

FILED

Hon. Michael S. Spearman

2004 MAR 16 PM 4:36

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA.

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

RICHARD G. NEUHEISEL, JR.,

Plaintiff,

v.

UNIVERSITY OF WASHINGTON, an
agency of the State of Washington;
NATIONAL COLLEGIATE ATHLETIC
ASSOCIATION, an unincorporated
association; JOHN/JANE DOES 1-10,

Defendants.

No. 03-2-34268-8SEA

PLAINTIFF'S MOTION TO
COMPEL DISCOVERY FROM
DEFENDANT NATIONAL
COLLEGIATE ATHLETIC
ASSOCIATION

Noted for Consideration:
Wednesday, March 24, 2004
(without oral argument)

ORAL ARGUMENT REQUESTED

I. RELIEF REQUESTED

Plaintiff Richard G. Neuheisel, Jr., respectfully requests that the Court compel defendant National Collegiate Athletic Association ("NCAA") to respond to discovery requests concerning the individual who informed the NCAA about Mr. Neuheisel's involvement in a "March Madness" auction. Mr. Neuheisel has issued discovery requests that call for the identity of and other pertinent information concerning the informant. The NCAA has refused to provide the requested discovery, claiming its source is "confidential." Obviously, if Mr. Neuheisel had "confidential" but non-privileged information concerning matters relevant to this litigation, the NCAA would be entitled to discover it. Similarly, the NCAA cannot shield probative (though perhaps embarrassing) evidence from discovery simply by labeling it "confidential." In fact, courts routinely

1 require production of “confidential” materials subject to a suitable protective order. The
2 same result is warranted here.

3 II. STATEMENT OF FACTS

4 This case arises out of the University of Washington’s abrupt termination—with
5 illicit encouragement from the NCAA—of Mr. Neuheisel as head football coach. One of
6 the University’s stated reasons for the termination was Mr. Neuheisel’s participation with
7 friends and neighbors in two “March Madness” auctions. Mr. Neuheisel participated after
8 receiving memoranda from the University’s Compliance Department stating that the
9 “bottom line” of the NCAA rules was that athletic department employees could participate
10 in off-campus March Madness pools. *See* Ex. A.¹

11 In the spring of 2003, the NCAA received information concerning Mr. Neuheisel’s
12 participation in the auctions. This set in motion a chain of events that led to the NCAA, in
13 violation of its own rules, publicly encouraging the University to fire Mr. Neuheisel. On
14 receiving the “confidential information,” the NCAA promptly shared it with the Pacific-
15 10 Conference (“Pac-10”). The NCAA asked the Pac-10 to refrain from disclosing the
16 information, and to assist in the NCAA’s effort to investigate Mr. Neuheisel. Over a
17 period of at least several weeks, the NCAA then strategized about how to most effectively
18 set up Mr. Neuheisel. In conjunction with Pac-10 investigators, the NCAA determined
19 that, in contravention of its own rules, it would misleadingly inform Mr. Neuheisel that it
20 wanted to interview him about a minor recruiting matter.² *See* Ex. B at ¶¶ 22-23.

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23 ¹ Exhibits A-F referenced herein are attached to the Declaration of Gregory J. Hollon
24 (“Hollon Decl.”), filed herewith.

25 ² The NCAA’s own rules and regulations require an interviewee to be informed about the
26 purpose of an interview. *See, e.g.,* NCAA Bylaw 32.3.6 (“**Disclosure of Purpose of Interview.**
When an enforcement representative requests information that could be detrimental to the interests
of the ... institutional employee being interviewed, that individual shall be advised that the
purpose of the interview is to determine whether the individual has been involved directly or
indirectly in any violation of NCAA legislation”) (bold in original).

1 By deliberately misleading Mr. Neuheisel about the purpose of the interview, the
2 NCAA insured that Mr. Neuheisel would not be represented by counsel, since he would
3 be unlikely to utilize an attorney's services on a minor recruiting matter.³ Notably, based
4 on interview materials reviewed to date, it appears that out of the approximately 45
5 witnesses interviewed by the NCAA in this matter, only Mr. Neuheisel was misled about
6 the true reason for his interview. Further, it appears that all of the witnesses besides Mr.
7 Neuheisel were afforded the opportunity to have counsel present, and it further appears
8 that every witness affiliated with the University of Washington (other than Mr. Neuheisel)
9 was actually represented by counsel during their interview.

10 From discovery obtained to date, it appears that the Seattle Times was also aware
11 of Mr. Neuheisel's alleged participation in the auction, and apparently aware of the
12 identity of the NCAA's informant as well. *See, e.g.,* Ex. B at ¶ 26. To maintain its ability
13 to mislead Mr. Neuheisel, the NCAA asked the Seattle Times to refrain from breaking the
14 story concerning Mr. Neuheisel's potential involvement in the auction. Incredibly, the
15 Seattle Times acceded to the NCAA's request. In exchange, the Seattle Times was
16 apparently given, in effect, an exclusive on the story.⁴

17 The NCAA conducted its interview of Mr. Neuheisel on June 4, 2003. In violation
18 of its own rules, the NCAA ambushed Mr. Neuheisel with questions concerning the
19 auction during the interview concerning "recruiting" issues. Declaration of Richard G.
20 Neuheisel, Jr. ("Neuheisel Decl.") at ¶¶ 3-5. By the manner of their questioning, NCAA
21 investigators led Mr. Neuheisel to believe that he and his friends and neighbors who
22

23 ³ See NCAA Bylaw 32.3.5 ("**Representation by Legal Counsel.** When an enforcement
24 staff member conducts an interview that may develop information detrimental to the interests of
25 the individual being questioned, that individual may be represented by personal legal counsel
throughout the interview") (bold in original).

26 ⁴ It could not be coincidence that a Seattle Times reporter sat outside the interview room
during a portion of Mr. Neuheisel's June 4, 2003 interview, and asked Mr. Neuheisel questions as
he exited the interview. Neuheisel Decl. at ¶ 8.

1 participated in the auction were suspected of being involved in criminal conduct and
2 organized gambling activities. *Id.* at ¶ 6. Mr. Neuheisel thus answered questions
3 concerning the auction quite technically and carefully.⁵ Later that same day, once he
4 confirmed at a break that he was not being accused of involvement in organized gambling
5 or illegal conduct, Mr. Neuheisel disclosed fully the extent of his involvement in the
6 auctions. *Id.* at ¶ 7.

7 Within days of the June 4, 2004 interviews, NCAA officials, in violation of the
8 NCAA's own rules and regulations (which prohibit public statements about pending
9 matters⁶), and without full knowledge of the facts (including the fact that the University
10 had provided Mr. Neuheisel with memoranda specifically authorizing his conduct), spoke
11 publicly concerning Mr. Neuheisel. Among other statements, NCAA officials opined that
12 a coach in Mr. Neuheisel's position should be terminated. For example, on June 6, 2003,
13 before any hearing or fact-finding process, Myles Brand, the President of the NCAA, told
14 the Seattle Times that Mr. Neuheisel's actions were "simply unacceptable," and further
15 stated that he would "hypothetically" fire such a coach. *See* Exs. C, D. Bill Saum, the
16 NCAA's Director of Agents, Gambling, and Amateur Activities, stated that he was not
17 aware of a "worse case," and that "[t]here is nothing that quite equals this." Ex. E.⁷

18
19 ⁵ For example, in response to the question "Okay. All right. And at no time did you ever
20 place a bid?" Mr. Neuheisel responded "I never placed a bet on anything." Technically speaking,
21 Mr. Neuheisel's response was truthful—he did not bid on any of the teams at the auction. Rather,
22 he belonged to a team of four individuals, and other individuals on Mr. Neuheisel's team placed
23 the bids.

24 ⁶ *See, e.g.*, NCAA Bylaw 32.1.1 ("The Committee on Infractions, the appropriate appeals
25 committee ..., hearing officers and the enforcement staff shall treat all cases before them as
26 confidential until the same have been announced in accordance with the prescribed procedures");
Bylaw 32.1.2 ("The enforcement staff shall not confirm or deny the existence of an infractions
case prior to complete resolution of the case through normal NCAA enforcement procedures")
(emphasis added).

⁷ This statement was published in SportsLine.com, a site which, among other things, posts
the odds on college athletic events. Though the NCAA claims to strongly oppose all gambling-
related activities in connection with college sports, it chose to enter an 11-year, \$6 billion contract

1 NCAA officials made such statements knowing that they had not conducted a full
2 investigation. Importantly, the NCAA's public statements could only have been based on
3 information from the informant and/or information obtained during the interview of Mr.
4 Neuheisel. Thus, to evaluate the underlying factual basis (or lack of factual basis) for the
5 NCAA's statements, and thus the degree to which the statements were made recklessly or
6 with the intent to cause harm, it is essential to obtain disclosure of the information
7 provided by the informant, as well as obtain information concerning the credibility of the
8 informant.

9 Similarly, based on what it was told by the informant, the NCAA obviously felt
10 justified in violating its own rules and regulations and misleading Mr. Neuheisel
11 concerning the interview. To measure whether such an approach was in fact justified, it is
12 critical to assess what information the NCAA received and from whom it received it.

13 Based in part on the NCAA's public statements and its other misconduct, Mr.
14 Neuheisel filed claims against the NCAA, including claims for tortious interference and
15 for defamation. Because it is critical for Mr. Neuheisel to determine, among other things,
16 what information was provided to the NCAA by the informant, Mr. Neuheisel issued an
17 interrogatory requesting that the NCAA:

18 ... identify the person, persons and/or entity(ies) who informed the NCAA
19 that Rick Neuheisel was involved in any NCAA basketball tournament,
20 pool or auction. Additionally, please identify all documents which in any
way relate to your answer to this interrogatory.

21 Ex. F at Interrogatory ("Rog.") 1. Similarly, Mr. Neuheisel requested that the NCAA
22 "identify the confidential 'sources' referred to by the NCAA investigators in the June 4,
23 2003 interview of Rick Neuheisel." *Id.* at Rog. 2. Mr. Neuheisel also requested that the

24 _____
25 with CBS, notwithstanding CBS's approximately 32-percent stake in SportsLine.com. Thus,
26 while the NCAA apparently intends to use Mr. Neuheisel's case as a public relations opportunity
regarding "gambling," it enjoys immense revenues from selling its games to a company that
promotes gambling on college sports, and that is able to offer billions of dollars to the NCAA due
in part to revenues generated by gambling on college athletics.

1 NCAA "identify all information provided to the NCAA concerning Rick Neuheisel's
2 involvement in any NCAA basketball pool or auction," and with respect to each such
3 communication, that the NCAA "identify when it occurred, the person or persons who
4 communicated the information, and to whom at the NCAA the information was
5 provided." *Id.* at Rog. 5. With respect to each of these requests, Mr. Neuheisel further
6 requested that the NCAA identify and produce documents relating in any way to the
7 NCAA's answers, *see* Ex. F at Rogs. 1, 2, 5, and Requests for Production ("RFP") 1, 2, 5,
8 and to produce documents relating to information received from the informant. *Id.* at RFP
9 24.

10 Such information is crucial to Mr. Neuheisel's case. As set forth above, Mr.
11 Neuheisel's claims against the NCAA necessarily require discovery into what information
12 the informant gave the NCAA, and when the information was provided. Further, given
13 the nature of the information provided to the NCAA, the informant may have attended the
14 auction or spoke with other attendees of the auction. Put simply, facts surrounding the
15 auction, including the level of Mr. Neuheisel's participation, are central to the claims and
16 defenses in this case. Thus, all witnesses with any knowledge of the auction are persons
17 who either possess admissible evidence or possess evidence which is likely to lead to
18 admissible evidence. Mr. Neuheisel should obviously be able to obtain discovery from a
19 person who may have observed the extent of his involvement in the auction and/or
20 received information concerning his involvement.

21 Even if the informant's knowledge was based on overhearing Mr. Neuheisel talk
22 about the auction, rather than on attending the auction or speaking with others who
23 attended the auction, discovery from the informant would still be crucial. Mr. Neuheisel
24 claims in this litigation that the University of Washington specifically authorized
25 participation in such auctions, and that he therefore reasonably believed his participation
26 to be in compliance with all applicable rules and regulations. To the extent the informant

1 heard Mr. Neuheisel speaking publicly about his participation (or was told as much), such
2 evidence would be quite important to Mr. Neuheisel's case, as it would demonstrate that
3 he had sufficient belief in the propriety of the auction to speak publicly about it.

4 Further, Mr. Neuheisel's claims include allegations that the manner in which the
5 NCAA conducted the June 4, 2003 interviews violated its own rules and regulations
6 concerning such interviews. For example, Mr. Neuheisel contends that such rules
7 required the NCAA to disclose in advance to Mr. Neuheisel the true purpose of the
8 interview. Again, to determine the degree to which the NCAA intentionally violated its
9 own rules and regulations in an effort to set up Mr. Neuheisel, the NCAA must respond to
10 discovery concerning precisely what the NCAA was told by the informant and when it
11 received such information, and must produce information allowing Mr. Neuheisel to
12 evaluate the credibility of the informant.

13 Finally, among other claims, Mr. Neuheisel alleges that the NCAA conspired to
14 defame him and tortiously interfere with his contract with the University. Detailed
15 information concerning what the NCAA was told by the informant and precisely when it
16 received such information is crucial to the conspiracy claims. For example, if the
17 informant gave detailed information concerning Mr. Neuheisel's participation, Mr.
18 Neuheisel is clearly entitled to explore why the NCAA, in violation of its own rules,
19 intentionally withheld such information from him prior to the interview. Conversely, if
20 the NCAA received only limited information from the informant, Mr. Neuheisel is entitled
21 to explore why NCAA officials made damaging and disparaging remarks about him prior
22 to being fully informed about the facts. The informant is a key witness on all these issues.

23 In response to Mr. Neuheisel's discovery requests, the NCAA has refused to
24 disclose any information concerning the informant or information provided by the
25 informant. *See* Ex. F at Answers to Rogs. 1, 2, 5, 6; Responses to RFPs 1, 2, 5, 18, 24.
26 Specifically, the NCAA claims that "any tangential relevance plaintiff may claim this

1 information has would be far outweighed by the injury and burden that disclosure would
2 cause (1) to the NCAA, its members, intercollegiate athletics, and the public interest, and
3 (2) to any person(s) who informed the NCAA of plaintiff's involvement in gambling on
4 college basketball." *Id.* at Answer to Rog. 1. NCAA, however, has not asserted any
5 privilege recognized under Washington law. Instead, the NCAA has simply stated that
6 disclosure would impair its ability to investigate violations of its own rules and
7 regulations, as the ability to make promises of confidentiality helps the NCAA enforce its
8 rules. *Id.* (Notably, Mr. Neuheisel has agreed to the form of a protective order which
9 would alleviate most or all of the NCAA's concerns about public disclosure of sensitive
10 information. Hollon Decl. at ¶ 9).

11 On January 15, 2004, counsel for Mr. Neuheisel conducted a face-to-face Rule
12 26(i) conference with counsel for the NCAA. *See* Hollon Decl. at ¶ 8. Though progress
13 was made on various discovery disputes, counsel for the NCAA steadfastly maintained
14 that the NCAA would not disclose information concerning the NCAA's confidential
15 source. Again, however, the NCAA's counsel was unable to assert any recognized
16 privilege. Because the NCAA has refused to budge on this issue, the instant motion is
17 necessary.

18 III. ISSUES PRESENTED

19 Where plaintiff's discovery requests seek information central to plaintiff's case,
20 and where no recognized privileged protects such information from disclosure, should the
21 Court compel disclosure of such information?

22 IV. EVIDENCE RELIED UPON

23 This motion is based upon the Declaration of Gregory J. Hollon and Exhibits A-F
24 attached thereto; the Declaration of Richard G. Neuheisel, Jr.; and the records and files
25 herein.
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V. ARGUMENT

The Civil Rules provide for broad discovery. Under the familiar language of CR

26:

Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party.... It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

CR 26(b)(1). *See also Ollie v. Highland School Dist. No. 203*, 50 Wn.App. 639, 642, 749 P.2d 757 (CR 26(b)(1) permits discovery of all relevant non-privileged matters, and is designed to permit "a broad scope of discovery") (citation omitted), *review denied*, 110 Wn.2d 1040 (1998). The identity of a witness clearly falls within the scope of the rule.

The concept of privilege for purposes of CR 26 means privilege as it exists in the law of evidence. 4 Orland & Tegland Wash. Prac. at 28 (1992 and Supp. 2003). Under Washington law, "[t]estimonial privileges are creatures of statute, and should therefore be strictly construed." *State v. Sanders*, 66 Wn. App. 878, 883, 833 P.2d 452 (1992) (citation omitted), *review denied*, 120 Wn.2d 1027 (1998); *see also State v. Maxon*, 110 Wn.2d 564, 576, 756 P.2d 1297 (1998) (in refusing to recognize a parent/child privilege, the court stated that "excluding relevant evidence by creating a privilege is warranted only if the resulting public good transcends the normally predominant principle of using all rational means for ascertaining the truth").

In this case, the NCAA has not asserted any recognized privilege as grounds for refusing to disclose information concerning its confidential source. Rather, it simply claims that its ability to enforce its own rules and regulations might be impaired if it is unable to maintain the confidentiality of a source. Such an assertion is insufficient to avoid complying with CR 26's mandate allowing discovery of all unprivileged matters that are either relevant or likely to lead to the discovery of admissible evidence. Indeed:

1 The mere fact that information was communicated in confidence or under
2 pledge of secrecy does not raise a privilege. And in the absence of statute
3 the courts have rarely extended to other relationships the protection which
the common law afforded to communications between attorney and client
and husband and wife.

4 *State v. Johnson*, 9 Wn. App. 766, 773, 514 P.2d 1073 (1973) (quoting *Cunningham v.*
5 *State*, 488 S.W.2d 117, 121 (Tx. Crim. App. 1972), *review denied*, 83 Wn.2d 1006
6 (1974)). Indeed, the Washington Supreme Court has made clear that, given the broad
7 scope of discovery allowed by the civil rules, the appropriate way of dealing with
8 "confidential" information is entry of a suitable protective order rather than non-disclosure
9 of the information. See *Rhinehart v. Seattle Times Co.*, 98 Wn.2d 226, 232, 257-58, 654
10 P.2d 673 (1982) (in affirming order requiring litigant to disclose confidential information,
11 Court held that protective order pursuant to CR 26(c) allows management of discovery
12 process in a manner that "implement[s] the goal of full disclosure of relevant information"
13 while at the same time protecting against any "harmful side effects"), *aff'd*, 467 U.W. 20.
14 104 S. Ct. 2199, 81 L. Ed. 2d 17 (1984). (As set forth above, Mr. Neuheisel has agreed to
15 the form of a protective order which will limit use of the discovery to the prosecution of
16 his claims in this action. See Hollon Decl. at ¶ 9).

17 The NCAA may have pledged secrecy to its confidential source. The NCAA,
18 however, is a private organization, and there exists absolutely no privilege for
19 communications between a private organization such as the NCAA and a confidential
20 source who provides such an organization with information concerning potential
21 violations of the organization's rules. Because there is no privilege, there is no ground for
22 withholding the information under Washington law and it must be produced. Obviously,
23 if Mr. Neuheisel had a "confidential" source of information for facts relevant to this
24 litigation, the NCAA would be entitled to discover the identity of the person and the
25 information he or she held.
26

1 The NCAA may attempt to analogize its nondisclosure to the confidential
2 informant privilege created by RCW 5.60.060(5). Pursuant to that statute, “[a] public
3 officer shall not be examined as a witness as to communications made to him or her in
4 official confidence, when the public interest would suffer by the disclosure.” The
5 privilege created by this statute is “granted to preserve the informant’s anonymity and
6 encourage such persons to disclose *knowledge of criminal activity to officers charged with*
7 *enforcement of the law.*” *State v. Sanchez*, 60 Wn. App. 687, 691, 806 P.2d 782 (1991)
8 (emphasis added) (citation omitted). The privilege is intended to “further[] the public
9 interest in law enforcement.” *Id.* (citation omitted); *see also State v. Ellis*, 34 Wn. App.
10 298, 299, 660 P.2d 774 (1983) (“State’s privilege to withhold the identity of persons who
11 furnish information of violations of law is limited by its purpose, to-wit, to encourage
12 persons to recognize and perform their obligation to contribute to the common goal of
13 insuring domestic tranquility”). As is clear from the language of the statute itself and the
14 cases construing it, the confidential informant privilege created by RCW 5.60.060(5)
15 applies only to information received by public law enforcement agencies in the course of
16 law enforcement.

17 Here, of course, the NCAA is merely a private organization attempting to enforce
18 internal rules and regulations. The purposes served by the statutory confidential informant
19 privilege—including ensuring domestic tranquility by encouraging individuals to report
20 criminal behavior—simply do not apply in the context of NCAA rules. Put differently, it
21 can hardly be said that enforcement of NCAA rules prevents criminal behavior or
22 contributes to domestic tranquility.

23 Moreover, even if the confidential informant privilege were to apply, it is well-
24 established that the privilege is qualified rather than absolute, and is inapplicable where
25 information concerning the informant is relevant and helpful to the criminal defendant or
26 essential to a fair determination of a cause. *See Sanchez*, 60 Wn. App. at 691 (citation

1 omitted). In particular, the privilege is often held inapplicable in cases where the
2 informant has personal knowledge about the alleged criminal activity, as opposed to being
3 a "mere tipster." *Id.* 60 Wn. App. at 692-93. In this case, even if the privilege were
4 somehow held to apply (which is clearly doesn't), Mr. Neuheisel has shown that
5 information concerning the informant is crucial to his claims against the NCAA. Further,
6 the confidential source may either have personal knowledge about the auction and Mr.
7 Neuheisel's participation or may lead Mr. Neuheisel to others with personal knowledge
8 about those key subjects. *See* CR 26(b)(1). Thus, any invocation of the statutory
9 confidential informant privilege must fail, and the Court should compel disclosure of the
10 information requested by Mr. Neuheisel concerning the confidential source.

11 VI. CONCLUSION

12 For the above reasons, Mr. Neuheisel respectfully requests that the Court grant his
13 motion to compel information concerning the confidential source who provided the
14 NCAA information concerning his participation in the March Madness auction.
15 Specifically, Mr. Neuheisel requests that the NCAA be compelled to give full and
16 complete answers to Interrogatories 1, 2, 5, and 6, and Requests for Production 1, 2, 3, 4,
17 5, 18, and 24.

18 DATED this 16th day of March, 2004.

19 McNAUL EBEL NAWROT HELGREN
20 & VANCE PLLC

21 By: 

22 Robert M. Sulkin, WSBA No. 15425
23 Gregory J. Hollon, WSBA No. 26311

24 Attorneys for Plaintiff
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Mr. John F. Aslin
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DATED THIS 16th day of March, 2004, at Seattle, Washington.

By: Robin M. Lindsey
Robin M. Lindsey, Legal Assistant

FILED

2004 MAR 16 PM 4:36

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA.

Hon. Michael S. Spearman

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

RICHARD G. NEUHEISEL, JR.,

Plaintiff,

v.

UNIVERSITY OF WASHINGTON, an
agency of the State of Washington;
NATIONAL COLLEGIATE ATHLETIC
ASSOCIATION, an unincorporated
association; JOHN/JANE DOES 1-10,

Defendants.

No. 03-2-34268-8SEA

DECLARATION OF RICHARD G.
NEUHEISEL, JR. IN SUPPORT OF
PLAINTIFF'S MOTION TO
COMPEL

I, RICHARD G. NEUHEISEL, JR., declare under penalty of perjury of the laws of the State of Washington that the following statements are true, correct and based on personal knowledge:

1. I am the plaintiff in the above-captioned lawsuit.
2. I was employed at the University of Washington as head football coach from August 1999 to July 2003. During the period of my employment, I received through my assistants two e-mail memoranda from the University's Compliance Department authorizing participation in off-campus March Madness pools. The e-mails attached as Exhibit A to the Declaration of Gregory J. Hollon appear to be copies of the memoranda I received.

DECLARATION OF RICHARD G. NEUHEISEL, JR. IN
SUPPORT OF PLAINTIFF'S MOTION TO COMPEL – Page 1

ORIGINAL

LAW OFFICES OF
MCNAUL EBEL NAWROT HELGREN
& VANCE, P.L.L.C.
600 University Street, Suite 2700
Seattle, Washington 98101-3143
(206) 457-1816

1 3. On June 4, 2003, the NCAA interviewed me. Prior to the interview, I was
2 informed that the interview would concern "minor recruiting issues" or words to that
3 effect.

4 4. In my previous interactions with the NCAA, I had always been informed in
5 advance of the true purpose for any interview.

6 5. At the June 4, 2003 interview, the NCAA investigators began asking me
7 questions about "organized gambling." By the manner of their questioning, I believed that
8 I and certain of my friends and neighbors were suspected or accused of being involved in
9 criminal conduct and organized gambling. Given the manner of the questioning, I
10 attempted to answer the questions very carefully and technically.

11 6. During a break in the June 4, 2003 interview, I had an opportunity to
12 consult with counsel, and determined that the March Madness auction in which I had been
13 involved was legal. I subsequently returned to the interview and disclosed fully the extent
14 of my involvement in the auctions.

15 7. When I left the interview on June 4, 2003, only a reporter from the Seattle
16 Times was outside the interview room and asked me questions about the interview.

17 8. This is not a full detailed rendition of all facts, but those I understand are
18 relevant to my motion.

19 SIGNED this ____ day of March, 2004, at Seattle, Washington.

20
21 Signed copy to follow
22 Richard G. Neuheisel, Jr.

23
24
25
26
DECLARATION OF RICHARD G. NEUHEISEL, JR. IN
SUPPORT OF PLAINTIFF'S MOTION TO COMPEL – Page 2

LAW OFFICES OF
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& VANCE, P.L.L.C.
600 University Street, Suite 2700
Seattle, Washington 98101-3143
(206) 467-1816

Proposed Order

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

RICHARD G. NEUHEISEL, JR.,

Plaintiff,

v.

UNIVERSITY OF WASHINGTON, an
agency of the State of Washington;
NATIONAL COLLEGIATE ATHLETIC
ASSOCIATION, an unincorporated
association; JOHN/JANE DOES 1-10,

Defendants.

No. 03-2-34268-8SEA

ORDER GRANTING PLAINTIFF'S
MOTION TO COMPEL
DISCOVERY FROM DEFENDANT
NCAA

[PROPOSED]

PENDING before the Court is Plaintiff's Motion to Compel Discovery from Defendant National Collegiate Athletic Association. In connection with this motion, the Court has reviewed the following materials:

- (1) Plaintiff's Motion to Compel Discovery from Defendant National Collegiate Athletic Association;
- (2) Declaration of Gregory J. Hollon in Support of Plaintiff's Motion to Compel, and Exhibits A-F attached thereto;
- (3) Declaration of Richard G. Neuheisel, Jr. in Support of Plaintiff's Motion to Compel;
- (4) Defendant National Collegiate Athletic Association's response, if any, and supporting materials; and
- (5) Plaintiff's reply and supporting materials;

1 (6)

2 (7)

3 The Court has also reviewed the records and files herein. Being informed in this matter,

4 IT IS HEREBY ORDERED that plaintiff's motion is GRANTED. Defendant
5 National Collegiate Athletic Association shall give full and complete answers to
6 Plaintiff's Interrogatory Nos. 1, 2, 5, and 6, and shall give complete responses and full
7 production of documents in response to Plaintiff's Requests for Production Nos. 1, 2, 3, 4,
8 5, 18, and 24.

9 Such answers and responses shall be provided no later than _____,
10 2004.

11 IT IS SO ORDERED.

12 DATED: March _____, 2004.

13
14 HONORABLE MICHAEL S. SPEARMAN

15 Presented by:

16 McNAUL EBEL NAWROT HELGREN
17 & VANCE, P.L.L.C.

18 By: 

19 Robert M. Sulkin, WSBA No. 15425
Gregory J. Hollon, WSBA No. 26311

20 Attorneys for Plaintiff
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1 Copies received; Approved as to form:

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12 Attorneys for Defendant University of
13 Washington

FILED

2004 MAR 16 PM 4:36

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA.

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR THE COUNTY OF KING

RICHARD G. NEUHEISEL, JR., Plaintiff,
v.
UNIVERSITY OF WASHINGTON, et al., Defendant.

NO. 03-2-34268-8SEA
NOTICE FOR HEARING
SEATTLE COURTHOUSE ONLY
(Clerk's Action Required) (NTHG)

TO: THE CLERK OF THE COURT and to all other parties listed on Page 2:
PLEASE TAKE NOTICE that an issue of law in this case will be heard on the date below and the Clerk is directed to note this issue on the calendar checked below.

Calendar Date: March 24, 2003 Day of Week: Wednesday

Nature of Motion: Plaintiff's Motion to Compel Discovery from Defendant NCAA

CASES ASSIGNED TO INDIVIDUAL JUDGES - Seattle

If oral argument on the motion is allowed (LR 7(b)(2)), contact staff of assigned judge to schedule date and time before filing this notice. Working Papers: The Judge's name, date and time of hearing must be noted in the upper right corner of the Judge's copy. Deliver Judge's copies to Judges' Mailroom at C203.

☒ Without oral argument (Mon - Fri) ☐ With oral argument Hearing

Date/Time: ORAL ARGUMENT REQUESTED (letter request provided)

Judge's Name: Hon. Michael S. Spearman Trial Date: January 24, 2005

CHIEF CRIMINAL DEPARTMENT - Seattle in E1201

☐ Bond Forfeiture 3:15 pm, 2nd Thur of each month

☐ Certificates of Rehabilitation- Weapon Possession (Convictions from Limited Jurisdiction Courts)
3:30 First Tues of each month

CHIEF CIVIL DEPARTMENT - Seattle - (Please report to W965 for assignment)

Deliver working copies to Judges' Mailroom, Room C203. In upper right corner of papers write "Chief Civil Department" or judge's name and date of hearing

☐ Extraordinary Writs (Show Cause Hearing) (LR 98.40) 1:30 p.m. Tues/Wed -report to Room W855

☐ Supplemental Proceedings
(1:30 pm Tues/Wed)(LR 69)

☐ DOL Stays 1:30 pm Tues/Wed

☐ Motions to Consolidate with multiple Judges assigned
(without oral argument) (LR 40(a)(4))

Non-Assigned Cases:

☐ Non-Dispositive Motions M-F (without oral argument).
☐ Dispositive Motions and Revisions (1:30 pm Tues/Wed)
☐ Certificates of Rehabilitation (Employment) 1:30 pm
Tues/Wed (LR 40(2)(B))

You may list an address that is not your residential address where you agree to accept legal documents.

Sign: Gregory J. Hollon Print/Type Name: Gregory J. Hollon

WSBA # 26311 (if attorney) Attorney for: Plaintiff

Address: 600 University Street, Suite 2700 City, State, Zip Seattle WA 98101

Telephone: (206) 467-1816 Date: March 16, 2004

DO NOT USE THIS FORM FOR FAMILY LAW, EX PARTE OR RALJ MOTIONS.

ORIGINAL