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12 **UNITED STATES DISTRICT COURT**

13 **SOUTHERN DISTRICT OF CALIFORNIA**

14 SARAH STAGGS, as Personal
15 Representative of the Estate of Jeffery
16 Hugh Staggs,

17 *Plaintiff,*

18 v.

19 NATIONAL COLLEGIATE
20 ATHLETIC ASSOCIATION,

21 *Defendant.*

Case No. '18CV1981 L WVG

22 **COMPLAINT FOR:**

- 23 **(1) Negligence;**
- 24 **(2) Breach of Express Contract;**
- 25 **(3) Breach of Implied Contract;**
- 26 **and**
- 27 **(4) Restitution.**

28 **DEMAND FOR JURY TRIAL**

1 Plaintiff Sarah Staggs brings this Complaint and Demand for Jury Trial
2 against Defendant National Collegiate Athletic Association (“NCAA”) to obtain
3 redress for Jeffery Staggs, who was injured, incapacitated, and died as a result of
4 Defendant’s reckless disregard for his health and safety as a San Diego State
5 University (“SDSU”) student-athlete. Plaintiff alleges as follows:

6 **PARTIES**

7 1. Plaintiff Sarah Staggs brings this action on behalf of the Estate of
8 Jeffery Hugh Staggs. Sarah is a resident of the State of California, and Jeffery was
9 domiciled in the State of California when he died.

10 2. Defendant NCAA is an unincorporated association with its principal
11 place of business located at 700 West Washington Street, Indianapolis, Indiana
12 46206. Defendant NCAA conducts business throughout this District, the State of
13 California, and the United States.

14 **JURISDICTION AND VENUE**

15 3. This Court has subject matter jurisdiction over Plaintiff’s claims under
16 28 U.S.C. §1332.

17 4. This Court has personal jurisdiction over Defendant NCAA as
18 Defendant conducts significant business in this District, including establishing
19 consumer and business contracts here and because the unlawful conduct alleged in
20 the Complaint occurred in, was directed at, and/or emanated in part from this
21 District.

22 5. Venue is proper in this judicial district under 28 U.S.C. § 1391 because
23 a substantial part of the events and omissions giving rise to Plaintiff’s claims
24 occurred in this district.

25 **FACTUAL BACKGROUND**

26 **I. Defendant Had A Duty To Protect Jeffery Staggs**

27 6. The NCAA is the governing body of collegiate athletics that oversees
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1 twenty-three college sports and over 400,000 students who participate in
2 intercollegiate athletics, including in the Mountain West Conference and the football
3 program at SDSU. According to the NCAA, “[m]ore than 1,200 schools, conferences
4 and affiliate organizations collectively invest in improving the experiences of
5 athletes – on the field, in the classroom, and in life.”

6 7. The NCAA brings in more than \$750 million in revenue each year, and
7 is the most significant college sports-governing body in the United States.

8 8. To accommodate the wide spectrum of athletes at its member schools,
9 the NCAA has three different divisions of intercollegiate competition.

10 9. Each NCAA Division is composed of several “conferences” to facilitate
11 regional league play. The Mountain West Conference is one such conference. The
12 Mountain West Conference operates in the western United States, with members
13 located in California, Colorado, Hawaii, Idaho, Nevada, New Mexico, Utah, and
14 Wyoming.

15 10. SDSU has a Division I football program in the Mountain West
16 Conference, of which it has been a member since 1896. The SDSU football program
17 has a strong following that generates millions of dollars per year for the school.
18 Given its significant following and numerous on-field successes, the SDSU football
19 team attracts high-end talent from high schools across the country, and a significant
20 number of SDSU athletes are drafted to play professional football in the National
21 Football League.

22 11. The NCAA plays a significant role in governing and regulating the
23 SDSU football program and owes a duty of care to safeguarding the well-being of its
24 athletes.

25 12. In fact, since its founding in 1906, the NCAA (then the Intercollegiate
26 Athletic Association of the United States (“IAAUS”)), has claimed to be “dedicated
27 to safeguarding the well-being of student-athletes and equipping them with the skills

1 to succeed on the playing field, in the classroom and throughout life.”¹ The IAAUS
2 was specifically formed for this purpose because, at the turn of the twentieth century,
3 head injuries were occurring at an alarming rate in college football. In response,
4 President Theodore Roosevelt convened a group of Ivy League university presidents
5 and coaches to discuss how the game could be made safer. After several subsequent
6 meetings of colleges, the NCAA was established.² As such, the genesis of the NCAA
7 was for a singular goal: “to keep college athletes safe.”³

8 13. According to the NCAA, “[c]ollege and university presidents and
9 chancellors guide each division, supported by an extensive committee structure
10 guided by athletic administrators, faculty and student-athlete representatives [while
11 each] division creates its own rules that follow the overarching principles of the
12 NCAA.”⁴

13 14. The overarching principles of the NCAA, including its purported
14 commitment to safeguarding its athletes, are contained in the NCAA Constitution.
15 The NCAA Constitution clearly defines the NCAA’s purpose and fundamental
16 policies to include maintaining control over and responsibility for intercollegiate
17 sports and athletes. The NCAA Constitution states:

18 The purposes of this Association are:

- 19
20 (a) To initiate, stimulate and improve intercollegiate
21 athletics programs for athletes;

22 ¹ *Who We Are*, National Collegiate Athletic Association,
<http://www.ncaa.org/about/who-we-are> (last visited August 26, 2018).

23 ² In 1910, the IAAUS changed its name to the National Collegiate Athletic
24 Association.

25 ³ *Well-Being*, National Collegiate Athletic Association,
<http://www.ncaa.org/health-and-safety> (last visited August 26, 2018).

26 ⁴ *Membership*, National Collegiate Athletic Association,
27 <http://www.ncaa.org/about/who-we-are/membership> (last visited August 26, 2018).

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(b) To uphold the principal of *institutional control* of, and responsibility for, all intercollegiate sports in conformity with the constitution and bylaws of this association;

NCAA Const., Art. 1, § 1.2(a)(b) (emphasis added).

15. The NCAA Constitution also defines one of its “Fundamental Policies” as the requirement that “[m]ember institutions shall be obligated to apply and enforce this legislation, and the enforcement procedures of the Association shall be applied to an institution when it fails to fulfill this obligation.” NCAA Const., Art. 1, § 1.3.2.

16. Article 2.2 of the NCAA Constitution specifically governs the “Principle of Student-Athlete Well-Being,” and provides:

2.2 The Principle of Student-Athlete Well-Being.

Intercollegiate athletics programs shall be conducted in a manner designed to protect and enhance the physical and educational well-being of student athletes. (Revised: 11/21/05.)

2.2.3 Health and Safety.

It is the responsibility of each member institution to protect the health of, and provide a safe environment for, each of its participating student athletes. (Adopted: 1/10/95.)

17. To accomplish this purpose, the NCAA promulgates and implements standard sport regulations and requirements, such as the NCAA Constitution, Operating Bylaws, and Administrative Bylaws. These NCAA documents provide detailed instructions on game and practice rules, player eligibility, scholarships, and player well-being and safety. NCAA member institutions, including athletic conferences like the Mountain West Conference, are required to abide by the NCAA rules and requirements. Specifically, according to the NCAA Constitution: “Each

1 institution shall comply with all applicable rules and regulations of the Association in
2 the conduct of its intercollegiate athletics programs . . . Members of an institution’s
3 staff, athletes, and other individuals and groups representing the institution’s athletics
4 interests shall comply with the applicable Association rules, and the member
5 institution shall be responsible for such compliance.” NCAA Const., Art. 2, § 2.8.1.

6 18. The NCAA publishes a health and safety guide termed the Sports
7 Medicine Handbook (the “Handbook”). The Handbook, which is produced annually,
8 includes the NCAA’s official policies and guidelines for the treatment and prevention
9 of sports-related injuries, as well as return-to-play guidelines, and recognizes that
10 “student-athletes rightfully assume that those who sponsor intercollegiate athletics
11 have taken reasonable precautions to minimize the risk of injury from athletics
12 participation.”⁵

13 19. The NCAA, therefore, holds itself out as both a proponent of and
14 authority on the treatment and prevention of sports-related injuries upon which
15 NCAA athletes, the Mountain West Conference, SDSU, and all other member
16 institutions can rely for guidance on player-safety issues.

17 20. This has been the case since, at minimum, the time Mr. Staggs played
18 football at SDSU.

19 21. Mr. Staggs relied upon the NCAA’s authority and guidance to protect
20 his health and safety by treating and preventing head-related injuries, including the
21 effects of those head injuries later on in his life.

22 22. As compared to Mr. Staggs, the NCAA was in a superior position to
23 know of and mitigate the risks of him sustaining concussions and other traumatic
24 brain injuries (“TBIs”) while playing football at SDSU. It failed to do so.

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26 ⁵ See, e.g., David Klossner, *2013-14 NCAA Sports Medicine Handbook*,
27 NATIONAL COLLEGIATE ATHLETIC ASSOCIATION (Aug. 2013), available at
<https://www.on.ncaa.com/2oEfOsq>.

1 **II. Decades of Studies Firmly Establish the Dangers of Football-Related**
2 **Concussions.**

3 23. Throughout the twentieth century and into the twenty-first century,
4 studies have firmly established that repetitive and violent impacts to the head can
5 cause concussions and TBIs, with a heightened risk of long-term injuries and
6 impacts, including memory loss, dementia, depression, Alzheimer’s disease,
7 Parkinson’s disease, chronic traumatic encephalopathy (“CTE”), and other related
8 symptoms.

9 24. Such violent impacts to the head are a one-way street for those who
10 experience them. As Jonathan J. Russin—assistant surgical director of the USC
11 Neurorestoration Center at the Keck School of Medicine—has stated, “there’s no
12 way to undo a traumatic brain injury,” and one’s “best bet is to avoid concussions
13 altogether.”⁶

14 25. To better understand the results of these studies, a brief introduction to
15 concussions in football follows.

16 A. An Overview of Concussions in Football.

17 26. A TBI is an injury to the brain that comes as the result of the application
18 of either external physical force or rapid acceleration and deceleration forces, which
19 disrupts brain function in a manner that causes impairments in cognitive and/or
20 physical function.

21 27. A concussion is a TBI initiated by an impact to the head, which causes
22 the head and brain to move rapidly back and forth. The movement causes the brain to
23 bounce around or twist within the skull, damaging brain cells and leading to harmful
24 chemical changes in the brain.

25 28. The human brain is made of soft tissue, cushioned by spinal fluid, and

26 ⁶ Deanna Pai, *Do Concussions Increase the Risk of Stroke or Brain Cancer?*,
27 Keck School of Medicine at USC, <https://bit.ly/2MzSkkC> (last visited August 8,
28 2018).

1 encased in a hard skull. During everyday activity, the spinal fluid protects the brain
2 from crashing against the skull. But relatively minor impacts—including not only
3 direct blows to the head, but also blows to the body and movements that cause the
4 neck to whiplash—can move the brain enough to press through the spinal fluid,
5 knock against the inside of the skull, and cause concussions.

6 29. Concussions typically occur when linear and rotational accelerations
7 impact the brain through either direct impact to the head or indirect impacts that
8 whiplash the head. During the course of a college football season, studies have shown
9 athletes can receive more than 1,000 impacts greater than 10 Gs (or gravitational)
10 force. This is slightly more force than a fighter pilot receives doing maximal
11 maneuvers. The majority of football-related hits to the head exceed 20 Gs, with some
12 going well over 100 Gs.

13 30. Kevin Guskiewicz of the University of North Carolina’s Sports
14 Concussion Research Program, compared the impacts sustained in a routine college
15 football practice to crashing a car: “If you drove your car into a wall at twenty-five
16 miles per hour and you weren’t wearing your seat belt, the force of your head hitting
17 the windshield would be around 100 [Gs]: in effect, the player [who sustained two
18 hits above 80 Gs] had two car accidents that morning.”⁷

19 i. *Concussion Symptoms.*

20 31. When a collegiate athlete suffers a severe impact to the head, he may
21 experience concussion-related symptoms, including:

- 22
- 23 • “seeing stars” and feeling dazed, dizzy, or lightheaded;
 - 24 • memory loss, such as trouble remembering things that

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26 ⁷ Malcolm Gladwell, *Offensive Play*, *The New Yorker* (October 19, 2009)
27 <http://www.newyorker.com/magazine/2009/10/19/offensive-play> (last visited August
28 8, 2018).

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happened right before and after the injury;

- nausea or vomiting;
- headaches;
- blurred vision and sensitivity to light;
- slurred speech or saying things that do not make sense;
- difficulty concentrating, thinking, or making decisions;
- difficulty with coordination or balance (such as being unable to catch a ball or other easy tasks);
- feeling anxious or irritable for no apparent reason; or
- feeling overly tired.

32. A collegiate athlete may not recognize the signs and/or symptoms of a concussion, and, more often, the effect of the concussion itself prevents him from recognizing them. Because of that, he may put himself at risk of further injury by returning to a game after a concussion. Brains that have not had time to properly heal from a concussion are particularly susceptible to further injury.

ii. *Post-Concussion Treatment.*

33. After a concussion, the brain needs time to heal. Doctors generally prohibit individuals from returning to normal activities—certainly including contact sports—until all symptoms have subsided. They do so because, immediately after a concussion, the brain is particularly vulnerable to further injury.

34. The length of the healing process varies from person to person and from concussion to concussion. Symptoms may even last for one or two weeks.

35. Individuals who do not recover from a concussion within a few weeks are diagnosed with post-concussion syndrome. The symptoms of post-concussion syndrome can last for months, or, sometimes, even be permanent. Generally, people

1 suffering from post-concussion syndrome are referred to specialists for additional
2 medical help.

3 36. Still, many people think of concussions as short-term, temporary
4 injuries. However, decades of scientific research demonstrate the effects of
5 concussions are anything but temporary.

6 *B. Studies Confirm the Dangers and Long-Term Effects of Concussions.*

7 37. Two of the leading studies of the long-term effects of concussions were
8 conducted by Boston University’s Center for the Study of Traumatic Encephalopathy
9 and the Brain Injury Research Institute. These studies showed the “devastating
10 consequences” of repeated concussions, including that they lead to an increased risk
11 of depression, dementia, and suicide. These studies have also demonstrated that
12 repeated concussions trigger progressive degeneration of the brain tissue, including
13 the build-up of an abnormal protein called the tau protein.

14 38. Between 2002 and 2007, Dr. Bennett Omalu of the Brain Injury
15 Research Institute examined the brains of five former NFL players: Andre Waters,
16 Mike Webster, Terry Long, Justin Strzelczyk, and Damien Nash. Waters killed
17 himself; Nash died unexpectedly at the age of 24; Webster, homeless and cognitively
18 impaired, died of heart failure; and Strzelczyk died driving the wrong way down a
19 highway at 90 miles per hour. Four of the five brains showed the telltale
20 characteristics of CTE—a progressive, degenerative disease of the brain found in
21 people with a history of repetitive brain trauma.

22 39. In his early studies, Dr. Robert Cantu of the Boston University Center
23 for the Study of Traumatic Encephalopathy found evidence of CTE in 90 of 94 (96%)
24 autopsied brains of former NFL players. A recent update to these studies found CTE
25 in a staggering 110 of 111 (99%) former NFL players and 48 of 53 former college
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1 players (91%).⁸

2 40. These more recent studies were neither aberrations nor surprises but
3 confirmations of what was already known or readily apparent from the existing
4 medical literature.

5 41. Studies like these, which establish the devastating dangers related to
6 TBIs, date back to the early twentieth century. For example, in an article in the 1905
7 multi-volume medical text, *A System of Medicine*, Surgeon Sir William Bennett noted
8 that the dangers from TBIs can arise just as easily when “no loss of consciousness
9 occurs at all,” and that such injuries “may in the end have far graver results” due to
10 their “escap[ing] treatment altogether in the first instance” given their less severe
11 appearance.⁹ Bennett noted that the imposition of a strict treatment regimen
12 immediately after an injury, during initial recovery, and following the initial recovery
13 period, was essential to the “treatment of all cases of concussion of the brain, whether
14 they be severe or slight.”

15 42. Some early articles from this period even began to recognize the unique
16 dangers presented by football. The editors of the *Journal of the American Association*
17 recognized the long-term risks posed by such head injuries, particularly in football,
18 very early on, writing in 1905 that “[t]o be a cripple or lunatic for life is paying high
19 for athletic emulation” via football.¹⁰ Similarly, the risks of concussion in football
20 were discussed in a 1906 article by Dr. Edward Nichols, who observed that a
21 concussed player might go through multiple plays before his teammates noticed his
22

23 ⁸ Jesse Mez, MD, MS, et al., *Clinicopathological Evaluation of Chronic*
24 *Traumatic Encephalopathy in Players of American Football*, 318 JAMA 4, 360-370
(2017).

25 ⁹ Sir William Bennett, *Some Milder Forms of Concussion of the Brain*, A
26 *System of Medicine* Vol. 8 231-32 (2d ed. 1910).

27 ¹⁰ Editors, *The Football Mortality*, 39 JAMA 1464 (1905).

1 altered mental state.¹¹

2 43. Beginning with studies on the brain injuries suffered by boxers in the
3 1920s, medical science began to clearly recognize the debilitating effects of
4 concussions and other TBIs, connect it to contact sports, and find that repetitive head
5 impacts can cause permanent brain damage and increased risk of long-term cognitive
6 decline and disability.

7 44. For instance, in 1927, Drs. Michael Osnato and Vincent Giliberti
8 discussed a disease they called traumatic encephalitis in an article on post-concussion
9 damage in *Archives of Neurology & Psychiatry*, concluding that brain disease could
10 manifest in “young men knocked out in football and other games,” but noting that the
11 issue had “not received adequate attention.”¹² Then, In 1928, Pathologist Dr. Harrison
12 Martland published a study called “Punch Drunk” in the *Journal of the American*
13 *Medical Association*, where he described the clinical spectrum of abnormalities found
14 in nearly 50 percent of boxers who had been knocked out or who had suffered a
15 considerable impact to the head.¹³

16 45. Countless studies were later conducted on boxers suffering chronic
17 neurological damage as a result of repeated head injuries, and who displayed signs of
18 dementia and impairment of motor function.¹⁴ As incidents of chronic
19

20 ¹¹ Edward Nichols, *The Physical Aspect of American Football*, 154 Boston
21 Med. & Surgical J.1 (1906).

22 ¹² Michael Osnato & Vincent Giliberti, *Postconcussion Neurosis-Traumatic*
Encephalitis, 18 *Archives of Neurology & Psychiatry* 181 (1927).

23 ¹³ Dr. Harrison S. Martland, *Punch Drunk*, 91 *JAMA* 1103 (1928).

24 ¹⁴ See, e.g., E. Guttmann & C.E. Winterstein, *Disturbances of Consciousness*
25 *After Head Injuries: Observations on Boxers*, 84 *J. of Mental Sci.* 347 (Mar. 1938);
26 Harry L. Parker, *Traumatic Encephalopathy ('Punch Drunk') of Professional*
27 *Pugilists*, 15 *J. of Neurology & Psychopathology* 20 (July 1934); C.E. Winterstein,
Head Injuries Attributable to Boxing, 2 *Lancet* 719 (Sept. 1937).

1 encephalopathy increased, they were often characterized as a “Parkinsonian” pattern
2 of progressive decline. However, in a 1940 publication on brain injuries, Psychiatrists
3 Karl M. Bowman and Abram Blau coined the term “chronic traumatic
4 encephalopathy” to explain the deterioration of a boxer’s mental state over time.¹⁵
5 That year, more than a decade after Dr. Martland’s 1928 study, the American
6 Football Coaches Association first published a report warning that players who suffer
7 concussions should be removed from play.¹⁶

8 46. Then, in 1952, an article published in *The New England Journal of*
9 *Medicine* first recommended a “three-strike rule” for concussions in football,
10 demanding that players cease to play football permanently after receiving their third
11 concussion.¹⁷

12 47. Starting in the late 1960’s, the medical community began focusing on
13 the effects of concussion-related injuries in football. In a 1967 study, Drs. John R.
14 Hughes and D. Eugene Hendrix examined how severe impacts affected brain activity
15 in football players by utilizing electroencephalograms (“EEGs”).¹⁸ Several years after
16 that, a potentially fatal condition known as “Second Impact Syndrome” was
17 identified, which is a re-injury to an already-concussed brain that triggers swelling
18 the skull cannot accommodate.

19
20 ¹⁵ K.M. Bowman & A. Blau, *Psychotic States Following Head and Brain*
21 *Injury in Adults and Children*, in *Injuries of the Skull, Brain and Spinal Cord:*
22 *Neuropsychiatric, Surgical, and Medico-Legal Aspects* 309 (S. Brock, ed. 1940).

23 ¹⁶ Proceedings of the Seventeenth Annual Meeting of the American Football
24 Coaches Association (Dec. 29, 1937) (“Sports demanding personal contact should be
25 eliminated after an individual has suffered a concussion”).

26 ¹⁷ Augustus Thorndike, *Serious Recurrent Injuries of Athletes—*
27 *Contraindications to Further Competitive Participation*, 247 *New Eng. J. Med.* 554,
28 555-56 (1952).

¹⁸ John R. Hughes & D. Eugene Hendrix, *Telemetered EEG From A Football*
Player In Action, 24 *Electroencephalography & Clin. Neurophysiology* 183 (1968).

1 48. In 1975, the Chief Medical Officer of the British Boxing Board of
2 Control suggested boxers were not the only persons or athletes vulnerable to the risk
3 of long-term brain injuries, stating:

4 Irreversible brain damage caused by regular excessive
5 punching can cause a boxer to become punch drunk, a
6 condition known euphemistically in medical terms as
7 [Chronic] Traumatic Encephalopathy. The condition can be
8 caused by other hazards of contact sports—taking too many
9 falls while hunting or steep chasing or the continual use of
10 brute force rather than skill in the rugby field or heading a
11 football incessantly over many years. **Anything which
12 entails intermittent trauma to the head can cause it.**¹⁹

11 49. Overall, countless studies—published in prominent medical journals,
12 including the *Journal of the American Medical Association*, *Neurology*, *The New*
13 *England Journal of Medicine*, and *Lancet*—warned of the dangers of single
14 concussions, multiple concussions, and/or football-related head trauma from multiple
15 concussions. These studies collectively established that:

- 17 • repetitive head trauma in contact sports, including
18 football, has potential dangerous long-term effects on
19 brain function;
- 20 • encephalopathy (dementia pugilistica) is caused by
21 repeated sub-concussive and concussive blows to the
22 head;
- 23 • acceleration and rapid deceleration of the head that
24 results in brief loss of consciousness also results in a
25 tearing of the axons (brain cells) brainstem;
- 26 • with respect to head injury in athletes who play contact
27 sports, there is a relationship between neurologic

27 ¹⁹ J.W. Graham, *Eight, Nine, Out! Fifty Years as Boxer's Doctor*, 56 (1975).

1 pathology and length of the athlete’s career;

- 2 • immediate retrograde memory issues occur following
- 3 concussions;
- 4 • head injury requires recovery time without risk of
- 5 subjection to further injury;
- 6 • a football player who suffers a concussion requires
- 7 significant rest before being subjected to further
- 8 contact; and
- 9 • minor head trauma can lead to neuropathological and
- 10 neurophysiological alterations, including neuronal
- 11 damage, reduced cerebral blood flow, altered
- 12 brainstem evoked potentials and reduced speed of
- 13 information processing.

14 50. As a result of these studies, medical professionals began recommending
15 changes to the game of football and how concussion-related injuries should be
16 handled.

17 51. By 1991, Dr. Robert Cantu, the American Academy of Neurology, and
18 the Colorado Medical Society had developed return-to-play criteria for football
19 players suspected of sustained head injuries.

20 52. In 2003, an NCAA concussion study concluded that football players who
21 had previously sustained a concussion were more likely to have future concussion
22 injuries. Another 2003 NCAA concussion study concluded that collegiate football
23 players “may require several days for recovery of symptoms, cognitive dysfunction,
24 and postural instability after [a] concussion,” and that concussions are “followed by a
25 complex cascade of ionic, metabolic, and physiological events that can adversely
26 affect cerebral function for several days to weeks.”²⁰

27 ²⁰ Michael McCrea, *et al.*, Acute Effects and Recovery Time Following
28 Concussion in Collegiate Football Players, The NCAA Concussion Study, *The*

1 53. Following these studies, in 2004, the National Athletic Trainers’
2 Association published a position statement, recommending baseline cognitive and
3 postural-stability testing, as well as return-to-play recommendations, including
4 holding out athletes who exhibit symptoms of a suspected head injury.

5 54. Building upon that, a convention of neurological experts met in Prague
6 in 2004 with the aim of providing recommendations for the improvement of safety
7 and health of athletes who suffer concussive injuries in ice hockey, rugby, football,
8 and other sports based on the most up-to-date research. These experts recommended
9 that a player never be returned to play symptomatic, and coined the phrase, “when in
10 doubt, sit them out.”

11 55. Ultimately, while the NCAA knew of the harmful effects of TBIs on
12 athletes for decades, they ignored these facts and failed to institute any meaningful
13 methods of warning and/or protecting the athletes, including the football players. For
14 the NCAA, the continued expansion and operation of college football was simply too
15 profitable to put at risk.

16 **III. The NCAA Breached Its Duties to Jeffery Staggs by Ignoring the Dangers**
17 **of Concussions and Failing to Implement Adequate Concussion**
18 **Management Protocols.**

19 56. For decades, the NCAA has been aware—through its own institutional
20 knowledge, medical science, and news articles about former football players—that
21 severe head impacts can lead to long-term brain injury, including memory loss,
22 dementia, depression, and CTE. Unfortunately, while the NCAA knew about the
23 harmful and devastating effects of these sub-concussive and concussive injuries, it
24 recklessly ignored these facts and failed to implement reasonable concussion
25 management protocols to protect its athletes, including Jeffrey Staggs.

26 _____
27 *Journal of the American Medical Association* (November 19, 2003), available at
28 <http://jama.jamanetwork.com/article.aspx?articleid=197668>.

1 57. Since at least 1933, the NCAA has known of the serious nature of
2 concussions and even recognized the need for appropriate concussion management
3 protocols. In its 1933 Sports Medicine Handbook—which it distributed to all member
4 institutions—the NCAA specifically recognized that head injuries warrant special
5 attention and should not be regarded lightly.

6 58. The 1933 Sports Medicine Handbook then provided information for
7 school and college doctors, coaches, and trainers to identify the signs and symptoms
8 of concussions, as well as methods to be used on the sidelines for treating them.
9 Notably, the 1933 Sports Medicine Handbook recommended that, when concussion-
10 related symptoms lasted longer than two days, players should “not be permitted to
11 compete for 21 days or longer, if at all.” It also stated, “[t]here is definitely a
12 condition described as ‘punch drunk’ and often recurrent concussion cases in football
13 and boxing demonstrate this,” and that “[a]ny individual who is knocked unconscious
14 repeatedly on slight provocation should be forbidden to play body-contact sport.”

15 59. The NCAA recognizes that its Sports Medicine Handbook “may
16 constitute some evidence of the legal standard of care.” Indeed, the NCAA has
17 publicly recognized its duty and moral obligation to protect collegiate athletes. As
18 NCAA President Mark Emmert testified to the Senate Commerce Committee in
19 January 2014, “I will unequivocally state we have a clear moral obligation to make
20 sure we do everything we can to protect and support student-athletes.”

21 60. Indeed, in the September 1968 issue of NCAA News, the NCAA
22 published an article entitled *Dangers of Grid Head Injuries Cited by Safeguards*
23 *Committee*. In the article, the NCAA Committee on Competitive Safeguards and
24 Medical Aspects of Sport issued a statement on the dangers of repeated head injuries
25 in football, stating:

26 **[T]hose individuals who have been rendered**
27 **unconscious, even momentarily, in a given game should**

1 **never be allowed to play again in the same game and not**
2 **allowed to return to contact until all symptoms have**
3 **cleared up entirely and he has been checked by a**
4 **competent medical authority.** In the area of the head and
5 neck being super cautious is the only route to follow.

6 It would be hoped that this type of situation would never
7 occur, but often, due to pressure from enthusiastic players,
8 parents, coaches, alumni, and even enthusiastic and well-
9 meaning physicians, boys who should not be playing are
10 allowed to play. Needless to say, we all want the athlete to
11 compete as safely as possible and it is in this interest which
12 prompted the Committee to call attention to this very
13 important aspect of health care.

14 61. Rather than inform Mr. Staggs (and other SDSU athletes) of these risks
15 or implement protocols to protect and safeguard him from TBI-related injuries (as the
16 NCAA promised to do through the NCAA Constitution, among other things), the
17 NCAA failed to meaningfully adopt or enforce the internationally accepted guidelines
18 regarding concussion management and return to play protocols until 2010.

19 62. Instead, in complete disregard of the vast body of known scientific
20 evidence and the resources and authority that it possessed, the NCAA failed prior to
21 2010 to, amongst other things, do any of the following:

- 22 • implement adequate guidelines or rules to prevent
23 repeated concussions and failed to educate players,
24 including Mr. Staggs, about the increased risk of
25 concussive and sub-concussive injury in football,
26 particularly under circumstances when the helmet is
27 used as a weapon when tackling, blocking, or running
28 with the football;
- recommend or enforce return to play procedures or
 take adequate action to educate athletes, including Mr.
 Staggs, about the risks of repetitive head injuries;
- conduct a football program that proactively encouraged

1 Mr. Staggs and other SDSU football players to avoid
2 head injuries, instead compelling Mr. Staggs and
3 others to ignore concussion symptoms and continue to
4 play football within moments of experiencing
5 concussion symptoms. For instance, SDSU coaches
6 demanded that their football players, including Mr.
7 Staggs, forego their own self-interest and continue
8 playing despite sustaining head injuries—all for the
9 purpose of advancing the SDSU football program by
10 winning games, obtaining fame and favorable
11 publicity, and gaining millions of dollars in revenue for
12 the NCAA; and

- contact football players (including Mr. Staggs) after they left the SDSU to inform them that they had been exposed to an increased risk of long-term brain damage by the sub-concussive and concussive blows sustained while playing football for the SDSU.

13 63. It was also not until April 2010, under mounting public pressure, that the
14 NCAA made changes to its concussion treatment protocols, this time enacting a new
15 policy that required its member institutions to have a Concussion Management Plan
16 (“CMP”) in place for all sports.

17 64. Under that new policy, member schools were required to have a CMP on
18 file “such that a student-athlete who exhibits signs, symptoms, or behaviors
19 consistent with a concussion shall be removed from practice or competition and
20 evaluated by an athletics healthcare provider with experience in the evaluation and
21 management of concussions.”

22 65. The policy further states that students diagnosed with a concussion
23 “shall not return to activity for the remainder of that day” and the team physician
24 would determine that medical clearance.

25 66. Finally, the policy required students to sign a statement “in which they
26 accept the responsibility for reporting their injuries and illnesses, including signs and
27

1 symptoms of concussion” to medical staff and noted that students would be provided
2 educational materials on concussions during the signing process.

3 67. This policy is also flawed: due to the very nature of concussions, athletes
4 suffering concussive injuries are in no position to police themselves or to give
5 informed consent about whether to continue playing. For example, the types of
6 questions used to screen players for concussions include “What’s your name?”,
7 “What year is it?”, and “What sport are we playing?”. These types of questions are
8 used for screening precisely because players experiencing concussions routinely fail
9 to answer them correctly, despite their very elementary nature. Following logically on
10 that, a player who cannot state his or her own name is in no condition to make an
11 informed decision about whether or not to continue playing, and is entirely dependent
12 on others, such as the NCAA, the Mountain West Conference, and SDSU, to identify
13 concussive injuries in real-time and take appropriate remedial actions. While Mr.
14 Staggs played football at SDSU, the NCAA stood in the role of guardian, tasked with
15 making decisions in his best interest. The NCAA failed to fulfill that role and instead
16 acted in its own self-interest, to Mr. Staggs’s detriment.

17 68. In the end, the NCAA implemented these (still deficient) policies far too
18 late for Mr. Staggs.

19 **FACTS SPECIFIC TO JEFFERY STAGGS**

20 69. Jeffery Staggs played football at SDSU from 1965 to 1966 as a
21 linebacker. During his career, Mr. Staggs participated in dozens of football games,
22 practices, and scrimmages.

23 70. While playing football at SDSU, Mr. Staggs was knocked unconscious,
24 and suffered numerous serious concussions. He was also subjected to countless sub-
25 concussive hits as part of routine practice and game play. Unfortunately, the NCAA
26 failed to provide appropriate medical treatment for these incidents—even though Mr.
27 Staggs often reported these injuries to the team staff.

1 71. Since the inception of the SDSU football program, through at least
2 2010, there were no adequate concussion management protocols or policies in place
3 to address and treat concussions sustained by Mr. Staggs (and others) during practice
4 and in games.

5 72. Later in life, Mr. Staggs mental and physical health began to decline. He
6 began suffering memory loss, depression, anxiety, difficulty concentrating, and
7 weakness/numbness in his feet.

8 73. Eventually this pushed Mr. Staggs to seek out treatment from a variety
9 of psychologists, with whom he had to have very frequent appointments.

10 74. During these visits, Staggs often reported being depressed, anxious, and
11 having marital stress, problems with concentration and focus, increased difficulty
12 with memory, difficulty sleeping, and even suicidal ideations.

13 75. Mr. Staggs eventually underwent a neuropsychological evaluation with
14 due to his memory problems, which had been steadily worsening since his days
15 playing football at SDSU. Mr. Staggs was diagnosed with mild cognitive
16 impairment.

17 76. Unfortunately, Mr. Staggs ultimately passed away in El Cajon,
18 California. Mr. Staggs's brain was sent to the Boston University School of Medicine,
19 Chronic Traumatic Encephalopathy Center to be examined. A postmortem
20 examination revealed that Mr. Staggs suffered from CTE.

21 **FIRST CAUSE OF ACTION**
22 **NEGLIGENCE – WRONGFUL DEATH**

23 77. Plaintiff incorporates by reference the foregoing allegations.

24 78. From its inception and by virtue of its role as the governing body of
25 college athletics, the NCAA has historically assumed a duty to protect the health and
26 safety of all athletes at member institutions, including Mr. Staggs. The NCAA also
27 assumed a duty of care by voluntarily taking steps to protect and promote the health

1 and safety of its players, including promulgating safety handbooks and regulations.
2 That duty included an obligation to supervise, regulate, and monitor the rules of its
3 governed sports, and provide appropriate and up-to-date guidance and regulations to
4 minimize the risk of injury to its athletes.

5 79. The duties of the NCAA included an obligation to supervise, regulate,
6 and monitor the rules of the SDSU football program and provide appropriate and up-
7 to-date guidance and regulations to minimize the risk of long-term and short-term
8 brain damage to SDSU football players, including Mr. Staggs.

9 80. The NCAA had a duty to educate SDSU football players on the proper
10 ways to evaluate and treat TBI during football games and practices, including
11 repetitive concussive and sub-concussive injury. The NCAA's duties further included
12 a duty to warn its athletes of the dangers of concussive and sub-concussive injuries
13 and of the risks associated with football before, during, and after they played college
14 football, and as additional information came to light.

15 81. The NCAA had a duty not to conceal material information from SDSU
16 football players, including Mr. Staggs.

17 82. The NCAA breached its duties owed to Mr. Staggs by failing to
18 implement, promulgate, or require appropriate and up-to-date guidelines regarding
19 the evaluation and treatment of TBIs on the playing field, in the locker room, and in
20 the weeks and months after they sustained TBIs, as well as providing treatment for
21 the latent effects of TBIs. These failings included, but are not limited to:

- 22 (a) failing to recognize and monitor concussive and sub-
23 concussive injury during football practices and
24 games;
- 25 (b) failing to inform student football players of the
26 dangers of concussive and sub-concussive injuries;
- 27 (c) failing to implement return to play regulations for
28 student football players who sustained concussive

1 and/or sub-concussive injuries and/or were suspected
2 of sustaining such injuries;

3 (d) failing to implement procedures to monitor the health
4 of student football players after they sustained (or
5 were suspected of sustaining) concussive and/or sub-
6 concussive injuries;

7 (e) failing to inform the families of student football
8 players who sustained concussive and/or sub-
9 concussive injuries; and

10 (f) failing to provide adequate notification, warning and
11 treatment for latent neuro-cognitive and neuro-
12 behavioral effects of concussive and sub-concussive
13 injuries, after the time student football players left
14 SDSU.

15 83. The NCAA breached its duties to student football players, including Mr.
16 Staggs, by failing to disclose and/or failing to recognize and/or being willfully non-
17 observant of: (a) material information regarding the long-term risks and effects of
18 repetitive head trauma they possessed or should have possessed; (b) the dangers of
19 concussive and sub-concussive injuries; and (c) the proper ways to evaluate, treat,
20 and avoid concussive and sub-concussive trauma to football players, including Mr.
21 Staggs.

22 84. As a football player at SDSU, Mr. Staggs relied upon the guidance,
23 expertise, and instruction of the NCAA in understanding risks associated with the
24 serious and life-altering concussive and sub-concussive hits in football.

25 85. At all times, the NCAA had superior knowledge of material information
26 regarding the effect of repeated traumatic head injuries. Because such information
27 was not readily available to SDSU football players, including Mr. Staggs, the NCAA
28 knew or should have known that they would act and rely upon its guidance, expertise,
and instruction on these crucial medical issues while attending SDSU and thereafter.

1 93. From its inception and by virtue of its role as the governing body in
2 college athletics, the NCAA has historically assumed a duty to protect the health and
3 safety of its athletes, including Mr. Staggs. The NCAA also assumed a duty of care
4 by voluntarily taking steps to protect and promote the health and safety of its players,
5 including promulgating safety handbooks and regulations. That duty included an
6 obligation to supervise, regulate, and monitor the rules of its governed sports, and to
7 provide appropriate and up-to-date guidance and regulations to minimize the risk of
8 injury to its athletes.

9 94. The duties of the NCAA included an obligation to supervise, regulate,
10 and monitor the rules of the SDSU football program and provide appropriate and up-
11 to-date guidance and regulations to minimize the risk of long-term and short-term
12 brain damage to SDSU football players, including Mr. Staggs.

13 95. The NCAA had a duty to educate SDSU football players on the proper
14 ways to evaluate and treat TBIs during football games and practices, including
15 repetitive concussive and sub-concussive injury. The NCAA's duties further included
16 a duty to warn its athletes of the dangers of concussive and sub-concussive injuries
17 and of the risks associated with football before, during, and after they played college
18 football, and as additional information came to light.

19 96. The NCAA had a duty not to conceal material information from SDSU
20 football players, including Mr. Staggs.

21 97. The NCAA breached its duties owed to Mr. Staggs by failing to
22 implement, promulgate, or require appropriate and up-to-date guidelines regarding
23 the evaluation and treatment of TBIs on the playing field, in the locker room, and in
24 the weeks and months after they sustained TBIs, as well as providing treatment for
25 the latent effects of TBIs. These failings included, but are not limited to:

- 26 (a) failing to recognize and monitor concussive and sub-
27 concussive injury during football practices and

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games;

- (b) failing to inform student football players of the dangers of concussive and sub-concussive injuries;
- (c) failing to implement return to play regulations for student football players who sustained concussive and/or sub-concussive injuries and/or were suspected of sustaining such injuries;
- (d) failing to implement procedures to monitor the health of student football players after they sustained (or were suspected of sustaining) concussive and/or sub-concussive injuries;
- (e) failing to inform the families of student football players who sustained concussive and/or sub-concussive injuries; and
- (f) failing to provide adequate notification, warning and treatment for latent neuro-cognitive and neuro-behavioral effects of concussive and sub-concussive injuries, after the time student football players left SDSU.

98. The NCAA breached its duties to Mr. Staggs, by failing to disclose and/or failing to recognize and/or being willfully non-observant of: (a) material information regarding the long-term risks and effects of repetitive head trauma they possessed or should have possessed; (b) the dangers of concussive and sub-concussive injuries; and (c) the proper ways to evaluate, treat, and avoid concussive and sub-concussive trauma to football players, including Mr. Staggs.

99. As a football player at SDSU, Mr. Staggs relied upon the guidance, expertise, and instruction of the NCAA in understanding risks associated with the serious and life-altering concussive and sub-concussive hits in football.

100. At all times, the NCAA had superior knowledge of material information regarding the effect of repeated traumatic head injuries. Because such information

1 was not readily available to SDSU football players, including Mr. Staggs, the NCAA
2 knew or should have known that they would act and rely upon its guidance, expertise,
3 and instruction on these crucial medical issues while attending SDSU and thereafter.

4 101. Repetitive TBIs during college football practices and games have a
5 pathological and latent effect on the brain. Repetitive exposure to rapid accelerations
6 to the head causes deformation, twisting, shearing, and stretching of neuronal cells
7 such that multiple forms of damage take place, including the release of small amounts
8 of chemicals within the brain, such as protein, which is a signature pathology of the
9 same phenomenon as punch drunk syndrome studied and reported by Harrison
10 Martland in 1928.

11 102. In addition, repetitive concussive and sub-concussive blows to the head
12 can significantly increase a person's risk of developing neurodegenerative disorders
13 and diseases, including but not limited to CTE, Alzheimer's disease, and other similar
14 cognitive-impairing conditions, especially at an early age.

15 103. Mr. Staggs experienced repetitive concussive and sub-concussive
16 impacts during his college football career, which significantly increased his risk of
17 developing neurodegenerative disorders and diseases, including but not limited to
18 CTE, Alzheimer's disease, and other similar cognitive-impairing conditions.

19 104. The repetitive head accelerations and hits to which Mr. Staggs was
20 exposed presented risks of latent and long-term debilitating chronic illnesses. Absent
21 the NCAA's negligence and concealment, the risk of harm to Mr. Staggs would have
22 been materially decreased, and Mr. Staggs would not have sustained debilitating
23 mental health issues and died.

24 105. Thus, as a direct and proximate result of the NCAA's negligence, Mr.
25 Staggs incurred damages in the form of permanent brain damage, emotional distress,
26 medical costs, health care, secondary care, other out-of-pocket expenses, lost time,
27 lost earnings, and other damages.

1 106. As a result of its negligence, the NCAA is liable to Plaintiff for the full
2 measure of damages and other relief allowed under applicable law.

3 **THIRD CAUSE OF ACTION**
4 **BREACH OF EXPRESS CONTRACT**

5 107. Plaintiff incorporates by reference the foregoing allegations.

6 108. As a football player at SDSU, an institution governed by the NCAA, Mr.
7 Staggs and other SDSU football players were required to, and did, enter into contracts
8 with the NCAA as a prerequisite to sports participation. The contract required Mr.
9 Staggs to complete a form affirming that he had read the NCAA regulations and
10 applicable NCAA Division manual, which expressly encompassed the NCAA
11 Constitution, Operating Bylaws, and Administrative Bylaws, and further, that he
12 agreed to abide by Division Bylaws.

13 109. In exchange for Mr. Staggs's agreement, the NCAA promised to
14 perform certain services and functions, including, amongst other things:

- 15 (a) conducting intercollegiate athletics in a manner
16 designed to protect and enhance the physical and
17 educational wellbeing of NCAA athletes;
- 18 (b) requiring that each member institution protect the
19 health of, and provide a safe environment for, each of
20 its participating athletes;
- 21 (c) requiring that each member institution establish and
22 maintain an environment in which the NCAA
athletes' activities are conducted as an integral part of
the athletes' educational experience.

23 110. By signing and agreeing to abide by NCAA rules and regulations, and
24 thereafter participating in NCAA-sanctioned sports programs in accordance with said
25 rules and regulations, Mr. Staggs fulfilled his contractual obligations to the NCAA.

26 111. As described in the foregoing allegations, the NCAA breached its
27 contractual agreement by failing to ensure Mr. Staggs was provided a safe

1 environment in which to participate in collegiate football. The NCAA further
2 breached its contractual agreement by concealing and/or failing to properly educate
3 and warn Mr. Staggs about the symptoms and long-term risks of concussions and
4 concussion-related traumatic injury.

5 112. Mr. Staggs entered into a written agreement with the NCAA in which he
6 committed to play football at SDSU, to attend SDSU as a student, and to comply with
7 all codes of conduct and obligations as both a football player and student at SDSU.

8 113. Mr. Staggs fulfilled his contractual obligations to the NCAA.

9 114. The NCAA's contractual breach caused Mr. Staggs to suffer physical
10 injury and damages in the form of, *inter alia*, past medical expenses, lost time, lost
11 earnings, and other damages.

12 115. As a result of its misconduct, the NCAA is liable to Plaintiff for the full
13 measure of damages and other relief allowed under applicable law.

14 **FOURTH CAUSE OF ACTION**
15 **BREACH OF IMPLIED CONTRACT**

16 116. Plaintiff incorporates by reference the foregoing allegations.

17 117. To the extent that an express written contract cannot be established
18 between the NCAA and Mr. Staggs, the facts set forth above support the finding of an
19 implied contract.

20 118. Under the implied contract, NCAA athletes, including Mr. Staggs,
21 agreed to be bound by NCAA rules and regulations in exchange for their participation
22 in NCAA-controlled athletic programs, including the SDSU football program. As a
23 condition of the implied contract, the NCAA agreed to abide by the promises set forth
24 in its own Constitution and Bylaws, as described above.

25 119. Mr. Staggs indicated his acceptance of the contract, and further, fully
26 performed under the contract, by participating in the SDSU football program in
27 accordance with NCAA rules and regulations.

1 120. The NCAA breached its implied contractual duties by failing to ensure
2 Mr. Staggs was provided with a safe environment in which to participate in football
3 activities. The NCAA further breached its contract by concealing and/or failing to
4 properly educate and warn Mr. Staggs about the symptoms and long-term risks of
5 concussions and concussion-related traumatic injury.

6 121. The NCAA's breaches caused Mr. Staggs to suffer physical injury and
7 damages in the form of, *inter alia*, past medical expenses, other out-of-pocket
8 expenses, lost time, lost earnings, and other damages, including death.

9 122. As a result of its misconduct, the NCAA is liable to Plaintiff for the full
10 measure of damages and other relief allowed under applicable law.

11 **FIFTH CAUSE OF ACTION**
12 **BREACH OF EXPRESS CONTRACT – THIRD PARTY BENEFICIARY**

13 123. Plaintiff incorporates by reference the foregoing allegations.

14 124. To the extent no express or implied contract is found to exist between
15 Mr. Staggs and the NCAA, an express contract existed between the NCAA and
16 SDSU.

17 125. Under the terms of that contract, SDSU agreed to abide by the applicable
18 NCAA rules and regulations, including those expressly set forth in the NCAA's
19 Division Manuals, Constitution, and Bylaws.

20 126. Under the terms of that contract, as set forth in the NCAA Constitution
21 and encompassed within the NCAA Division Manuals, the NCAA and SDSU agreed
22 to, amongst other things: (1) conduct intercollegiate athletic programs in a manner
23 designed to protect and enhance the physical and educational well-being of student
24 athletes, including Mr. Staggs; and (2) protect the health of and provide a safe
25 environment for each of its participating athletes, including Mr. Staggs.

26 127. Mr. Staggs was an intended third-party beneficiary of the contract
27 between the NCAA and SDSU. Such an intention can be found in the express

1 language of the NCAA's rules and regulations, as well as the stated purpose and
2 principles of the NCAA organization.

3 128. The NCAA breached the contractual duties owed to Mr. Staggs under
4 that contract by: (1) failing to implement or require rules of play and return to play
5 criteria to minimize or prevent the risk of concussions and concussion-related injuries
6 to them; and (2) failing to adequately inform and educate him on the symptoms and
7 long-term dangers of concussions and concussion-related injuries.

8 129. The NCAA's breach caused Mr. Staggs to suffer physical injury and
9 damages in the form of, *inter alia*, past medical expenses, other out-of-pocket
10 expenses, lost time, lost future earnings, and other damages, including death.

11 130. As a result of its misconduct, the NCAA is liable to Plaintiff for the full
12 measure of damages and other relief allowed under applicable law.

13 **SIXTH CAUSE OF ACTION**
14 **RESTITUTION**
15 **(In the Alternative to Breach of Contract)**

16 131. Plaintiff incorporates by reference the foregoing allegations, excluding
17 Paragraphs 77–130.

18 132. The NCAA receives, and during Mr. Staggs's participation on the SDSU
19 football team, received, significant revenues from the collegiate football played by its
20 athletes. These revenues include, but are not limited to, contractual revenues from
21 broadcasting, merchandising agreements, and ticket sales.

22 133. The NCAA appreciates and has knowledge of such benefits.

23 134. Under principles of equity and good conscience, the NCAA should not
24 be permitted to retain the profits received at the expense of Plaintiff, while refusing to
25 pay for medical expenses incurred as a result of its unlawful misconduct or otherwise
26 failing to prevent such injuries.

27 135. Plaintiff seeks restitution and/or disgorgement of all monies the NCAA
28 has unjustly received as a result of its misconduct alleged herein.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff Sarah Staggs, as Personal Representative of the Estate of Jeffery Hugh Staggs, respectfully requests that the Court enter an Order providing for the following relief:

A. Declare that Defendant’s actions, as set out above, constitute negligence and breach of contract;

B. Award all economic, monetary, actual, consequential, compensatory, and punitive damages caused by Defendant’s conduct, including without limitation damages for past medical expenses, other out of pocket expenses, lost time and interest, lost future earnings, death, and other damages;

C. Award Plaintiff restitution and/or disgorgement of all monies Defendant has unjustly received as a result of its misconduct alleged herein;

D. Award Plaintiff reasonable litigation expenses and attorneys’ fees;

E. Award Plaintiff pre- and post-judgment interest, to the extent allowable;

F. Enter injunctive and/or declaratory relief as is necessary to protect the interests of Plaintiff; and

G. Award such other and further relief as equity and justice may require.

JURY DEMAND

Plaintiff demands a trial by jury for all issues so triable.

Respectfully submitted,

SARAH STAGGS, as Personal Representative of the Estate of Jeffery Staggs,

Dated: August 27, 2018

By: /s/Todd M. Logan
One of Plaintiff’s Attorneys

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rbalabanian@edelson.com
Todd M. Logan (SBN – 305912)

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**Pro hac vice admission to be sought.*