

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

REESE BRANTMEIER and MAYA
JOINT, on behalf of themselves and all
others similarly situated,

Plaintiffs,

v.

NATIONAL COLLEGIATE ATHLETIC
ASSOCIATION,

Defendant.

JOINT SUBMISSION ON PROPOSAL FOR NOTICE AND TRIAL

Pursuant to this Court's Order of July 15, 2025, (Dkt. 97), the Parties jointly submit this Proposal regarding Class Notice and the Trial Schedule.

I. PLAINTIFFS' PROPOSED PLAN OF DISTRIBUTION OF CLASS NOTICE

This case is brought by two named plaintiffs, Reese Brantmeier and Maya Joint and filed in the Middle District of North Carolina, on behalf of two classes of tennis players who allege that the NCAA's Prize Money Rules violate antitrust laws by preventing current and future college tennis athletes from collecting the prize money they earn in non-NCAA tennis events. They further allege that the same Prize Money Rules also prevent some athletes who have competed professionally from competing at the collegiate level.

The Court has certified two classes in this case: (1) an Injunctive Relief Class, and a Damages Class. The Injunctive Relief Class consists of

all persons who at any time between March 19, 2020 and the date of judgment in this action,¹

- (i) competed in NCAA Division 1 Tennis, or
- (ii) were ineligible to compete in NCAA Division I Tennis due to the Prize Money Rules;

and the Damages Class consists of

all persons who at any time between March 19, 2020 and the date of judgment in this matter, have voluntarily forfeited Prize Money earned in a tennis tournament, and

- (i) have competed in NCAA Division 1 Tennis or
- (ii) have submitted information to the NCAA Eligibility Center.

Plaintiffs propose that a single Notice is used to reach both classes, as is frequently done in cases where there are multiple classes or subclasses. *See e.g. In re College Athlete NIL Litig.*, N.D. Cal. 4:20-cv-03919-CW, Dkt. No. 405-2 and 406 (Feb. 29 and March 1, 2024). Most Damages Class Members are Injunctive Relief Class Members, but we do not know at this time the extent of the overlap of those class memberships. A single Notice will also be less confusing and more efficient for Class Members.

The NCAA requires that all prospective student-athletes provide a mailing address, and an email address that “the student checks frequently and will have access to after high school,” when they register with the NCAA Eligibility Center, which is a prerequisite for competing for NCAA team. <https://www.ncaa.org/sports/2014/10/24/how-to-register.aspx>.

¹ As discussed below, NCAA requests that this definition be modified to replace “date of judgment” with “date of initial distribution of notice.”

Plaintiffs propose that the Notice be sent in two steps: first, Notices will be sent to the most recent email addresses known to the NCAA for all prospective student-athletes who registered (or initiated the registration process) with the NCAA Eligibility Center as potential Student-Athletes in Men's or Women's Tennis between January 1, 2021 and August 5, 2025, and a few individuals who were entered into the eligibility center database at an earlier time and have been identified as likely members of the Damages Class. This group encompasses over 17,000 individuals. Second, postcards containing a short description of the litigation and a link to the Notice web site will be mailed to the most recent known home addresses of all class members who could not be reached by email.

The proposed method of distribution encompasses everyone in subcategory (i) of the Injunctive Relief Class who can benefit from the proposed injunction,² and every likely member of the Damages Class.³ It will also contain members of subcategory (ii) who sought to play in the NCAA, but were denied the opportunity because the NCAA determined that they had violated the Prize Money Rules, and other members of subcategory (ii), who initiated the NCAA Eligibility Center process whether that process was completed or not.

We are aware that many Class members, especially those who have graduated from college, may not receive emails sent to them. Accordingly, a postcard Notice, which

² The Injunctive Relief Class seeks a ruling permitting tennis athletes to compete in professional tournaments and accept Prize Money without affecting their NCAA eligibility. Since other rules, which we are not challenging, limit athletes' eligibility to five academic years from initial college enrollment, this relief affects few, if any, individuals who entered college before Fall 2021,

³ Plaintiffs' expert Andrew Schwarz identified 62 likely members of the Damages Class.

provides a link to the settlement website where the full notice can be found, will be sent to the last known home addresses of all potential Class Members whose emails were returned as undeliverable. This will assure that the Notice reaches as many class members as is practical without undue expense.

In addition, the Notice Administrator will place targeted advertisements on social and digital media, directed at current and recent college tennis players, on Meta/Instagram and Google Display Network. We also request that the Court order that the Notice also be posted on the NCAA's Media Center web site. The NCAA has posted information on the *House* settlement on its web site, including links to court filings, in the past. *See* https://ncaaorg.s3.amazonaws.com/ncaa/legal/NCAALEG_Settlement-July2024.pdf (checked Aug. 14, 2025). Finally, a press release regarding the certified classes will be published for national distribution via PR Newswire.

Plaintiffs do not believe that it is practical, or necessary, to subpoena Class Member contact information from the 300 NCAA member institutions that sponsor Division I tennis teams. The notice plan uses contact information provided within the last five years, and, as previously noted, the NCAA requests that registrants to the Eligibility Center provide contact information that will remain accurate after such athletes graduate high school. An additional subpoena process involving hundreds of Division I Member Institutions would create an administrative nightmare and almost certainly lead to months of delay in exchange for incrementally updated contact information. In addition, the Member Institutions are likely subject to their own individual privacy rules, governed by differing state, all of which will affect compliance with such subpoenas, and lead to a cascade of

satellite litigation. Plaintiffs' proposed plan is adequate without this undue delay and expense.

II. NCAA'S RESPONSE TO PLAINTIFFS' PROPOSAL

The NCAA does not object to Plaintiffs' proposal to effectuate Class Notice to the Injunctive Relief Class and the Damages Class by using contact information that is in the possession of the NCAA, and by distributing the Class Notice primarily by email only. However, such contact information is not the most recent contact information that is available for class members. The NCAA does not possess or maintain current contact information for members of either the Injunctive Relief Class or the Damages Class. Typically, in other litigation involving Division I student-athletes, in order to provide Notice to class members, Plaintiffs obtain current contact information for Division I student-athlete class members directly from NCAA member schools, through the service of third-party subpoenas. The NCAA does not have the ability to compel NCAA member schools to provide class members' current or most recently known contact information to Class Counsel. The NCAA's position is not that Plaintiffs must serve subpoenas in order to effectuate Class Notice; however, the NCAA wishes to apprise the Court of the inherent parameters and limitations of the contact information in the NCAA's possession, which may not be the most recent contact information. If the Court determines that Plaintiffs' proposal is adequate, including the use of the NCAA's contact information, then the NCAA does not object to Plaintiffs' proposal.

As it relates to this litigation, the NCAA possesses contact information that prospective student-athletes provided to the NCAA prior to enrolling at NCAA member

schools. This contact information typically includes a home address and an email address that the student-athlete provided to the NCAA when the student-athlete registered with the NCAA's Eligibility Center (in most cases, when the prospective student-athlete was still in high school). This contact information is not used by the NCAA (and is not updated) after the student-athlete's initial eligibility status has been certified, prior to the student-athlete competing in athletics at an NCAA member school.

For the potential class members in this litigation (as identified by Class Counsel), the contact information in the possession of the NCAA includes data that was originally submitted by prospective student-athletes in each calendar year between 2016 and the present. For the Injunctive Relief Class, Plaintiffs propose sending notice not to every potential member of the Class, but rather, to all potential members of the Class that are likely to have injunctive relief standing at the time of trial (using NCAA data from 2021 through the present). The NCAA agrees that this is a reasonable exclusion of members of the Injunctive Relief Class (as defined by the Court) that would likely lack injunctive relief standing, at the time of trial, on an individual basis.

The NCAA instructs prospective student-athletes to provide email addresses that they will "have access to after high school," in part, to ensure that they do not register with an email address that was issued by their high school and that they will no longer have access to after their high school graduation and prior to their enrollment at an NCAA member school. The NCAA does not know how many Class Members may, or may not, have access to the email address that they provided to the NCAA's Eligibility Center. Similarly, for any Class Members whose email addresses are identified as not deliverable

after the distribution of Class Notice by email, the NCAA does not know how many Class Members may, or may not, receive mail at the home address that they provided to the NCAA's Eligibility Center. The inherent parameters and limitations of the contact information in the NCAA's possession is most relevant to the Damages Class (which Plaintiffs suggest is approximately 62 individuals), and in particular, to the subset of those 62 individuals, if any, for whom the primary method of distribution (email) is identified as not deliverable after the primary method is attempted. For those individuals, in particular, the NCAA does not know whether the home address data that was provided when the student-athlete was in high school is still a current method of contacting the student-athlete.

If the Court determines that Plaintiffs' proposed Plan of Distribution of Class Notice is adequate, the NCAA does not object to Notice being distributed based upon the potential Class Member contact information in the NCAA's possession, which has already been produced to Class Counsel (based upon objective parameters selected by Class Counsel).

The NCAA does not object to Plaintiffs' plan to "place targeted advertisements on social and digital media, directed at current and recent college tennis players." However, the NCAA objects to posting the Class Notice on the NCAA's Media Center website (<https://www.ncaa.org/sports/media-center>). Plaintiffs identify certain information regarding finalized Settlement Agreements that has been posted on the NCAA's website, but nothing analogous regarding Class Notices in continuing litigation. The NCAA does not post Class Notice information on its website regarding continuing litigation involving student-athletes, and Plaintiffs have not demonstrated that potential Class Members are

likely to view the NCAA's Media Center website (as opposed to other websites "directed at current and recent college tennis players").

III. SETTLEMENT WEBSITE

The settlement website will contain the Notice, and the principal legal documents in this case, including the First Amended Class Action Complaint, NCAA's answer to the Complaint, the Motion and briefs on class certification, and the Court's ruling on class certification. The website will also have a 1-800 number that will allow anyone to call and leave a recorded message for a follow-up response. See Declaration of Claims Administrator, attached as Exhibit A.

IV. TIMING OF NOTICE

The Parties request that the Court Order publication of the Class Notice period to commence within 21 days after the Mediation deadline (November 1, 2025, Dkt. 100), to increase the likelihood that Class Notice will only need to be distributed once in this litigation, thus conserving the parties' efforts and resources required to provide Class Notice. The Parties request that the Court allow an opt-out period of 75 days, until January 15, 2026.

The NCAA anticipates moving for summary judgment within the schedule set by the Court (Dkt. 100). The filing of the NCAA's summary judgment motion would not constitute a waiver by the NCAA of the one-way intervention rule, and no ruling on summary judgment should issue until after class notice, and after the end of the opt-out period. *See Schwarzschild v. Tse*, 69 F.3d 293, 295 (9th Cir. 1995) ("[D]istrict courts

generally do not grant summary judgment on the merits of a class action until the class has been properly certified and notified.”)

Relatedly, the NCAA requests that the Court amend the Damages Class Definition adopted in the Memorandum Opinion and Order (Dkt. 99), to avoid a similar problem. In order to avoid an absent Rule 23(b)(3) class member who would be bound by a final judgment in this matter (but who did not receive Class Notice during the Notice period), the temporal scope of the Damages Class should be expressly limited to the time period prior to the commencement of the Class Notice:

“All persons who, at any time between March 19, 2020, and the date of **initial distribution of Class Notice** in this matter, have voluntarily forfeited Prize Money earned in a tennis tournament, and (i) have competed in NCAA Division I Tennis, or (ii) have submitted information to the NCAA Eligibility Center.”

Plaintiffs do not oppose this modification. If the Court prefers that the NCAA file a motion to make this temporal modification to the Damages Class Definition, the NCAA (or the parties jointly) will file such a motion.

V. CONTENT OF CLASS NOTICE

As to Class Notice, the Parties jointly submit the attached Proposed Notice which will be emailed and Proposed Postcard Notice, which will be mailed to potential Class members who cannot be reached by email. The Proposed Notice is modeled after the Notice of Pendency of Class Certification approved by Judge Wilkens in *In re College Athlete NIL Litig.*, N.D. Cal., 4:20-cv-03919-CW, Dkt. 405-2 (long form notice) and 406 (court order).

See Ex. B and C. The Proposed Notice meets each of the requirements for Notices to Rule 23(b)(3) classes enumerated in Fed. R. Civ. Proc. 23(c)(3):

The notice must clearly and concisely state in plain, easily understood language:

- (i) the nature of the action; [See Proposed Notice § 4],
- (ii) the definition of the class certified; [See Proposed Notice introduction],
- (iii) the class claims, issues, or defenses; [See Proposed Notice § 4],
- (iv) that a class member may enter an appearance through an attorney if the member so desires; [See Proposed Notice § 16],
- (v) that the court will exclude from the class any member who requests exclusion; [See Proposed Notice § 10],
- (vi) the time and manner for requesting exclusion; [See Proposed Notice § 13], and
- (vii) the binding effect of a class judgment on members under Rule 23(c)(3). [See Proposed Notice § 11],

VI. PROPOSED TRIAL SCHEDULE

The parties jointly propose a trial date in the week of September 28, 2026. The schedule now entered (Dkt. No. 100) establishes that “Pretrial Disclosures” shall begin “7 days from an order on Dispositive Motions.” A late September trial will provide sufficient time to resolve all pretrial matters and avoid conflict with the 2026 US Open Tennis Championships, which will be held August 31 through September 13, 2026.

This the 18th day of August, 2025

WILKINSON STEKLOFF LLP

By: /s/Rakesh Kilaru
Rakesh Kilaru
Cali Arat
Matthew Skanchy

**MILBERG COLEMAN BRYSON
PHILLIPS GROSSMAN, PLLC**

By: /s/Peggy J. Wedgworth
PEGGY J. WEDGWORTH*
New York State Bar No. 2126159
JOHN D. HUGHES*

2001 M Street NW, 10th Floor
Washington, DC 20036
Telephone: (202) 847-4000
Facsimile:(202) 847-4005
rkilaru@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*

Michigan State Bar P76455
405 East 50th Street
New York, New York 10022
(212) 594-5300
pwedgworth@milberg.com
jhughes@milberg.com

DANIEL K. BRYSON
North Carolina State Bar No. 5781
LUCY N. INMAN
North Carolina State Bar No. 7462
ARTHUR M. STOCK
North Carolina State Bar No. 7613900 W
Morgan Street
Raleigh, North Carolina 27603
(919) 600-5000
astock@milberg.com
dbryson@milberg.com
linman@milberg.com
**MILLER MONROE HOLTON
& PLYLER, PLLC**

JASON A. MILLER
North Carolina State Bar No. 9923
ROBERT B. RADER III
North Carolina State Bar No. 5184
WILLIAM W. PLYLER
North Carolina State Bar No. 0475
JOEL L. LULLA* (Of Counsel)
New York State Bar No. 1865823
1520 Glenwood Avenue
Raleigh, North Carolina 27608
(919) 809-7346
jmill@milleronroe.com
rrader@milleronroe.com
wplyler@milleronroe.com
joel_lulla@yahoo.com

Counsel for Plaintiffs and Proposed
Classes

* Specially Admitted