

THE FUTURE OF THE COLLEGE MODEL

or

Why It Is Not Immoral To Pay Professors
With Money Raised From Tuition!

ANDY SCHWARZ, PARTNER AT OSKR

College sports stopped existing when schools offered COA

Case4:09-cv-01967-CW Document925-8 Filed12/12/13 Page21 of 138

EXPERT REPORT OF DANIEL L. RUBINFELD REGARDING MERITS

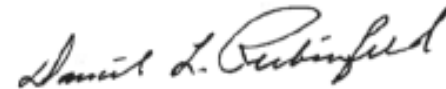
September 25, 2013

VI. PROCOMPETITIVE BENEFIT: AMATEURISM

VI.A. Amateur College Athletics is a Differentiated Product

40. The clearest and most fundamental procompetitive benefit of the NCAA's amateurism rules is the creation of new and differentiated products that are highly successful and that **would not exist but-for those rules: amateur college athletics,** including amateur college football and college basketball, but also including dozens of other amateur sports.

Respectfully Submitted,



Daniel L. Rubinfeld
New York, New York
September 25, 2013

Demand for college sports is forever “at risk” because of NIL and Alston Awards

Case 4:14-md-02541-CW Document 809-7 Filed 04/06/18 Page 102 of 171

Expert Report of

March 21, 2017

Kenneth G. Elzinga

Both of these answers have a common element. It is that if student-athletes receive even very small payments—a penny—that isn't related to their educational expenses, then the payment is a damaging breach of amateurism. ... True student-athletes are amateurs in the sense that they are not being paid to play. They receive scholarships to cover the costs of attending school, but these costs determine the amount of their GIA. Professionals, by contrast, receive funds determined by market forces, the amount of which is not tied to their living costs.

From this perspective, a variety of schemes to funnel money to student-athletes can be rejected, all on the same grounds. The test won't be their size. The test will be whether or not the dollars are connected or disconnected to the cost of the student-athlete's education. Whenever the student-athlete's scholarship exceeds the total cost of attending a school, the principle of amateurism has been undercut and the demand for intercollegiate sports will be at risk.

Athletes who are “pitchmen” cannot also attend class or exist within an academic environment

Case4:09-cv-03329-CW Document241 Filed06/23/14 Page113 of 227 1824

COURT TRIAL EMMERT - CROSS / ISAACSON THURSDAY, JUNE 19, 2014
OAKLAND, CALIFORNIA

22 THE WITNESS: ... THE FUNDAMENTAL NOTION IS THAT YOU --

23 YOU DON'T WANT TO HAVE STUDENT ATHLETES, AMATEUR STUDENT
24 ATHLETES, BE IN A POSITION WHERE THEY ARE PITCHING FOR -- FOR
25 PRODUCTS AND FOR COMMERCIAL INTERESTS AND BEING -- BEING
1 ESSENTIALLY PITCHMEN FOR VARIOUS PRODUCTS.

...

8 THE COURT: YOU THINK IT'S EXPLOITATION OF THEM
9 PERSONALLY.

10 THE WITNESS: YES.

11 THE COURT: IT'S HARMING THEM IN SOME WAY.

12 THE WITNESS: YES.

13 THE COURT: WHAT WOULD THAT BE?

14 THE WITNESS: THE ASSUMPTION IS THAT BY PROVIDING
15 THEM WITH A -- AGAIN, CONVERSION INTO -- INTO A PROFESSIONAL
16 ATHLETE, THAT THEY ARE NO LONGER A STUDENT ATHLETE; THEY'RE
17 NOT PART OF AN ACADEMIC ENVIRONMENT; THEY'RE NOT IN A POSITION
18 TO GAIN THE ADVANTAGES OF BEING A STUDENT ATHLETE. AND BEING
19 A STUDENT AT THAT UNIVERSITY THERE, THEY'RE THEN NOT
20 AVOCATIONALLY BUT VOCATIONALLY IN ORDER TO MAKE A LIVING OFF
21 OF -- OFF OF THAT PROCESS.

Paying COA or Alston Awards or allowing NIL means the Big Ten will join D3

In re NCAA Student-Athlete Name and Likeness Licensing Litigation

Case4:09-cv-01967-CW Document681-2 Filed03/14/13

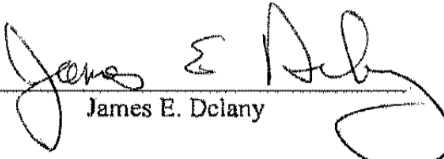
DECLARATION OF JAMES E. DELANY IN SUPPORT OF THE NCAA'S CLASS CERTIFICATION OPPOSITION BRIEF

8. Hypothetically, if current NCAA rules prohibiting student-athletes from being paid for playing in college sports did not exist, I do not believe, based on my 24 years as Commissioner of The Big Ten and my frequent interactions with the Presidents and Chancellors of Big Ten schools, that The Big Ten would participate in a 50/50 revenue-sharing or any other "pay for play" model with student-athletes.

9. Rather, it has been my longstanding belief that The Big Ten's schools would forgo the revenues in those circumstances and instead take steps to downsize the scope, breadth and activity of their athletic programs. Several alternatives to a "pay for play" model exist, such as the Division III model, which does not offer any athletics-based grants-in-aid, and, among others, a need-based financial aid model. These alternatives would, in my view, be more consistent with The Big Ten's philosophy that the educational and lifetime economic benefits associated with a university education are the appropriate quid pro quo for its student-athletes.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 14, 2013.


James E. Delany

California's NIL experiment, with a major assist from Florida, finally lets us test decades of NCAA assertions about consumer demand

The New York Times

<https://www.nytimes.com/2019/09/09/sports/california-lawmakers-vote-to-undo-ncaa-amateurism.html>

California Lawmakers Vote to Undo N.C.A.A. Amateurism

A bill passed by the State Assembly would allow college athletes to make endorsement deals. It is expected to reach the desk of Gov. Gavin Newsom.



By Billy Witz

Published Sept. 9, 2019 Updated June 21, 2021

SACRAMENTO — There were two guests of honor at the monthly meeting of the Oakland Rotary club in November 2015: the University of California marching band and a sports economics expert railing about the N.C.A.A.'s rules barring college athletes from collecting compensation for their play.



While the band riled up the crowd in the small theater — it was the week of Cal's rivalry football game against Stanford — the conversation about a multibillion-dollar enterprise dependent on amateur athletes caught the ear of an audience member, Nancy Skinner.

Her response could shatter the business model of major college sports.

Termed out of the State Assembly in 2014 and considering a run for the State Senate, Skinner had spent much of her adult life championing causes that one might expect from a Berkeley activist: organizing graduate assistant teachers, banning Styrofoam from fast-food businesses and raising taxes on the rich.

“All of a sudden the light bulb was going off,” Skinner said of the discussion at the Rotary meeting. “Rather than being the bystander going, ‘Gosh, this is so unfair, how do these people get away with this?’, I’m like, ‘Hey, if I’m in the Senate, can the state do something about it?’”

When is a financial inducement not a financial inducement?
When the NCAA permits it!

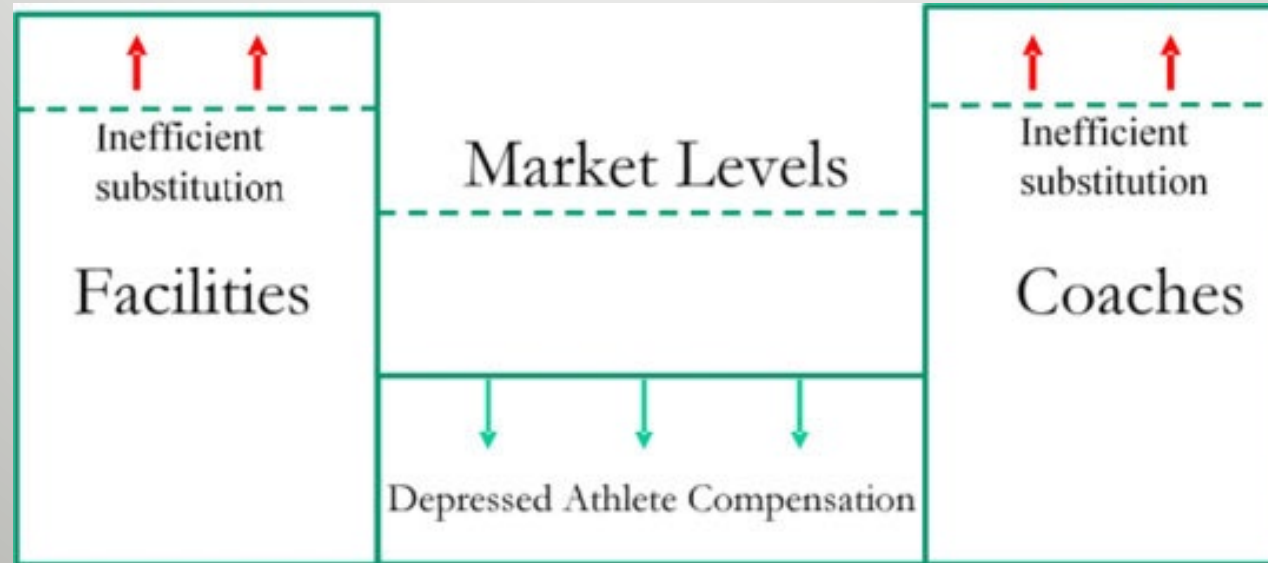
NAME | IMAGE | LIKENESS

Interim NIL Policy

The NCAA is committed to ensuring that its rules, and its enforcement of those rules, protect and enhance student-athlete well-being and maintain national standards for recruiting. Those goals are consistent with the NCAA's foundational prohibitions on pay-for-play and impermissible recruiting inducements which remain essential to collegiate athletics.

Fixing the price of a valued input (athlete talent) does not save money.

Rather, it leads to higher spending on other means of recruiting that input



Source: Schwarz, Andy and Kevin Trahan, "The Mythology Playbook: Procompetitive Justifications for "Amateurism," Biases and Heuristics, and "Believing What You Know Ain't So," The Antitrust Bulletin, Vol. 62(1) (2017) 140-183. Adapted from work by Professor Daniel Rascher, Academic Director of University of San Francisco School of Sport Management

Facilities spending is already behaving as theory predicts

Auburn Basketball

Bruce Pearl: Basketball practice facility on hold, NIL needs to be priority

Updated: Sep. 19, 2022, 5:53 p.m. | Published: Sep. 19, 2022, 12:32 p.m.

By Tom Green | tgreen@al.com

Auburn's new men's basketball practice facility at Neville Arena is apparently on hold for the time being, according to coach Bruce Pearl.

The Tigers' head coach was asked Monday prior to teeing off at the Bruce, Barkley and Basketball Golf Event in Opelika about any updates on the facilities upgrade, which was approved by Auburn's Board of Trustees back in February. Pearl said the project is being pushed to the backburner for the time being, because Auburn needs to prioritize another aspect of its athletics program first: NIL.

"We've got to take care of the NIL space first -- in all sports," Pearl said. "First, that's got to be one of our commitments and our objectives.... We've got some other things to take care of before we take care of the practice facility."

THANK YOU

Questions? Shoot me an email:

aschwarz@oskr.com

ANDY SCHWARZ, PARTNER AT OSKR