

## **Class Action Filed Against NCAA and 20 Universities Alleging Student-Athletes with Scholarships Are Employees**

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In the latest effort to argue that student athletes qualify as employees under the Fair Labor Standards Act (“FLSA”), a class action lawsuit was filed last week in a federal court in Pennsylvania against the National Collegiate Athletic Association (“NCAA”) and 20 universities.

Last year, the U.S. Court of Appeals for the Seventh Circuit affirmed U.S. District Judge William T. Lawrence’s dismissal of a student-athlete litigation against the NCAA and over 120 NCAA Division I member schools alleging that student-athletes are employees who are entitled to a minimum wage under the FLSA. *Berger v. NCAA*, No. 16-1558 (7th Cir. Dec. 5, 2016). Jackson Lewis had the privilege of representing 30 of the Universities named in that lawsuit. You can read more about the *Berger* case [here](#).

Now, Plaintiff Lawrence “Poppy” Livers has filed a lawsuit on behalf of himself and others alleged to be similarly situated, claiming that college student athletes who receive scholarships are employees who are entitled to compensation. Plaintiff argues the “crux” of the Complaint is that recipients of athletic scholarships, which require them to participate in NCAA athletics under daily supervision of full-time coaching and training staff, are employees of NCAA member schools as much as, “and arguably more than, fellow students employed in work study programs, e.g., student ticket takers, seating attendants and food concession workers at NCAA contests.”

Further, Plaintiff argues that this Complaint differs from *Berger* in that the putative collective in this case “*only* includes Scholarship Athletes, and does not address the status of ‘walk-ons,’ i.e., student athletes who are not obligated to, and controlled by, NCAA member schools pursuant to Athletic Financial Aid Agreements.” The Plaintiffs in *Berger* attended the University of Pennsylvania which does not enter into Athletic Financial Aid Agreements.

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