

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF NORTH CAROLINA
No. 1:24-CV-00238-CCE-JEP**

REESE BRANTMEIER, on behalf
of herself and all others similarly
situated,

Plaintiff,

v.

NATIONAL COLLEGIATE
ATHLETIC ASSOCIATION,

Defendant.

JOINT STATUS REPORT

Pursuant to this Court’s Text Order¹ dated October 22, 2024 (the “Text Order”), the Parties have met and conferred concerning topics raised in the Text Order and submit the following Joint Status Report.

1. **Plaintiff’s First Amended Complaint.** In the Order dated August 14, 2024 (ECF No. 39), Magistrate Judge Joi Elizabeth Peake permitted Plaintiff to amend the Complaint on or before November 8, 2024.

¹ In pertinent part, the Text Order requires that counsel “meet and confer and, no later than November 8, 2024, file a detailed joint status report as to 1) how the withdrawal of the motion for class certification affects the issues, claims, and defenses in the pleadings; 2) what discovery has been sought, obtained, and otherwise arranged, and 3) the best way to modify the scheduling order, with proposed revised deadlines.”

Plaintiff has elected to file an amended complaint on November 8, 2024. Defendant reserves all rights with respect to the amended complaint, which it has not had an opportunity to review prior to the filing of this Joint Status Report.

2. **Discovery Sought and Obtained.** On July 3, 2024, Plaintiff filed its Motion for Class Certification (ECF No. 23).

a. In support of the motion for class certification, Plaintiff's counsel Jacob Morse submitted a declaration referencing analysis conducted by a researcher retained by Plaintiff. *See* Decl. of Jacob Morse in Support of Pl.'s Mot. for Class Certification, ECF No. 24-1. Shortly after Plaintiff filed her motion, Defendant requested that Plaintiff's counsel identify the researcher referenced in Mr. Morse's declaration.

b. On Friday, July 19, 2024, the Court ordered Defendant to file a response to Plaintiff's motion for class certification no later than 60 days from the date that the Court resolved Plaintiff's then-pending motion for a preliminary injunction. Text Order (July 19, 2024). In that Order, the Court instructed the parties to "begin now and [] complete class certification discovery during that period." *Id.*

c. On Monday, July 22, 2024, Defendant: (1) renewed its request regarding the identity of the researcher referenced in Mr.

Morse's declaration; (2) requested the materials upon which the researcher and Mr. Morse relied when drafting the declaration; and (3) requested the materials that formed the basis of Plaintiff's motion for class certification. Defendant followed up on this request on July 25, August 5, and August 8. To date, Defendant has not served any document requests on the Plaintiff. Defendant has served document requests in connection with the scheduled depositions of Plaintiff's researcher, Ms. Hart, and Declarant Martin.

d. On August 8, counsel for Defendant requested dates to depose the researcher, Plaintiff Brantmeier, and the student-athletes who submitted declarations in support of Plaintiff's motion for class certification, Jillian Martin and Maya Joint.

e. Later that day, on August 8, Plaintiff's counsel notified counsel for Defendant of the identity of the researcher referenced in Mr. Morse's declaration—Megan Hart—and were seeking Ms. Hart's availability for deposition.

f. The Court held a hearing on Plaintiff's motion for preliminary injunction on August 15, 2024, and directed the parties to move forward with discovery. (8/15/2024 Hearing Tr. at 97:13–98:5).

g. Class discovery ensued as follows:

i. *Deposition of Ms. Hart*: On August 23, 2024, Plaintiff's counsel made a production of Ms. Hart's reliance materials in response to Defendant's prior requests and on September 26, 2024 Plaintiff's and Ms. Hart's counsel served objections to the Hart subpoena; on September 4, Plaintiff's counsel provided Defendant with revised availabilities for Ms. Hart's deposition; on October 2, the NCAA conducted the deposition of Ms. Hart in Jacksonville, Florida.

ii. *Deposition of Declarant Martin*. On September 9, 2024, Plaintiff's counsel provided potential dates for the deposition of Ms. Martin; on September 27, Defendant issued a notice and subpoena for Ms. Martin's deposition to occur on October 14; and on October 10, Plaintiff's counsel canceled Ms. Martin's deposition, informing Defendant that they would be withdrawing the pending Motion for Class Certification.

iii. *Deposition of Plaintiff Brantmeier*. To accommodate Plaintiff Brantmeier's academic schedule, Defendant had agreed to take Ms. Brantmeier's deposition on Sunday November 3. On October 10, 2024, Plaintiff's counsel requested that Defendant

defer Ms. Brantmeier's deposition until a later date, given Plaintiff's plans to amend the complaint.

iv. *Deposition of Declarant Joint.* Defendant requested dates for the deposition of Ms. Joint on several occasions. However, despite Plaintiff's counsel's repeated efforts to coordinate with Ms. Joint and provide dates certain for her deposition, Ms. Joint was unavailable due to her very busy tennis and academic schedule as she started her first year of school at the University of Texas. Plaintiff was in the process of confirming such dates when the Court entered its order denying Plaintiff's motion for Preliminary Injunction.

3. On October 7, 2024, this Court denied Plaintiff's Motion for Preliminary Injunction. ECF No. 51 ("PI Order"). The existing scheduling order now required Defendant to respond to the then-pending Motion for Class Certification by December 6, 2024. Plaintiff determined that in light of the Court's ruling, the Complaint would be amended, as permitted by the Court. ECF No. 39.

4. Accordingly, on October 10, 2024, Plaintiff's counsel notified Defendant that Plaintiff "will be withdrawing her Motion for Class Certification," and that her "present intention is to file an Amended Complaint

without any Class claims on or before the November 8 deadline set by the Court for amended pleadings,” and that the parties “will no longer be litigating class certification.” Due to these changes in the litigation, Plaintiff’s counsel informed Defendant that they were canceling Ms. Martin’s deposition scheduled for October 14, would “not be providing a date for” the deposition of Declarant Joint, and suggested deferring the deposition of Plaintiff Brantmeier.

5. On October 15, 2024, Plaintiff’s Counsel notified Defendant that “As indicated previously, in order to avoid the expense of taking potentially irrelevant depositions, we are filing a Withdrawal of our Motion for Class Certification. To clarify, we are not waiving any rights to refile a new Motion for Class Certification in conjunction with an Amended Complaint that we anticipate filing prior to the November 8 deadline in the existing Case Management Order.” Later the same date, Plaintiff filed a Notice of Withdrawal of Motion for Class Certification with the Court.

6. **Class Certification.** As reflected in the Text Order, Plaintiff withdrew its Motion for Class Certification on October 15, 2024. ECF No. 57.

a. ***Plaintiff’s Position.***

Plaintiff withdrew the Motion for Class Certification in part because of the Court’s October 7, 2024 PI Order and because such Motion

would be superseded by filing of the First Amended Complaint. Following the Court's order, Plaintiff reevaluated the claims asserted in the original complaint, heeding the Court's concerns as expressed in the PI Order. The First Amended Complaint asserts a significantly narrower proposed class and asserts claims for damages that had not appeared in the initial Complaint.

Any prejudice to the NCAA from the withdrawal and subsequent refiling of the Class Certification Motion is *de minimus*: the Motion was withdrawn just under two months before the NCAA's response would be due, so the NCAA had not filed a responsive brief, nor had it produced any documents, served Plaintiff with any requests for production of documents, or defended any depositions. Its Counsel had taken only a single deposition before the Motion was withdrawn. Nor can the NCAA claim any prejudice from Counsel's transmitting a clarifying email three days after informing them that their initial Motion would be withdrawn.

Based on the allegations in Plaintiff's First Amended Complaint, Plaintiff intends to file a Motion for Class Certification limited to past, present, and future student-athletes who compete in tennis seeking both damages and injunctive relief and has informed Defendant of the same. Pursuant to Local Rule 23.1(b), a motion for class action determination

must be made within 90 days after the entry of an initial pretrial order, unless extended by court order. Based on their First Amended Complaint, Plaintiffs need certain limited discovery from the NCAA related to their new class allegations, including as to damages and the identification of class members. Accordingly, Plaintiff seeks an extension of time from the Court within which to file its Motion for Class Certification.

The amended class schedule below reflects the need for limited discovery prior to the filing of Plaintiff's Motion for Class Certification related to revised proposed classes of tennis athletes set forth in the First Amended Complaint. As communicated to Defendant, Plaintiff seeks the production of, *inter alia*, records and documents in Defendant's custody related to putative class members' requests for certification to play Division I tennis under the NCAA's amateurism rules.² A true and accurate copy of Plaintiff's production request is attached hereto as **Exhibit A**. These documents and data will identify student-athletes who earned Prize Money, as defined in the First Amended Complaint, at

² At this time, Plaintiff's November 7 document request, which is focused on Prize Money earned, is not intended to seek the detailed medical and academic records of putative class members. However, Plaintiffs retain the right to revisit these issues if needed.

non-NCAA events and reported this information to the NCAA as required by the NCAA as well as the data and documents reflecting any actions and determinations made by the NCAA regarding student-athletes' eligibility under the NCAA's amateurism rules. Plaintiff's document request to NCAA, seeks records, data and documents that are relevant for Plaintiff's assessment of antitrust injury under the new class definitions in the First Amended Complaint. Serving discovery relevant to Plaintiff's class-wide damages claims, which did not exist in the original complaint, would have been premature without first filing a First Amended Complaint that *does* include such claims.

The proposed schedule reflects Plaintiff's filing of its Motion for Class Certification 30-days after Defendant's production of such documents, data and records—to be extended an equal number of days as any such delay in Defendant's production. As such, Plaintiff's request an extension of time consistent with the schedule herein within which to file its Motion for Class Certification.

b. ***Defendant's Position.*** Defendant opposes Plaintiff's filing of a successive motion for class certification, and requests that the Court deny her leave to do so. Defendant promptly began discovery in connection with Plaintiff's initial Motion for Class Certification,

repeatedly requesting witnesses' availabilities for deposition, often met without response from Plaintiff's counsel. Then, Defendant agreed to suspend the remaining scheduled discovery, including canceling depositions, based on Plaintiff's October 10, 2024 representation that she intended to "file an Amended Complaint without any Class claims" and that the parties "will no longer be litigating class certification." Then, five days later on October 15, Plaintiff "clarif[ied]" that she was "not waiving any rights to refile a new Motion for Class Certification in conjunction with an Amended Complaint."

For the nearly three months since the entry of the scheduling order in this case, and long after the Court instructed the parties to begin discovery, Plaintiff made no requests for production. It was only on November 5, 2024, that Plaintiff's counsel first notified Defendant that they now plan to issue a request for production of documents related to Division I tennis student-athletes prior to filing a successive motion for class certification. Plaintiff did not provide the document request to Defendant until Thursday, November 7. Pending a thorough review, Defendant reserves all rights with respect to the request for production, including the right to serve objections on the breadth and scope, the burden of collection, the relation to the heretofore unseen amended

complaint, and other grounds. Upon preliminary review, Plaintiff's RFP seeks data for all tennis student-athletes—from more than 260 Division I programs—for a five-year period. Defendant has estimated that this RFP, as presently drafted, could implicate records for approximately 20,000 men and women tennis student-athletes. Depending on the scope of the request ultimately authorized by the Court, this RFP could include academic records, medical records, financial data, correspondence, and personal identifying information—breathtaking in scope, sensitivity, and complexity. Plaintiff's sweeping requests will take significant time to collect, review, and redact as appropriate before production.

Moreover, there was no reason for Plaintiff to wait this long before requesting documents when discovery began months prior, and Plaintiff could have made the same request under the original Complaint. Allowing Plaintiff to file such a delayed successive class certification motion after the lengthy process required to produce responsive documents would unreasonably delay the course of this litigation.

It was Plaintiff's decision to move for class certification and proceed with discovery at the time and in the form that she did so. At this juncture, Plaintiff should not be permitted to reverse course and walk back their prior representations. Defendant therefore requests

that the Court deny Plaintiff leave to file a successive class certification motion beyond the time permitted pursuant to Local Rule 23.1(b).

7. **Proposed Schedule.**

a. **Plaintiff's Position.** Plaintiff proposes the amended schedule below, which properly reflects the need for limited discovery prior to the filing of Plaintiff's Motion for Class Certification, tailored to the revised proposed classes set forth in the First Amended Complaint.

b. **Defendant's Position.** If the Court denies Plaintiff leave to file a successive motion for class certification as Defendant requests, the NCAA proposes maintaining the existing schedule as ordered by Magistrate Judge Peake on August 14, 2024.

If the Court grants Plaintiff leave to file a successive motion for class certification, NCAA proposes the following schedule:

EVENT	PLAINTIFF'S PROPOSED DEADLINE	NCAA'S PROPOSED DEADLINE
Defendant's Motion and/or Responsive Pleading	December 18, 2024	
Plaintiff's Response to Defendant's Motion	January 8, 2025	
Defendant's Reply ISO Motion	January 22, 2025	
Plaintiff's Proposed Deadline for NCAA to complete production of class-related documents / NCAA's proposed deadline for Defendant's substantial completion of production of documents responsive to Plaintiff's RFP	December 10, 2024	February 10, 2025
Plaintiff's Motion for Class Certification	January 10, 2025	March 10, 2025
Defendant's Deadline to Depose Plaintiff's Class Expert(s)	February 28, 2025	April 30, 2025
Defendant's Response to Plaintiff's Motion for Class Certification	March 18, 2025	May 21, 2025
Plaintiff's Deadline to Depose Defendant's Class Experts	April 17, 2025	June 20, 2025
Plaintiff's Class Certification Reply, Parties' Expert Rebuttal Reports, and Parties' Class <i>Daubert</i> Motions	May 8, 2025	
Plaintiff's Class Certification Reply; Parties' Expert Rebuttal Reports		July 11, 2025
Parties' Class <i>Daubert</i> Motion(s)		July 25, 2025
Parties' Responses to Class <i>Daubert</i> Motion(s)	June 5, 2025	August 22, 2025
Parties' Replies ISO Class <i>Daubert</i> Motion(s)	June 19, 2025	September 5, 2025
Hearing on Class Certification	To be set by the Court	
Merits Discovery Cutoff	July 8, 2025	September 9, 2025
Merits Experts Disclosure (incl. reports) on issues as to which Party bears the burden at trial	July 8, 2025	September 9, 2025

Merits Expert Response	August 8, 2025	October 14, 2025
Merits Expert Reply	September 10, 2025	November 13, 2025
Expert Discovery Cutoff	October 15, 2025	December 16, 2025
Plaintiff's Dispositive Motion(s) / <i>Daubert</i> Motion(s)		January 19, 2026
Dispositive Motion(s) / <i>Daubert Motion(s)</i>	December 19, 2025	
Responses to Dispositive Motions / Response to <i>Daubert</i>	January 20, 2026	
Replies in Support of Dispositive Motion(s)/ Replies in support of <i>Daubert</i> Motions	February 3, 2026	
Defendant's Opposition to Plaintiff's Dispositive Motion(s); Defendant's Cross-motion; and Defendant's <i>Daubert</i> motions		February 19, 2026
Plaintiff's Reply in support of Dispositive Motion; Opposition to Defendant's Cross-Motion; Opposition to Defendant's <i>Daubert</i> Motion(s)		March 12, 2026
Defendant's Reply in support of their Cross-Motion and <i>Daubert</i> Motions; Opposition to Plaintiff's <i>Daubert</i> Motions		April 14, 2026
Plaintiff's Reply in support of their <i>Daubert</i> Motion(s)		April 28, 2026
Hearing on all dispositive and <i>Daubert</i> motions and further case management conference	To be set by the Court	
Trial Date	TBD	

Dated: November 8, 2024

**MILBERG COLEMAN BRYSON
PHILLIPS GROSSMAN, PLLC**

/s/ Peggy J. Wedgworth

PEGGY J. WEDGWORTH*
New York State Bar No. 2126159
405 East 50th Street
New York, New York 10022
(212) 594-5300
pwedgworth@milberg.com

ARTHUR M. STOCK
North Carolina State Bar No. 17613
DANIEL K. BRYSON
North Carolina State Bar No. 15781
LUCY N. INMAN
North Carolina State Bar No. 17462
900 W Morgan Street
Raleigh, North Carolina 27603
(919) 600-5000
astock@milberg.com
dbryson@milberg.com
linman@milberg.com

**MILLER MONROE
& PLYLER, PLLC**

JASON A. MILLER
North Carolina State Bar No. 39923
ROBERT B. RADER III
North Carolina State Bar No. 55184
WILLIAM W. PLYLER
North Carolina State Bar No. 10475
JOEL L. LULLA* (*Of Counsel*)
New York State Bar No. 1865823
1520 Glenwood Avenue
Raleigh, North Carolina 27608

/s/ Rakesh Kilaru

Rakesh Kilaru
Tamarra Matthews Johnson
Cali Arat
Matthew Skanchy
WILKINSON STEKLOFF LLP
2001 M Street NW, 10th Floor
Washington, DC 20036
Telephone: (202) 847-4000
Facsimile: (202) 847-4005
rkilaru@wilkinsonstekloff.com
tmatthewsjohnson@wilkinsonstekloff.com
carat@wilkinsonstekloff.com
mskanchy@wilkinsonstekloff.com

Alan M. Ruley
State Bar No. 16407
BELL, DAVIS & PITT P.A.
PO Box 21029
Winston-Salem, NC 27120
Telephone: (336) 722-3700
Facsimile: (336) 714-4101
aruley@belldavispitt.com

Matille Gibbons Bowden
State Bar No. 54834
ARENTFOX SCHIFF LLP
1717 K Street NW
Washington, DC 20006
Telephone: (202) 857-6000
Facsimile: (202) 857-6395
mattie.bowden@afslaw.com

*Counsel for National Collegiate Athletic
Association*

(919) 809-7346

jmiller@millermonroe.com

rrader@millermonroe.com

wplyler@millermonroe.com

joel_lulla@yahoo.com

*Counsel for Plaintiff and Proposed
Classes*

* Specially Admitted