

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORKROBERT E. BARKER, DENNIS ALLOCCO and MICHAEL
PILLA

Index No.

Plaintiff(s),

Summons

*-against-*THE NATIONAL COLLEGIATE ATHLETIC ASSOCIATION,
THE ATLANTIC 10, THE NORTHEAST CONFERENCE,
PATRIOT LEAGUE, COLONIAL ATHLETICS ASSN., IVY
LEAGUE, NORTHEAST 10 CONFERENCE,

Date Index No. Purchased:

Defendant(s).

To the above named Defendant(s)

The National Collegiate Athletic Association, 700 W. Washington Street, Indianapolis, Indiana 42606-6222,

You are hereby summoned to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

The basis of venue is CPLR §503(a), §503(d), §509
which is plaintiff's selection of venue, as no defendant is a resident of the state.

Dated: New York, New York

January 28, 2020

Kraus & Zuchlewski LLP

by /s/ George B. Schwab

George B. Schwab

Attorneys for Plaintiff

Robert E. Barker, Dennis Allocco, and Michael
Pilla
60 East 42nd Street, Suite 2534
New York, New York 10165
(212) 869-4646

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

ROBERT E. BARKER, DENNIS ALLOCCO and MICHAEL
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LEAGUE, NORTHEAST 10 CONFERENCE,

Defendant(s).

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Summons

Date Index No. Purchased:

To the above named Defendant(s)

Atlantic 10 Conference, 11827 Canon Blvd., Suite 200, Newport News, VA 23606,

You are hereby summoned to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

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LEAGUE, NORTHEAST 10 CONFERENCE,

Defendant(s).

Index No.

Summons

Date Index No. Purchased:

To the above named Defendant(s)

Northeast Conference, 200 Cottontail Lane, Vantage Court South, Somerset, NJ 08873

You are hereby summoned to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

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PATRIOT LEAGUE, COLONIAL ATHLETICS ASSN., IVY
LEAGUE, NORTHEAST 10 CONFERENCE,

Defendant(s).

Index No.

Summons

Date Index No. Purchased:

To the above named Defendant(s)

Patriot League, 3773 Corporate Parkway, Suite 190, Center Valley, PA 18034,

You are hereby summoned to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

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LEAGUE, NORTHEAST 10 CONFERENCE,

Date Index No. Purchased:

Defendant(s).

To the above named Defendant(s)

Colonial Athletic Association, 8625 Patterson Ave., Richmond, VA 23229,

You are hereby summoned to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

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Dated: New York, New York

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Kraus & Zuchlewski LLP

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORKROBERT E. BARKER, DENNIS ALLOCCO and MICHAEL
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PATRIOT LEAGUE, COLONIAL ATHLETICS ASSN., IVY
LEAGUE, NORTHEAST 10 CONFERENCE

Date Index No. Purchased:

Defendant(s).

To the above named Defendant(s)

Ivy League, 228 Alexander Street, 2nd Floor, Princeton, NJ 08540,

You are hereby summoned to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

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by /s/ George B. Schwab

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Attorneys for Plaintiff

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(212) 869-4646

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

ROBERT E. BARKER, DENNIS ALLOCCO and MICHAEL
PILLA

Plaintiff(s),

-against-

THE NATIONAL COLLEGIATE ATHLETIC ASSOCIATION,
THE ATLANTIC 10, THE NORTHEAST CONFERENCE,
PATRIOT LEAGUE, COLONIAL ATHLETICS ASSN., IVY
LEAGUE, NORTHEAST 10 CONFERENCE,

Defendant(s).

Index No.

Summons

Date Index No. Purchased:

To the above named Defendant(s)

Northeast 10 Conference, 792 South Main Street, Suite 104, Mansfield, MA 02048,

You are hereby summoned to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

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(212) 869-4646

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
ROBERT E. BARKER, DENNIS ALLOCCO
and MICHAEL PILLA,

Plaintiffs,

Index No.: ____/2019

-against-

THE NATIONAL COLLEGIATE ATHLETIC ASSOCIATION,
THE ATLANTIC 10, THE NORTHEAST CONFERENCE,
PATRIOT LEAGUE, COLONIAL ATHLETICS ASSN.,
IVY LEAGUE, and NORTHEAST 10 CONFERENCE,

Defendants.

-----X

COMPLAINT

Plaintiff Robert E. Barker (“Barker”), Dennis Allocco (“Allocco”), and Michael Pilla (“Pilla”) by their attorneys Kraus & Zuchlewski LLP, brings as their complaint against Defendants The National Collegiate Athletic Association, The Atlantic 10, The Northeast Conference, Patriot League, Colonial Athletic Assn, and Ivy League as follows:

INTRODUCTION

The NCAA exercises complete control over college basketball, not only over Division I schools and conferences, but also over school in Division II and Division III. Barker has been a Division I NCAA basketball referee for 11 years, working games for five different conferences. Allocco has been a Division I referee for 15 years, working games for five different conferences. Pilla has officiated Division I games since 2003, refereeing game s for three different conferences. During that time, Barker, Allocco, and Pilla consistently have received positive evaluations from referee supervisors. All three continue to receive highly favorable evaluations

of their referring skills. However, despite his continuing exemplary refereeing performance, the number of game assignments Plaintiffs recently have received have declined precipitously. As set forth in detail below, Conference representatives unequivocally and repeatedly have confirmed that following instructions from the NCAA, the conferences discriminatorily are making assignments based upon age, resulting in a drastic reduction and elimination of Barker's, Allocco's and Pilla's refereeing assignments. The NCAA and conferences publicly maintain that because the referees are independent contractors, the NCAA and conferences can end assignments to older referees if they wish. This discrimination against senior referees has not abated and continues today.

I. PARTIES

1. Barker is a resident of New Jersey, residing in Ridgewood New Jersey.
2. Allocco is a resident of New Jersey, residing in Summit, New Jersey.
3. Pilla is a resident of Albany, New York.
4. The National Collegiate Athletic Association is an unincorporated association of more than 1200 colleges and universities.
5. The Atlantic 10. The schools in this conference are Davidson, Dayton, Duquesne, Fordham, George Mason, George Washington and La Salle.
6. The Northeast Conference. The schools in this conference are Bryant, Mount St. Mary's, Saint Francis University, Wagner, Sacred Heart, Fairleigh Dickinson, St. Francis Brooklyn, CCSU, and Robert Morris.
7. The Patriot League. The Patriot League consists of 10 core members: American University, the United States Military Academy (Army), Boston University, Bucknell

University, Colgate University, College of the Holy Cross, Lafayette College, Lehigh University, Loyola University Maryland and the United States Naval Academy (Navy).

8. The Colonial Athletic Association consists of the College of Charleston, University of Delaware, Drexel University, Elon University, Hofstra University, James Madison University, Northeastern University, Towson University, UNC Wilmington and College of William & Mary.

9. The Ivy League Association. The Ivy League Association schools are Harvard University, Yale University, Princeton University, Columbia University, Brown University, Dartmouth College, University of Pennsylvania and Cornell University.

10. The Northeast 10 Conference. The schools in this conference are Adelphi University, American International College, Assumption College, Bentley College, College of Saint Rose, Franklin Pierce University, Le Moyne University, New Haven University, Pace University, Saint Anselm College, Saint Michael's University, Southern Connecticut State University, Southern New Hampshire University, and Stonehill College.

11. The defendant conferences as well as the Southern, Atlantic Coast Conference ("ACC") and Big South Conferences are known as and referred to by the NCAA as the "Consortium" or the "Alliance".

12. Each defendant conference has employed the Plaintiffs and plays games in New York City or New York State.

VENUE & JURISDICTION

13. Jurisdiction is appropriate in the court pursuant to CPLR 302(a).

14. Jurisdiction is appropriate in this court pursuant to the New York City Human Rights Law – New York City Administrative Code § 8-1078, and the New York State Human

Rights Law, Executive Law, Article 15, §290 et. seq., because the discriminatory conduct had an impact within the boundaries of New York City and New York State.

15. Venue is appropriate pursuant to CPLR §503(a), and §503(d) as none of the parties reside in the state, this county is designated by Plaintiff.

16. Venue is also appropriate pursuant to CPLR §509, as the county designated by Plaintiffs.

II. NCAA CONTROL OVER COLLEGE BASKETBALL

17. The NCAA is a non-profit, voluntary, unincorporated association of over 1,200 colleges, universities, playing conferences and other affiliated organizations for the regulation of intercollegiate athletics.

18. NCAA member institutions are divided into three divisions which reflect differences in philosophy, level of athletic competition, and size and scope of the institution's athletic programs.

19. Within each division a member institution may also be a member of a conference. Conferences are voluntary associations of colleges and universities that organize intra-conference schedules, operate end-of-season conference championship tournaments and buy and sell media time.

20. Division I member institutions and conferences compete at the highest level of intercollegiate athletics. In the 23 sports the NCAA regulates, it conducts 89 postseason championships.

21. This includes championships in all Division I sports with the exception of Division IA football, where a series of bowl games determines the champion or champions. At

the end of every season, the NCAA hosts the NCAA Division I Men's Basketball Championship Tournament ("NCAA Tournament").

22. All NCAA rules regarding the administration of college sports are republished in a new manual each year and every NCAA member institution must annually attest that it is in compliance with all of these rules. If a member institution does not comply with these rules, it risks fines and playing sanctions.

23. As a result of the NCAA's control over college basketball, several Courts have found that the NCAA exercises monopoly power over the administration of college basketball, and especially Division I college basketball.

III. NCAA'S CONTROL OVER REFEREE SELECTION

24. In the same manner that it controls all other aspects of college basketball, the NCAA controls the selection of officials to referee college basketball games, directly and through the basketball conferences that must adhere to the NCAA's rules, policies, and instructions.

25. Such control is primarily exercised through invitations to camps for referees organized ostensibly by the basketball conferences.

26. Further the NCAA conducts its own camps for referees that are crucial to maintaining assignments to Division I games.

27. In order to join or remain on the roster of referees for a conference, a referee must attend that conference's camp, at substantial expense.

28. Failure to attend a camp results in the forfeiting of refereeing assignments in the conference sponsoring the camp.

29. The Alliance conferences and the NCAA have made it clear that they favor young referees and that older experienced referees like Barker will no longer receive the most lucrative assignments to Division I basketball games.

30. For example, in a January 9, 2019 Memorandum (the "NCAA Directive Memo"), J.D. Collins, the NCAA's National Coordinator of Men's Basketball Officiating, and Art Hyland, NCAA's Men's Basketball Secretary-Rules Editor dictated to NCAA Divisions I, II, and III Coordinators of Men's Basketball regarding all aspects of officiating. See Exhibit A.

31. The NCAA Directive Memo made it clear who would be attending the NCAA camps:

2019 NCAA Summer basketball camps:

(1) The NCAA will be hosting (4) camp sites during July 23-28, 2019. Those sites are: Grand Canyon University, University of Houston, University of Illinois and the University of Connecticut.

(2) NCAA will identify and select 400 less experienced officials (300 DI and 100 DII & DIII officials) to attend camp where they will be trained by DI officiating coordinators, regional advisors, and Final Four officials in order to develop their officiating skills with the hopes of becoming the next NCAA Tournament officials.

(3) The purpose is to provide instruction to less experienced officials to sharpen technique, call accuracy, and communication on the court as well as creating a forum of continuing officiating education and providing real-time feedback for officials.

(4) Each Division I Coordinator of Officials will submit a list of candidates during the NCAA Tournament nomination process. There will be an additional page for each coordinator to nominate their officials. More information about this will be provided by Brad Taylor in the coming weeks.

(5) More information will be e-mailed to each Division I coordinator later this month.

(6) The six Consortium/Alliance directors and I will process those nominations, select the 400 officials and send invitations to those officials in late May.

(7) I wanted to bring this process to your attention, give you the basic outline and ask for your support as we process this opportunity.

32. The January 2019 Memo made no mention of camps to which senior referees like Barker would be invited, and no such camps have been organized to Barker's knowledge.

IV. CONSORTIUM SCHOOLS FOLLOW NCAA INSTRUCTIONS ON THE HIRING OF REFEREES

33. Statements by Alliance conference officials demonstrate that the NCAA's "youth movement" began several years ago.

34. In an April 2016 article, Brian Kersey, co-head of the Alliance and the referee supervisor for the ACC, Atlantic 10 and Colonial conferences, is quoted as stating, "We've got to get the next wave moving, the next era of officials ready," and he added, "I want to see the young guys grow." The article concluded that, "A more overarching goal is to identify and groom the next generation of referees."

35. Echoing this theme, at an NCAA regional meeting on October 22, 2017 in Philadelphia, Mr. Kersey reiterated numerous times that young referees would be favored by the Alliance, and, at a meeting of MEAC officials in September 2018 (last month), in Chesapeake VA, Mr. Kersey stated the intention to hire "younger guys."

36. Upon joining the Alliance in March 2018, Larry Rose, referee supervisor for the MEAC, confirmed the Alliance would, under NCAA orders, have to focus on developing younger officials.

37. Mr. Rose stated in stark terms: "The Alliance will be trying to develop younger officials which I don't agree with but you must know when to "HOLD THEM AND WHEN TO FOLD THEM" this is a NCAA that we mus[t] become a part of ...". (Capitals in original). The

head of officials (National Coordinator) of the NCAA, JD Collins, has stated that the NCAA wants to transition to a centralized group of full-time referees as employees.

38. It appears that prior to creating a group of referees which they will admit are employees, the NCAA, conferences, and the Alliance are jettisoning older referees solely because of their age.

39. Most recently, on February 7, 2019, Barker received the following email from Larry Rose regarding the MEAC Try Out Camp: (Emphasis added)

Sorry some of you did not get my first e-mail concerning camp. I sent out two e-mails on the same day with the first one having camp dates and time. Hopefully all of you will get this email and schedule dates for the camp.

I will be having only one camp this year due to the NCAA now having Invitational camps this summer. Some of you have already sent in excuses while you can't come to camp.

You need to re-think your decision. I am currently in fight to keep over half of you, so your excuses may make that decision for me. Also those of you that I do not plan to keep, if you have sent in your fees for camp, I will send them back, and notify you by May 1.

The Alliance is a youth movement and may cause me to make so decisions I do not want to make, but you know me I will fight to the very end. So don't help the movement by using excuses. Division I rosters are going to be harder to be a part of in the future. The following is the information is important;

40. As a result of this drive for young referees, Barker, Allocco and Pilla have been eliminated from the rosters of most conferences. Plaintiffs reasonably believe that they are victims of intentional age discrimination, based on the overt statements of the NCAA and Alliance and conference officials.

V. BARKER ATTENDS NUMEROUS CAMPS UNTIL 2016

41. For many years, Barker refereed numerous games for "Alliance" member conferences in New York City and elsewhere.

42. In order to become a basketball referee, Barker began attending referee camps in 1989.

43. Between 1989 and 2009, Barker attended over 25 basketball camps, including the SEC Basketball Camp, the Big East Officiating Camp and the NEC Officials Camp. In 2009, Barker was invited to and attended the NBA Players Association Top 100 Officials Camp in Charlottesville, Virginia.

44. From 2010 to the present, Barker continued to attend numerous camps in order to secure additional refereeing assignments with Division I conferences.

45. Barker also received high ratings for his officiating skills from other referees and administrators.

46. From 2012 through 2014, as a result of his stellar reputation and high ratings, Barker secured invitations to an increasing number of camps, sponsored by the conferences pursuant to instructions from the NCAA.

47. In 2012, Barker attended two Collegiate Officiating Camps in Orlando and in Indianapolis, the Ivy/Patriot Officials Camp, in Providence, the MEAC Officials Training Camp in Hampton, Virginia, and the Big South Officials Training Camp in Richmond, Virginia.

48. In 2014, Barker attended six referee camps: (a) the Total Referee Camp in Pittsburgh; (b) the All Star Basketball Officiating Camp in Clemson, S.C.; (c) the Big South Basketball Officials Training Camp in Duluth, Georgia; (d) the MAAC/Mike Kitts Basketball Officials Camp in New Jersey; (e) the TMK Basketball Officiating Camp in Springfield, Massachusetts, and (f) the All-Star Basketball Officiating Camp in Columbia, South Carolina.

49. In 2016 Barker attended four camps – the Big South, TMK, All-Star and Southern Invitational Basketball Camp.

50. Since 2016, the number of camps Barker has been invited to has plummeted, and Barker only attended the ACC Officiating Training and Development Camp in 2017, and in 2019 he attended the Northeast Conference Basketball Officials Camp.

VI. BARKER'S GAME ASSIGNMENTS DECLINE DUE TO HIS AGE

51. As a result of attending an increasing number of camps, several years of hard work and travel, and his superior skills, Barker was assigned to officiate an increasing number of Division I games.

52. From 2010 – 2016 Barker officiated the following Division I games:

2010-11	26 Games	8 Division 1 assignments
2011-12	32 Games	7 Division 1 assignments
2012-13	29 Games	9 Division 1 assignments
2013-14	35 Games	8 Division 1 assignments
2014-15	36 Games	13 Division 1 assignments
2015-16	38 Games	16 Division 1 assignments

53. After NCAA established its Age-Based Policy; Barker's Division I assignments plunged dramatically to 0 (no assignments) in those years:

2016-17	29 Games	5 Division 1 assignments
2017-18	23 Games	4 Division 1 assignments
2018-19	26 Games	0 Division 1 assignments

54. In 2015 – 2016, Barker refereed 16 Division I games, for the Northeast and Atlantic 10 Conferences, and he was on the referee rosters of five Division I conferences – Atlantic 10, Colonial, Northeast, Big South, and Southern.

55. For many of those Division I games Barker was head referee and/or crew chief.

56. However, following the initiation of the NCAA's age driven policies, not only did the number of camps to which Barker was invited, nose-dived, the number of games Barker was assigned to officiate, did as well.

57. In 2017 – 2018, Barker was assigned to work only four Division I games, none as head referee.

58. In 2018 – 2019, for the first time in ten years, Barker received no Division I assignments.

59. In the last several years, Barker has refereed numerous games in New York City for New York City colleges. Most recently in February 2019, Barker officiated a Division III game at Brooklyn College.

60. Barker has also officiated games at Wagner College on Staten Island, St. Francis College in Brooklyn, and Long Island University in Brooklyn.

61. Even Barker's assignments to Division II and Division III games have diminished precipitously.

62. The only explanation Barker has heard from referee supervisors and conference officials is that he (and all older referees) must make way for younger referees.

VII. BARKER'S INCOME FALLS DUE TO DEFENDANTS' DISCRIMINATION

63. As a result of his efforts at training and skills, from 2010 to 2015, Barker increased his gross income from officiating and his net profit as well, despite attending numerous camps.

64. Barker's income and expenses, mostly comprised of travel and camp attendance expenses, are set for the below.

65. However, in 2016, the first year of the announced youth movement, Barker saw his officiating fees decline from almost \$31,000 to approximately \$13,000.

66. In the last two years, Barker's officiating income has dropped to below \$7000.

67. Furthermore, the number of camps that Barker is invited to has dropped to one camp each year.

68. Barker's income and expenses from officiating from 2010 to 2018 were as follows:

<u>Year</u>	<u>Gross Income</u>	<u>Expenses</u>	<u>Net Profit</u>
2010	\$ 8,781.00	\$ 4,946.00	\$ 3,835.00
2011	\$ 10,728.00	\$ 6,389.00	\$ 4,339.00
2012	\$ 11,593.00	\$ 10,477.00	\$ 1,116.00
2013	\$ 13,281.00	\$ 9,374.00	\$ 3,907.00
2014	\$ 14,082.00	\$ 12,897.00	\$ 1,185.00
2015	\$ 30,883.00	\$ 19,562.00	\$ 11,321.00
2016	\$ 13,104.00	\$ 11,773.00	\$ 1,331.00
2017	\$ 6,381.00	\$ 4,308.00	\$ 2,073.00
2018	\$ 6,990.00	\$ 4,233.00	\$ 2,757.00

69. The drop in the number of games officiated by Barker, as well as the number of camps he is invited to, is due solely to the NCAA's policy of age discrimination against basketball referees.

VIII. DENNIS ALLOCCO'S DIVISION 1 OFFICIATING CAREER

70. Allocco has been officiating at the Division I level since 2004.

71. Allocco initially refereed games for the Northeast Conference.

72. After attending a camp in 2009, Allocco began officiating games for the Ivy and Patriot Leagues.

73. In 2011, Allocco attended tryout camps for the Atlantic 10 and Colonial Athletic Association and was engaged by both leagues.

74. Beginning with the 2013-14 season, Allocco was designated to be observed by members of the NCAA Regional Observers Program.

75. All of the observations that were conducted were positive with the majority of the ratings for Allocco being either Very Good or Exceptional based upon their standards of play calling and game management abilities.

76. The very first observation that was conducted on Jan. 31, 2014 was conducted by now Supervisor of Officials for the Northeast Conference Jack Sweeney. In the comment section of the report, Sweeney wrote "It would appear you have the skill set necessary to be on our "watch list", i.e., officials we will keep an eye on as they develop and get closer to meeting the standards to work the NCAA tourney. Keep up the good work".

77. As a result of his efforts and skills, Allocco ultimately received contracts from five conferences – the Atlantic 10, the Colonial Athletic Association, the Northeast Conference, the Ivy League, and the Patriot League.

78. As a referee for an increasing number of conferences, Allocco received the following Division I assignments from 2009 to 2016:

2009-10	14 Division 1 assignments
2010-11	21 Division 1 assignments
2011-12	25 Division 1 assignments
2012-13	26 Division 1 assignments
2013-14	32 Division 1 assignments
2014-15	44 Division 1 assignments
2015-16	52 Division 1 assignments
2019-20	0 Division 1 assignments

79. However, Allocco's Division I assignments precipitously declined following the NCAA's institution of its Age-Based Policy for officials:

2016-17	30 Division 1 assignments
2017-18	23 Division 1 assignments
2018-20	25 Division 1 assignments

80. The Supervisors responsible for the Atlantic 10 and Colonial Athletic Association are Bryan Kersey and John Cahill. In the 2017-18 season Allocco was not awarded a contract for the Atlantic 10 and Colonial Athletic Conferences. There was no explanation provided as to why a contract was not offered and there were no negative reports or feedback from the previous seasons assignments that would justify this action. Overall, for the 2017-18 season Allocco's assignments took a dramatic decrease from 30 to 23 for no apparent reason.

81. Throughout the course of the 2018-19 season Allocco was again observed by NCAA Regional Observers. However, Allocco was only assigned to officiate 25 Division 1 assignments within the Northeast and Ivy/Patriot Conferences without negative feedback or any suggestion that his skills had diminished.

82. In spite of performing his assignments to a high level, Allocco was notified by both the Northeast Conference and the Ivy/Patriot Leagues that he would not be rehired for any games the upcoming 2019-20 season. Again, these conferences provided no explanation or negative feedback that would or could possibly justify this action.

IX. ALLOCCO'S INCOME DECLINES BECAUSE OF DISCRIMINATION

83. Similar to the abrupt drop in Barkers Income, Allocco's income plunged the NCAA's institution of its Age-Based Policy.

<u>Year</u>	<u>Gross Income</u>	<u>Expenses</u>	<u>Net Profit</u>
2010	\$ 12,595.00	\$ 4,601.39	\$7,993.61
2011	\$ 27,918.00	\$7,374.60	\$20,543.40
2012	\$ 41,205.00	\$8,698.48	\$32,506.52
2013	\$ 42,514.00	\$10,883.05	\$31,630.95
2014	\$ 48,200.00	\$17,468.13	\$30,731.87
2015	\$ 71,192.00	\$16,373.06	\$54,818.94
2016	\$ 71,659.00	\$18,467.58	\$53,191.42
2017	\$ 40,384.00	\$9,429.21	\$30,954.79
2018	\$ 34,963.00	\$8,893.61	\$26,069.39

X. ALLOCCO'S OFFICIATED NUMEROUS GAMES IN NEW YORK

84. In the last two years, Allocco has officiated numerous games in New York City and New York State.

85. In New York City, Allocco refereed games at Columbia University, Wagner University, St. Francis (Brooklyn) and LIU (Brooklyn.)

86. Outside New York City, Allocco officiated games at West Point (Army) and Colgate University.

XI. MICHAEL PILLA'S DIVISION I CAREER

87. Pilla has been officiating at the Division I level since 2003.

88. Pilla initially refereed games for the Ivy League/Patriot League, beginning in 2003, the Metro Atlantic Conference beginning in 2006, and the American East Conference beginning in 2004.

89. In 2015, Pilla was dropped from the Ivy League/Patriot League official roster.

90. In 2015, Pilla joined the officiating roster of the Northeast Conference, and he refereed games in the American East and Northeast Conferences.

91. In 2017 The American East conference joined the Consortium, Frank Sullivan dropped Pilla from the roster.

92. Sullivan dropped 40 referees from the American East roster, the vast majority of which were over the age of 50.

93. In 2018 and 2019, Pilla only officiated games for the Northeast Conference, but for 2019 Pilla was also dropped from that roster.

94. In spite of performing his assignments to a high level, Pilla was notified by both the Northeast Conference and the Northeast 10 that he would not be rehired for the upcoming 2019-20 season. Again, these conferences provided no explanation or negative feedback that would or could possibly justify this action.

95. As a result of his efforts and skills, Pilla received the following Division I assignments from 2010 to 2019:

2010-11	26 Division 1 assignments
2011-12	16 Division 1 assignments
2012-13	16 Division 1 assignments
2013-14	15 Division 1 assignments
2014-15	16 Division 1 assignments
2015-16	11 Division 1 assignments
2017-18	7 Division 1 assignments
2019-20	7 Division 1 assignments

96. As with Allocco and Barker, Pilla's Division I assignments precipitously declined beginning with the 2015-2016 season following the NCAA's institution of its Age-Based Policy for officials:

XII. PILLA'S INCOME DECLINES BECAUSE OF DISCRIMINATION

97. Pilla's income from officiating rose as he refereed more games, and then fell dramatically after the NCAA instituted its age-based policy.

<u>Year</u>	<u>Gross Income</u>	<u>Expenses</u>	<u>Net Profit</u>
2010/2011	\$ 34,226.00	\$ 11,607.00	\$ 22,619.00
2011/2012	\$ 22,295.00	\$ 8,259.00	\$ 14,036.00
2012/2013	\$ 20,635.00	\$ 7,403.00	\$ 13,232.00
2013/2014	\$ 19,905.00	\$ 7,729.00	\$ 12,176.00
2014/2015	\$ 22,741.00	\$ 8,734.00	\$ 14,007.00
2015/2016	\$ 16,719.00	\$ 6,717.00	\$ 10,002.00
2016/2017	\$ 18,783.00	\$ 6,266.00	\$ 13,819.00
2017/2018	\$ 10,763.00	\$ 5,524.00	\$ 5,239.00

XIII. MICHAEL PILLA HAS REFERRED GAMES IN NEW YORK CITY AND STATE

98. Since 2015, Pilla has officiated college basketball games, at Wagner University, St. Francis College in Brooklyn, and Long Island University (Brooklyn).

99. Outside New York City, since 2015, Pilla has officiated several games at the College of St. Rose in Albany and Le Moyne College in Syracuse.

COUNT I
VIOLATION OF THE NEW YORK CITY
HUMAN RIGHTS LAW – NEW YORK
CITY ADMIN. CODE § 8-1078

100. Plaintiffs repeat and reallege the allegation set forth in paragraphs 1 through 100 as if fully set forth herein.

101. The NCAA and the conferences are “employers” within the meaning of the New York City Administrative Code §8-107 (NYC Human Rights Law).

102. Barker, Allocco, and Pilla as individual consultants qualifies as an employee and is entitled to the protections of the NYC Human Rights Law.

103. Barker, Allocco, and Pilla are members of a protected class, being over the age of 40.

104. It is a violation of the NYCHRL for an employer to take adverse action against an employee because of their age.

105. The NCAA and Conferences drastically reduced Plaintiffs’ assignments and income because of their age.

106. Barker, Allocco, and Pilla used to officiate many games within New York City.

107. The actions of Defendants have drastically reduced the amount of games Barker, Allocco and Pilla conducted in New York City.

108. Barker has suffered damages in the amount to be determined at trial but exceeding \$25,000.

109. Allocco has suffered damages in an amount to be proven at trial but exceeding \$25,000

110. Pilla has suffered damages in an amount to be proven at trial but exceeding \$25,000.

COUNT II
VIOLATION OF THE NEW YORK STATE
HUMAN RIGHTS LAW – NEW YORK
STATE EXECUTIVE LAW, ARTICLE 15, §290 et. Seq.

111. Plaintiffs repeat and reallege the allegation set forth in paragraphs 1 through 110 as if fully set forth herein.

112. The NCAA and the conferences are “employers” within the meaning of the New York Executive Law section 292 (“NYS Human Rights Law”).

113. Barker, Allocco, and Pilla are individuals who qualify as protected persons and are entitled to the protections of the NYS Human Rights Law.

114. Barker, Allocco, and Pilla are members of a protected class, being over the age of 40.

115. It is a violation of the NYSHRL for an employer to take adverse action against an employee because of their age.

116. The NCAA and Conferences drastically reduced Plaintiff’s assignments and income because of their age.

117. Barker, Allocco, and Pilla used to officiate many games within the state of New York.

118. The actions of Defendants have drastically reduced the amount of work Plaintiffs conducted in New York City.

119. Barker has suffered damages in the amount to be determined at trial but exceeding \$25,000.

120. Allocco has suffered damages in the amount to be determined at trial but exceeding \$25,000.

121. Pilla has suffered damages in the amount to be determined at trial but exceeding \$25,000.

CONCLUSION

For the reasons set forth above, Plaintiffs Robert Barker, Dennis Allocco and Michael Pilla respectfully request the court issue a judgment against defendants in the amount of damages established at trial and grant such other and further relief as is just and proper.

Dated: New York, New York
January 28, 2020

Respectfully Submitted,
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