

Litigating Change in College Sports

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The most important storyline in college sports this past fall had nothing to do with the Bowl Championship Series, conference realignment, or celebrity coaches. Nor did it play out on Saturdays, as one might expect. Rather, in an Oakland federal district court, Chief Judge Claudia Wilken of the Northern District of California issued two rulings in *In re NCAA Student-Athlete Name & Likeness Licensing Litigation* (“O’Bannon”) that may forever alter college athletics.

The O’Bannon case represents a frontal assault on the rules imposed by the National Collegiate Athletic Association (“NCAA”) that prohibit student-athletes from receiving monetary compensation for the commercial use of their names, images, and likenesses as a condition of their eligibility. In orders issued just two weeks apart, Judge Wilken first denied the NCAA’s latest motion to dismiss the case (“Motion to Dismiss Order”) and then certified an injunction class seeking to stop the NCAA from enforcing its compensation ban (“Class Certification Order”).

This article analyzes Judge Wilken’s recent rulings and what they may mean for the outcome of the O’Bannon case as well as future litigation against the NCAA. The litigation stakes are far higher than any contested on the field.

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