more than others, that athletes received benefits, such as an education and room and board, for playing college sports, that the rule protected these students' amateur status, that paying athletes would cause tension with non-athlete classmates, and that fans would not watch college sports if athletes were paid. District Judge Wilken was unpersuaded by the NCAA's arguments. In her ruling, Judge Wilken stated that the NCAA did not provide credible evidence that fans would abandon supporting their teams if athletes were paid. Moreover, because schools compete for recruits with impressive facilities and highly-paid coaches, the NCAA undercut its argument that not compensating student-athletes leveled the competitive playing field between colleges. Instead, Judge Wilken determined that without these rules, Division I basketball and Football Bowl Subdivision schools would compete for recruits' athletic talents and licensing rights as well as compete to offer athletic and educational opportunities for students.

In entering an injunction against the NCAA, Judge Wilken suggested that NCAA member schools should increase the stipends paid to students to cover the full cost of attending college, and she also recommended that schools hold money collected from the use of students' likenesses in a trust for the students until they graduate. At the same time, however, she refused to allow student athletes to receive money from product endorsements. On Monday, August 11, 2014, the NCAA asked Judge Wilken to clarify the application of her order, which stated that the injunction prohibiting the NCAA's ban on compensating players would begin with athletes who enroll after July 1, 2016. The NCAA requested that Judge Wilken explain whether the injunction applied to current student athletes beginning in July 2016 or whether it only applied to recruits who start college after that date.

This case originated in 2009 when two former NCAA student-athletes filed class action suits against the NCAA, Electronic Arts Inc. and Collegiate Licensing Co., alleging that these organizations profited from student-athlete likenesses on television, in video games and on merchandise while prohibiting

the athletes from receiving payment. The NCAA previously settled with plaintiffs for \$20 million over the use of students' likenesses in video games, and Electronic Arts and Collegiate Licensing also reached a settlement with both plaintiff groups for \$40 million. Both settlements received preliminary approval from Judge Wilken in July 2014.

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