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Date	Case Name	Basis of Litigation	Status
July 2009	**O'Bannon v. NCAA** *(US District Court for the Northern District of California)*	- Antitrust class action lawsuit challenging the use by the NCAA of former student-athletes images for commercial purposes / student should be entitled to compensation for commercial use of their names, images and likenesses - Named plaintiffs include Ed O'Bannon and 20 current and former student-athletes all of whom played FBS football or Division I men's basketball. - Plaintiffs sought certification of class action status for both damages and injunctive relief – but only injunctive certification was granted and all damage claims were eventually dropped.	- On August 8, 2014 District Court Judge Wilken ruled that NCAA's practice of barring payments to FBS Football and Division I Basketball athletes violated anti-trust laws. She issued an injunction barring the NCAA from enforcing any rules that prohibit schools and conferences from offering their FBS football and Division I basketball athletes full cost of attendance plus a limited share of the revenues generated from the use of their names, image and likenesses up to $5,000 per year, held in trust until the player graduates. - The injunction does not require any NCAA member to offer full cost of attendance plus trust fund payments – it only prohibits schools from agreement with one another not to offer either. By its terms the injunction takes effect in August 2015. - NCAA appealed the ruling in favor of O'Bannon and the appeal was heard by a three judge panel of the 9th Circuit Court of Appeals on March 17, 2015. - During oral arguments on the appeal counsel for the NCAA emphasized repeatedly that amateurism is at the heart of the NCAA mission, and argued that prior to the district court's ruling, "no court has ever found that the antitrust laws condemn a rule whose purpose and design is to protect amateurism." A ruling from the 9th Circuit is expected in the late summer or fall of 2015. - NCAA estimated that the injunction would cost schools approximately $30K per student athlete over the athletes four year eligibility - In August of 2014 the NCAA enacted a new model governing Division I athletics. Among other things, the new model allows the power five conferences

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	O'Bannon v. NCAA - cont'd from above		to create their own rules in certain areas. The new model allows the other conference to "opt into" the rules adopted by the power five. This includes rules related to cost of attendance. In January of 2015 the power five conferences adopted rules allowing cost of attendance payments to student athletes. The payments are designed to cover expenses that fall outside of athletic scholarships. The new cost of attendance rules were enacted (in part) in response to the injunction issued in the O'Bannon case. - Meanwhile – on July 14, 2015 the NCAA was ordered to pay $46 million to O'Bannon's lawyers for fees and costs associated with the district court victory. In making the award of fees and costs the magistrate judge issuing the order stated; "The fact that plaintiffs did not get certified for a damages subclass or achieve compensatory damages does not detract from this unprecedented success in the antitrust field." - On July 20, 2015 the NCAA asked the 9th Circuit Court of Appeals to stay the injunction issued by the district court. In its brief the NCAA stated; "If allowed to take effect, the injunction would radically alter an essential quality of college sports, amateurism[.]" - On July 28, 2015 the O'Bannon plaintiffs filed an opposition to the request for a stay noting that; "Under the injunction, members schools that have the resources and desire to offer more as part of their recruiting package will do so, unilaterally. That they might wish to avoid this sort of competition and those financial resources for other

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	O'Bannon v. NCAA - cont'd from above		purposes is not a reason for a stay." - On July 31, 2015 the 9th Circuit Court of Appeals issued a one sentence order granting the NCAA's request for a stay "to preserve the status quo until this court's mandate has issued." Pursuant to the order the NCAA's amateurism rules remain in place and schools cannot begin offering student athletes payment in for the use of their names, images and likenesses.
May 2009	**Keller v. NCAA,- Collegiate Licensing Company and Electronic Arts, Inc.** *(US District Court for the Northern District of California)*	- Class action right of publicity case related to the use of student-athletes likenesses and "avatars" in videogames. - Keller is a former quarterback for Arizona State University (2005) and the University of Nebraska (2007). - Defendant Collegiate Licensing Company is the licensing arm of the NCAA. - Defendant Electronic Arts (EA) is a manufacturer of college football and basketball videogames. - For most pretrial proceedings the Keller and O'Bannon cases were consolidated. - The O'Bannon claims are sometimes referred to as the "antitrust claims" and the Keller claims are sometimes referred to as the "right of publicity claims." - The O'Bannon and Keller cases were deconsolidated prior to trial in the O'Bannon case which centered on the antitrust claims.	- Keller and other named plaintiffs objected to the use of their likeness in the NCAA Football and NCAA Basketball videogame series and filed suit asserting that their rights of publicity had been violated under California statutory and common law - and sought monetary damages. - EA moved to strike the complaint alleging that the suit amounted to a strategic suit against public participating (SLAPP suit) brought to deter EA from exercising its commercial free speech rights. - The District Court rejected EA's motion to strike on first amendment grounds - holding that the videogames did not add significant creative elements so as to transform the avatars into something more than player likenesses. - In July of 2013 a three judge plan of the 9th Circuit Court of Appeals affirmed the District Courts ruling on EA's first amendment claims. - EA petitioned for review by the US Supreme Court but the Supreme Court chose not to hear the case. - In May of 2014 EA and Collegiate Licensing Company agreed to a $40 million settlement. - In June of 2014 the NCAA also agreed to a

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	Keller v. NCAA - cont'd from above		settlement of the rights of publicity claims for $20 million. - Some of the $60 million in combined settlement money will go toward "fees and expenses sought by plaintiffs' lawyers" and payments to named plaintiffs. - Athletes can receive money from either or both settlements, based on the following factors: validated claims rates, whether player's name appeared on a team roster, whether player's assigned jersey number appeared on a virtual avatar, whether player's photograph appeared in the game, which years player appeared in a game as avatar and/or had photograph used in the game, and the number of years in which player was on a roster, appeared in the game as an avatar, and/or had their photograph used in the game. - "I'm thrilled that for the first time in the history of college sports, athletes will get compensated for their performance" said lead counsel for the plaintiffs. "This is ground breaking."
July 2012	**Rock v. NCAA** *(US District Court for the Southern District of Indiana)*	- Alleges the NCAA's rules limiting the number of football scholarships and its rules limiting scholarships to one year renewable at the discretion of the institution are in violation of Section 1 of the Sherman Antitrust Act - Rock (former quarterback for Gardner-Webb University) claims he chose his school based on a pledge from the head coach that his athletics scholarship would be renewed annually as long as he did well academically and remained eligible for NCAA competition	- Rock's initial claims were dismissed but he filed an amended complaint more narrowly tailored alleging that the "market" for Division I football-athletes is anti-competitively affected by the NCAA's rules limiting the number and distribution of scholarships. - The NCAA moved to dismiss Rock's amended complaint. The court rejected that motion in an order issued in August of 2013 but noted that; "The Court emphasizes that these conclusions are not an endorsement of that Mr. Rock's market as pled will

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	Rock v. NCAA - cont'd from above	- A newly hired football coach informed Rock he would not be renewing his scholarship and he would have to pay the remainder of his college education	withstand the higher burdens of proof that accompany summary judgment or trial…" - Rock's claims related to the NCAA's rules limiting scholarships to one year renewable at the discretion of the institution were rendered moot and dismissed when the NCAA changes its rules to allow institution to offer multiple year scholarships. - Rock seeks to certify the case on a class action basis and the parties have engaged in substantial discovery related to the proposed definition and scope of the class.
January 2014	**College Athletes Players Association (CAPA) (led by Kain Colter) v. National Labor Relations Board**	- On January 28, 2014 players on the Northwest University football team filed a petition to form a union with the Chicago regional office of the National Labor Relations Board (NLRB). The petition alleged that football players receiving scholarships are "employees" within the meaning of the National Labor Relations Act and therefore are entitled to choose whether to be represented for purposes of collective bargaining. - The petition asserted a desire to be represented by the College Athletes Players Association (CAPA) with the backing of the United Steelworkers Union.	- On March 26, 2014 the NLRB's Chicago regional director determined that the players are employees entitled to the right to organize. The director found that scholarships tendered to the students form a contract, subjecting the players to the university's control in return for compensation in the form of athletic scholarship and living expenses. - July 3, 2014 Northwestern asked the full board of the NLRB in Washington DC to overturn ruling. - On August 17, 2015, in a unanimous decision, the five member Board declined to hear the petition and dismissed the matter citing lack of jurisdiction. The Board noted that 108 of the 125 colleges and universities that have FBS football teams are state run institutions over which the Board has no jurisdiction. The Board also noted the complexities of the NCAA framework and that unionization on an institution by institution basis "would not promote stability in labor relations." - The Board did not address the central question of

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	College Athletes Players Association v. NLRB -cont'd from above		whether the players meet the definition of "employees" under the act and it left open the possibility of such an interpretation in future cases. - The decision of the full Board is final with no avenue for appeal.
March 2014	**In Re: NCAA Athletic Scholarship Antitrust Litigation** *(US District Court for the Northern District of California)*	- Multi-district litigation alleging unlawful restraint of trade in the markets for Division I football player services, men's basketball services, and women's basketball services. - This multi-district litigation consolidates cases for pre-trial purposes filed in various federal district courts nationwide including – Kessler v. NCAA, Alton v. NCAA, Gregory-McGhee v. NCAA, Floyd v. NCAA, Thompson v. NCAA and Hartman v. NCAA. - In addition to the NCAA, other defendants include the Pac-12, Big Ten, SEC, ACC, American Athletic, Conference USA, Mid-American, Mountain West, Sun Belt and Western Athletic conferences .	- The consolidate cases are being handled by Judge Wilken – the judge that heard and issued the injunction in the O'Bannon case. - The Plaintiffs seek (1) damages for the difference between the grant-in-aid/scholarship and the full cost of attendance, and (2) an injunction prohibiting future enforcement of NCAA or conference rules limiting the amount of compensation that can be awarded to student-athletes. - The NCAA moved to dismiss the consolidated cases arguing that the complaints improperly challenge as illegal conduct found to be reasonable and permissible under Judge Wilken's decision in O'Bannon. - On October 10, 2014 Judge Wilken denied the NCAA's motion to dismiss the consolidate cases finding that her decision in O'Bannon did not necessarily foreclose the plaintiffs' claims. - In February of 2015 plaintiffs filed a motion for class certification for their injunctive claims.

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October 2014	**Sackos/Anderson v. NCAA and NCAA Division I Member Schools** *(United Stated District Court of the Southern District of Indiana)*	- Class action alleging NCAA and various Division I schools violated the wage-and-hour provisions of the Fair Labor Standards Act (FLSA) by failing to pay student-athletes at least minimum wage. - Sackos (a women's soccer student-athlete at the University of Houston) argues students participating in part-time work study employment programs are treated better than student-athletes - Seeks compensatory damages, interest, and injunction of the NCAA's Division I schools' policies that do not require the payment of minimum wage to student athletes. -	- - In April of 2015 the NCAA moved to dismiss on multiple grounds asserting that "[v]irtually every forum to consider the question has concluded that student-athletes are not employees." - On June 11, 2015 the plaintiffs filed a response countering that student-athletes are strictly supervised and controlled by the NCAA and their institutions, that the institutions profit from the NCAA sports, and that student-athletes should therefore be compensated under the FLSA for the services they provide. - A ruling on the NCAA's motion to dismiss is not expected for several months.
October 2014	**Marshall v. ESPN** *(US District Court for the Middle District of Tennessee)*	- 10 former student-athletes sue television broadcasters, athletic conferences, and licensing entities who "conspired with each other and the NCAA to promulgate, enforce, adopt, implement and/or exploit rules that are inherently anticompetitive in forbidding Student Athletes from competing in the marketplace for the value of their rights of publicity. " - Plaintiffs filed suit under theories of right of publicity, civil conspiracy, unjust enrichment, violations of the Sherman Act, and violations of the Lanham Act. - Plaintiff sought class action certification.	- On June 5, 2015 District Judge Kevin Sharp dismissed the case stating the plaintiffs do not have any cognizable right of publicity under Tennessee law, and that the football-player plaintiffs cannot state an antitrust claim against the collective restraints imposed on their likenesses by the individual NCAA member schools. - The Court dismissed all claims with prejudice, holding that (1) Tennessee common law did not acknowledge a right of publicity for individual participants in sporting events; (2) Tennessee's statutory right of publicity expressly exempted broadcasters from liability for using the names, likenesses, and images of athletes in connection with sports' broadcasts; (3) the complaint failed to state a claim under the Sherman Antitrust Act because the allegations neither identified an injury-

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	Marshall v. ESPN - cont'd from above		in-fact nor an unreasonable restraint on trade with the requisite specificity necessary to survive dismissal; (4) the complaint failed to state a claim for false endorsement because the speech underlying the purported false endorsement was not "commercial speech"; and (5) the remaining claims of civil conspiracy, unjust enrichment, and the request for an accounting could not survive independently as a matter of law, in light of the dismissal of the underlying substantive legal claims. - It is believed the harsh ruling was largely the result of the plaintiffs' poor choice of forum, given that negative law was already on the books in both Tennessee and the Sixth Circuit with respect to these particular claims. - On July 13, 2015 plaintiff filed a notice of appeal with the 6th Circuit Court of Appeals.
November 2014	**Michael McAdoo v. UNC** *(US District Court for the Middle District of North Carolina)*	- Plaintiff's claims stem from the UNC academic fraud scandal. McAdoo was a UNC football player from 2008-2010. He alleges that UNC broke its promise to provide a legitimate education in exchange for his participation in athletics. - The lawsuit seeks class action certification aimed at representing all scholarship football players at UNC from 1992 to 2011- a period in which UNC is alleged to have pushed athletes into certain majors and no-show classes in order to maintain their eligibility. - The lawsuit alleges UNC breached its contract with football players, engaged in unfair and deceptive trade practices, and committed fraud by falsely representing the players would receive a legitimate education.	- McAdoo was dismissed from the football team in 2010 after he was accused of having a tutor complete his academic work. Afterwards he became the first athlete to reveal he took fraudulent cases at UNC at the urging of the athletic department. - Accusations of academic fraud by McAdoo and others resulted in the appointment former Justice Department prosecutor Kenneth Wainstein as special investigator. After an eight month investigation several university employees were fired and others disciplined for their roles in the "shadow curriculum" which lasted more than two decades. - On April 23, 2014 UNC filed a motion to dismiss

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	McAdoo – cont'd from above	- In addition to damages Plaintiffs seek injunctive relief including "a court appointee to reviewing the curriculum and course selection for all football student athletes going forward."	arguing, among other things, that it is has "sovereign immunity from Plaintiff's claims." - In May of 2015 – UNC received a Notice of Allegations from the NCAA regarding the shadow curriculum and "paper classes" based on the investigations and findings by Kenneth Wainstein. The notice alleges several severe violations of NCAA rules including a lack of institutional control over the athletic department. UNC has 90 days to file a response. o
January 2015	**Ramsey and McCants v. University of North Carolina – Chapel Hill and NCAA** *(North Carolina state court)*	- Stemming from the UNC academic fraud scandal - two former athletes allege UNC breached their scholarships/contracts by not providing them with an adequate education. - Like McAdoo – the Plaintiffs allege that UNC steered hundreds of college athletes into sham "paper classes" they were not required to attend, that required little to no work, that were not taught by a faculty member, and that involved no interaction with a faculty member. - Plaintiff seek damages and ask the court to establish an independent committee to review academics at NCAA schools ensuring educational opportunities are provided to all students equally.	- On March 30, 2015 UNC and the NCAA filed a motion to dismiss. Among other things the motion argues that the case should be thrown out, in part, because the NCAA did not owe the plaintiffs a duty to prevent academic fraud at UNC. - "The NCAA believes that the lawsuit misunderstands the NCAA's role with respect to its member schools and ignores the myriad steps the NCAA has taken to assist student-athletes in being equipped to excel both in the classroom and on the playing field. This case is troubling for a number of reasons, not the least of which is that the law does not and has never required the NCAA to ensure that every student-athlete is actually taking full advantage of the academic and athletic opportunities provided to them."

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February 2015	**Metcalf and Arnold v. UNC** *(North Carolina state court)*	- Another lawsuit related to the UNC academic fraud scandal filed by a former women's basketball player (Metcalf) and a former football player (Arnold) seeking class action status. Metcalf claims she was told her studies shouldn't conflict with her basketball responsibilities and was counseled to take classes in the Department of African American Studies - part of a shadow curriculum that offered no real education but were designed to keep athletes eligible. - Arnold alleges he was given a pre-assigned course schedule at beginning of freshman year that featured a shadow curriculum courses	- Pending