

**COMMONWEALTH OF KENTUCKY
 JEFFERSON CIRCUIT COURT
 CIVIL ACTION NO. 18-CI-_____
 DIVISION _____
*Electronically Filed***

**LUKE HANCOCK,
 GORGUI DIENG,
 STEPHAN VAN TREESE,
 TIM HENDERSON and
 MICHAEL MARRA**

PLAINTIFFS

VS.

**NATIONAL COLLEGIATE
 ATHLETIC ASSOCIATION**

DEFENDANT

**Serve: Kentucky Secretary of State
 Summons Branch
 700 Capital Avenue, Suite 86
 Frankfort, Kentucky 40601**

**Serve at: The National Collegiate Athletic Association
 700 W. Washington Street
 P.O. Box 6222
 Indianapolis, Indiana 46206-6222**

COMPLAINT

INTRODUCTION

1. Plaintiffs, Luke Hancock, Gorgui Dieng, Stephan Van Treese, Tim Henderson and Michael Marra, sue Defendant, National Collegiate Athletic Association conducting its affairs as the "NCAA," false light, promissory estoppel, breach of contract, negligence, conversion, trespass to chattels and further respectfully request a declaration from this Court that they are completely innocent of any wrongdoing as implied by the NCAA, that Gorgui Dieng, Stephan Van Treese, Tim Henderson and Michael Marra were eligible student-athletes in the

2011-2012 season, that Luke Hancock, Gorgui Dieng, Stephan Van Treese, Tim Henderson and Michael Marra were eligible student-athletes in the 2012-2013 season, that Luke Hancock, Tim Henderson and Stephan Van Treese were eligible student-athletes in the 2013-2014 season, that Gorgui Dieng, Stephan Van Treese, Tim Henderson and Michael Marra were 2011-2012 Big East Conference Men's Basketball Tournament Champions, that Luke Hancock, Gorgui Dieng, Stephan Van Treese, Tim Henderson and Michael Marra were 2012-2013 Big East Conference Men's Basketball Regular Season and Tournament Champions, that Luke Hancock, Tim Henderson and Stephan Van Treese were American Athletic Conference Men's Basketball Regular Season and Tournament Champions, that Luke Hancock, Gorgui Dieng, Stephan Van Treese, Tim Henderson and Michael Marra were 2012-2013 NCAA Men's Basketball Tournament Champions, that Luke Hancock is the Most Outstanding Player of the 2012-2013 NCAA Men's Basketball Final Four and that all of their individual basketball awards received in the 2011-2012, 2012-2013 and 2013-2014 basketball seasons remain intact.

2. Defendant, NCAA, is an unincorporated association of public and private colleges and universities that acts as the governing body of college sports. Its principal office is located in Indianapolis, Indiana. Defendant consists of over 1,000 colleges and universities, 100 athletics conferences and forty affiliated sports organizations.

3. Defendant employs approximately 500 employees.

4. Defendant claims that it is an organization that promotes the well-being of student-athletes.

5. Defendant also claims that it supports four million former NCAA student-athletes from 1,100 colleges and universities creating one NCAA community.

6. Defendant earns in excess of \$900 million in revenues annually (much of which

comes from the NCAA men's basketball tournament) and remains the most significant college sports governing body since its inception early in the 20th century.

7. College athletics at NCAA member institutions, at all times relevant to the facts in this complaint, were, and continue to be, regulated by the NCAA Constitution, Operating Bylaws, Administrative Bylaws, and sports rules.

8. Article 1, Section 1.2 of the NCAA's Constitution for 2012 includes the following purpose of the Association: "(e) to preserve intercollegiate athletic records."

9. Article 2, Section 2.8.2 of the 2012 NCAA Constitution states in relevant part: "The Association...shall afford...student-athletes fair procedures in the consideration of an identified or alleged failure in compliance."

10. Article 31, Section 31.2.2.3 of the 2012 NCAA Constitution states in pertinent part:

When a student-athlete competing as an individual or representing the institution in a team championship is declared ineligible following the competition, or a penalty has been imposed or action taken as set forth in Bylaw 19.5.2-(h) or 19.7 of the NCAA enforcement program, the Committee on Infractions may require the following:

(a) Individual Competition. The individual's performance may be stricken from the championship records, the points the student has contributed to the team's total may be deleted, the team standings may be adjusted accordingly, and any awards involved may be returned to the Association...

(b) Team Competition. The record of any team's performance may be deleted, the team's place in the final standing may be vacated and the team's trophy and the ineligible student's awards may be returned to the Association.

11. The NCAA Constitutions for 2013 and 2014 contain substantially similar provisions.

12. The Plaintiffs in this matter were all in full compliance with all provisions of the applicable NCAA Constitutions and Bylaws and all rules and regulations of the institution and conferences at all relevant times herein.

13. In the 2011-2012 season, Gorgui Dieng, Stephan Van Treese, Tim Henderson and Michael Marra played in and won the 2011-2012 Big East Conference Men's Basketball Tournament Championship and played in the 2011-2012 Final Four.

14. In the 2012-2013 season, Luke Hancock, Gorgui Dieng, Stephan Van Treese, Tim Henderson and Michael Marra played in and won the 2012-2013 Big East Conference Men's Basketball Regular Season and Tournament Championship.

15. In the 2012-2013 season, Luke Hancock, Gorgui Dieng, Stephan Van Treese, Tim Henderson and Michael Marra played in and won the NCAA Men's Basketball Tournament Championship.

16. In addition to the above, Plaintiff Hancock earned the Most Outstanding Player Award (MOP) of the 2012-2013 NCAA Final Four.

17. In the 2013-2014 season, Luke Hancock, Stephan Van Treese and Tim Henderson played in and won the American Athletic Conference Men's Basketball Regular Season and Tournament Championships.

18. Plaintiffs were eligible student-athletes at all times mentioned herein.

19. In 2017 and 2018, Defendant publicly asserted that the University of Louisville men's basketball team, including the Plaintiffs, were not entitled to their 2011-2012, 2012-2013 and 2013-2014 NCAA victories and corresponding championships and that it was taking away

their associated victories, championships and individual honors.

PARTIES

20. Plaintiff Luke Hancock resides in Louisville, Kentucky, and is a resident of the Commonwealth of Kentucky.

21. Plaintiff Gorgui Dieng resides in Hopkins, Minnesota and is a resident of Minnesota.

22. Plaintiff Stephan Van Treese resides in Louisville, Kentucky, and is a resident of the Commonwealth of Kentucky.

23. Plaintiff Tim Henderson resides in Louisville, Kentucky, and is a resident of the Commonwealth of Kentucky.

24. Plaintiff Michael Marra resides in Smithfield, Rhode Island, and is a resident of Rhode Island.

25. Defendant is unincorporated. As an unincorporated association, the NCAA is a citizen of each state of which its members are a citizen, including the Commonwealth of Kentucky.

26. Defendant has members in Kentucky, generally, and in Louisville, specifically.

27. Defendant has not filed a certificate of association with the Kentucky Secretary of State pursuant to KRS 273A.025.

28. Defendant is a resident of Kentucky.

29. There is not complete diversity between the parties.

JURISDICTION & VENUE

30. Defendant conducts operations in Kentucky.

31. Defendant conducts business in Jefferson County, Kentucky and other counties in

the Commonwealth of Kentucky.

32. Defendant harmed Plaintiffs throughout the land generally and in the Commonwealth of Kentucky specifically.

33. Defendant committed its wrongful conduct throughout the Commonwealth of Kentucky, including in Jefferson County, Kentucky.

34. Plaintiffs allege damages exceeding the jurisdictional minimums of the Circuit Court.

COUNT I
FALSE LIGHT

35. Plaintiffs incorporate by reference all allegations in this Complaint as if fully set forth in this paragraph.

36. The Commonwealth of Kentucky recognizes the tort of false light.

37. Defendant cast Plaintiffs in a false light.

38. Defendant's declarations to the public in 2017 and 2018 implied that the Plaintiffs engaged in lewd and lascivious behavior, that the Plaintiffs received improper benefits, that the Plaintiffs competed while ineligible and that the Plaintiffs are not champions.

39. Defendant has implied that the Plaintiffs' actions led to the revocation of their victories, championships and individual honors/awards from the 2011-2012, 2012-2013 and 2013-2014 men's basketball seasons.

40. Defendant has further implied to the public (and still to this date failed to clarify to the public) that Plaintiff Hancock had his MOP award vacated due to Plaintiff Hancock's implied actions.

41. The issue of false light should be decided by a jury. See *McCall v. Courier-Journal and Louisville Times Co.*, 623 S.W.2d 882, 888 (Ky. 1981).

42. Defendant has acted recklessly in its statements and publications.

43. Many people in Jefferson County as well as throughout the Commonwealth have viewed Defendant's reckless statements and publications that cast Plaintiffs in a false light.

44. Defendant justified its actions by publicizing that Plaintiffs' basketball team engaged in lewd and lascivious behavior, including prostitution.

45. A reasonable person would find the allegations levied against Plaintiffs to be highly offensive.

46. Plaintiffs did not engage in lewd or lascivious behavior.

47. Plaintiffs did not engage in prostitution.

48. Plaintiffs were all eligible student-athlete that did not receive improper benefits.

49. Plaintiffs' reputations have been harmed due to Defendant's reckless publications and declarations and they suffered damages as a result.

50. Defendant knew that Plaintiffs did not engage in lewd or lascivious conduct.

51. Defendant knew that Plaintiffs did not engage in prostitution.

52. Defendant knew that Plaintiffs were all eligible student-athlete that did not receive improper benefits.

53. Defendant chose not to exclude Plaintiffs when referencing ineligible student-athlete in its disclosures to the public and to date have failed to clarify same.

54. Defendant's actions in 2017 and 2018 cast Plaintiffs in a false light.

55. Defendant cast Plaintiffs in a false light through the publication of its website and media releases.

56. Defendant declared generally, without excluding the Plaintiffs, that student-athlete, "...participated in the striptease dances, prostitution and 'tipping' of the strippers..." and

were “ineligible for competition.”

57. Defendant has acted in reckless disregard toward Plaintiffs.

COUNT II
PROMISSORY ESTOPPEL

58. Plaintiffs incorporate by reference all allegations in this Complaint as if fully set forth in this paragraph.

59. Plaintiffs sue Defendant for Promissory Estoppel.

60. The NCAA represented to the Plaintiffs and the world that it exists to benefit student-athletes.

61. As part of that broad representation, the NCAA led the Plaintiffs to believe that any and all wins, championships, awards, honors and achievements the Plaintiffs earned as eligible student-athletes would be theirs, in perpetuity, absent a specific finding that they, individually, were ineligible.

62. In reliance on the NCAA’s representations, the Plaintiffs worked innumerable hours and endured other, numerous sacrifices in order to maintain their eligible status and accomplish high achievements all the while benefiting the NCAA both in reputation and monetarily.

63. The Plaintiffs earned the right to be called champions and Plaintiff Hancock earned the right to be forever known as the 2012-2013 MOP.

64. Despite no wrongdoing or improper conduct by the Plaintiffs, the NCAA, without just cause, vacated, removed and otherwise impaired the Plaintiffs’ wins, championships and individual honors, awards and recognitions.

65. The NCAA benefited and profited due to its inducement of the Plaintiffs’ work, sacrifice and achievements.

66. Plaintiffs are entitled to recoup the value of their work, sacrifices and achievements, because the NCAA has wrongfully deprived them of the benefits of same.

67. The enforcement of Defendant's promises is necessary to avoid an injustice.

COUNT III
BREACH OF CONTRACT

68. Plaintiffs incorporate by reference all allegations in this Complaint as if fully set forth in this paragraph.

69. In the 2011-2012, 2012-2013 and the 2013-2014 basketball seasons the NCAA and University of Louisville, as a member institution of the NCAA, had an agreement that permitted the University of Louisville's men's basketball team to participate in NCAA basketball competition.

70. The above contract resulted in hundreds of millions of dollars in revenues for the Defendant.

71. The Plaintiffs, as eligible student-athletes on the University of Louisville men's basketball team in the 2011-2012, 2012-2013 and/or 2013-2014 seasons, were third party beneficiaries of the above-mentioned contract.

72. In Kentucky, all contracts carry with them an implied covenant of good faith and fair dealing.

73. Breach of the covenant of good faith and fair dealing is breach of the contract.

74. As the Plaintiffs were all eligible student-athlete in the 2011-2012, 2012-2013 and 2013-2014 seasons, Defendant breached the covenant of good faith and fair dealing by wrongfully vacating the Plaintiffs' victories in the 2011-2012, 2012-2013 and/or 2013-2014 seasons, by wrongfully vacating Plaintiffs' championships in 2011-2012, 2012-2013 and/or

2013-2014 seasons, and by wrongfully vacating Plaintiffs' awards/ honors in 2011-2012, 2012-2013 and/or 2013-2014 seasons.

75. As a result of this breach of contract the Plaintiffs have suffered consequential and special damages, loss of property rights and the Plaintiffs are entitled to a declaration of rights.

**COUNT IV
NEGLIGENCE**

76. Plaintiffs incorporate by reference all allegations in this Complaint as if fully set forth in this paragraph.

77. The NCAA has no experience, ability or authority to conduct a criminal investigation.

78. The NCAA's authority does not extend to criminal acts perpetrated by someone who happens to be associated with an athletic team.

79. Despite this, the NCAA undertook to investigate and penalize wrongdoers associated with the University of Louisville Men's Basketball team for alleged criminal activity.

80. The NCAA had a duty to investigate and penalize alleged wrongful conduct in a manner that did not unreasonably harm or injure innocent student-athletes, including Plaintiffs.

81. The NCAA failed to investigate and/or impose its penalties in a reasonable and prudent manner under the circumstances, including imputing wrongful conduct to the innocent Plaintiffs.

82. Plaintiffs have suffered damages as a result of the NCAA's breach of its assumed duties.

**COUNT V
CONVERSION**

83. Plaintiffs incorporate by reference all allegations in this Complaint as if fully set

forth in this paragraph.

84. Plaintiffs sue Defendant for conversion.

85. “[M]ore and more of our wealth takes the form of rights and status rather than of tangible goods.” Charles A. Reich, *The New Property*, 73 Yale L.J. 733, 738 (1964).

86. Being a Conference and/or NCAA Champion bestows valuable status to former players, including the Plaintiffs, in the Commonwealth of Kentucky.

87. Earning an MOP bestows individual status.

88. The Plaintiffs possessed an intangible property right/status for winning the games, tournaments, championships and individual awards as set forth above.

89. The before-mentioned wins, championships and individual awards allowed Plaintiffs to exercise rights not available to those that had not earned them.

90. Plaintiff Hancock had status and rights due to his MOP award.

91. The Plaintiffs had legal title to their basketball wins, championships and awards.

92. The Plaintiffs had possession of their wins, championships and awards.

93. Defendant exercised dominion over their wins, championships and awards in a manner that deprived Plaintiffs of their property.

94. Defendant intended to and did interfere with Plaintiffs’ possession of the wins and championship.

95. Defendant intended to and did interfere with Plaintiff Hancock’s possession of the MOP.

96. Plaintiffs demanded their rightful property and to date the Defendant has refused.

97. Defendant’s actions were the legal cause of Plaintiffs’ loss of property.

98. Plaintiffs have suffered damages because of the loss of the property.

COUNT VI
TRESPASS TO CHATTELS

99. Plaintiffs incorporate by reference all allegations in this Complaint as if fully set forth in this paragraph.

100. Plaintiffs sue for trespass to chattels.

101. Plaintiffs possessed property.

102. The property that Plaintiffs possessed were wins, championships and individual awards as set forth above.

103. Defendant intentionally intermeddled with Plaintiffs' property.

104. Defendant's actions have impaired Plaintiffs from using their property.

105. The condition, quality and value of Plaintiffs' property has been significantly impaired.

COUNT VII
DECLARATORY JUDGMENT ACT

106. Plaintiffs incorporate by reference all allegations in this Complaint as if fully set forth in this paragraph.

107. Plaintiffs seek a declaration from this Honorable Court pursuant to KRS 418.040.

108. There is a current and actual controversy between the parties regarding all allegations in this Count.

109. Plaintiffs seek a declaration that they are completely innocent of any wrongdoing as implied by the NCAA.

110. Plaintiffs seek a declaration that Gorgui Dieng, Stephan Van Treese, Tim Henderson and Michael Marra were eligible student-athlete in the 2011-2012 season.

111. Plaintiffs seek a declaration that Luke Hancock, Gorgui Dieng, Stephan Van Treese, Tim Henderson and Michael Marra were eligible student-athlete in the 2012-2013 season.

112. Plaintiffs seek a declaration that Luke Hancock, Tim Henderson and Stephan Van Treese were eligible student-athlete in the 2013-2014 season.

113. Plaintiffs seek a declaration that Gorgui Dieng, Stephan Van Treese, Tim Henderson and Michael Marra were 2011-2012 Big East Conference Men's Basketball Tournament Champions.

114. Plaintiffs seek a declaration that Luke Hancock, Gorgui Dieng, Stephan Van Treese, Tim Henderson and Michael Marra were 2012-2013 Big East Conference Men's Basketball Regular Season and Tournament Champions.

115. Plaintiffs seek a declaration that Luke Hancock, Tim Henderson and Stephan Van Treese were American Athletic Conference Men's Basketball Regular Season and Tournament Champions.

116. Plaintiffs seek a declaration that Luke Hancock, Gorgui Dieng, Stephan Van Treese, Tim Henderson and Michael Marra were 2012-2013 NCAA Men's Basketball Tournament Champions.

117. Plaintiffs seek a declaration that all of their individual basketball awards received in the 2011-2012, 2012-2013 and 2013-2014 basketball seasons remain intact.

118. Plaintiff Hancock seeks a declaration that he is the 2012-2013 NCAA Final Four MOP.

119. Plaintiffs collectively seek a declaration that they are champions.

120. Plaintiffs seek a declaration that the NCAA wins and championships are property and have value to the Plaintiffs.

121. Plaintiffs seek a declaration that the MOP is property and has value to Plaintiff Hancock.

122. Plaintiffs seek a declaration that the NCAA improperly vacated the Plaintiffs' championships and awards.

123. Plaintiffs seek a declaration that the NCAA improperly vacated Plaintiff Hancock's MOP award.

124. Plaintiffs seek a declaration that the NCAA has wrongfully vacated Plaintiffs' basketball wins, honors and awards without compensation.

125. Plaintiffs seek a declaration that the Plaintiffs did not engage in striptease dances, prostitution and tipping of strippers as implied by the Defendant.

126. Plaintiffs seek a declaration that the Plaintiffs were all eligible student-athlete at all times relevant herein.

Wherefore, Plaintiffs demand trial by jury, judgment and damages for loss of economic opportunity, compensatory damages, request a declaration that they are completely innocent of any wrongdoing as implied by the NCAA and that Gorgui Dieng, Stephan Van Treese, Tim Henderson and Michael Marra were eligible student-athletes in the 2011-2012 season, that Luke Hancock, Gorgui Dieng, Stephan Van Treese, Tim Henderson and Michael Marra were eligible student-athlete in the 2012-2013 season, that Luke Hancock, Tim Henderson and Stephan Van Treese were eligible student-athletes in the 2013-2014 season, that Gorgui Dieng, Stephan Van Treese, Tim Henderson and Michael Marra were 2011-2012 Big East Conference Men's Basketball Tournament Champions, that Luke Hancock, Gorgui Dieng, Stephan Van Treese, Tim Henderson and Michael Marra were 2012-2013 Big East Conference Men's Basketball Regular Season and Tournament Champions, that Luke Hancock, Tim Henderson and Stephan Van Treese were American Athletic Conference Men's Basketball Regular Season and Tournament Champions, that Luke Hancock, Gorgui Dieng, Stephan Van Treese, Tim

Henderson and Michael Marra were 2012-2013 NCAA Men's Basketball Tournament Champions, that Luke Hancock is the Most Outstanding Player of the 2012-2013 NCAA Men's Basketball Final Four and that all of their individual basketball awards received in the 2011-2012, 2012-2013 and 2013-2014 basketball seasons remain intact and all other relief the Court deems just.

RESPECTFULLY submitted this 11th day of July 2018.

/s/ Shea W. Conley
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