



ELECTRONICALLY FILED
10/14/2026 11:15 AM
43-CV-2026-000291.00
CIRCUIT COURT OF
LEE COUNTY, ALABAMA
MARY B. ROBERSON, CLERK

IN THE CIRCUIT COURT OF LEE COUNTY, ALABAMA

MANTAS RUBŠTAVIČIUS,

Plaintiff,

v.

NATIONAL COLLEGIATE
ATHLETIC ASSOCIATION,

Defendant.

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Civil Action No.: CV-2026-000291

ORAL ARGUMENT REQUESTED

**MOTION FOR TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION**

Plaintiff Mantas Rubštavičius respectfully moves this Court for entry of a temporary restraining order and preliminary injunction against Defendant National Collegiate Athletic Association (“NCAA”) that declares Plaintiff is eligible to participate in all NCAA Division I intercollegiate athletics activities at Auburn University (“Auburn”) and enjoins the NCAA from taking any adverse action against Auburn for allowing Plaintiff to practice and compete. Plaintiff is entitled to this restraining order and injunction based upon the facts set forth in his Verified Complaint and as set forth below. In further support hereof, Plaintiff states as follows:

INTRODUCTION

This case arises from the NCAA’s sudden and arbitrary imposition of brand-new eligibility guidelines that threaten to destroy Plaintiff’s collegiate athletic career before it begins. Auburn began recruiting Plaintiff on March 24, 2026, to leave his native Lithuania to play NCAA Division I men’s basketball. At the time, the NCAA had a well-established practice of certifying international players with years of high-level professional experience

as eligible. Relying on that practice, Plaintiff signed financial aid and revenue-share agreements with Auburn in late April and early May 2026. He then made life-altering decisions: he left his Lithuanian club—triggering a €300,000 contractual buyout for which he remains personally responsible—and began relocating to Auburn, Alabama.

Then, at the end of the men’s basketball recruiting cycle and after Plaintiff signed both of his agreements with Auburn, the NCAA changed the rules. Without warning or a phase-in period, it suddenly released its “2026-27 Athletics Eligibility Certification Process Guidelines” (the “2026-27 SAR Guidelines”) on May 8, 2026. The 2026-27 SAR Guidelines provide that eligibility will “not [be] reinstated” for any prospective student-athlete who competed for a team in a league with minimum compensation exceeding “actual and necessary” expenses. The trigger is the league’s minimum, not what the player earned. The NCAA has refused Plaintiff any individualized relief even though it certified dozens of similarly situated international professionals before him—and even though, just two weeks after denying Plaintiff, it reinstated another Auburn recruit with a professional European background.

The NCAA acted arbitrarily and failed Plaintiff on two separate and independent issues. *First*, on amateurism, the NCAA refused to reinstate Plaintiff’s eligibility based on a rigid “actual and necessary” expense line that it does not apply to domestic athletes, to institutional revenue-share payments, or to the international professionals it certified before May 8, 2026. *Second*, on seasons of competition, the NCAA rejected the National Governing Board (“NGB”) Attestation submitted on Plaintiff’s behalf—the very form the NCAA itself created to document national-team-pathway competition that is exempt from

otherwise chargeable seasons of competition—through a generic, non-individualized demand for documentation that appears nowhere in the bylaw and that it did not impose on comparable players. Either failure independently warrants relief.

The amateurism determination. The NCAA’s decision to alter its prior approach to international eligibility is both arbitrary and illogical. Under the *House v. NCAA* settlement, Auburn can pay its basketball players (including Plaintiff, once he is eligible) millions of dollars directly in revenue-share compensation.¹ Those rules mean that at least 18 NCAA men’s basketball players will earn more this college season than LeBron James will earn from his NBA contract.² Grassroots basketball organizations likewise pay substantial sums to young athletes.³ Yet none of these domestic athletes face eligibility consequences for receiving compensation that dwarfs Plaintiff’s European earnings. The NCAA cannot credibly claim that Plaintiff is “too professional” for collegiate competition that now permits schools to directly pay players in excess of what professional leagues offer and that permits domestic high school athletes to earn more than Plaintiff ever did abroad.

By enforcing its compensation rules against Plaintiff while excusing student-athletes who earned far more, the NCAA punishes him not for what he did, but for whom

¹ *House v. NCAA*, No. 4:20-cv-03919-CW, Order Approving Revenue-Sharing Settlement (N.D. Cal. June 6, 2025).

² Brendan Marks and Joe Rexrode, [www.NYTimes.com](https://www.nytimes.com), *These College Basketball Players will Make More Money than LeBron James Next Season* (July 26, 2026).

³ Dan Wolken, www.usatoday.com, *College athletics used to have a word for shoe companies paying athletes: Cheating. Now, it’s legit* (March 23, 2022).

he did it. The substance of the professional activity is the same; only the name on the contract differs. That is the definition of arbitrary enforcement.

That disparate treatment is concrete, not theoretical. More than half of the SEC had or has international players on 2025-26 and/or 2026-27 rosters who played in professional leagues that typically pay above “actual and necessary” expenses and were certified eligible: Texas (Matas Vokaitis, Declan Duru); Florida (Urban Klavzar); Kentucky (Andrija Jelavic); Mississippi State (Sergej Macura); Ole Miss (Ilias Kamardine); LSU (Saliou Niang, Ron Zipper); Oklahoma (Kirill Elatontsev); Tennessee (Ethan Burg); Arkansas (Elmir Džafić); and Texas A&M (Rubén Domínguez).⁴ These comparators reinforce that professional, international competition or foreign compensation, standing alone, was not previously disqualifying. Domestically, London Johnson signed a professional contract reported at approximately \$1.1 million and played 76 NBA G-League games before the NCAA cleared him at the University of Louisville under the theory that his million-dollar compensation represented “actual and necessary living expenses.”⁵ That is not an even-handed application of any professional-experience standard.

The seasons-of-competition determination. The NCAA’s handling of Plaintiff’s seasons of competition was independently arbitrary. Bylaw 12.6.3.2.1.2 (2025-26) exempts

⁴ Notably excluded in this list is Narcisse Ngoy, a French player recruited by Auburn in the same cycle and certified as eligible by the NCAA on September 24, 2026. Like Rubštavičius, Ngoy signed professional contracts, was paid above “actual and necessary” expenses during his professional seasons and signed with Auburn before the 2026-27 SAR Guidelines were distributed. The NCAA reinstated Ngoy by applying a “totality of [the] PSA’s experience” analysis and another newly adopted September 2026 directive (not applicable to Plaintiff).

⁵ Associated Press, www.espn.com, London Johnson won’t play for Louisville this season (January 13, 2026).

from delayed-enrollment season-charges competition that is part of officially recognized competition from which participants may be selected to a national team. The NCAA created the NGB Attestation as the exact vehicle for documenting that exemption, and it revised the form in April 2026 to require “contemporaneous national team selection standards.” NGB Attestations of this type historically resulted in certification as a matter of course. In fact, the NCAA has certified multiple comparable players for the 2026-27 season utilizing the identical type of NGB Attestation materials now insufficient for Plaintiff, including a number of players who graduated in Plaintiff’s high school class (2021) and played in high-level European professional leagues paying more than “actual and necessary expenses” for multiple years:

Student-Athlete	Nationality	HS Grad Yr	College	Professional League	NCAA Certified
Tomislav Buljan	Croatia	'21	Maryland	Croatian Premijer Liga (A-1 Liga)	Yes
Xander Pintelon	Belgium	'21	Wake Forest	BNXT League + FIBA Europe Cup (also BCL/EuroCup with Oostende)	Yes
Ruben Dominguez	Spain	'21	Texas A&M	Liga ACB + FIBA Europe Cup	Yes
Thijs De Ridder	Belgium	'21	Virginia	Liga ACB + FIBA Europe Cup (Bilbao); BNXT + EuroCup/Europe Cup (Antwerp)	Yes
Musa Sagnia	Gambia	'21	Virginia Tech	Liga ACB	Yes
Mantas Rubstavičius	Lithuania	21	Auburn	Lithuanian LKL, EuroLeague, EuroCup, Australian NBL	No
Ilias Kamardine	France	'21	Mississippi	LNB Pro A + EuroCup (Dijon); LNB Pro B	Yes

Plaintiff’s NGB Attestation—signed by the President of the Lithuanian Basketball Federation and supported by the Federation’s selection procedure and contemporaneous national team candidate letter—lists each of his 2022-23 club games as “Required Competition for National Team Selection.” Rather than evaluate that individualized record, the NCAA demanded “specific objective documentation beyond a letter from the NGB (*e.g.*, attestation form)”—a standard found nowhere in the bylaw. Properly applied,

however, the exemption covers Plaintiff's 2022-23 season and leaves him at least one season of competition for 2026-27.

Plaintiff asks this Court to enter a temporary restraining order and preliminary injunction permitting him to compete in NCAA Division I basketball for the 2026-2027 season. Plaintiff and Auburn have exhausted all NCAA administrative remedies, culminating in the NCAA's September 29, 2026, denial of Auburn's final appeal—the final level of review within the NCAA's process. The season begins today. Absent relief, Plaintiff will permanently lose his opportunity to compete in Division I athletics. Once lost, that opportunity can never be recovered, and, because time is fleeting, no monetary compensation, no matter how large, could ever make Plaintiff whole.

Plaintiff establishes a reasonable chance of success on three independent grounds asserted in his Verified Complaint: (1) breach of contract as an intended third-party beneficiary of the NCAA-Auburn membership agreement (Count I); (2) fraudulent suppression (Count II); and, alternatively, (3) promissory estoppel (Count III). Those claims support the injunctive and declaratory relief sought (Counts IV and V). Plaintiff further requests that this Court enjoin the NCAA's Rule of Restitution, which would otherwise deter Auburn from permitting Plaintiff to compete even under this Court's protection.

FACTUAL BACKGROUND

Plaintiff was recruited by Auburn and made life-altering decisions based on the NCAA's well-established eligibility framework—only to have the NCAA change the rules after he had signed binding agreements and upended his life based on the NCAA's then-

existing eligibility standards and practice. The NCAA then failed Plaintiff on two distinct determinations: (1) the amateurism determination, in which it refused reinstatement based on an arbitrary “actual and necessary” expense line; and (2) the seasons-of-competition determination, in which it rejected his NGB Attestation through a non-individualized inquiry.

The NCAA is a voluntary unincorporated membership association headquartered in Indianapolis, Indiana, comprising approximately 1,100 member colleges and universities.⁶ Through its Constitution and Manual—nearly 500 pages of bylaws governing all aspects of college sports—the NCAA determines who may compete, for how long, and under what conditions eligibility may be extended or revoked.⁷ The NCAA has been described as a “financial behemoth” with “revenues often exceeding \$1 billion annually.”⁸ For student-athletes who aspire to compete at the highest level of collegiate athletics, gain exposure to professional scouts, and earn NIL and revenue-sharing income, there is no meaningful alternative. The Supreme Court has recognized that the NCAA and its member schools “collectively enjoy monopsony power in the market for student-athlete services, such that its restraints can (and in fact do) harm competition,” and that “student-athletes have nowhere else to sell their labor.”⁹ No organization in American sports exercises comparable unilateral power over the careers and economic futures of so many individuals.¹⁰

⁶ *Johnson v. NCAA*, 108 F.4th 163, 167 (3d Cir. 2024) (affirming district court’s denial of motion to dismiss lawsuit brought by college athletes alleging entitlement to minimum wage compensation).

⁷ The 2026-27 Division I Manual is divided into three sections: the NCAA Constitution (Articles 1–6), the Operating Bylaws (Articles 8–23), and the Administrative Bylaws (Article 31).

⁸ *Johnson*, 108 F.4th at 170.

⁹ *NCAA v. Alston*, 594 U.S. 69, 90 (2021).

¹⁰ *Alston*, 594 U.S. at 90.

Auburn is an NCAA member institution located in Lee County, Alabama. To compete in Division I athletics, Auburn must comply with the NCAA's bylaws, and its student-athletes must be certified as eligible by the NCAA. Plaintiff's ability to compete for Auburn depends entirely on the NCAA's eligibility determination.

Plaintiff Mantas Rubštavičius is a 24-year-old native of Lithuania who currently resides in Lee County, Alabama.¹¹ He enrolled full-time at Auburn for the Fall 2026 term.¹² Throughout his basketball career, Rubštavičius's primary goal has been to compete at the highest level of basketball available to him while continuing his development as an athlete and person.¹³ Unlike the United States, Europe has no high-school or AAU pathway to elite basketball and no collegiate system that combines elite competition with university study. In Lithuania, the club system is the primary pathway for a talented young player and the gateway to the national team.

Rubštavičius followed that path by joining Žalgiris-2 Kaunas at 16 years old and representing Lithuania on the youth national team at the 2018 FIBA U16 European Championship, the 2021 FIBA U19 World Cup, and the 2022 FIBA U20 European Championship.¹⁴ During the 2022-2023 season, he competed for Lietkabelis Panevėžys, and the Federation placed him on the extended candidate list for the senior national team and called him to senior-team camps in November 2022 and February 2023. Through this club participation, the Lithuanian Basketball Federation identified and selected him for

¹¹ Ex. A, Aff. of Plaintiff Rubštavičius at ¶¶ 1-2

¹² *Id.* at ¶ 3.

¹³ *Id.* at ¶ 4.

¹⁴ *Id.* at ¶ 5.

(and eliminated others from) the senior national team, allowing him to compete on behalf of Lithuania in FIBA World Cup Qualifier games in early 2023.¹⁵ Representing Lithuania has always been deeply personal to him—it is where he is from, where his family lives, and a matter of national pride.¹⁶

Plaintiff's recruitment to Auburn began on March 24, 2026, well before the 2026-27 SAR Guidelines were released.¹⁷ He committed to Auburn that week and informed Žalgiris Kaunas that he would no longer compete with that organization and contractually agreed to a €300,000 payback with that club.¹⁸ He signed a financial aid agreement in late April 2026 and a revenue-share agreement in early May 2026, again before the NCAA distributed the 2026-27 SAR Guidelines.¹⁹ In reliance on the NCAA's well-established practice of clearing similarly situated international players, Plaintiff began his relocation efforts to the United States to take advantage of the unique opportunities afforded to Division I student-athletes at Auburn—including top-of-the-line coaching, training, NBA exposure, a high-quality education, and revenue-sharing compensation.²⁰

In July 2026, Auburn submitted a Student-Athlete Reinstatement request and a Legislative Relief Waiver request on Plaintiff's behalf, supported by documentation detailing his €300,000 buyout obligation to Žalgiris Kaunas, his national team history, and

¹⁵ Ex. A, Aff. of Plaintiff Rubštavičius at ¶ 6.

¹⁶ *Id.* at ¶ 4.

¹⁷ *Id.* at ¶ 9.

¹⁸ *Id.* at ¶¶ 9-12.

¹⁹ Ex. A, Aff. of Plaintiff Rubštavičius at ¶ 9.

²⁰ *Id.* at ¶ 11.

the NCAA’s certification of comparable players.²¹ The NCAA denied both requests.²² Auburn and Plaintiff then exhausted all additional administrative review.

The Amateurism Determination: The “Actual and Necessary” Bar

The 2026-27 SAR Guidelines were distributed to the membership on May 8, 2026. The 2026-27 SAR Guidelines:

- (a) created a fixed “eligibility not reinstated” outcome for any prospective student-athlete who competed for a team in a league with minimum compensation exceeding “actual and necessary” expenses;
- (b) directed staff to weigh “quality of league” and “educational nexus”—a nexus European club systems do not all offer—in evaluating professional compensation; and
- (c) charged seasons of competition for post-grace-period play.²³

These guidelines were released after the recruiting cycle closed—and after Plaintiff had signed binding financial aid and revenue-share agreements with Auburn—without warning or a phase-in period. By then, Plaintiff had abandoned his European career and initiated plans to relocate to the United States. Importantly, the 2026-27 SAR Guidelines do not address—and do not appear to have contemplated—international student-athletes (like Plaintiff) who had signed financial aid and NIL revenue-share agreements with

²¹ *Id.* at ¶¶ 12-16.

²² *Id.* at ¶¶ 17.

²³ Ex. B, 2026-27 SAR Guidelines.

Division I institutions *before* their effective date but whose eligibility certification had not yet been submitted or finalized.

The NCAA’s conduct violated its own constitutional commitment to “promote informed decisions.”²⁴ The NCAA Constitution provides that “bylaws shall be designed to promote informed decisions and balance the interests of prospective and current (or transfer) student-athletes, their educational institutions and intercollegiate athletics as a whole.”²⁵ By withholding the material eligibility standard until after the transfer portal had closed, schools had made roster commitments, Plaintiff had signed binding agreements, abandoned his European career, and initiated plans to relocate to the United States, the NCAA made it impossible for Plaintiff to evaluate his options, conform his conduct, preserve his prior career, or make alternative arrangements. Releasing the 2026-27 SAR Guidelines after an athlete had signed agreements and made plans to relocate is the antithesis of promoting informed decisions: the NCAA changed the rules only after Plaintiff had acted in reliance on its established practice.²⁶

The NCAA’s own records confirm that it was aware of this recruiting landscape months before the 2026-27 SAR Guidelines. In October 2025, the Division I Board of Directors acknowledged that more schools were recruiting individuals who had competed

²⁴ NCAA Constitution, Art. 1-H.

²⁵ *Id.*

²⁶ The NCAA’s handling of the Five-Year-Rule legislation exposes the choice it made here. For that age-based eligibility rule, the Division I Board of Directors directed the Cabinet to advance age-based eligibility rules in April 2026; the Division I Cabinet held further discussions in May 2026; and the Cabinet unanimously voted to adopt the rule in June 2026. That formal, multi-month legislative runway stands in stark contrast to the 2026-27 SAR Guidelines, which had no formal process, discussion period, or transition—they were simply released. The contrast in timing shows that the NCAA knows how to provide notice and process when it chooses to and deliberately chose not to do so here.

professionally, including in international leagues, affirmed that NCAA rules allowed such players to retain eligibility, and emphasized that each situation was unique.²⁷

Notably, the 2026-27 SAR Guidelines appear to be prospective: they apply only to incoming student-athletes, not those who were previously certified. Student-athletes with comparable or greater professional experience than Plaintiff who were certified as eligible for the 2025-2026 season remain on their institutions' rosters—the NCAA did not disturb their existing eligibility under the newly adopted categorical standard. The 2026-27 SAR Guidelines thus leave untouched foreign student-athletes whose international professional experience and compensation is similar to or even greater than Plaintiff's, while categorically barring him from eligibility based on the fact that his eligibility had not been finally certified before the NCAA distributed the 2026-27 SAR Guidelines on May 8, 2026. These former international professional players who are currently eligible players in the SEC alone include: Matas Vokaitis (Texas), Declan Duru (Texas), Urban Klavzar (Florida), Andrija Jelavic (Kentucky), Sergej Macura (Mississippi State), Ilias Kamardine (Ole Miss), Ron Zipper (LSU), Saliou Niang (LSU), Kirill Elatontsev (Oklahoma), Ethan Burg (Tennessee), Elmir Džafić (Arkansas), and Rubén Domínguez (Texas A&M). The NCAA has not explained why it purports to treat Plaintiff differently from this prior class of similarly situated individuals, all of whom benefited from the NCAA's prior eligibility standards and practices.

²⁷ Ex. C, Division I Board of Directors Statement (October 24, 2025).

The NCAA’s selective enforcement is especially difficult to reconcile with the professionalized Division I economy. Division I schools now operate in an environment in which student-athletes may receive substantial direct institutional payments, NIL compensation, and related commercial opportunities. The NCAA permits schools to distribute up to \$20.5 million annually under the *House* settlement. Public reports suggest SEC men’s basketball roster payments are expected to reach approximately \$18 million—about \$1.2 million per player on a 15-player roster—and the NIL market was approximately \$932 million for the 2025-2026 season. Average men’s basketball revenue for a sample of 53 top public universities reportedly increased from approximately \$7.9 million in 2005 to more than \$17.3 million in 2024. Against that backdrop, treating Plaintiff’s comparatively modest European compensation as disqualifying under an “actual and necessary” line that is not applied consistently to domestic compensation is arbitrary and inconsistent.

The Seasons-of-Competition Determination: The Rejected NGB Attestation

The NCAA’s published guidance confirms that Plaintiff’s period of eligibility does not begin until he enrolls full-time at a collegiate institution—which he did for the first time at Auburn in Fall 2026. The 2026-27 season is Year 1 of his five-year window. The question is how many of his four available seasons of competition are consumed by his pre-enrollment play.

Rubštavičius graduated from the Lithuanian equivalent of high school on June 1, 2021, and the Eligibility Center began its delayed-enrollment analysis on October 1, 2022, after his one-year grace period. For post-grace-period years, the NCAA may charge

seasons based on the percentage of contests played. But Bylaw 12.6.3.2.1.2 (2025-26) exempts officially recognized competition from which participants may be selected to a national team for events such as the World Cup and European Championships.

As part of the LRW request, Auburn submitted an NGB Attestation—the NCAA’s own standardized form, created to document competition that qualifies for the national/international competition exception.²⁸ Signed by Lithuanian Basketball Federation President Mindaugas Balčiūnas, it lists each of Plaintiff’s 2022-23 Lietkabelis games in the provided table outlining “Required Competition for National Team Selection.” Auburn supplied the contemporaneous selection standards that the NCAA’s April 2026 form revision required: the Federation’s 2019 selection procedure, its October 6, 2022, letter naming Rubštavičius a senior national team candidate, and its confirmation of his February 2023 national team participation.²⁹ NGB Attestations of this type, even without supporting documentation, have historically resulted in certification as a matter of course. The Eligibility Center nevertheless arbitrarily found that only a portion of that competition satisfied the exception, and NCAA staff then demanded “specific objective documentation beyond a letter from the NGB (*e.g.*, attestation form)” for each contest—a requirement found nowhere in the bylaw.³⁰ That unsupported demand was not an individualized evaluation of Plaintiff’s record. It was a refusal to credit the very instrument the NCAA designed for this purpose. Comparable class-of-2021 players with years of high-

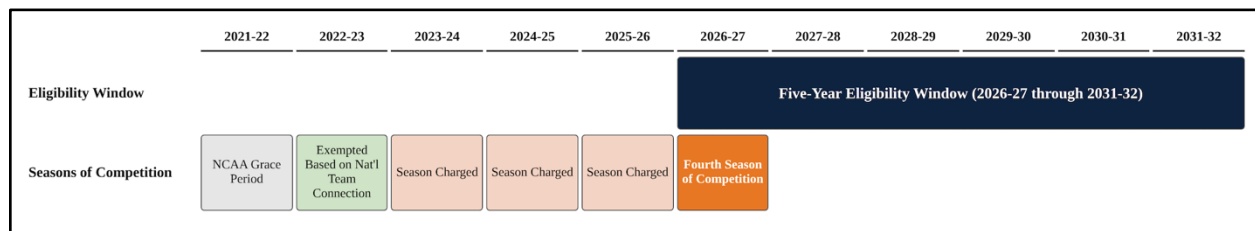
²⁸ Ex. D, Plaintiff’s NGB Attestation.

²⁹ Ex. E, Plaintiff’s LRW Submission (including NGB Attestation materials).

³⁰ Ex. F, Eligibility Center Follow-Up.

level professional international experience who received the same exception for the 2026-27 season through the Eligibility Center based on their own respective NGB Attestation materials include Tomislav Buljan (Maryland), Thijs De Ridder (Virginia), Rubén Domínguez (Texas A&M), Ilias Kamardine (Ole Miss), Xander Pintelon (Wake Forest), and Musa Sagnia (Virginia Tech).

Applying the NGB Attestation as the NCAA consistently did before the 2026-27 SAR Guidelines, Plaintiff's 2022-23 season is exempted from the four allowable seasons. He has at most three seasons charged back (2023-24, 2024-25, 2025-26) and at least one remaining for 2026-27:



Plaintiff and Auburn pursued all NCAA administrative remedies as to both determinations. Auburn submitted a Student-Athlete Reinstatement request seeking immediate and full eligibility and a Legislative Relief Waiver request seeking application of the national/international competition exception for his 2022-23 national team-related competition. On August 19, 2026, Auburn sent University counsel, leaders from its compliance and athletics departments, and its outside counsel to NCAA Headquarters in an effort to find a mutually agreeable path forward.

Those efforts were rejected. The NCAA denied the LRW and SAR requests on September 11, 2026, and denied Auburn's final appeal on September 29, 2026. Plaintiff

and Auburn have therefore exhausted all NCAA administrative remedies. No further administrative remedy remains available to Plaintiff.

The 2026-2027 college basketball season begins today. Without emergency relief from this Court, Plaintiff will permanently lose the singular opportunity to compete in NCAA Division I athletics during the upcoming season, together with the associated exposure, skill development, revenue-share income, NIL income, and the finite eligibility window that, once lost, cannot be restored.

APPLICABLE LEGAL STANDARD

Alabama law authorizes a court to issue a temporary restraining order and preliminary injunction and places that decision within the trial court's sound discretion.

To obtain a temporary restraining order without oral or written notice to the adverse party or his attorney, Ala. R. Civ. P. 65(b) only requires: (1) an affidavit or verified complaint alleging specific facts that immediate and irreparable injury, loss, or damage will result to the applicant before the adverse party or his attorney can be heard in opposition; and (2) the applicant's attorney certifies to the court in writing the efforts, if any, which have been made to give the notice and the reasons supporting his claim that notice should not be required.³¹

To obtain a preliminary injunction following the issuance of a temporary restraining order, a movant must demonstrate: (1) that same irreparable injury without the injunction;

³¹ *Water Works and Sewer Bd. v. Anderson*, 530 So. 2d 193, 197 (Ala. 1988) (affirming trial court's order, which continued a temporary restraining order, despite lack of strict compliance with Rule 65(b)'s notice requirements).

(2) no adequate remedy at law; (3) at least a reasonable chance of success on the ultimate merits; and (4) that the hardship imposed on the non-movant does not unreasonably outweigh the benefit to the movant.³² Courts have repeatedly used both vehicles to enjoin the NCAA from enforcing participation and eligibility rules and retribution provisions against student-athletes under this standard.³³

INCORPORATED MEMORANDUM OF LAW

A temporary restraining order and preliminary injunction are warranted because Plaintiff satisfies each of Alabama’s four requirements for injunctive relief.

I. PLAINTIFF WILL SUFFER IRREPARABLE HARM ABSENT INJUNCTIVE RELIEF.

Absent relief, Plaintiff will suffer immediate, irreparable harm that money damages cannot redress. The 2026-2027 college basketball season begins today, and if Plaintiff cannot compete, he will permanently lose a season of NCAA eligibility that cannot be recovered or replicated.³⁴

³² *Holiday Isle, LLC v. Adkins*, 12 So. 3d 1173, 1176 (Ala. 2008) (analyzing trial court’s issuance of preliminary injunction under four-part standard).

³³ Exh. G, Non-Exhaustive Collection of Recent Court Orders Granting Eligibility-Related Temporary Restraining Orders and/or Preliminary Injunctions (between August 27 October 6, 2026). *But see e.g.*, Exh. H, *Borovicandin v. NCAA*, 2026-Ohio-3885, ¶ 68 (1st Dist. Oct. 2, 2026) (reversing preliminary injunction and holding that “the record contains no evidence that the NCAA acted arbitrarily or capriciously”).

³⁴ *See e.g.*, Exh. H (*Gayle v. NCAA*, Index No. E192685/2026, Preliminary Injunction Decision and Order, NYSCEF Doc. No. 47, at 33 (Sup. Ct., Niagara Cnty., N.Y. Sept. 30, 2026) (adopting *Pearce* and holding that “[a] single, non-recurring season of Division I competition in the last year of a finite athletic window is exactly the unique and unquantifiable injury that cannot be fully compensated by money damages and is therefore an irreparable injury”); *Tice v. NCAA*, Index No. 009722/2026, Decision and Order at 14 (Sup. Ct., Onondaga Cnty., N.Y. Oct. 6, 2026) (“Once the season of competition has passed, a later judgment declaring the plaintiff eligible cannot fully restore what was lost.”); *Adams v. NCAA*, No. CV-2026-1757, Opinion and Order at 17 (Dist. Ct., Tulsa Cnty., Okla. Sept. 15, 2026) (“Plaintiffs’ irreparable harm includes the loss of collegiate athletic seasons which are time-sensitive, cannot be replaced, and cannot be compensated with money.”). *But see e.g.*, *Bediako v.*

Auburn has reserved a roster spot for Plaintiff in reliance on his commitment. If he is declared ineligible, that spot—and the chance to develop in gametime conditions, showcase his abilities to professional scouts, and pursue NIL opportunities—disappears and cannot be reconstructed in a later year.³⁵

Alabama law likewise recognizes that harm to reputation, goodwill, and other unique, non-monetary interests justifies injunctive relief,³⁶ and eligibility to participate in intercollegiate athletics is itself a property right carrying “present economic value.”³⁷ The NCAA’s deprivation of that property interest independently establishes irreparable harm, as courts across the country have found in similar eligibility disputes against the NCAA.³⁸

NCAA, No. CV-2026-900089.00, Order Denying Motion for Injunctive Relief at 2 (Cir. Ct., Tuscaloosa Cnty., Ala. Feb. 9, 2026) (denying preliminary injunction and setting aside TRO in stating that “[a]ny lost income is reasonably quantifiable and thus not irreparable.”).

³⁵ See e.g., *Ex. H (Pearce v. NCAA*, Index No. 72314/2026, Decision and Order at 7 (Sup. Ct., Westchester Cnty., N.Y. Sept. 21, 2026) (“Missing regular season games constitutes a significant impact on the student-athletes’ opportunities to develop as players in gametime conditions, develop in-game experience with their teammates, showcase their abilities to potential employers . . . it may have life-altering impacts on the student-athlete’s ability to pursue NIL deals and a professional career in their sport . . .”) (quoting *Ohio v. NCAA*, 706 F. Supp. 3d 583, 599 (N.D. W. Va. 2023)); *Tice*, Decision and Order at 14 (“[A] student-athlete cannot retroactively recover a missed season, competition, training opportunities, team participation, recruiting exposure, collegiate NIL opportunities related to a college program, leadership opportunities, or the experience of participating with teammates during a particular academic year.”). But see *Bediako*, Order Denying Motion for Injunctive Relief at 2 (“Any lost income is reasonably quantifiable and thus not irreparable.”).

³⁶ *Hyundai Constr. Equip. Ams., Inc. v. S. Lift Trucks, LLC*, 389 So. 3d 1107, 1122 (Ala. 2023) (finding evidence of harm to reputation and goodwill constituted not only potential—but actual—harm in affirming injunction).

³⁷ *Gulf South Conf. v. Boyd*, 369 So. 2d 553, 556-57 (Ala. 1979) (holding that eligibility to participate in intercollegiate athletics carries “present economic value” and constitutes a property right).

³⁸ See e.g., *Exh. I, Lorient v. NCAA*, No. 1:26-cv-00094-JPB, ECF No. 31, at 58 (N.D. W. Va. Sept. 30, 2026) (finding irreparable harm because “the inability to play in the upcoming (or ongoing) seasons cannot be ‘compensated after the fact by money damages’” (internal citations omitted)); *Ex. J, Chambliss v. NCAA*, No. 36CH1:26-cv-00017-W, Order Granting Motion for Temporary Injunction at 23 (Ch. Ct., Lafayette Cnty., Miss. Feb. 13, 2026) (finding that, “[w]ithout this Court’s intervention, [the student-athlete] will be permanently and irreparably deprived of access to the college football labor market”). But see *Bediako*, Order Denying Motion for Injunctive Relief at 3 (“The Plaintiff has failed to establish that he would suffer irreparable harm absent the issuance of the injunction.”).

II. PLAINTIFF HAS NO ADEQUATE REMEDY AT LAW.

Plaintiff has no adequate remedy at law. Here, no monetary award can adequately compensate him for the loss of the opportunity to participate in NCAA Division I basketball during the 2026-27 season. The experience, exposure, skill development, competitive opportunities, and eligibility window are singular and irreplaceable. Once the season starts, no court can restore what has been lost. Moreover, Plaintiff has exhausted all administrative remedies within the NCAA's framework following the NCAA's September 29, 2026, denial of Auburn's final appeal. There is no further administrative avenue available. Absent judicial intervention, the harm is permanent and cannot be otherwise remedied. Courts across the country have found the absence of an adequate remedy at law in materially indistinguishable circumstances involving the NCAA's denial of eligibility.³⁹

III. PLAINTIFF HAS A REASONABLE LIKELIHOOD OF SUCCESS ON THE MERITS.

Alabama law imposes a low threshold: Plaintiff need not demonstrate certainty of success—only a reasonable chance. In determining whether this low threshold is met, the Alabama Supreme Court requires nothing more than a “fair question” as to whether the

³⁹ See e.g., Ex. K, *Smith v. NCAA*, No. 2026-CP-39-00073, Order Granting Temporary Injunction at 3 (S.C. Ct. Com. Pl., Pickens Cnty. June 12, 2026) (“There is no adequate remedy at law in this matter as Mr. Smith’s loss of his final year of participating in this season cannot be remedied monetarily.”); Ex. H (*Tice*, Decision and Order at 15 (“The injury is therefore not adequately characterized as a claim for money. . . . Monetary damages cannot recreate the competitions missed, restore plaintiff’s position on the team during that period, or provide the same educational, athletic, competitive, and personal opportunities after the fact.”)). But see e.g., *Bediako*, Order Denying Motion for Injunctive Relief at 2–3 (“The Court heard no persuasive arguments as to why the Plaintiff would be prevented from calculating and obtaining a monetary judgment if he prevails at trial. . . . The Plaintiff has adequate remedies at law.”).

party seeking the relief might prevail on the merits.⁴⁰ Plaintiff readily satisfies this standard on three independent grounds.

A. PLAINTIFF HAS A REASONABLE LIKELIHOOD OF SUCCESS ON HIS BREACH OF CONTRACT CLAIM.

Plaintiff is entitled to the requested relief as an intended third-party beneficiary of Auburn's contract with the NCAA. Under Alabama law, he must establish three elements: (1) the contracting parties intended, when the contract was created, to confer a direct benefit on a third party; (2) Plaintiff was the intended beneficiary; and (3) the contract was breached.⁴¹

1. The NCAA membership agreement is a binding contract.

The Alabama Supreme Court recognizes NCAA membership as a binding contractual relationship.⁴² The NCAA Manual—comprising the Constitution and bylaws—is the operative expression of that agreement. A third party may enforce a contract between an institution and a governing athletic association when the agreement contemplates and directly benefits that class. The Manual also incorporates duties of good faith and fair

⁴⁰ *Alabama Ed. Ass'n v. Bd. of Trustees*, 374 So. 2d 258, 262 (Ala. 1979) (cited in *Double C. Productions, Inc. v. Exposition Enterprises, Inc.*, 404 So. 2d 52, 54 (Ala. 1981) and quoted in *Brumfield v. Horn*, 547 So. 2d 415, 421 (Ala. 1989)).

⁴¹ *Sheetz, Aiken & Aiken, Inc. v. Spann, Hall, Ritchie, Inc.*, 512 So. 2d 99, 101-02 (Ala. 1987) (affirming trial court's grant of summary judgment on third-party claim for breach of contract).

⁴² *Cottrell v. NCAA*, 975 So. 2d 306, 315 (Ala. 2007) (recognizing NCAA membership as contractual); see also *Locke v. Ozark City Bd. of Educ.*, 910 So. 2d 1247, 1253 (Ala. 2005) (recognizing intended-beneficiary enforcement).

dealing.⁴³ When an agreement gives the NCAA discretion affecting another’s rights, that discretion must be exercised reasonably and consistently with justified expectations.⁴⁴

2. Plaintiff is an intended third-party beneficiary.

In Alabama, a contract need only be intended to confer a direct benefit on the third party; the beneficiary need not be the sole beneficiary or named if the class is contemplated by the contracting parties.⁴⁵ Courts addressing NCAA eligibility rules have likewise recognized student-athletes as intended third-party beneficiaries.⁴⁶ Alabama law therefore supports the same result.

a. The NCAA membership agreement is intended to directly benefit all Division I student-athletes and prospective student-athletes of NCAA member institutions, including Plaintiff.

The eligibility rules and certification processes at the core of the NCAA’s regulatory framework exist to determine and confirm student-athletes’ ability to compete—a benefit that runs directly to the student-athlete, not merely to the member institutions. More specifically, the NCAA Manual contains concrete, operative provisions that confer direct,

⁴³ NCAA Const. Art. 1-C (requiring fairness and honesty).

⁴⁴ *Boyd*, 369 So. 2d at 557 (requiring reasonable and nonarbitrary exercise of contractual discretion); *Homa-Goff Interiors, Inc. v. Cowden*, 350 So. 2d 1035, 1038 (Ala. 1977) (rejecting unreasonable withholding of contractual consent).

⁴⁵ *Iskra v. Bear Roofing, LLC*, 406 So. 3d 51, 55 (Ala. 2024) (reversing summary judgment on a third-party-beneficiary claim and holding that “[i]t is not essential to the creation of a right in an intended beneficiary that he be identified when a contract containing the promise is made”) (quoting Restatement (Second) of Contracts § 308)).

⁴⁶ See e.g., Ex. H (*Adams*, Opinion and Order at 13 (finding plaintiffs “have put forth sufficient evidence to demonstrate a likelihood of success on their claim that they are third-party beneficiaries of the Manual and the contractual agreement between TU and the NCAA”)); *Tice*, Decision and Order at 11 (“[I]t is clear Plaintiff, and similarly situated student-athletes, are intended third-party beneficiaries with rights to enforce the contract.”); Ex. J, *Chambliss*, Order Granting Motion for Temporary Injunction at 19 (“This Court finds that Trinidad Chambliss is an intended third-party beneficiary of the subject contract.”).

individualized benefits on student-athletes. For example, Bylaw 16.13.1.1 (2025-26) conditions an individual student-athlete's right to receive institutional revenue-share payments on that athlete's "period of eligibility to participate in intercollegiate athletics," while Bylaw 12.1.1.1 provides an individualized reinstatement framework through which the NCAA determines whether a particular student-athlete may compete. Those provisions do not merely regulate institutions in the abstract. They directly affect identified student-athletes' ability to play and earn compensation. NCAA Bylaw 16.13.1.1 also authorizes member institutions to pay student-athletes directly, establishes protections for student-athlete health and well-being, affords student-athletes voting representation on the Division I Board of Directors, and creates a dedicated point of contact for student-athletes to report conduct inconsistent with the NCAA Constitution.

These provisions confirm that student-athletes are the direct and intended beneficiaries of the Manual's eligibility framework. The NCAA cannot avoid that conclusion by labeling general principles aspirational or by emphasizing that institutions are the formal members: the operative eligibility structure exists to confer individualized benefits on student-athletes. The NCAA cannot exist without student-athletes, and the entire object of the eligibility framework is to determine whether an identified student-athlete may compete—a benefit that is direct and intended. As one court unequivocally held, student-athletes are "intended third-party beneficiar[ies] of the contract between the NCAA and its member institutions."⁴⁷

⁴⁷ Ex. K, *Chambliss*, No. 36CH1:26-cv-00017-W, Order Granting Motion for Temporary Injunction at 18 (Ch. Ct., Lafayette Cnty., Miss. Feb. 13, 2026).

b. Plaintiff is among the very class of persons—prospective and enrolled student-athletes—for whom the agreement’s eligibility provisions are intended to directly benefit and protect.

Auburn recruited Plaintiff, extended and entered into financial aid and revenue-share agreements with him, and then admitted him as a prospective student-athlete in direct reliance on the NCAA-administered eligibility framework, with the reasonable and shared expectation that he would be certified eligible. Both Auburn and the NCAA knew, when Plaintiff’s agreements with Auburn were formed, that NCAA certification of his eligibility was essential to and directly contemplated by both the NCAA-Auburn relationship and Plaintiff’s Auburn agreements.

c. The NCAA breached the obligations it owes to Plaintiff.

Plaintiff reasonably relied on the NCAA’s longstanding practice of case-by-case assessment of international players when he signed agreements with Auburn and made plans to relocate to the United States. That practice is rooted in multiple express contract terms of the NCAA’s membership agreement, all of which were separately breached. The NCAA also breached implied contract terms embedded within the duty of good faith and fair dealing at the heart of the NCAA’s membership agreement with Auburn. The NCAA’s unilateral imposition of a categorical bar that contradicts years of established practice—without notice, a transition period, or grandfathering of student-athletes who had already committed and signed—constitutes a breach of that agreement. Consistent with these principles, a court confronting similar NCAA conduct held that the NCAA had breached

the membership agreement and applied its eligibility rules in an arbitrary and capricious manner.⁴⁸

i. The NCAA violated express terms of the membership agreement.

The NCAA breached express terms of the membership agreement, including Bylaw 12.1.1.1; NCAA Constitution Articles 1-C, 1-D, and 1-H; the Reinstatement Guidelines; and Bylaw 16.13.1.1. By issuing the 2026-27 SAR Guidelines without notice to student-athletes who had already committed and by refusing to apply the reinstatement process it had consistently used, the NCAA violated those express provisions.⁴⁹

(a) The NCAA violated Bylaw 12.1.1.1’s individualized reinstatement framework.

Bylaw 12.1.1.1 establishes a reinstatement process requiring individualized, case-by-case evaluation—not a categorical screening standard. The NCAA violated this framework by replacing that individualized evaluation with the 2026-27 SAR Guidelines’ rigid categorical bar. Although the bylaw text has not changed, the NCAA now refuses to apply the reinstatement process the bylaw prescribes, instead applying a categorical standard that the bylaw does not authorize. The NCAA has exercised this same reinstatement process for numerous class of 2021 athletes with comparable or greater professional experience—student-athletes who remain eligible under the same bylaw text (*e.g.*, Matas Vokaitis, Declan Duru, Urban Klavzar, Andrija Jelavic, Sergej Macura, Ilias

⁴⁸ *Id.* at p. 21 (holding that “the NCAA breached its duty of good faith and fair dealing” and “acted in bad faith, by denying [the student-athlete] an additional year of eligibility”).

⁴⁹ *Id.* at pp. 20–25 (finding that the NCAA violated its bylaws and student-first philosophy).

Kamardine, Ron Zipper, Kirill Elatontsev, Ethan Burg, Elmir Džafić, and Rubén Domínguez). The only discernible and material difference between these athletes and Plaintiff is timing: their certifications preceded the 2026-27 SAR Guidelines, and Plaintiff's request followed them. That timing cannot justify materially different treatment under the same bylaw text. This selective refusal to apply the framework's individualized evaluation to Plaintiff while applying it to others constitutes a breach of the bylaw's express terms.

Although the bylaw text did not change, the 2026-27 SAR Guidelines the NCAA applied in denying Plaintiff created a fixed "eligibility not reinstated" outcome that made his individualized circumstances irrelevant. The NCAA's decision identified no reason why Plaintiff's €300,000 repayment obligation, his documented national team pathway, and his never having enrolled in college were insufficient—and offered no explanation for treating him differently from the international professionals it previously reinstated.

The NCAA's rejection of the NGB Attestation constitutes an independent breach. The Attestation is the NCAA's own form, designed to document precisely the type of national-team-pathway competition that exempts otherwise chargeable seasons, and the NCAA revised it in April 2026 to require the contemporaneous selection standards Plaintiff supplied. By processing the NGB Attestation and then discounting its contents through a generic demand for documentation "beyond a letter from the NGB (*e.g.*, attestation form)," rather than evaluating Plaintiff's individualized record as it had for comparable players, the NCAA breached Bylaw 12.1.1.1's requirement of individualized, case-by-case evaluation. This further confirms the arbitrary and capricious character of the NCAA's conduct.

(b) The NCAA violated Article 1-H’s requirement to promote informed decisions.

The NCAA Constitution provides that “[b]ylaws shall be designed to promote informed decisions and balance the interests of prospective and current (or transfer) student-athletes, their educational institutions and intercollegiate athletics as a whole.”⁵⁰ The 2026-27 SAR Guidelines violated this express commitment. By releasing the categorical bar on May 8, 2026—after the transfer portal had closed, schools had made roster commitments, and Plaintiff had signed binding financial aid and revenue-share agreements and made plans to relocate to the United States—the NCAA made it impossible for him to evaluate his options, conform his conduct, preserve his prior career, or make alternative arrangements.

The purpose of Article 1-H is to ensure that eligibility rules give prospective student-athletes the information they need *before* making consequential decisions. The NCAA’s conduct is the antithesis of that commitment. It changed the rules with the 2026-27 SAR Guidelines only after Plaintiff had acted in reliance on its established practice, depriving him of any opportunity to make an informed decision. By October 2025, the NCAA had acknowledged that schools were recruiting individuals with international professional experience under an individualized eligibility approach, yet it gave no notice that it would depart from that approach before releasing the 2026-27 SAR Guidelines after the recruiting cycle. The NCAA’s conduct in other circumstances where it changed its rules—which typically includes public Board direction, Cabinet discussion, and a

⁵⁰ NCAA Constitution, Art. 1-H.

membership vote—confirms that the NCAA knows how to promote informed decisions when it chooses to and deliberately chose not to do so here.⁵¹

(c) The NCAA violated the Reinstatement Guidelines’ students-first philosophy and totality-of-the-circumstances mandate.

The NCAA Division I Student-Athlete Reinstatement Committee subscribes to a “students-first philosophy,” keeping the individual student-athlete at the forefront of each decision, and requires evaluation of the “totality of the circumstances” with the student-athlete’s well-being in mind.⁵² These are operative standards governing the reinstatement process through which Plaintiff’s eligibility was evaluated. The NCAA violated those standards by refusing to consider the totality of Plaintiff’s circumstances, Auburn’s detailed institutional statement, the individualized evidence submitted, and the established prior practice of certifying similarly situated student-athletes. Instead, the NCAA imposed a rigid categorical bar that made Plaintiff’s individual circumstances irrelevant and breached these contractual obligations.⁵³

(d) The NCAA violated its express commitments to fairness under Articles 1-C and 1-D.

The NCAA Constitution, foundational to the membership agreement, commits everyone associated with intercollegiate athletics to “respect, fairness, civility, honesty,

⁵¹ See *supra* n. 26.

⁵² Exh. L, NCAA Div. I Student-Athlete Reinstatement Guidelines, rev’d May 2025 (requiring a student-first, totality-of-the-circumstances review).

⁵³ See *e.g.*, Ex. K, *Chambliss v. NCAA*, No. 36CH1:26-cv-00017-W, Order Granting Motion for Temporary Injunction at 19-21 (Ch. Ct., Lafayette Cnty., Miss. Feb. 13, 2026) (finding that NCAA materially breached its contractual obligations in failing to evaluate the totality of the circumstances).

responsibility ... [and] ethical conduct,” and requires that administrators “exhibit fairness, openness and honesty in their relationship with student-athletes.”⁵⁴ The NCAA’s promulgation of the 2026-27 SAR Guidelines was the antithesis of those commitments. It imposed a categorical bar on an international student-athlete like Plaintiff despite an established prior practice of certifying student-athletes like him as eligible. The NCAA made this change after Plaintiff had signed binding agreements and made plans to move continents in reliance on that practice, and it made no attempt to address the unfair application of the new guidelines by considering his individual circumstances and background.

ii. The NCAA breached the implied covenant of good faith and fair dealing.

The NCAA also breached the implied terms of its membership agreement. Under Alabama law, every contract carries an implied covenant of good faith and fair dealing that prohibits either party from destroying or injuring the other’s right to receive the agreement’s benefits.⁵⁵ Alabama law does not recognize an independent cause of action for breach of that covenant absent breach of specific contract terms, but bad faith is actionable when tied to an identifiable breach in their performance.⁵⁶

⁵⁴ NCAA Const. Art. 1-C and Art. 1-D.

⁵⁵ *Lloyd Noland Found., Inc. v. City of Fairfield Healthcare Auth.*, 837 So. 2d 253, 267 (Ala. 2002) (recognizing the implied covenant in every contract).

⁵⁶ *Boyd*, 369 So. 2d at 557 (holding that where an agreement vests one party with discretionary authority affecting the rights of another, Alabama law requires that discretion be exercised reasonably and consistently with the justified expectations of the other—not arbitrarily or capriciously).

That requirement is satisfied because the NCAA's conduct breached specific provisions governing eligibility: Bylaw 12.1.1.1; NCAA Constitution Article 1-H; the Reinstatement Guidelines' students-first and totality-of-the-circumstances standards; and Constitution Articles 1-C and 1-D.

The NCAA breached those obligations and violated the implied covenant by: (1) imposing the 2026-27 SAR Guidelines' categorical bar without notice or a viable transition period after Plaintiff had signed binding agreements and made plans to relocate to the United States; (2) refusing to exercise its reinstatement discretion for Plaintiff while exercising it for similarly situated student-athletes; (3) disregarding the individualized evidence Auburn submitted; and (4) ignoring the Guidelines' totality-of-the-circumstances mandate in favor of a rigid categorical approach. Because the breach of the implied covenant is anchored to these identified contract terms and the NCAA's performance of them, it satisfies Alabama's requirement that bad faith be tied to specific contractual obligations.⁵⁷

d. The NCAA inconsistently and arbitrarily applied the eligibility framework, confirming its breach of the above provisions.

Alabama law limits the deference ordinarily afforded to voluntary associations when the association acts arbitrarily.⁵⁸ Deference protects an association that follows its

⁵⁷ See e.g., Ex. K, *Chambliss v. NCAA*, No. 36CH1:26-cv-00017-W, Order Granting Motion for Temporary Injunction at 20–25 (Ch. Ct., Lafayette Cnty., Miss. Feb. 13, 2026) (finding bad-faith and arbitrary enforcement).

⁵⁸ *Boyd*, 369 So. 2d at 557.

own rules. It does not shield an association that departs from established procedures and practices.

Here, the NCAA did not follow its own formal legislative process. The 2026-27 SAR Guidelines were suddenly released by the NCAA's national office without the formal, multi-month legislative runway used for other rule changes, including public Board direction, Cabinet discussion, and a membership vote. Plaintiff is not a member of the NCAA and had no voice in that rule change or visibility to know that such a rule change was even being contemplated. Under Alabama law, nonmembers are entitled to greater judicial protection when an association acts arbitrarily. The NCAA's categorical, retroactive departure from its established reinstatement practice is precisely the type of arbitrary action Alabama law exempts from deference.⁵⁹

The NCAA enforced its eligibility rules in an arbitrary and capricious manner in four distinct ways: (1) it categorically excluded Plaintiff while allowing similarly situated international players who were certified before May 8, 2026, to remain eligible under the same bylaw text; (2) it cleared domestic student-athletes with far more extensive professional experience, including student-athletes with substantial NBA G-League and professional contract histories; (3) it refused to exercise its eligibility reinstatement discretion for Plaintiff while exercising that discretion for similarly situated student-athletes; and (4) it applied new standards after Plaintiff had signed binding agreements and made the reliance decisions described above. Each defect independently demonstrates bad-

⁵⁹ *Id.*

faith administration. Together, they show that the NCAA’s decision was a selective and retroactive departure from the framework on which Plaintiff and Auburn relied.⁶⁰

The NCAA’s application of the “actual and necessary” standard is arbitrary. Numerous international players with (often years of) experience at the highest European leagues have been certified eligible, including Matas Vokaitis, Declan Duru, Saliou Niang, Urban Klavzar, Andrija Jelavic, Sergej Macura, Ilias Kamardine, Ron Zipper, Kirill Elatontsev, Ethan Burg, Elmir Džafić, and Rubén Domínguez. Domestically, the NCAA has certified as eligible Thierry Darlan, who played 58 NBA G-League games over two seasons; Abdullah Ahmed, who played 36 G-League games over two seasons; and London Johnson, who signed a professional contract reported at approximately \$1.1 million and played 76 NBA G-League games. These players—internationally and domestically—each received compensation believed to be comparable to or exceed Plaintiff’s Lithuanian club earnings. The NCAA cannot rationally deem Plaintiff “too professional” based on comparatively modest Lithuanian club compensation while treating substantially greater international and G-League compensation and professional participation as consistent with eligibility.

⁶⁰ See e.g., Ex. H (*Tice*, Decision and Order at 12–13 (finding that the record “does not provide any articulated basis for excluding the small cohort of Class of 2022 student-athletes” and that the NCAA’s “explanation of ‘a line had to be drawn’ is an arbitrary explanation without any basis for determination”); *Adams*, Opinion and Order at 15 (finding plaintiffs “have been unfairly and arbitrarily picked out for particular disfavorable treatment under the NCAA’s athletic eligibility rules when compared to those student-athletes who came before them and those who will come after them”); Ex. I, *Lorient*, ECF No. 31, at 50 (finding the NCAA’s differing treatment of similarly situated classes “appears arbitrary”). But see *Borovicanin v. NCAA*, 2026-Ohio-3885, ¶ 68 (1st Dist. Oct. 2, 2026) (reversing preliminary injunction and holding that “the record contains no evidence that the NCAA acted arbitrarily or capriciously”).

The inconsistency is even more indefensible after the *House* settlement. The NCAA administers a system in which member institutions may make substantial direct payments to student-athletes. It cannot credibly invoke limits on “actual and necessary” expenses while permitting domestic institutions to compensate athletes at levels that dwarf Plaintiff’s Lithuanian earnings. The disparity confirms that the standard is being applied selectively rather than as a neutral measure of professionalism.

The NCAA’s eligibility denial is also contradicted by the NGB Attestation submitted on Plaintiff’s behalf. Signed by Lithuanian Basketball Federation President Mindaugas Balčiūnas, the Attestation expressly identifies each of the Lietkabelis games in 2022-23 as “Required Competition for National Team Selection” and records Plaintiff’s participation in training camps and games for Lithuania’s senior national team. The accompanying federation materials confirm that the listed club games were part of the formal national-team-selection pathway.

The NCAA’s refusal to fully credit the Attestation is contradicted by its own form and the Federation’s confirmation. The Federation’s 2019 selection procedure and its contemporaneous October 6, 2022, letter confirm that Plaintiff’s club competition was the formal pathway through which the Federation identified, monitored, and selected him for (and eliminated others from) national team duty. The NCAA’s refusal to credit this evidence—while granting the same exception to comparable players based on nearly identical NGB Attestation materials—is an arbitrary departure from its established practice.

Alabama courts will intervene in the internal enforcement decisions of a private athletics association when the association's action is arbitrary and capricious.⁶¹ The NCAA's eligibility determinations do more than deny playing time—they deny a concrete financial entitlement that Bylaw 16.13.1.1 ties to eligibility. This is not merely a prospective rule change; it is the NCAA using the eligibility rules to deprive Plaintiff of a benefit the contract already confers. The NCAA's decision to clear some international professionals while categorically barring Plaintiff—despite comparable or greater professional experience among those it cleared—constitutes arbitrary and capricious enforcement that Alabama courts should correct.

A court applying similar principles found that the NCAA owed a student-athlete a duty to evaluate an eligibility-extension waiver fairly, reasonably, and based on the totality of the circumstances—and that the NCAA failed to do so.⁶² The same pattern is present here: the NCAA refused to evaluate Plaintiff under the totality of the circumstances, disregarded the individualized evidence Auburn submitted, and applied a categorical standard that contradicts its own established practice.

⁶¹ *Boyd*, 369 So. 2d at 557.

⁶² *See e.g.*, Ex. K, *Chambliss*, Order Granting Motion for Temporary Injunction at 20–21 (explaining that “[t]he duty of good faith and fair dealing prohibits a party from doing any act, or refusing to do an act, that impairs the right of the other party from receiving the benefits that flow from the agreement,” and finding that “the NCAA breached its duty of good faith and fair dealing owed to Trinidad, and acted in bad faith”). *But see Borovicanin*, 2026-Ohio-3885, ¶ 68 (“[T]he record contains no evidence that the NCAA acted arbitrarily or capriciously.”).

e. The NCAA's eligibility determination separately deprived Plaintiff of revenue-share payments conditioned on eligibility under Bylaw 16.13.1.1.

The NCAA's eligibility determination separately deprived Plaintiff of revenue-share payments he contracted for with Auburn. Under Bylaw 16.13.1.1, a student-athlete's right to receive institutional revenue-share payments is directly tied to the individual's "period of eligibility to participate in intercollegiate athletics." Plaintiff signed binding revenue-share agreements with Auburn in reliance on the NCAA's established eligibility framework. By declaring Plaintiff ineligible under the new categorical approach, the NCAA did not merely deny him the opportunity to compete—it stripped him of his contractual right to receive revenue-share compensation that the Manual itself promises to eligible student-athletes. Auburn cannot fully pay Plaintiff under his revenue-share agreement without NCAA eligibility certification, leaving him unable to receive compensation he bargained for.

* * *

These breaches, independently or collectively, directly injured Plaintiff as an intended third-party beneficiary, depriving him of both eligibility and the revenue-share compensation to which he is entitled under the agreed-upon governing framework.

B. PLAINTIFF HAS A REASONABLE LIKELIHOOD OF SUCCESS ON HIS FRAUDULENT SUPPRESSION CLAIM.

In addition to his breach of contract claim, Plaintiff has a reasonable likelihood of success on his claim for fraudulent suppression under Ala. Code § 6-5-102. Alabama law provides that the suppression of a material fact that a party has a duty to communicate

constitutes fraud. A duty to disclose arises when a party possesses knowledge of material facts not accessible to the other party and knows that the other party is acting on the assumption that those facts do not exist.

The 2026-27 SAR Guidelines are internally dated April 28, 2026. Upon information and belief, the NCAA knew well before that date that they were under development and would categorically bar prospective student-athletes like Plaintiff. Despite this knowledge, the NCAA continued to accept eligibility applications from international players and permitted Auburn to recruit, sign, and commit resources to Plaintiff without disclosing the impending change.

The NCAA’s constitutional commitments to “promote informed decisions” (Article 1-H) and to exhibit “fairness, openness and honesty” in its relationship with student-athletes (Articles 1-C and 1-D) create a duty of candor. The NCAA’s October 2025 records further confirm that it knew schools were recruiting individuals with international professional experience under the existing individualized approach, yet it gave no notice of any departure before the 2026-27 SAR Guidelines were released after the recruiting cycle.⁶³ The NCAA breached that duty by suppressing the material fact that the eligibility framework was about to change fundamentally—after Plaintiff had signed binding agreements in late April and early May 2026 and relocated to the United States in reliance on the existing framework.

⁶³ Ex. C, Division I Board of Directors Statement (October 24, 2025).

Plaintiff justifiably relied on the NCAA's silence. Had the NCAA disclosed the impending guidelines, Plaintiff could have preserved his European career, declined to incur the €300,000 payback obligation, or made alternative arrangements. The suppression caused concrete harm: Plaintiff lost his European career, incurred a €300,000 obligation, relocated to a country where he is now ineligible to compete, and forfeited the eligibility window and revenue-share compensation he bargained for.

C. ALTERNATIVELY, PLAINTIFF HAS A REASONABLE LIKELIHOOD OF SUCCESS ON HIS PROMISSORY ESTOPPEL CLAIM.

If the NCAA contends—and the Court concludes—that Plaintiff lacks contractual standing as an intended third-party beneficiary or that the NCAA has not violated Alabama law as set forth above, he is entitled to injunctive relief based on promissory estoppel. Alabama recognizes promissory estoppel: a promise the promisor should reasonably expect to induce action or forbearance, which in fact induces that action or forbearance, is binding where injustice can be avoided only by enforcement.⁶⁴

Through years of consistently certifying international players with top-tier professional experience under an individualized framework, the NCAA made an implied promise that similarly situated players—including Plaintiff—would be evaluated under that same framework. The NCAA should have expected prospective international student-athletes to rely on that established practice, and Plaintiff did so when he signed his Auburn agreements in late April and early May 2026, left his European career, and relocated to the United States. The NCAA then reversed course without warning by issuing the 2026-27

⁶⁴ *Mazer v. Jackson Ins. Agency*, 340 So. 2d 770, 772-73 (Ala. 1976) (recognizing promissory estoppel).

SAR Guidelines after the recruiting cycle. Injustice can be avoided only by estopping the NCAA from applying those Guidelines to Plaintiff in a manner inconsistent with the framework in effect before he made those consequential decisions.

IV. THE BALANCE OF HARDSHIPS FAVORS PLAINTIFF AND THE PUBLIC INTEREST SUPPORTS RELIEF.

The balance of hardships overwhelmingly favors Plaintiff. On one side, Plaintiff faces permanent, non-recoverable loss of his finite eligibility window, the destruction of the career he left Europe to pursue, and the loss of binding contractual rights. On the other side, the NCAA will suffer no cognizable harm from allowing one student-athlete to compete pending resolution on the merits. Auburn has already reserved a roster spot for Plaintiff in reliance on his commitment, so the relief sought will not displace another athlete. The requested injunction is limited to Plaintiff and preserves the status quo ante—the individualized eligibility framework under which the NCAA operated before May 8, 2026. As a court considering another NCAA eligibility challenge explained, the balance of equities overwhelmingly favors student-athletes in Plaintiff’s position because granting injunctive relief would have a “negligible impact on” the NCAA, while denying relief would have a “devastating impact on the plaintiff,” and rejected the NCAA’s asserted harm to others as “speculative at best.”⁶⁵

⁶⁵ See e.g., Ex. H (Gayle, NYSCEF Doc. No. 47, at 34 (rejecting NCAA’s asserted harm to other student-athletes as “speculative at best” and concluding that “granting injunctive relief would have a negligible impact on the defendant, while denying injunctive relief would have a devastating impact on the plaintiff”); Tice, Decision and Order at 15 (“[T]o allege Plaintiff is displacing another student-athlete is nothing more than speculation.”)). But see Borovicainin, 2026-Ohio-3885, ¶ 76 (“Roster spots, playing time, and resources are limited. So, while a new rule creates an opportunity for some players, it inevitably leaves others at a disadvantage.”).

The NCAA’s anticipated “harm to others” argument likewise fails. A recent federal court rejected this exact contention, explaining that the NCAA’s asserted disruption was unsupported by evidence and flowed from the NCAA’s own rulemaking choices, not from the narrow relief the student-athletes sought.⁶⁶ The NCAA cannot manufacture a crisis by changing its rules after the recruiting cycle and then invoke that crisis to defeat relief.⁶⁷

At a minimum, preserving the status quo for the 2026-2027 season is appropriate because Plaintiff made his recruiting, contractual, and relocation decisions under the framework in effect before May 8, 2026. The NCAA can institute the 2026-27 SAR Guidelines beginning with the 2027-2028 recruiting cycle after providing fair notice. Alternatively, it can grandfather student-athletes who signed before May 8, 2026, or provide a one-cycle transition. Applying the Guidelines immediately to the 2026-2027 cycle would retroactively impair commitments already made.

The public interest likewise strongly favors issuance of the requested relief. The public has a substantial interest in:

- (a) Enforcing contractual commitments and preventing regulatory bodies from imposing unannounced rule changes on parties who acted in good-faith reliance on established standards;

⁶⁶ *Lorient*, ECF No. 31, at 51 (finding that “the NCAA’s asserted concern regarding roster space appears, at this stage, to be based largely on a theoretical possibility rather than evidence of an actual consequence,” and that “the ‘destabilized rosters for the 2026—27 season’ do not exist”).

⁶⁷ *See id.* at 43, 51–52 (questioning why the NCAA “would draw a hard line excluding the Class of 2022 rather than make an exception similar to the one it made in response to the COVID-19 pandemic,” and observing that “some schools have reserved roster spots that, without this Court’s intervention, will go unfilled”).

- (b) Ensuring that Alabama’s intercollegiate athletics programs operate fairly and without arbitrary disruption; and
- (c) Protecting the integrity of the eligibility framework on which student-athletes, their families, and member institutions rely in making life-altering decisions.

As a court considering similar circumstances explained, the NCAA’s institutional interest is “somewhat attenuated and hypothetical as compared to the Plaintiffs’ threatened harm” and held that the public has a “substantial interest in ensuring that the NCAA . . . applies its rules consistently and exercises its authority in good faith.”⁶⁸

The public interest is further disserved by the coercive means through which the NCAA enforces its eligibility decisions. The Rule of Restitution threatens member institutions with retroactive penalties should they permit a court-cleared athlete to compete, deterring institutions like Auburn from honoring an athlete’s adjudicated rights even under this Court’s protection. The public has a substantial interest in keeping the courthouse open to those the NCAA has excluded, and in ensuring that member institutions are not coerced into disregarding lawful orders of this Court.⁶⁹ The hardship imposed on the NCAA by

⁶⁸ See e.g., Ex. H (*Adams*, Opinion and Order at 18 (“The NCAA certainly has an institutional interest in having its rules upheld and enforced without undue disturbance from courts, but this interest is, by its nature somewhat attenuated and hypothetical as compared to the Plaintiffs’ threatened harm. . . . The public has a substantial interest in ensuring that the NCAA, which governs college athletics for hundreds of thousands of student-athletes nationwide, applies its rules consistently and exercises its authority in good faith.”)); Ex. K, *Smith*, Order Granting Temporary Injunction at 3 (“[P]ublic interest supports fair competition and equitable treatment of college athletes.”). But see *Borovicainin*, 2026-Ohio-3885, ¶ 77 (“It is certainly in the public’s interest not to have piecemeal litigation in multiple courts across the country concerning whether certain players are eligible to participate in a fifth year of athletic competition. This leads to inconsistent legal rulings.”).

⁶⁹ See e.g., Ex. M, *Daley v. NCAA*, Cause No. 2026CP3900073 Opinion and Order Granting Preliminary Injunction at 24–25, 35 (Cir. Ct., Monroe Cnty., Ind. Sept. 23, 2026) (“The Rule on its face seems to

maintaining the status quo does not unreasonably outweigh the devastating and irreversible consequences Plaintiff will suffer absent relief.

CONCLUSION

For all of the foregoing reasons, Plaintiff has demonstrated a reasonable likelihood of success on the merits of his breach of contract claim, his fraudulent suppression claim, and, alternatively, his promissory estoppel claim. The NCAA acted arbitrarily on both determinations at issue: its amateurism determination rests on an “actual and necessary” line it does not apply consistently, and its seasons-of-competition determination rejected the NGB Attestation—the NCAA’s own vehicle for exempting national-team-pathway competition—without individualized review. Properly applied, the national/international competition exception covers his 2022-23 season, and he retains one season of competition for 2026-27. He will suffer irreparable harm absent relief and has no adequate remedy at law after the NCAA’s September 29, 2026, final denial, and the hardships he faces far outweigh any hardship to the NCAA. At a minimum, the Court should delay application of the 2026-27 SAR Guidelines to Plaintiff until the 2027-2028 recruiting cycle.

Accordingly, Plaintiff respectfully asks this Court for immediate injunctive relief that prohibits the NCAA from enforcing any determination that he is ineligible to participate in intercollegiate athletics and directs the NCAA to certify him as eligible to compete for Auburn during the 2026-2027 basketball season.

deter student-athletes from exercising their legal rights and to deprive courts of the ability to grant effective relief . . . and [t]he public has an interest in seeing all players treated fairly”).

PRAYER FOR RELIEF

WHEREFORE, for the foregoing reasons, Plaintiff Mantas Rubštavičius respectfully requests that this Court enter an emergency temporary restraining order, and thereafter a preliminary injunction following a hearing on the merits, providing the following relief:

1. Issue a temporary restraining order, pursuant to Rule 65 of the Alabama Rules of Civil Procedure, restraining the NCAA from applying the 2026-27 SAR Guidelines to Rubštavičius or declaring him ineligible to fully participate and compete at Auburn during the 2026-27 men's basketball season pending a hearing on Rubštavičius's request for a preliminary injunction;

2. Issue a preliminary injunction enjoining the NCAA from applying the 2026-27 SAR Guidelines to Rubštavičius or declaring him ineligible to fully participate and compete at Auburn during the 2026-27 men's basketball season;

3. Issue a permanent injunction enjoining the NCAA from applying the 2026-27 SAR Guidelines to Rubštavičius or declaring him ineligible to fully participate and compete at Auburn during the 2026-27 men's basketball season;

4. Declare that Rubštavičius is immediately eligible to fully participate in all NCAA Division I intercollegiate athletics activities at Auburn, including team meetings, practices, exhibitions, and regular-season and postseason competition during the men's 2026-2027 basketball season;

5. Enjoin the NCAA from enforcing the 2026-27 SAR Guidelines against Rubštavičius or from taking any action to declare Rubštavičius ineligible to fully participate and compete at Auburn during the 2026-27 men's basketball season;

6. Enjoin the NCAA from enforcing Bylaw 12.9.4.2 (the Rule of Restitution) or any related sanction, penalty, adverse action, or retribution against Rubštavičius, Auburn, Auburn's coaches, or any institution at which Rubštavičius competes because of Rubštavičius's participation pursuant to this Court's orders;

7. Promptly set this matter for a hearing on Rubštavičius's request for a preliminary injunction;

8. Award Plaintiff compensatory damages in an amount to be proven at trial;

9. Award Rubštavičius his reasonable attorneys' fees and costs;

10. Award Rubštavičius pre-judgment and post-judgment interest; and

11. Grant such other and further relief as this Court deems just and proper.

Plaintiff is willing to post a bond or security in an amount this Court deems appropriate.

/s Joshua J. Jackson
Joshua J. Jackson (JAC072)
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CERTIFICATE OF SERVICE

I hereby certify that on October 14, 2026, I served a true and correct copy of the foregoing Motion for Emergency Temporary Restraining Order and Preliminary Injunction, together with all supporting documents, upon counsel for Defendant at the following address:

Scott Bearby
NCAA Chief Legal Counsel
Via e-mail: sbearby@ncaa.org

Cason Kirby
Holland & Knight LLP
Via e-mail: cason.kirby@hklaw.com

/s Joshua J. Jackson
OF COUNSEL