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1. QUALIFICATIONS

1. My name is Daniel A. Rascher. I am Director of Academic Programs for the Sport Management Master’s Program and Professor at the University of San Francisco (“USF”). I teach courses in sport economics and finance and research methods to graduate students. I am also a Partner of OSKR, LLC, an economic consulting firm specializing in applying economic analysis to complex legal issues, as well as President of SportsEconomics, LLC, (“SportsEconomics”) an economic, finance, and marketing research consulting firm focused on the sports industry. Formerly, I was an Assistant Professor and Associate Professor at USF, an Assistant Professor at the University of Massachusetts, Amherst, Adjunct Professor at Northwestern University, and Visiting Professor at the IE Business School in Madrid, Spain. I was also previously a Principal at LECG, LLC, a provider of expert economic consulting and related services. I received a Ph.D. in Economics from the University of California at Berkeley, having focused on the fields of industrial organization, econometrics, and labor economics. I have published numerous articles, book chapters, and a textbook in the field of sports economics and finance and have worked on over one hundred consulting projects involving the sports, entertainment, and tourism industries.

2. I have previously submitted three expert reports in this matter pertaining to the certification of the injunctive and damages classes.¹ My other relevant qualifications are laid out in those reports.

¹ *Expert Report of Daniel A. Rascher on Injunctive Class Certification*, June 25, 2015, available in redacted form at docket number 230-8 (06/26/15); *Expert Report of Daniel A. Rascher on Damages Class Certification*, February 16, 2016, available in redacted form at docket number 363 (03/22/16); and

3. I am being compensated at my usual and customary hourly rate of \$500 per hour, plus reimbursement of expenses. In my work on this matter, I have been assisted by OSKR staff, working under my supervision and control. I have no direct financial interest in the outcome of this matter.

2. ANALYSIS

4. Class Counsel have asked me to provide a summary of the econometric analysis I did with respect to class-wide damages for the proposed classes of women's basketball and men's football and basketball athletes and to use that analysis to provide an estimate of total class-wide damages. This analysis is based on *Corrected Expert Reply Report of Daniel A. Rascher on Damages Class Certification*.

5. In that report, I provided a detailed example of an econometric methodology to assess the antitrust impact of the alleged restraints in suit on a class-wide basis and then demonstrated that method by performing such an assessment. The analysis was based on an econometric technique known as probit regression. Probit is a form of what economists call a "discrete choice model" that is well suited to regressions focused on a yes/no decision, e.g., to adopt athletic-aid payments (i.e., grants-in-aid or GIAs) above the maximum athletic aid cap in place prior to August 1, 2015² or not. I used this probit regression to model past and present Cost of Attendance (COA) adoption rates, and provided the results from such a regression model as the proof of its feasibility. I then demonstrated the model's use by developing a reliable prediction of which schools within FBS football and Division I basketball would have paid athletic grants-in-aid at levels in excess of the pre-2015 cap for the damages period in suit (i.e., starting in March 2010).

Expert Reply Report of Daniel A. Rascher on Damages Class Certification, October 7, 2016, filed under seal at docket number 509-4. The last of these was also filed with a slight correction as *Corrected Expert Reply Report of Daniel A. Rascher on Damages Class Certification*, October 12, 2016, filed under seal at docket number 517-3 (10/13/16), and it is to this corrected form I refer to as "my report" throughout this declaration.

² Throughout this declaration, I refer to the earlier maximum level as the "pre-2015 cap."

That is, it was a model to predict which schools would have adopted COA in 2009-10 had the NCAA's rules that prohibited such payments not been previously adopted.

6. Generally speaking, the results of this model identified schools as likely to adopt COA starting in 2009-10 if they adopted COA in 2015-16, but not simply because of this adoption. Instead, the model used factors pertaining to revenues, expenses, recruiting success, etc., to develop a predictive means of assessing a school's competitive situation and generating a predicted yes/no decision.

7. The independent variables (those used to predict whether a school would offer COA) include

- The sum of the full scholarships equivalents given to overall counters from the Squad Lists for 2014-15, as a direct measure of a school's payments to its athletes. The lagged year is used in order to be able to compare to the earlier years in the damages period, where both years are unaffected by COA payments.
- The average across all members of the school's conference (other than the school itself) of each schools' total recruiting stars divided by the FBS (or D1) average number of stars. This provides information on how competitive the schools' conference is compared to the FBS or D1 average. Also, the "school's recruiting success" as measured by the total stars (as measured by rivals.com) of the new recruits who committed to the school.
- The number of conferences during the damages period that the school (team) was in (i.e., a school that stays in the same conference the entire period would have a 1 for this variable),³ as well as whether the school changed conferences during the given year.
- The ratio of athletic department revenue to expenses during 2014-15. Also, the difference in the athletic department's revenues and expenses as well as the team's revenues and expenses during 2014-15. 2015-16 data was not yet available.
- The team's budget during 2014-15. 2015-16 data was not yet available.
- The ratio of the athletic department's expenses compared to the median during 2014-15, as well as the team's ratio compared to the median. 2015-16 data was not yet available.
- The change (in dollars) per year in the team's budget (i.e., 2014-15 minus 2013-14). Also, the percentage change in the same variables (to account for differences in size of programs and across sports).

³ Those schools not in a conference are independent (which is rare), but are also given a minimum of a 1 for this variable.

- The compounded annual growth rate in the athletic department's budget for 2012-13, 2013-14, and 2014-15, as well as that for the team's budget.
- The COA Gap multiplied by either 85 for football or 13 for basketball divided by athletic department expenses during 2014-15. This is a measure of the cost of providing COA payments compared to what is already being spent in athletics. Also, the COA Gap divided by the recent growth in athletics department expenses, to account for the growth in investment in athletics each year.
- A measure of whether or not a school is on probation and is thus limited in its ability to give scholarships to its athletes.

8. The result is a model which provides a prediction of schools likely to have adopted COA payments in 2009-10 had the alleged restraints in suit never been enacted by Defendants. The likely adopters predicted by my probit model correspond strongly to those schools which *did* adopt in 2015-16, when the restraint in suit was relaxed, but also include a small number of schools that did not immediately adopt COA, but likely would have had the Defendants never adopted the pre-2015 cap.

9. In my report I also used these results to provide a preliminary demonstration of the damages calculations that would flow from that model, but because of the intermediate state of discovery at the time of the filing of my report, I did so using only a subset of the full class. That subset consisted of the schools in the Atlantic Coast Conference ("the ACC"), the American Athletic Conference ("The American"), the Atlantic 10 Conference ("the A-10"), and the Southwest Athletic Conference ("the SWAC").

10. As part of my work on that model, I also demonstrated an algorithm to identify all class members based on Plaintiffs' proposed class definition.⁴ By combining the results of the algorithm for identifying class members, and the econometric method of assessing impact, I was able to demonstrate a class-wide method for assessing impact for every class

⁴ Plaintiffs' motion for class certification defined the classes as Division I student-athletes (or FBS student-athletes for football) "... who, at any time from March 5, 2010 through the final disposition of this case, received from an NCAA member institution for at least one academic term (such as a semester or quarter) (1) a full athletics grant-in-aid required by NCAA rules to be set at a level below cost of attendance, and/or (2) an otherwise full athletics grant-in-aid that did not include a full cost of attendance payment." (*Consolidated Plaintiffs' Notice Of Motion And Motion For Certification Of Damages*, February 16, 2016, pp. 9-10.)

member, and then also to demonstrate (for a subset of the class) how their damages would be estimated by means of a reasonable and non-speculative formula.

11. At the request of counsel, I have extended the analysis I performed in my expert report to estimate damages for the entire class identified by the algorithm I laid out in my report, rather than just the four example conferences. I did this using data produced by the Defendants and their member schools, and with government data on COA gaps in those limited cases where discovery is still incomplete. I defined the COA gap as being equal to the difference between (a) the relevant average Cost of Attendance for each class member for each academic year and (b) the sum of my estimate of all athletic and non-athletic financial aid provided to the athlete for that same academic year. I excluded from these calculations the receipt of Pell Grants and/or any payments identified as coming from the Student-Athlete Opportunity Fund (SAOF) or the Student Assistance Fund (SAF), so that the gap was not affected by the receipt of these funds.

12. Using that definition and those assumptions, I estimate the total class-wide damages for the three classes of athletes (prior to any trebling) attending schools identified by the probit model's predictions as approximately \$210 million to \$220 million. This total is based on the academic years 2009-10 through 2015-16. Notably, for the first year, 2009-10, only approximately one-fourth of the academic year was included within the damages period and so I reduced each athlete's damages by 75% for that year. And for the final year, 2015-16, because most of the schools for which my model shows impact had already begun paying Full COA to their athletes, the set of athletes with identified gaps was a subset of the total identified class members in that year.

3. SIGNATURE

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

Executed this February 2, 2017, at Emeryville, California.


Daniel A. Rascher