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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

GRANT HOUSE, et al.,
Plaintiffs,

v.

NATIONAL COLLEGIATE ATHLETIC
ASSOCIATION, et al.,
Defendants.

Case No. 4:20-cv-03919 CW

**STIPULATION AND ~~PROPOSED~~
PROTECTIVE ORDER**

TYMIR OLIVER, on behalf of himself and
all others similarly situated,
Plaintiffs,

v.

NATIONAL COLLEGIATE
ATHLETIC ASSOCIATION, et al.,
Defendants.

Case No. 4:20-cv-04527 CW

1 At the case management conference in the above-captioned actions held on November 18,
2 2020, the Court directed that all documents produced in the actions captioned *In re NCAA Athletic*
3 *Grant-in-Aid Cap Antitrust Litigation* (Case Nos. 4:14-md-2541-CW and 4:14-cv-2758-CW)
4 (herein “*Alston*”) would be deemed to have been produced in discovery in these actions. The *Alston*
5 documents deemed to have been produced in discovery in these actions include documents
6 produced in *In re Student-Athlete Name and Likeness Licensing Litigation* (Case Nos. C 09-1967-
7 CW and C 09-3329-CW) (herein “*O’Bannon*”).

8 Certain of the *Alston* documents produced in discovery were subject to multiple protective
9 orders entered in the *Alston* action, as follows:

10 1. Protective Order entered on January 1, 2015 [14-md-2541; Dkt. 189] (including
11 provisions concerning designation of documents as Confidential or as Highly
12 Confidential/Attorney Only Information), attached herewith as Exhibit A;

13 2. Addendum to Protective Order entered on July 9, 2015 [14-md-2541; Dkt. 234]
14 (including provisions concerning designation of documents as Highly Confidential NCAA
15 Member Financial Data), attached herewith as Exhibit B;

16 3. Second Addendum to Protective Order entered on October 12, 2016 [14-md-2541;
17 Dkt. 512] (including provisions concerning designation of documents as Conference Strictly
18 Confidential and Network Strictly Confidential Information – Outside Counsel Only), attached
19 herewith as Exhibit C;

20 4. Third Addendum to Protective Order entered on November 11, 2016 [14-md-2541;
21 Dkt. 539 & 540] (including additional provisions concerning designation of documents as
22 Network Strictly Confidential Information – Outside Counsel Only), attached herewith as
23 Exhibit D;

24 5. Stipulation Regarding Second Addendum to Protective Order entered on
25 September 4, 2018 [14-md-2541; Dkt. 1027] (concerning disclosures at trial of certain
26 confidential information), attached herewith as Exhibit E; and

27 6. Fourth Addendum to Protective Order entered on September 15, 2019 [14-md-
28 2541; Dkt. 1237 & 1238] (concerning certain billing records), attached herewith as Exhibit F.

1 These protective orders (collectively the “*Alston* Protective Orders”), with the modifications
2 reflected below, remain in effect with respect to the *Alston* documents deemed to have been
3 produced in these actions. Additional documents not produced in *Alston* may also be produced in
4 these actions pursuant to the provisions of the applicable *Alston* Protective Orders with the
5 exception of documents that may be eligible for the designations Conference Strictly Confidential
6 – Outside Litigation Counsel Only or Network Strictly Confidential – Outside Litigation Counsel
7 Only. In the event that documents or information that could be designated Conference Strictly
8 Confidential – Outside Litigation Counsel Only and/or Network Strictly Confidential – Outside
9 Litigation Counsel Only under the *Alston* Protective Orders is to be produced in this litigation in
10 the future, the parties will negotiate appropriate protections for those documents in a separate
11 stipulation or submit any disagreements to the Court for resolution. The parties will negotiate in
12 good faith to reach agreement on appropriate protections for any Conference Strictly Confidential
13 – Outside Litigation Counsel Only and/or Network Strictly Confidential – Outside Litigation
14 Counsel Only documents to be produced in this litigation and by February 1, 2021 either submit a
15 separate stipulation to the Court, or, if agreement cannot be reached, submit any disagreements for
16 resolution by the Court.

17 NOW, THEREFORE, through counsel, the parties to this action stipulate and move the
18 Court to order that:

19 1. Each of the *Alston* Protective Orders is deemed to have been and is hereby entered
20 in these actions with the following modifications and exceptions.

21 2. To the extent the *Alston* Protective Orders reference or name specific counsel of
22 record in that case, they are hereby amended to reference and apply to counsel in parallel positions
23 in these actions.

24 3. Paragraph 11 of Exhibit C is hereby deleted in its entirety and replaced with the
25 following: No disclosure of Conference Strictly Confidential – Outside Litigation Counsel Only
26 Information or Network Strictly Confidential – Outside Litigation Counsel Only Information to a
27 consultant or expert witness or their necessary support personnel shall occur until that person has
28 accurately completed and signed the certification annexed to this Second Addendum as Exhibit A,

1 and, in the case of Network Strictly Confidential – Outside Litigation Counsel Only Information,
2 a signed copy has been provided to the applicable Network(s) referenced in the document; and to
3 the extent there has been an objection under Paragraph 13 with respect to Network Strictly
4 Confidential – Outside Litigation Counsel Only Information, that objection is resolved as
5 discussed below. A separate certification annexed to this Second Addendum as Exhibit A shall not
6 be required for staff members working under the supervision of an individual signing the
7 certification annexed hereto as Exhibit A. An individual signing the certification annexed to this
8 Second Addendum as Exhibit A, however, shall accept full responsibility for taking measures to
9 ensure that staff members working under his or her supervision comply with the terms of this
10 Second Addendum. Neither the parties in this action nor their counsel shall seek information
11 regarding the identity of any consultant or expert witness or their necessary support personnel that
12 is provided to any Network(s) pursuant to this stipulation. If a party or its counsel learns the identity
13 of any consultant or expert witness or their necessary support personnel from any Network(s), that
14 party’s counsel shall inform the party who retained the consultant or expert witness of the
15 disclosure.

16 4. Paragraphs 12-15 of Exhibit C are amended as follows: any reference to
17 “Disclosing Party” is replaced with “applicable Network(s) referenced in the document” and any
18 reference to “parties” or “the party” includes, where applicable, the Network(s) referenced in the
19 document(s) at issue.

20 5. The modifications to Exhibit C reflected in paragraphs 3 and 4 above shall be
21 incorporated into Exhibit D only to the extent Exhibit D sets forth the rights and obligations with
22 respect to the NCAA, including documents for which the NCAA was the “Disclosing Party,” and
23 their media networks. These modifications reflected in paragraphs 3 and 4 above shall not be
24 incorporated into Exhibit D to the extent Exhibit D sets forth the rights and obligations with respect
25 to the Six Conferences, as defined in Exhibit D and who are not defendants in these actions,
26 including documents for which any of the Six Conferences were the “Disclosing Party,” and their
27 media networks.

28

1 6. Neither the parties in this action nor their counsel shall seek information regarding
2 the identity of any consultant or expert witness or their necessary support personnel that is provided
3 to any of the “Six Conferences” or “media networks” pursuant to Exhibit D. If a party or its counsel
4 learns the identity of any consultant or expert witness or their necessary support personnel from
5 any of the Six Conferences or media networks, that party’s counsel shall notify the party who
6 retained the consultant or expert witness of the disclosure.

7 7. Exhibits C, D and E will not apply to documents produced in these cases that were
8 not previously produced in *Alston*. To the extent documents and information that were not
9 produced in *Alston* will be produced in these cases and would be eligible for the designations
10 Conference Strictly Confidential – Outside Litigation Counsel Only or Network Strictly
11 Confidential – Outside Litigation Counsel Only under the *Alston* Protective Orders, the parties will
12 negotiate appropriate protections for those documents and by February 1, 2021 either submit a
13 separate stipulation to the Court, or, if agreement cannot be reached, submit any disagreements for
14 resolution by the Court.

15 8. If and to the extent any of the certifications annexed to the *Alston* Protective Orders
16 are provided in accordance with this Order, the party(ies) obtaining the certification will first
17 update the certification to reflect the case name(s) and docket number(s) of these cases. Any failure
18 to do so, however, shall not result in the document(s) and/or information losing their protection in
19 these cases pursuant to this Stipulation.

20 9. If and to the extent that documents were publicly filed as trial exhibits without being
21 placed under seal in *Alston* and have thus become publicly available, such documents shall not be
22 governed by the *Alston* Protective Orders.

23 10. By entering into this Stipulation, no party concedes or agrees, or otherwise
24 compromises its position, concerning whether any documents are (a) discoverable or admissible
25 in evidence, (b) properly deemed to be confidential and/or subject to enhanced confidentiality
26 treatment pursuant to the provisions of any of the *Alston* Protective Orders, or (c) properly
27 redacted, in light of the issues in this action.

28

1 Dated: December 21, 2020

Respectfully submitted,

2 **WILKINSON STEKLOFF LLP**

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26 **PURSANT TO STIPULATION, IT IS SO ORDERED,**

27 DATED: December 22, 2020

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The Hon. Claudia Wilken
UNITED STATES DISTRICT JUDGE

EXHIBIT A

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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

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

CASE NO. 14-md-2541-CW
CASE NO. 14-cv-2758-CW

**STIPULATED ~~PROPOSED~~
PROTECTIVE ORDER REGARDING
CONFIDENTIALITY OF DOCUMENTS
AND MATERIALS**

This Document Relates to:

ALL ACTIONS

1 In order to protect confidential information obtained from or disclosed by the respective
2 parties or nonparties in connection with this litigation and pursuant to the Court’s authority under
3 Federal Rule of Civil Procedure 26(c) and Federal Rule of Evidence 502, the parties submit as
4 follows:

5 **PURPOSES AND LIMITATIONS**

6 1. Disclosure and discovery activity in these actions are likely to involve production
7 of trade secrets, confidential, proprietary, or private information for which special protection from
8 public disclosure and from use for any purpose other than prosecuting this litigation would be
9 warranted. The unrestricted disclosure of such information would cause undue damage to the
10 parties and their businesses or to third parties. The disclosure of trade secrets, proprietary
11 information, and confidential business and financial information would harm the disclosing party
12 if it was made known to the disclosing party’s competitors, and in some cases, could violate the
13 confidentiality agreements between the disclosing party and third parties or parties to those
14 agreements. Disclosure of private information and educational information is also governed by
15 statute and other laws such that disclosure of that information may be inconsistent with those
16 statutes and other laws. Accordingly, the parties in these actions hereby stipulate to and petition
17 the Court to enter the following Protective Order. The parties acknowledge that this Order does
18 not confer blanket protections on all disclosures or responses to discovery, and that the protections
19 outlined herein extend only to the limited information or items that are entitled to treatment as
20 confidential under applicable legal principles. This Protective Order is, therefore, entered into
21 pursuant to Rule 26(c) of the Federal Rules of Civil Procedure to protect information entitled to be
22 kept confidential.

23 2. The parties further acknowledge, as set forth in Paragraph 17, below, that this
24 Protective Order creates no entitlement to file confidential information under seal; the relevant
25 court rules (e.g., Civil Local Rule 79-5) set forth the procedures that must be followed, and reflect
26 the standards that will be applied, when a party seeks permission from the Court to file material
27 under seal.

28 3. Documents and other information produced by the parties or nonparties in

1 connection with these actions shall be used solely for purposes of prosecuting, defending or
2 attempting to settle these actions, whether such information is designated “Confidential” or
3 “Highly Confidential – Counsel Only” or not.

4 4. The protections outlined in this Order apply only to information appropriately
5 designated as “Confidential” or “Highly Confidential – Counsel Only” pursuant to the terms of
6 this Order (collectively, the “Protected Information”).

7 5. The parties have reviewed the Case Management Order (Dkt. 132), which includes
8 Judge Wilken’s Civil Pretrial Order, and Magistrate Judge Nathanael M. Cousins’ Civil Standing
9 Order. The parties represent that nothing contained in this Protective Order conflicts with any of
10 the provisions in those orders.

11 **NONDISCLOSURE OF PROTECTED INFORMATION**

12 6. Except with the prior written consent of the party or non-party originally
13 designating a document, discovery response, or deposition transcript (the “Disclosing Party”),
14 Protected Information may not be disclosed to any person except as specifically authorized herein.

15 7. Any Disclosing Party may designate as Confidential (by stamping the relevant page
16 or portion “Confidential”) any document, response to discovery, or deposition transcript which
17 that Disclosing Party considers in good faith to contain information involving trade secrets,
18 proprietary information, confidential business, educational or financial information, private
19 information or other information subject to protection under California or federal law, or another
20 applicable legal standard (“Confidential Information”). Where a document or response consists of
21 more than one page, the first page and each page on which Confidential Information appears shall
22 be so designated. Confidential Information may only be disclosed to those persons set forth in
23 Paragraph 12 below.

24 8. Any Disclosing Party may designate as Highly Confidential (by stamping the
25 relevant page or portion “Highly Confidential – Counsel Only”) any document, response to
26 discovery, or deposition transcript which that Disclosing Party considers in good faith to contain
27 Confidential Information, the disclosure of which to another party or non-party would create a
28 substantial risk of serious harm that could not be avoided by less restrictive means (“Highly

1 Confidential – Counsel Only Information”). Where a document or response consists of more than
2 one page, the first page and each page on which Highly Confidential Information appears shall be
3 so designated. Highly Confidential – Counsel Only Information may only be disclosed to those
4 persons set forth in Paragraph 13 below.

5 9. A Disclosing Party may designate information disclosed by it during a deposition
6 or in response to written discovery as “Confidential” or “Highly Confidential – Counsel Only” by
7 so indicating in said responses or on the record at the deposition. Additionally a party may
8 designate in writing, within 21 days after receipt of said responses or of the deposition transcript
9 for which the designation is proposed, the specific pages of the transcript and/or specific responses
10 that are “Confidential” or “Highly Confidential – Counsel Only.” Any party may object to such
11 proposal, in writing or on the record. Upon such objection, the parties shall follow the procedures
12 described in Paragraph 14 below. Unless otherwise designated during the deposition, deposition
13 transcripts shall be treated in their entirety as “Highly Confidential – Counsel Only” Information
14 for 21 days after receipt. All parties shall affix the relevant legend required by paragraphs 7
15 and/or 8 of this Order on each page of the deposition transcript designated “Confidential” or
16 “Highly Confidential – Counsel Only” at the deposition or by subsequent written notice.

17 10. The inadvertent failure to designate Protected Information that has been disclosed
18 as Confidential or Highly Confidential – Counsel Only shall be without prejudice to any claim by
19 the Disclosing Party that it is Confidential or Highly Confidential – Counsel Only and shall not
20 waive the Disclosing Party’s right to secure protection under this Order for such material. In the
21 event a Disclosing Party designates material as Confidential or Highly Confidential – Counsel
22 Only after it has been inadvertently disclosed, the receiving party will treat such material pursuant
23 to the relevant designation pursuant to this Order and shall make arrangements with the Disclosing
24 Party to have the Protected Information, including copies, marked “Confidential” or “Highly
25 Confidential – Counsel Only.”

26 11. If it comes to a Disclosing Party’s attention that information or items that it
27 designated for protection do not qualify for protection, the Disclosing Party must promptly notify
28 all other parties that it is withdrawing the designation.

PERMISSIBLE DISCLOSURES

1
2 12. Confidential Information that is designated as such in accordance with the terms of
3 this Protective Order shall not be disclosed to any person other than the following, and only to the
4 extent necessary to litigate these actions:

5 a. counsel for the respective parties to this litigation, including in-house
6 counsel and co-counsel retained for these actions;

7 b. employees of such counsel, including a party’s in-house legal staff;

8 c. plaintiffs, or any officer or employee of a party, to the extent deemed
9 necessary by counsel for the prosecution or defense of these actions;

10 d. consultants or expert witnesses retained for the prosecution or defense of
11 these actions, provided that each such person shall execute a copy of the certification annexed to
12 this Protective Order as Exhibit A before being shown or given any Confidential Information;

13 e. the original author, addressees, or recipients of the Confidential
14 Information;

15 f. the Court, court personnel and court reporters; and

16 g. witnesses (other than persons described in Paragraph 12(d)) who testify at
17 deposition or at trial, provided that such witnesses shall execute a copy of the certification annexed
18 to this Protective Order as Exhibit A before being shown or given any Confidential Information;
19 and

20 h. persons or entities that provide litigation support services (e.g.,
21 photocopying; videotaping; translating; preparing exhibits or demonstrations; organizing, storing,
22 retrieving data in any form or medium; etc.) and their employees and subcontractors, provided that
23 such persons or entities shall execute a copy of the certification annexed to this Protective Order as
24 Exhibit A before being shown or given any Confidential Information.

25 13. Highly Confidential – Counsel Only Information that is designated as such in
26 accordance with the terms of this Protective Order shall not be disclosed to any person other than
27 the following, and only to the extent necessary to litigate these actions:

28 a. counsel for the respective parties to this litigation, including in-house

1 Parties are provided a meaningful opportunity to be heard by the Court regarding the proposed use
2 of Protected Information at any court hearing or trial, and may not offer such information until the
3 Affected Parties have been given an opportunity to provide an objection on the record.

4 16. Any party or interested non-party may move the Court for an order that the
5 evidence be received in camera or under other conditions to prevent unnecessary disclosure. That
6 court will then determine whether the proffered evidence should continue to be treated as either
7 Confidential Information or Highly Confidential – Counsel Only Information and, if so, what
8 protection, if any, may be afforded to such information at the trial.

9 **PROTECTED INFORMATION SUBPOENAED OR**
10 **ORDERED PRODUCED IN OTHER LITIGATION**

11 17. If at any time any Protected Information is subpoenaed by a court, administrative or
12 legislative body, or by any other person or entity purporting to have authority to require the
13 production of such information, the person to whom the subpoena is directed shall give written
14 notice thereof to the Disclosing Party as soon as reasonably practicable but in no event more than
15 five (5) days after receipt of the subpoena. After receipt of the notice specified under this
16 paragraph, the Disclosing Party shall have the sole responsibility for obtaining any order it
17 believes necessary to prevent disclosure of the Protected Information that has been subpoenaed. If
18 the Disclosing Party does not move for or obtain a court order prohibiting such production or
19 disclosure within the time allowed for production by the subpoena (or within such time as a court
20 may direct or as may be agreed upon between the Disclosing Party and the subpoenaing party) and
21 give written notice of such motion to the subpoenaing party and the person to whom the subpoena
22 is directed, the person to whom the subpoena is directed may commence production in response
23 thereto. The person to whom the subpoena is directed shall not produce any Protected Information
24 while a motion for a protective order brought pursuant to this paragraph is pending or while any
25 appeal from or request for appellate review of such motion is pending, unless ordered by a court to
26 do so.

27 **FILING DOCUMENTS UNDER SEAL**

28 18. No Protected Information shall be filed in the public record without the written

1 permission of the Disclosing Party, or a court order. The parties shall comply with the relevant
2 court rules (e.g., N.D. Cal. Civil L.R. 79-5) regarding filing of documents under seal. Copies of
3 any pleading, brief, or other document containing Protected Information which is served on
4 opposing counsel shall be stamped “**CONFIDENTIAL PURSUANT TO PROTECTIVE**
5 **ORDER**” or “**HIGHLY CONFIDENTIAL – COUNSEL ONLY PURSUANT TO**
6 **PROTECTIVE ORDER**”, shall be transmitted via email or cover letter and envelope bearing
7 similar designation, and shall be treated in accordance with the provisions of this Protective Order.

8 **NON-TERMINATION**

9 19. All provisions of this Protective Order restricting the communication or use of
10 Protected Information shall continue to be binding after the conclusion of this action unless
11 otherwise agreed or ordered. In addition, the court retains jurisdiction to resolve any dispute
12 concerning the disclosure of Protected Information in violation of the terms of this Order, unless
13 otherwise agreed or ordered.

14 20. Unless otherwise ordered or agreed to in writing by the Disclosing Party, within
15 sixty (60) days after the final termination of this litigation by settlement or exhaustion of all
16 appeals all parties in receipt of Protected Information shall use reasonable efforts to either return
17 such materials and copies thereof to the Disclosing Party or destroy such Protected Information
18 and certify that fact. The Receiving Party’s reasonable efforts shall not require the return or
19 destruction of Protected Information that (i) is stored on backup storage media made in accordance
20 with regular data backup procedures for disaster recovery purposes, (ii) is located in the email
21 archive system or archived electronic files of departed employees, or (iii) is subject to legal hold
22 obligations. Backup storage media will not be restored for purposes of returning or certifying
23 destruction of Protected Information, but such retained information shall continue to be treated in
24 accordance with the Order. Counsel for the parties shall be entitled to retain copies of court papers
25 (and exhibits thereto), correspondence, pleadings, deposition and trial transcripts (and exhibits
26 thereto), expert reports and attorney work product that contain or refer to Protected Information,
27 provided that such counsel and employees of such counsel shall not disclose such Protected
28 Information to any person, except pursuant to court order.

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DATED: January 9, 2015

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Richard Young (*pro hac vice* application to be filed)
Brent Rychener (*pro hac vice* application to be filed)
90 South Cascade Avenue, Suite 1300

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**PURSUANT TO STIPULATION,
IT IS SO ORDERED.**

DATED: January 15, 2015



THE HON. CLAUDIA WILKEN
UNITED STATES DISTRICT JUDGE

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EXHIBIT A

I, _____, state:

1. My address and telephone number are: _____

2. My present employer and my employer’s address are: _____

3. I have received a copy of the Stipulated Protective Order Regarding Confidentiality of Documents and Materials (the “Protective Order”) entered in the case of *In re: National Collegiate Athletic Association Athletic Grant-in-Aid Cap Antitrust Litigation*, in the United States District Court for the Northern District of California, No. 4:14-MD-2541-CW.

4. I have carefully read the Protective Order and understand its provisions.

5. I will comply with all the provisions of the Protective Order.

6. I will hold in confidence and will not disclose to anyone not qualified under the Protective Order any documents designated Confidential or Highly Confidential – Counsel Only, and I will use such Confidential Information and/or Highly Confidential – Counsel Only Information only for the allowed purposes stated in the Order.

7. I will return all documents that are designated Confidential or Highly Confidential – Counsel Only to counsel for the party from whom I obtained such documents.

8. I will submit to the jurisdiction of the United States District Court for the Northern District of California for purposes of the enforcement of the Protective Order, and understand that violation of the Protective Order can constitute contempt of Court.

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

SIGNED: _____, 201__.

Signature: _____

Printed Name: _____

EXHIBIT B

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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

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

CASE NO. 14-md-2541-CW
CASE NO. 14-cv-2758-CW

**STIPULATION AND ~~PROPOSED~~
ORDER REGARDING ADDENDUM TO
STIPULATED PROTECTIVE ORDER**

This Document Relates to:
ALL ACTIONS

1 All parties, by their respective counsel, hereby agree and stipulate to this proposed
2 Addendum to the “Stipulated Protective Order Regarding Confidentiality of Documents and
3 Materials” (the “Protective Order”) (Dkt. 189) entered by the Court on January 15, 2015:

4 1. Unless otherwise defined herein, all capitalized terms shall have the meanings
5 ascribed to such terms in the Protective Order.

6 2. The Protective Order will recognize a new category of discovery called “Highly
7 Confidential NCAA Member Financial Data.” Any party may designate as “Highly Confidential
8 NCAA Member Financial Data” (by stamping the relevant page or portion “Highly Confidential
9 NCAA Member Financial Data – Lead Counsel Only”) any document, response to discovery, or
10 deposition transcript which includes NCAA member institution financial data (including
11 summaries or analyses of such data and all identification keys that match member institution
12 financial data to member institution names) that the Disclosing Party considers in good faith to
13 contain Highly Confidential Information, the disclosure of which to another party or non-party
14 would create a substantial risk of serious harm that could not be avoided by less restrictive means.
15 Where a document, response to discovery, or deposition transcript consists of more than one page,
16 the first page and each page on which Highly Confidential NCAA Member Financial Data appears
17 shall be so designated. Highly Confidential NCAA Member Financial Data may only be disclosed
18 to those persons set forth in Paragraph 3 below.

19 3. Highly Confidential NCAA Member Financial Data that is designated as such in
20 accordance with the terms of the Protective Order and this Addendum shall not be disclosed to any
21 person other than the following, and only to the extent necessary to litigate these actions:

22 a. Plaintiffs’ Interim Co-Lead Class Counsel as appointed by the court
23 (namely, Winston & Strawn LLP, Hagens Berman Sobol Shapiro LLP and Pearson, Simon &
24 Warshaw LLP) (Dkt. 82) and employees of such counsel;

25 b. counsel for Defendants in this litigation, including in-house counsel and co-
26 counsel retained for these actions and employees of such counsel, including a Defendant’s in-
27 house legal staff;

28 c. consultants or expert witnesses retained for the prosecution or defense of

1 these actions, and anyone assisting said consultants or expert witnesses in connection with these
2 actions, provided that each such person shall execute a copy of the certification annexed to this
3 Addendum as Exhibit A before being shown or given any Highly Confidential NCAA Member
4 Financial Data;

5 d. the original author, addressees, or recipients of the Highly Confidential
6 NCAA Member Financial Data;

7 e. the Court, court personnel and court reporters;

8 f. persons or entities that provide litigation support services (e.g.,
9 photocopying; videotaping; translating; preparing exhibits or demonstrations; organizing, storing,
10 retrieving data in any form or medium; etc.) and their employees and subcontractors, provided that
11 such persons or entities shall execute a copy of the certification annexed to this Addendum as
12 Exhibit A before being shown or given any Highly Confidential NCAA Member Financial Data;
13 and

14 g. witnesses (other than persons described in Paragraph 3(c) above) who
15 testify at deposition or at trial, provided that (1) the Receiving Party has a good faith belief that
16 such witness previously had access to or otherwise had obtained knowledge of the Highly
17 Confidential NCAA Member Financial Data; and (2) such witnesses shall execute a copy of the
18 certification annexed to this Addendum as Exhibit A before being shown or given any Highly
19 Confidential NCAA Member Financial Data.

20 4. Except as set forth herein, for purposes of all paragraphs of the Protective Order
21 except Paragraph 13, Highly Confidential NCAA Member Financial Data will receive the same
22 treatment under each such paragraph as Highly Confidential – Counsel Only Information.
23 Without limitation, any challenges or objections concerning the designation of information as
24 Highly Confidential NCAA Member Financial Data shall be made pursuant to Paragraph 14 of the
25 Protective Order.

26 5. The parties agree that they will file documents that use Highly Confidential NCAA
27 Member Financial Data regarding any NCAA institution identified by name (as opposed to an
28 institution identified by unique identifier) if and only if they have a good faith need to identify the

1 institution by name. The parties further agree that any such filing shall be filed under seal.

2 IT IS SO STIPULATED.

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scooper@proskauer.com
jljones@proskauer.com
jferry@proskauer.com
Attorneys for Defendant Pac-12 Conference

DATED: July 8, 2015

MAYER BROWN LLP

By: /s/ Andrew S. Rosenman
 ANDREW S. ROSENMAN

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Attorneys for Defendant The Big Ten Conference, Inc.

DATED: July 8, 2015

ROBINSON BRADSHAW & HINSON

By: /s/ Robert W. Fuller
 ROBERT W. FULLER

Nathan C. Chase, Jr. (SBN 247526)
Robert W. Fuller, III (*pro hac vice*)
Mark W. Merritt (*pro hac vice*)
Lawrence C. Moore, III (*pro hac vice*)
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DATED: July 8, 2015

COVINGTON & BURLING LLP

By: /s/ Benjamin C. Block
 BENJAMIN C. BLOCK

Benjamin C. Block (*pro hac vice*)
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Attorneys for American Athletic Conference

DATED: July 8, 2015

JONES WALKER LLP

By: /s/ Mark A. Cunningham
 MARK A. CUNNINGHAM

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Telephone: (504) 582-8536
Facsimile: (504) 589-8536
Email: mcunningham@joneswalker.com

Attorneys for Defendant Sun Belt Conference

DATED: July 8, 2015

WALTER | HAVERFIELD LLP

By: /s/ R. Todd Hunt
 R. TODD HUNT

R. Todd Hunt (*pro hac vice*)
The Tower at Erieview

1 **PURSUANT TO STIPULATION,**
2 **IT IS SO ORDERED.**

3 DATED: July 9, 2015

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6 THE HON. CLAUDIA WILKEN
7 UNITED STATES DISTRICT JUDGE
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EXHIBIT A

I, _____, state:

1. My address and telephone number are:

2. My present employer and my employer’s address are:

3. I have received a copy of the Stipulated Protective Order Regarding Confidentiality of Documents and Materials (the “Protective Order”) entered in the case of *In re: National Collegiate Athletic Association Athletic Grant-in-Aid Cap Antitrust Litigation*, in the United States District Court for the Northern District of California, No. 4:14-MD-2541-CW, entered by the Court on January 15, 2015, and the Stipulation and Order Regarding Addendum to Stipulated Protective Order (“Addendum”) entered by the Court on _____.

4. I have carefully read the Protective Order and Addendum and understand their provisions.

5. I will comply with all the provisions of the Protective Order and Addendum.

6. I will hold in confidence and will not disclose to anyone not qualified under the Protective Order and Addendum any documents designated Confidential, Highly Confidential – Counsel Only or Highly Confidential NCAA Member Financial Data – Lead Counsel Only, and I will use such Confidential Information and/or Highly Confidential – Counsel Only Information and/or Highly Confidential NCAA Member Financial Data only for the allowed purposes stated in the Protective Order and Addendum.

7. I will return all documents that are designated Confidential, Highly Confidential – Counsel Only or Highly Confidential NCAA Member Financial Data – Lead Counsel Only to counsel for the party from whom I obtained such documents.

8. I will submit to the jurisdiction of the United States District Court for the Northern District of California for purposes of the enforcement of the Protective Order and Addendum, and understand that violation of the Protective Order and Addendum can constitute contempt of Court.

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

SIGNED _____, 201_.

Signature

Printed Name

EXHIBIT C

1 Scott P. Cooper (SBN 096905)
2 Kyle A. Casazza (SBN 254061)
3 Shawn S. Ledingham, Jr. (SBN 275268)
4 Jacquelyn N. Ferry (SBN 287798)
5 PROSKAUER ROSE LLP
6 2049 Century Park East, Suite 3200
7 Los Angeles, CA 90067
8 Telephone: (310) 557-2900
9 Facsimile: (310) 557-2193
10 scooper@proskauer.com
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13 jferry@proskauer.com

8 *Counsel for Pac-12 Conference*

9 [Additional counsel listed on signature page]

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11 **UNITED STATES DISTRICT COURT**
12 **NORTHERN DISTRICT OF CALIFORNIA**
13 **SAN JOSE DIVISION**

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15 IN RE: NATIONAL COLLEGIATE
16 ATHLETIC ASSOCIATION ATHLETIC
17 GRANT-IN-AID CAP ANTITRUST
18 LITIGATION

Case No. 4:14-md-02541-CW (NC)
Case No. 4:14-cv-02758-CW (NC)

STIPULATION AND [PROPOSED] ORDER
REGARDING SECOND ADDENDUM TO
STIPULATED PROTECTIVE ORDER

18 THIS DOCUMENT RELATES TO:

19 ALL ACTIONS

1 All parties, by their respective counsel, hereby agree and stipulate to this proposed Second
2 Addendum to the “Stipulated Protective Order Regarding Confidentiality of Documents and
3 Materials” (the “Protective Order”) (Dkt. 189) entered by the Court on January 15, 2015:

4 1. Unless otherwise defined herein, all capitalized terms shall have the meanings
5 ascribed to such terms in the Protective Order.

6 **ADDITIONAL CATEGORIES OF PROTECTED INFORMATION**

7 2. The Protective Order will recognize a new category of discovery called Conference
8 Strictly Confidential – Outside Litigation Counsel Only. The Protective Order will also recognize a
9 new category of discovery called Network Strictly Confidential – Outside Litigation Counsel Only.

10 3. Any party or non-party may designate as Conference Strictly Confidential – Outside
11 Litigation Counsel Only (by stamping the relevant page or portion “Conference Strictly Confidential
12 – Outside Litigation Counsel Only”) any document, response to discovery, deposition transcript, or
13 anything else furnished during the course of these actions that includes or concerns financial
14 information, contractual terms, or other sensitive business information of a Conference Defendant
15 (including summaries or analyses of such information that may identify the nature of such terms),
16 that the Disclosing Party or their contractual counterparty considers in good faith to contain
17 information, the disclosure of which to in-house counsel or specific individual outside counsel of
18 another party or non-party would create a substantial risk of serious competitive, business, or
19 financial harm (“Conference Strictly Confidential – Outside Litigation Counsel Only Information”).
20 Where a document, response to discovery, deposition transcript, or anything else furnished during
21 the course of these actions consists of more than one page, each page on which Conference Strictly
22 Confidential – Outside Litigation Counsel Only Information appears shall be so designated.
23 Conference Strictly Confidential – Outside Litigation Counsel Only Information may be disclosed
24 only to those persons set forth in Paragraph 6 below.

25 4. Any party or non-party may designate as Network Strictly Confidential – Outside
26 Litigation Counsel Only (by stamping the relevant page or portion “Network Strictly Confidential –
27 Outside Litigation Counsel Only”) any document, response to discovery, deposition transcript, or
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1 b. Outside litigation counsel of record for Defendants in this litigation, including
2 those law firms’ paralegals, assistants, and other employed staff;

3 c. Consultants or expert witnesses retained for the prosecution or defense of
4 these actions, as well as members of said consultants’ or expert witnesses’ staffs assisting them in
5 connection with these actions, provided that each such person shall execute a copy of the
6 certification annexed to this Addendum as Exhibit A before being shown or given any Conference

7 Strictly Confidential – Outside Litigation Counsel Only Information;

8 d. The original author, addressees, or recipients of the Conference Strictly
9 Confidential – Outside Litigation Counsel Only Information;

10 e. The Court, court personnel and court reporters;

11 f. Persons or entities that provide litigation support services (e.g., photocopying;
12 videotaping; translating; preparing exhibits or demonstrations; organizing, storing, retrieving data in
13 any form or medium; etc.) and their employees and subcontractors, provided that such persons or
14 entities shall execute a copy of the certification annexed to this Addendum as Exhibit A before being
15 shown or given any Conference Strictly Confidential – Outside Litigation Counsel Only
16 Information; and

17 g. Witnesses (other than persons described in Paragraph 6(c) above) who testify
18 at deposition or at trial, provided that (1) the Receiving Party has a good faith belief that such
19 witness previously had access to or otherwise had obtained knowledge of the Conference Strictly
20 Confidential – Outside Litigation Counsel Only Information; and (2) such witnesses shall execute a
21 copy of the certification annexed to this Addendum as Exhibit A before being shown or given any
22 Conference Strictly Confidential – Outside Litigation Counsel Only Information.

23 **PERMISSIBLE DISCLOSURES OF INFORMATION**
24 **NETWORK STRICTLY CONFIDENTIAL – OUTSIDE**
25 **LITIGATION COUNSEL ONLY**

26 7. ESPN, Inc., ESPN Enterprises, Inc., American Broadcast Companies, Inc.
27 (“ESPN/ABC”), Fox Broadcasting Company, Fox Cable Networks, Inc., Fox International Channels,
28 Fox Sports Net, Inc., Big Ten Network, LLC (“Fox Networks”), CBS Broadcasting Inc., CSTV

1 Networks, Inc. d/b/a CBS Sports Network (“CBS”), or any future affiliates that move to intervene
2 are hereby referred to as the “Network Intervenors”. Network Strictly Confidential – Outside
3 Litigation Counsel Only Information (that is designated as such in accordance with the terms of the
4 Protective Order and this Second Addendum) shall not be disclosed, except to the following persons,
5 and then only to the extent necessary to litigate these actions:

6 a. Defendants’ outside litigation counsel of record, including lawyers and other
7 members and employees of those law firms assisting with litigation-related tasks in this case
8 (“Authorized Outside Litigation Counsel”), provided that (1) absent written permission from each
9 Network Intervenor, no individual attorney who has in the past been involved directly or indirectly
10 in negotiating any media, network, or broadcasting contract, agreement, arrangement or
11 understanding with any Network Intervenor may review Network Strictly Confidential – Outside
12 Litigation Counsel Only Information to which such attorney did not have access prior to production
13 of such Information in this action; and (2) any individual attorney who reviews Network Strictly
14 Confidential – Outside Litigation Counsel Only Information of a Network Intervenor to which such
15 attorney did not have access prior to production of such Information in this action may not, absent
16 written permission from such Network Intervenor, participate directly or indirectly on or before
17 March 31, 2021 in negotiating any media, network, or broadcasting contract, agreement,
18 arrangement, or understanding with such Network Intervenor, except that nothing in this Addendum
19 shall be construed to require a Network Intervenor’s permission for any individual attorney’s
20 participation in negotiating any agreements, arrangements, or understandings pertaining to
21 discovery, motion practice, or other litigation-related matters in this lawsuit pertaining to Network
22 Strictly Confidential – Outside Litigation Counsel Only Information of a Network Intervenor.

23 i. Defendants’ law firms acting as outside litigation counsel of record in
24 these actions shall erect and maintain ethical walls limiting access to Network Strictly Confidential –
25 Outside Litigation Counsel Only Information to Authorized Outside Litigation Counsel.

26 ii. Absent a good faith basis for belief that any attorney other than
27 Authorized Outside Litigation Counsel has reviewed Network Strictly Confidential – Outside
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1 Litigation Counsel Only Information, no Network Intervenor will assert the provisions of this
2 Addendum as a basis to bar such attorney from engaging in future negotiations of any media,
3 network, or broadcasting contract, agreement, arrangement, or understanding with such Network
4 Intervenor. In the event a Network Intervenor asserts the provisions of this sub-paragraph as a basis
5 to bar an attorney from engaging in negotiations of any media, network, or broadcasting contract,
6 agreement, arrangement, or understanding with such Network Intervenor, that Network Intervenor
7 will withdraw its invocation of this sub-paragraph upon the subject attorney proffering an affidavit
8 or declaration, subject to penalty of perjury, that he/she has not reviewed Network Strictly
9 Confidential – Outside Litigation Counsel Only Information.

10 iii. No Network Intervenor shall assert that the provisions of this
11 Addendum are a basis to bar an entire law firm from engaging in future negotiations of any media,
12 network, or broadcasting contract, agreement, arrangement, or understanding with such Network
13 Intervenor on the basis that the firm acted as outside litigation counsel of record in these actions;

14 b. Plaintiffs’ Interim Co-Lead Class Counsel as appointed by the court (namely,
15 Winston & Strawn LLP, Hagens Berman Sobol Shapiro LLP and Pearson, Simon & Warshaw LLP)
16 (Dkt. 82) and employees of such counsel;

17 c. Consultants or expert witnesses retained for the prosecution or defense of
18 these actions, as well as members of said consultants’ or expert witnesses’ staffs assisting them in
19 connection with these actions, subject to the provisions of Paragraphs 10-15 herein, and who have
20 executed a copy of the certification annexed to this Second Addendum as Exhibit A before being
21 shown or given any Network Strictly Confidential – Outside Litigation Counsel Only Information,
22 provided that such individuals will not be involved directly or indirectly in negotiating any media,
23 network, or broadcasting contract, agreement, arrangement, or understanding with any Network
24 Intervenor, on or before January 1, 2021 (for the sake of clarity, subject to his/her compliance with
25 this Protective Order, this Protective Order shall not preclude any such individuals from negotiating
26 and/or entering into any contract or other arrangement or understanding with a Network Intervenor
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1 solely on his or her own behalf, including but not limited to any agreement to appear on any
2 programming of a Network Intervenor);

3 d. The original authors or recipients of the Network Strictly Confidential –
4 Outside Litigation Counsel Only Information and in circumstances where the Network Strictly
5 Confidential – Outside Counsel Only Information is an executed agreement, the parties to the
6 agreement and their respective employees with access to such agreement in the ordinary course of
7 business;

8 e. The Court, court personnel and court reporters; and

9 f. Persons or entities that provide litigation support services (e.g., photocopying;
10 videotaping; translating; preparing exhibits or demonstrations; organizing, storing, retrieving data in
11 any form or medium; etc.) and their employees and subcontractors, provided that such persons or
12 entities shall execute a copy of the certification annexed to this Second Addendum as Exhibit A
13 before being shown or given any Network Strictly Confidential – Outside Litigation Counsel Only
14 Information.

15 **FILING DOCUMENTS UNDER SEAL**

16 8. No Network Strictly Confidential – Outside Litigation Counsel Only Information
17 shall be filed in the public record without either the written permission of each Network Intervenor
18 discussed or referenced therein, or a court order denying an Administrative Motion to File Under
19 Seal such Network Strictly Confidential – Outside Litigation Counsel Only Information, provided
20 that in the event any Administrative Motion to File Under Seal such Network Strictly Confidential –
21 Outside Litigation Counsel Only Information is denied, the Network and the filing party agree to
22 meet and confer within three (3) calendar days to discuss in good faith alternatives to filing the
23 Network Strictly Confidential – Outside Litigation Counsel Only Information on the public record.
24 The Network Intervenors preserve their rights to seek a writ of mandamus from the Ninth Circuit
25 and/or a stay of any order denying an Administrative Motion to File Under Seal. No party may file
26 such Network Strictly Confidential – Outside Litigation Counsel Only Information until seven (7)
27 calendar days after the denial of any Administrative Motion to File Under Seal. At least five (5)
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1 business days in advance of the date or deadline on which any party or non-party seeks to file an
2 Administrative Motion to File Under Seal regarding any Network Strictly Confidential – Outside
3 Litigation Counsel Only Information, the filing entity shall provide written notice to each Network
4 Intervenor discussed or referenced therein, as well as one (1) redacted copy and one (1) unredacted
5 copy of the Information so designated. However, if multiple Network Intervenors are discussed or
6 referenced in the same document, no unredacted copies shall be provided to the Network Intervenors
7 unless each of the applicable Network Intervenors discussed or referenced individually consent. The
8 parties shall otherwise comply with the applicable court rules (*e.g.*, N.D. Cal. Civil L.R. 79-5)
9 regarding filing of documents under seal. Copies of any pleading, brief, or other document
10 containing Network Strictly Confidential – Outside Litigation Counsel Only Information which is
11 served on opposing counsel shall be stamped “**NETWORK STRICTLY CONFIDENTIAL –**
12 **OUTSIDE LITIGATION COUNSEL ONLY INFORMATION PURSUANT TO**
13 **PROTECTIVE ORDER**”, shall be transmitted via email or cover letter and envelope bearing
14 similar designation, and shall be treated in accordance with the provisions of the Protective Order, as
15 amended.

16 17 **INCORPORATION OF PROTECTIVE ORDER**

18 9. Except as set forth herein, for purposes of all Paragraphs of the Protective Order
19 except Paragraph 13, both Conference Strictly Confidential – Outside Litigation Counsel Only
20 Information and Network Strictly Confidential – Outside Litigation Counsel Only Information will
21 receive the same treatment under each such Paragraph as Highly Confidential – Counsel Only
22 Information. Except as set forth herein, any challenges or objections concerning the designation of
23 information as Conference Strictly Confidential – Outside Litigation Counsel Only Information or
24 Network Strictly Confidential – Outside Litigation Counsel Only Information shall be made pursuant
25 to Paragraph 14 of the Protective Order.

DISCLOSURE TO CONSULTANTS AND EXPERT WITNESSES

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2 10. Information designated Conference Strictly Confidential – Outside Litigation Counsel
3 Only Information or Network Strictly Confidential – Outside Litigation Counsel Only may be
4 furnished and disclosed to the receiving party’s consultants and expert witnesses and their necessary
5 support personnel as is reasonably necessary for maintaining, defending or evaluating these actions.
6 The terms “consultants” and “expert witnesses” shall mean an independent, outside expert witness or
7 consultant with whom counsel may deem it appropriate to consult and whom (with respect to
8 information designated Network Strictly Confidential – Outside Litigation Counsel Only) complies
9 with Paragraph 11.

10 11. No disclosure of Conference Strictly Confidential – Outside Litigation Counsel Only
11 Information or Network Strictly Confidential – Outside Litigation Counsel Only Information to a
12 consultant or expert witness or their necessary support personnel shall occur until that person has
13 accurately completed and signed the certification annexed to this Second Addendum as Exhibit A,
14 and a signed copy has been provided to the Disclosing Party; and to the extent there has been an
15 objection under Paragraph 13 with respect to Network Strictly Confidential – Outside Litigation
16 Counsel Only Information, that objection is resolved as discussed below. A separate certification
17 annexed to this Second Addendum as Exhibit A shall not be required for staff members working
18 under the supervision of an individual signing the certification annexed hereto as Exhibit A. An
19 individual signing the certification annexed to this Second Addendum as Exhibit A, however, shall
20 accept full responsibility for taking measures to ensure that staff members working under his or her
21 supervision comply with the terms of this Second Addendum.

22 12. A party desiring to disclose Network Strictly Confidential – Outside Litigation
23 Counsel Only Information to a consultant or expert witness shall give prior written notice to the
24 Disclosing Party as applicable, who shall have ten (10) business days after such notice is given to
25 object in writing. The party desiring to disclose Network Strictly Confidential – Outside Litigation
26 Counsel Only Information to a consultant or expert witness must provide the following information
27 for each consultant or expert witness: the name, title, business address, residence state and country,
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1 present occupation (or job description), past and present business relationships with the party
2 retaining them or other party to the litigation, curriculum vitae, a list of all instances in which, during
3 the last four (4) years, the consultant or expert witness testified by trial or deposition, and a
4 certification annexed to this Second Addendum as Exhibit A signed by such consultant or expert
5 witness. No Network Strictly Confidential – Outside Litigation Counsel Only Information shall be
6 disclosed to such consultant or expert witness until after the expiration of the foregoing ten (10)
7 days’ notice period.

8 13. A party objecting to disclosure of Network Strictly Confidential – Outside Litigation
9 Counsel Only Information to a consultant or expert witness shall state with particularity the
10 ground(s) of the objection. The objecting party’s consent to the disclosure of Network Strictly
11 Confidential – Outside Litigation Counsel Only Information to a consultant or expert witness shall
12 not be unreasonably withheld.

13 14. The applicable parties shall meet and confer to attempt to resolve the
14 dispute/objection within seven (7) days from the date of electronic delivery of the objection. If the
15 parties cannot resolve the dispute, the party seeking disclosure may move the Court for an order that
16 access to Network Strictly Confidential – Outside Litigation Counsel Only Information be provided
17 to the designated consultant or expert witness. If the parties cannot resolve the dispute and the party
18 seeking disclosure does not make such a motion within ten (10) business days of the electronic
19 delivery of the objection, disclosure of Network Strictly Confidential – Outside Litigation Counsel
20 Only Information shall not be made to the designated consultant or expert witness. The parties agree
21 to cooperate in good faith to shorten the time frames set forth in this Paragraph if necessary to abide
22 by any discovery or briefing schedules. If a motion is made by the party seeking disclosure, it shall
23 be the burden of the party seeking disclosure to demonstrate by a preponderance of the evidence that
24 Network Strictly Confidential – Outside Litigation Counsel Only Information should be allowed to
25 be disclosed to the consultant or expert witness.

26 15. Failure to object to a consultant or expert witness shall not preclude the non-objecting
27 party from later objecting to continued access by that consultant or expert witness where facts
28

1 suggesting a basis for objection could not have been discovered by the objecting party or its counsel,
2 exercising due diligence, within the period for making a timely objection. A later objection to a
3 consultant or expert witness cannot be made on the basis of information disclosed pursuant to
4 Paragraph 12, except to the extent that said disclosure contained a material omission or
5 misrepresentation.

6 IT IS SO STIPULATED.
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1 Dated: October 6, 2016

Respectfully submitted,

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ATTESTATION PURSUANT TO CIVIL LOCAL RULE 5-1(i)(3)

Pursuant to Civil Local Rule 5-1(i)(3), the filer of this document attests that concurrence in the filing of this document has been obtained from the signatories above.

/s/ Scott P. Cooper
SCOTT P. COOPER

SO ORDERED.

Dated: October 12, 2016

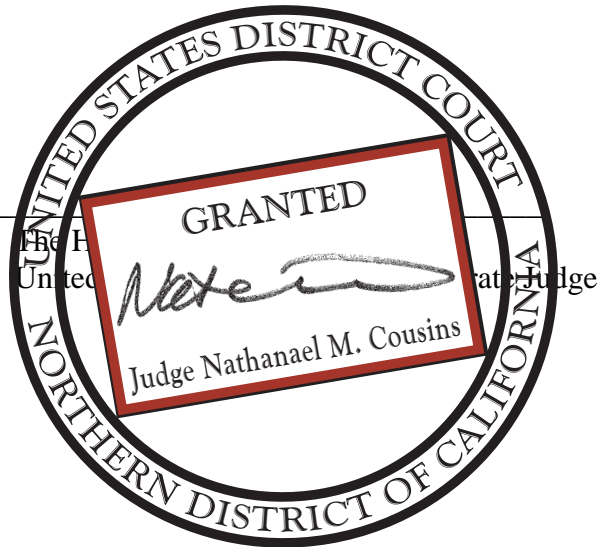


EXHIBIT A

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I, _____, state:

1. My business address is:

2. My present employer is:

3. My present occupation or job description (including my title) is:

4. My past and present business relationships with the parties to this litigation are:

5. For experts or consultants only, a copy of my curriculum vitae is attached hereto.

6. For experts or consultants only, in accordance with the Protective Order, First Addendum, and Second Addendum, I have provided a list of all instances in which, during the last four (4) years, I testified at trial or deposition.

7. I have received a copy of the Stipulated Protective Order Regarding Confidentiality of Documents and Materials (the "Protective Order") entered in the case of *In re: National Collegiate Athletic Association Athletic Grant-in-Aid Cap Antitrust Litigation*, in the United States District Court for the Northern District of California, No. 4:14-MD-2541-CW, entered by the Court on January 15, 2015, the Stipulation and Order Regarding Addendum to Stipulated Protective Order ("First Addendum") entered by the Court on July 9, 2015, and the Stipulation and Order Regarding Second Addendum to Stipulated Protective Order ("Second Addendum") entered by the Court on [_____].

8. I have carefully read the Protective Order, First Addendum, and Second Addendum and understand their provisions.

9. I will comply with all the provisions of the Protective Order, First Addendum, and Second Addendum.

10. I will hold in confidence and will not disclose to anyone not qualified under the Protective Order, First Addendum, or Second Addendum any documents designated Confidential, Highly Confidential – Counsel Only, Highly Confidential NCAA Member Financial Data – Lead Counsel Only, Conference Strictly Confidential – Outside Litigation Counsel Only Information, or Network Strictly Confidential – Outside Litigation Counsel Only, and I will use such Confidential Information and/or Highly Confidential – Counsel Only Information and/or Highly Confidential NCAA Member Financial Data and/or Network Strictly Confidential – Outside Litigation Counsel Only Information only for the allowed purposes stated in the Protective Order, First Addendum, and Second Addendum.

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11. I will return all documents that are designated Confidential, Highly Confidential – Counsel Only, Highly Confidential NCAA Member Financial Data – Lead Counsel Only, Conference Strictly Confidential – Outside Litigation Counsel Only Information, or Network Strictly Confidential – Outside Litigation Counsel Only, to counsel for the party from whom I obtained such documents.

12. I will submit to the jurisdiction of the United States District Court for the Northern District of California for purposes of the enforcement of the Protective Order, First Addendum, or Second Addendum and understand that violation of the Protective Order, First Addendum, or Second Addendum can constitute contempt of Court.

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

SIGNED _____, 201__.

Signature

Printed Name

EXHIBIT D

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17 **UNITED STATES DISTRICT COURT**
18 **NORTHERN DISTRICT OF CALIFORNIA**
19 **OAKLAND DIVISION**

20 IN RE: NATIONAL COLLEGIATE
ATHLETIC ASSOCIATION ATHLETIC
21 GRANT-IN-AID CAP ANTITRUST
22 LITIGATION

Case No. 4:14-md-02541-CW
Case No. 4:14-cv-02758-CW

**STIPULATION AND [PROPOSED] ORDER
REGARDING THIRD ADDENDUM TO
STIPULATED PROTECTIVE ORDER**

23 THIS DOCUMENT RELATES TO:

24 ALL ACTIONS
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1 All parties, by their respective counsel, hereby agree and stipulate to this proposed Third
2 Addendum to the “Stipulated Protective Order Regarding Confidentiality of Documents and
3 Materials” (the “Protective Order”) (Dkt. 189) entered by the Court on January 15, 2015:

4 1. The Second Addendum to Stipulated Protective Order (Dkt. 508) was negotiated and
5 signed between Plaintiffs and only five of the Conference Defendants in the Consolidated Action:
6 (1) Atlantic Coast Conference; (2) The Big Ten Conference, Inc.; (3) The Big 12 Conference, Inc.;
7 (4) Pac-12 Conference; and (5) Southeastern Conference. The parties now wish for the Court to
8 order this stipulated addendum such that the Second Addendum to Stipulated Protective Order
9 applies to the six other Conference Defendants in the Consolidated Action and the National
10 Collegiate Athletic Association (“NCAA”). The six other Conference Defendants in the
11 Consolidated Action are: (1) the American Athletic Conference; (2) Conference USA; (3) the Mid-
12 American Conference; (4) the Mountain West Conference; (5) the Sun Belt Conference; and (6) the
13 Western Athletic Conference (collectively, the “Six Conferences”).

14 2. By way of this stipulation, the Six Conferences in the Consolidated Actions and the
15 NCAA shall have the same rights and obligations under the Second Addendum to Stipulated
16 Protective Order as the Conference Defendants who negotiated and signed the Second Addendum to
17 Stipulated Protective Order, and Plaintiffs will have the same rights and obligations with regard to
18 the Six Conferences and the NCAA as they do with regard to the Conference Defendants who
19 negotiated and signed the Second Addendum to the Stipulated Protective Order.

20 3. The Second Addendum to Stipulated Protective Order was signed by certain media
21 networks that formally intervened into this litigation: (1) ESPN entities (ESPN, Inc., ESPN
22 Enterprises, Inc., and American Broadcasting Companies, Inc.); (2) Fox entities (Fox Broadcasting
23 Company, Fox Cable Networks, Inc., and Fox International Channels (US), Inc.); and (3) CBS
24 Broadcasting Inc. (collectively, the “Network Intervenors”). By way of this stipulation, the rights
25 and obligations of the Network Intervenors under the Second Addendum to Stipulated Protective
26 Order will apply not just to the Network Intervenors but to all media networks (including their
27 various entities, affiliates and assigns) that are partners of any of the eleven Conference Defendants
28 in this litigation or the NCAA, and which have an interest in the litigation, regardless of whether

1 each has formally intervened in this litigation. Each such media network will be considered by the
2 parties to be—and will receive the same treatment as—a Network Intervenor solely for purposes of
3 the Second Addendum to Stipulated Protective Order and shall not otherwise be treated as having
4 intervened in this litigation absent a formal motion to intervene by such network. However, nothing
5 in this stipulation shall prevent any media network or any other party from intervening in this
6 litigation.

7 IT IS SO STIPULATED.

8 Dated: November 11, 2016

Respectfully submitted,

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By /s/ Jeffrey L. Kessler

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ATTESTATION PURSUANT TO CIVIL LOCAL RULE 5-1(i)(3)

Pursuant to Civil Local Rule 5-1(i)(3), the filer of this document attests that concurrence in the filing of this document has been obtained from the signatory above.

/s/ Jeffrey L. Kessler
Jeffrey L. Kessler

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IT IS SO ORDERED.

Dated:

THE HON. NATHANAEL COUSINS
UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA

11/11/2016	540	Order granting 539 Stipulation entered by Magistrate Judge Nathanael M. Cousins. (This is a text-only entry generated by the court. There is no document associated with this entry.) (Entered: 11/11/2016)
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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

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

Case No. 4:14-md-02541-CW
~~Case No. 14-cv-02758-CW~~

**STIPULATION AND ~~[PROPOSED]~~ ORDER
REGARDING SECOND ADDENDUM TO
STIPULATED PROTECTIVE ORDER**

THIS DOCUMENT RELATES TO:
ALL ACTIONS.

Judge: Hon. Claudia Wilken

1 All parties and Network Intervenors, by and through their respective counsel, hereby agree and
2 stipulate to the below as it relates to the Second Addendum to the “Stipulated Protective Order
3 Regarding Confidentiality of Documents and Materials” (the “Second Addendum”) (Dkt. 512) entered
4 by the Court on October 12, 2016:

5 1. The Second Addendum was negotiated and signed between Plaintiffs and only five of
6 the Conference Defendants in the Consolidated Action: (1) Atlantic Coast Conference; (2) The Big
7 Ten Conference, Inc.; (3) The Big 12 Conference, Inc.; (4) Pac-12 Conference; and (5) Southeastern
8 Conference. (Dkt. 508.)

9 2. On November 11, 2016, Magistrate Judge Nathaniel M. Cousins entered via minute
10 entry (Dkt. 540) the Third Addendum to the Stipulated Protective Order (Dkt. 539) (the “Third
11 Addendum”). The Third Addendum was signed and entered for the purpose of applying the terms of
12 the Second Addendum to the six other Conference Defendants in the Consolidated Action and the
13 National Collegiate Athletic Association (“NCAA”). The six other Conference Defendants in the
14 Consolidated Action are: (1) the American Athletic Conference; (2) Conference USA; (3) the Mid-
15 American Conference; (4) the Mountain West Conference; (5) the Sun Belt Conference; and (6) the
16 Western Athletic Conference (collectively, the “Six Conferences”).

17 3. The Second Addendum was also signed by certain media networks that formally
18 intervened in this litigation: (1) ESPN entities (ESPN, Inc., ESPN Enterprises, Inc., and American
19 Broadcasting Companies, Inc.); (2) Fox entities (Fox Broadcasting Company, Fox Cable Networks,
20 Inc., and Fox International Channels (US), Inc.); and (3) CBS Broadcasting Inc. (collectively, the
21 “Network Intervenors”). By way of the Third Addendum, the rights and obligations of the Network
22 Intervenors under the Second Addendum were extended to apply not just to the Network Intervenors,
23 but to all media networks (including their various entities, affiliates and assigns) that are partners of
24 any of the eleven Conference Defendants in this litigation or the NCAA, and which have an interest
25 in the litigation, regardless of whether each has formally intervened in this litigation.

26 4. Absent Network Intervenor permission, the Second Addendum and Third Addendum
27 limit the involvement of defense counsel who receive information that is designated “Network Strictly
28 Confidential – Outside Litigation Counsel Only” (“NSC”), which is defined in Paragraph 4 of the

1 Second Addendum. Specifically, Paragraph 7(a)(2) of the Second Addendum provides:

2 [A]ny individual attorney who reviews Network Strictly Confidential –
3 Outside Litigation Counsel Only Information of a Network Intervenor to
4 which such attorney did not have access prior to production of such
5 Information in this action may not, absent written permission from such
6 Network Intervenor, participate directly or indirectly on or before March
7 31, 2021 in negotiating any media, network, or broadcasting contract,
8 agreement, arrangement, or understanding with such Network Intervenor,
9 except that nothing in this Addendum shall be construed to require a
Network Intervenor’s permission for any individual attorney’s participation
in negotiating any agreements, arrangements, or understandings pertaining
to discovery, motion practice, or other litigation-related matters in this
lawsuit pertaining to Network Strictly Confidential – Outside Litigation
Counsel Only Information of a Network Intervenor.

10 5. Trial of this matter is scheduled to begin on September 4, 2018. The parties’ pretrial
11 filings identify as proposed exhibits and testimony for trial certain information that is designated NSC
12 pursuant to the Second Addendum. A number of defense counsel implicated by the terms of Paragraph
13 7(a)(2) of the Second Addendum intend to attend the trial, in whole or in part. Counsel for the Network
14 Intervenor may also attend the trial, in whole or in part.

15 6. The parties and Network Intervenor therefore stipulate and agree that the restriction
16 imposed by Paragraph 7(a)(2) of the Second Addendum be modified as follows for purposes of the
17 forthcoming trial only: to the extent NSC information is inadvertently revealed at trial by any exhibit,
18 witness, the Court, or oral presentation by counsel, defense counsel and counsel for the Network
19 Intervenor shall not, solely as a result of such disclosure, be barred from future negotiations under
20 Paragraph 7(a)(2) of the Second Addendum. To the extent NSC Information is permissibly used at
21 trial, including over the objection of a Network Intervenor, and regardless of whether the information
22 is later sealed, then defense counsel and counsel for the Network Intervenor shall not, solely as a
23 result of such disclosure, be barred from future negotiations under Paragraph 7(a)(2) of the Second
24 Addendum.

25 IT IS SO STIPULATED.
26
27
28

1 Dated: September 4, 2018

Respectfully submitted,

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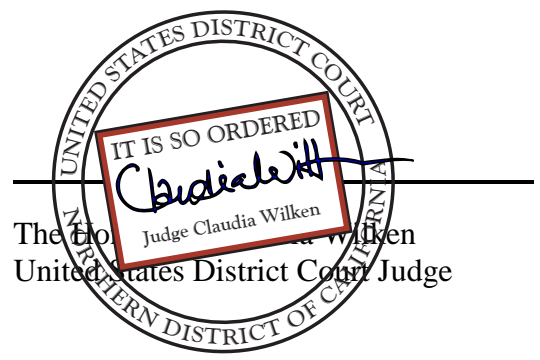
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SO ORDERED

Dated: September 4, 2018



The Honorable Judge Claudia Wilken
United States District Court Judge

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ATTESTATION PURSUANT TO CIVIL LOCAL RULE 5-1(i)(3)

Pursuant to Civil Local Rule 5-1(i)(3), the filer of this document attests that concurrence in the filing of this document has been obtained from the signatories above.

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18 **UNITED STATES DISTRICT COURT**
19 **NORTHERN DISTRICT OF CALIFORNIA**
20 **OAKLAND DIVISION**

21 IN RE: NATIONAL COLLEGIATE
22 ATHLETIC ASSOCIATION ATHLETIC
GRANT-IN-AID CAP ANTITRUST
23 LITIGATION

Case Nos. 4:14-md-2541-CW (NC)
4:14-cv-02758-CW (NC)

STIPULATION AND [PROPOSED] ORDER
REGARDING FOURTH ADDENDUM TO
STIPULATED PROTECTIVE ORDER

24
25 This Document Relates to:
26 ALL ACTIONS

1 All parties, by their respective counsel, hereby agree and stipulate to this proposed Fourth
2 Addendum to the “Stipulated Protective Order Regarding Confidentiality of Documents and
3 Materials” (the “Protective Order”) (Dkt. 189) entered by the Court on January 15, 2015:

4 1. Unless otherwise defined herein, all capitalized terms shall have the meanings ascribed
5 to such terms in the Protective Order.

6 **ORDER REGARDING PRODUCTION OF BILLING RECORDS**

7 2. On August 21, 2019, the Court held a hearing on the following motions: Plaintiffs’
8 Motion for Attorney Fees, Expenses and Service Awards (Dkt. 1169) (“Plaintiffs’ Motion for Fees and
9 Costs”); Joint Statement of Discovery Dispute Regarding Plaintiffs’ Motion for Attorney Fees (Dkt.
10 1184) (the “Discovery Dispute”); Motion for Review of Clerk’s Taxation of Costs (Dkt. 1193); and
11 Administrative Motion to Vacate Taxed Costs Order (Dkt. 1194).

12 3. As to the Discovery Dispute (Dkt. 1184), the Court ordered Plaintiffs to produce the
13 billing records underlying Plaintiffs’ Motion for Fees and Costs to enable Defendants to review time
14 entries for tasks, if any, that Defendants contend are non-compensable, and not for any other purpose.¹

15 4. The Court did not compel waiver of privilege and ordered the parties to meet and confer
16 regarding a protective order.

17 **ADDITIONAL CATEGORY OF PROTECTED INFORMATION**

18 5. The Protective Order will recognize a new category of discovery called “Highly
19 Confidential Billing Records – Outside Counsel Only.” Any party or non-party may designate as
20 “Highly Confidential Billing Records – Outside Counsel Only” any document, production, filing, or
21 anything else furnished during the course of these actions that includes or concerns information in any
22 party or non-party’s billing records (by stating on the first page or in an accompanying letter that it is
23 “Highly Confidential Billing Records – Outside Counsel Only”). Highly Confidential Billing Records
24 – Outside Counsel Only Information may be disclosed only to those persons set forth in Paragraph 6
25 below.

26
27 ¹ The parties reserve all rights with respect to potential disputes related to (1) the scope of challenges
28 Defendants are permitted to make; and (2) the production of expense reports.

PERMISSIBLE DISCLOSURES AND USES OF INFORMATION

6. Highly Confidential Billing Records – Outside Counsel Only Information (that is designated as such in accordance with the terms of the Protective Order and this Fourth Addendum) shall not be disclosed or used, except to the following persons, and then only to the extent necessary to litigate Plaintiffs' Motion for Fees and Costs:

- a. Defendants’ outside litigation counsel of record, including lawyers and other members and employees of those law firms assisting with litigation-related tasks in this case;
- b. The Court, court personnel and court reporters; and
- c. Persons or entities that provide litigation support services (e.g., photocopying; videotaping; translating; preparing exhibits or demonstrations; organizing, storing, retrieving data in any form or medium; etc.) and their employees and subcontractors, provided that such persons or entities shall execute a copy of the certification annexed to this Addendum as Exhibit A before being shown or given any Highly Confidential Billing Records – Outside Counsel Only Information.

FILING DOCUMENTS UNDER SEAL

7. No Highly Confidential Billing Records – Outside Counsel Only Information shall be filed in the public record without either the written permission of Plaintiffs’ counsel or a court order denying an Administrative Motion to File Under Seal such Highly Confidential Billing Records – Outside Counsel Only Information, provided that in the event any Administrative Motion to file Under Seal such Highly Confidential Billing Records – Outside Counsel Only Information is denied, the Plaintiffs and the filing party agree to meet and confer within three (3) calendar days to discuss in good faith alternatives to filing the Highly Confidential Billing Records – Outside Counsel Only Information on the public record. Plaintiffs preserve their rights to seek a writ of mandamus from the Ninth Circuit and/or a stay of any order denying an Administrative Motion to File Under Seal. The parties shall otherwise comply with the applicable court rules (e.g., N.D. Cal. Civil L.R. 79-5) regarding filing of documents under seal. Copies of any pleading, brief, or other document containing Highly Confidential Billing Records – Outside Counsel Only Information which is served on opposing counsel shall be stamped “HIGHLY CONFIDENTIAL BILLING RECORDS – OUTSIDE COUNSEL ONLY

1 INFORMATION PURSUANT TO PROTECTIVE ORDER”, shall be transmitted via email or cover
2 letter and envelope bearing similar designation, and shall be treated in accordance with the provisions
3 of the Protective Order, as amended. Defendants agree not to oppose a motion to seal Highly
4 Confidential Billing Records – Outside Counsel Only Information.

5 **NO WAIVER**

6 8. While Plaintiffs reserve the right to redact billing records and Defendants reserve the
7 right to challenge Plaintiffs’ redaction of such records, the production of billing records, regardless of
8 content, shall not be deemed to waive any applicable privilege or work product protection or to affect
9 the ability of a party to seek relief for an inadvertent disclosure of material protected by privilege or
10 work product protection. Pursuant to the Court’s authority under Federal Rule of Evidence 502 and
11 any other applicable law, rule, or legal principal, the inadvertent production of documents or
12 information subject to the attorney-client privilege or work-product immunity shall not waive the
13 privilege or immunity if a request for the return of such documents or information is made promptly
14 after the Disclosing Party learns of its inadvertent production.

15 **INCORPORATION OF PROTECTIVE ORDER**

16 9. Except as set forth herein, for purposes of all Paragraphs of the Protective Order except
17 Paragraph 13, Highly Confidential Billing Records – Outside Counsel Only Information will receive
18 the same treatment under each such Paragraph as Highly Confidential – Counsel Only Information.

19 10. Except as set forth herein, any challenges or objections concerning the designation of
20 information as Highly Confidential Billing Records – Outside Counsel Only Information shall be made
21 pursuant to the procedures set forth in Paragraph 14 of the Protective Order.

22 11. Except as set forth herein, the Protective Order, including but not limited to all
23 provisions related to the nondisclosure of protected information, and the return or destruction of
24 protected information after the final termination of the litigation, are expressly incorporated into this
25 Fourth Addendum and remain in full force and effect.

26 IT IS SO STIPULATED.
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1 Dated: September 13, 2019

Respectfully submitted,

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ATTESTATION PURSUANT TO CIVIL LOCAL RULE 5-1(i)(3)

Pursuant to Civil Local Rule 5-1(i)(3), the filer of this document attests that concurrence in the filing of this document has been obtained from the signatories above.

/s/ Jeffrey L. Kessler
Jeffrey L. Kessler

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[PROPOSED] ORDER

PURSUANT TO THE FOREGOING STIPULATION OF THE PARTIES,

IT IS SO ORDERED.

Dated: _____

The Honorable Claudia Wilken
United States District Judge

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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

In re:
NATIONAL COLLEGIATE ATHLETIC
ASSOCIATION ATHLETIC GRANT-IN-
AID CAP ANTITRUST LITIGATION

Case No. 14-md-02541 CW (NC)
Case No. 14-cv-02758 CW (NC)


**ORDER GRANTING STIPULATION
ON FOURTH ADDENDUM TO
PROTECTIVE ORDER**

Dkt. No. 1237

For good cause shown, the Court GRANTS ECF 1237, the stipulation regarding the fourth addendum to the protective order. For purposes of clarity, this order does not modify the standards or procedural requirements for filing materials under seal under N.D. Cal. Civil Local Rule 79-5. The parties must comply with Local Rule 79-5 if they seek to file materials under seal.

IT IS SO ORDERED.

Date: September 13, 2019


Nathanael M. Cousins
United States Magistrate Judge