

Attorneys: New Documents in NCAA Concussions Case Illuminate NCAA Knowledge of Concussion Issues

Attorneys claim documents show NCAA ignores concussion issues and fails to take action to protect student-athletes

July 22, 2013

SEATTLE – Newly filed documents in a proposed class-action lawsuit brought against the National Collegiate Athletic Association (NCAA) reveal internal emails and other new evidence of the NCAA’s knowledge of and failure to mitigate concussions in college sports, according to attorneys for the plaintiffs.

The plaintiffs in the case, four former college athletes, claim that the NCAA neglects its duty to protect athletes participating in NCAA-sanctioned events from concussions. They are asking the court to award damages to student-athletes who suffered concussions as well as force the NCAA to adopt corrective measures, including a medical monitoring program supervised by the court, to mitigate concussions.

The documents, filed in U.S. District Court in Illinois, include a motion asking the court to certify a class of thousands of college athletes, the next step in moving the litigation forward to trial.

They also include new information detailing what the NCAA knew regarding the incidence and severity of concussions and its alleged failure to take action to solve the problem.

The filing details two studies that the NCAA conducted on concussions beginning in 1997. The studies, published in 2003, included the following information:

- NCAA member institutions were allowing student-athletes to return to play after an average of less than five days after a diagnosed concussion, despite the fact that the impacts of a concussion can take up to seven days to resolve.
- Approximately 300,000 “sport-related concussions occur annually in the United States.”
- According to the study, “players with a history of previous concussions are more likely to have future concussive injuries than those with no history.”

The filing details data from the NCAA's Injury Surveillance System. That system, according to court documents, showed nearly 30,000 estimated concussions at NCAA member institutions from 2004-2009.

It also explains the results of a survey the NCAA sent to its member schools in 2010. According to documents filed by attorneys, the survey results revealed that:

- One-third of schools did not perform baseline testing for some sport.
- Less than half of schools confirmed that a physician is required to see all student-athletes with a concussion.
- 39 percent of schools reported that they do not have established return-to-play guidelines
- Almost half reported that student-athletes were allowed to return-to-play in the same game after a concussion diagnosis.
- Only 13 percent of student-athletes were required to receive education on the dangers of concussions in the past two years.

“The NCAA cannot say that they were caught off guard by a virtual epidemic of concussions across a number of sports,” said Steve Berman, managing partner of Hagens Berman and an attorney for the plaintiffs. “They knew the extent of the problem, but dragged their feet in dealing with it, even as the evidence became more and more clear.”

The documents also include information about the NCAA's response to the data. For instance, according to court documents, the NCAA added a requirement that all member schools have a concussion management plan on file, but then failed to enforce it.

An email from Chris Strobel, NCAA Director of Enforcement, concluded that even if a coach forced a student to play after having a concussion, the NCAA would not take action against the coach for violating its concussion management plan, according to attorneys.

“Despite all of this evidence, the NCAA has still not taken serious action to prevent and treat concussions,” said Berman. “Education is lackluster and inconsistent; student-athletes are often forced to pay medical bills for injuries resulting from on-the-field concussions, and lose their scholarships after they are injured. The bottom line is that student-athletes are treated more like Roman gladiators than students whose primary objectives ought to be academic, not athletic.”

More information about this case, including the documents filed in court, can be found at <http://www.hbsslaw.com/cases-and-investigations/cases/ncaaconcussions>

About Hagens Berman

Seattle-based Hagens Berman Sobol Shapiro LLP represents consumers, whistleblowers, investors, workers and others in complex and class-action litigation. The firm has offices in nine cities and has been named to the National Law Journal's Plaintiffs' Hot List five times. Founded in 1993, HBSS continues to successfully fight for consumer rights in large, complex litigation against large corporations. More about the law firm and its successes can be found at www.hbsslaw.com. Visit the firm's class-action law blog at www.classactionlawtoday.com.

Media Contact: Mark Firmani, Firmani + Associates Inc., 206.443.9357 or mark@firmani.com.