

STATE OF NORTH CAROLINA

FILED

IN THE GENERAL COURT OF JUSTICE

COUNTY OF DURHAM

11 JUL -1 PM 3:17

SUPERIOR COURT DIVISION

DURHAM COUNTY, C.S.C.

11 CVS 3103

MICHAEL McADOO,

BY: *amj*

Plaintiff,

vs.

VERIFIED COMPLAINT

(Jury Trial Demanded)

UNIVERSITY OF NORTH CAROLINA
AT CHAPEL HILL; H. HOLDEN
THORP in his official capacity as
Chancellor of the University of North
Carolina at Chapel Hill; and NATIONAL
COLLEGIATE ATHLETIC
ASSOCIATION,

Defendants.

Plaintiff Michael McAdoo ("McAdoo" or "Plaintiff"), by and through his undersigned attorneys, complaining of Defendants University of North Carolina at Chapel Hill ("UNC" or the "University"), H. Holden Thorp ("Thorp"), and the National Collegiate Athletic Association ("NCAA") (collectively, the "Defendants"), states as follows:

SUMMARY OF THE ACTION

I. Plaintiff Michael McAdoo is an enrolled student at Defendant UNC and, until he was improperly and unjustly declared permanently ineligible to play intercollegiate athletics by Defendant NCAA, was a member of the intercollegiate football team at UNC. McAdoo brings this action for a writ of mandamus and preliminary and permanent injunctive relief from the prohibition on his eligibility to play intercollegiate athletics, and for compensatory relief for damages.

2. As part of a larger investigation by the NCAA into certain aspects of the football program at UNC, UNC and the NCAA concluded in the summer of 2010 that McAdoo had received a total of \$110¹ in improper benefits in violation of NCAA Bylaws 12.3.1.2, 16.02.3, and 16.11.2.1.²

3. Specifically, the investigation revealed that an alleged "prospective agent" had ultimately paid \$89 for two nights stay in a hotel room in New Carrollton, MD and \$10 for a cover charge at a nightclub in Washington, D.C. in April 2010, although McAdoo believed at the time that his teammate, Marvin Austin, had paid for these expenses. Further, the investigation revealed that McAdoo had received one hour of tutoring services valued at \$11 from the tutor to whom he was assigned by UNC, after the tutor, unbeknownst to McAdoo, had graduated and was no longer a UNC employee.

4. As a result of the conclusion of UNC and the NCAA that McAdoo had received \$110 in improper benefits, on or about September 2, 2010, UNC declared McAdoo ineligible to play intercollegiate athletics and withheld him from the first three games of the 2010 football season.

5. On September 28, 2010, pursuant to the procedures set forth in the NCAA Bylaws, and in recognition of the NCAA's reinstatement guidelines that identify the recommended punishment for receiving \$110 in improper benefits to be loss of at least 10% of a season (or 2 football games), UNC petitioned the NCAA to reinstate McAdoo's eligibility to play intercollegiate athletics.

¹ Although in the summer of 2010 UNC and the NCAA concluded that McAdoo had received \$110 in improper benefits, in the NCAA's Notice of Allegations sent to UNC on June 21, 2011, the NCAA identified that McAdoo had only received \$65.50 in improper benefits.

² All NCAA Bylaws referenced in this Verified Complaint are included in Exhibit A.

6. With its petition for reinstatement, UNC also reported that McAdoo had also violated NCAA Bylaw 10.1-(b) ("knowing involvement in arranging for fraudulent academic credit or false transcripts for a prospective or an enrolled student-athlete") with respect to his work with his UNC-assigned tutor in three courses over three academic semesters. UNC reported these as violations of NCAA Bylaw 10.1-(b), which requires a student's involvement to be "knowing" to commit academic fraud (*i.e.*, an intent to deceive), although UNC's own investigation had concluded that McAdoo had no intent to deceive, but rather that "it was reasonable for McAdoo to assume that the type of assistance offered and provided to him by his formally-assigned tutor in the Academic Support Program would be permissible." Further, UNC reported McAdoo had violated NCAA Bylaw 10.1-(b) before any of the allegations had been referred to the UNC Honor Court for formal investigation and adjudication.

7. Two weeks after reporting that McAdoo violated NCAA Bylaw 10.1-(b) with respect to three courses, the UNC Honor Court (which was solely responsible for making a determination of culpability with respect to McAdoo's academic conduct) unanimously found McAdoo *not guilty* of the charge of representing another's work as one's own with respect to the first course. Further, the UNC Student Attorney General (who has sole authority to investigate academic charges with respect to McAdoo) declined to even bring formal charges against McAdoo with respect to the second course, finding that there was insufficient evidence to even allege that McAdoo had done anything improper.

8. On October 14, 2010, the UNC Honor Court found McAdoo guilty of representing another's work as his own with respect to the third class, as a result of assistance his tutor provided in properly formatting the in-text citations and the "works cited" page in McAdoo's paper. After careful deliberation, the Honor Court placed McAdoo on probation for

the fall 2010 semester, allowing him to continue his academic work, and suspended him for the spring of 2011. The Honor Court's decision expressly ruled that McAdoo could re-enroll in the summer of 2011 and be eligible to play intercollegiate football in the fall of 2011.

9. Notwithstanding that the Honor Court had found McAdoo not guilty with respect to one class and that the Student Attorney General had found there was insufficient evidence to even bring charges against McAdoo with respect to a second class, on November 12, 2010, the NCAA denied the request to reinstate McAdoo's eligibility to play intercollegiate athletics, in significant part because the NCAA found that McAdoo "accepted impermissible academic assistance from an institutionally-assigned tutor on several occasions during 2008-09 and over two summer terms in 2009."

10. In assessing McAdoo's "culpability," the NCAA specifically relied on its unsupported and clearly erroneous conclusion that McAdoo "received the impermissible assistance on multiple assignments across several academic terms."

11. On behalf of McAdoo, UNC appealed the NCAA's decision to find McAdoo permanently ineligible to participate in intercollegiate athletics. In December 2010, the NCAA conducted a telephone appeal at which the NCAA disregarded its own stated procedures and moved forward with the appeal when the factual record was in dispute.

12. On January 27, 2011, the NCAA denied UNC's appeal with respect to McAdoo. The NCAA affirmed its prior decision that McAdoo is permanently ineligible to play intercollegiate athletics.

13. Throughout the NCAA process of declaring McAdoo permanently ineligible, McAdoo was without legal counsel. McAdoo engaged undersigned counsel in March of 2011 to represent his individual interests.

14. On June 3, 2011, McAdoo's counsel presented the NCAA with correspondence, including additional and explanatory information, not all of which the NCAA had when it made its determination that McAdoo should be permanently ineligible and his collegiate football career should be over. *See* Exhibit B, and exhibits 1-14 attached thereto. In that June 3, 2011 correspondence, McAdoo's counsel requested that the NCAA consider all of the information provided, and reinstate McAdoo's eligibility. *See id.*

15. As of the date of filing of this Verified Complaint, the NCAA has failed to respond to McAdoo's counsel's June 3, 2011 correspondence, and representatives of the NCAA have refused to return McAdoo's counsel's phone calls.

16. On June 21, 2011, the NCAA issued a Notice of Allegations to UNC. *See* Exhibit C.³ Some of the allegations in the notice relate to McAdoo, and those allegations are the same erroneous allegations which led to the NCAA's determination of his permanent ineligibility. The NCAA issued the Notice of Allegations eighteen days after McAdoo's counsel notified the NCAA that the facts relied on by the NCAA in making its decision on McAdoo's eligibility were incorrect.

17. The facts in the June 21, 2011 Notice of Allegations relating to the courses in which McAdoo received assistance from Wiley are different from the facts in the correspondence sent to the NCAA by McAdoo's counsel on June 3, 2011 relating to those same courses.

18. When the NCAA issued the Notice of Allegations to UNC, the NCAA knew or should have known that the allegations relating to McAdoo were false.

³ This version of the Notice of Allegations contains McAdoo's name, but the names of other student athletes has been redacted.

19. All told, McAdoo has been declared permanently ineligible to play intercollegiate athletics because he received \$110 in improper benefits (which he has since paid to charity), and because his university-assigned and trained tutor provided McAdoo with too much assistance in formatting his citations and "works cited" page on his paper for *one* class in the summer of 2009. This punishment is grossly disproportionate to the facts of McAdoo's case, and is inconsistent with the punishment meted out by the UNC Honor Court. The punishment is also inconsistent with the NCAA's own guidelines and the punishments meted out by the NCAA in other cases with similar facts.

20. The NCAA, having ignored McAdoo's efforts to correct its erroneous decision and resolve this matter informally, now brings this action for declaratory relief, compensatory and punitive damages, and injunctive relief that would allow him to play football at UNC for his senior season.

PARTIES, JURISDICTION AND VENUE

21. Plaintiff McAdoo is a resident of Durham County, North Carolina, and is enrolled as a student at UNC.

22. Defendant UNC is a constituent institution of the University of North Carolina, a public university established pursuant to N.C. Gen. Stat. § 116, *et seq.* The main campus of Defendant UNC is located in Orange County, North Carolina.

23. Defendant Thorp is the Chancellor of Defendant UNC, and is a party here only in his official capacity. Pursuant to N.C. Gen. Stat. § 116-34, as Chancellor of UNC, Thorp is the administrative and executive head of Defendant UNC and exercises "complete executive authority therein," subject to direction from the President of the University.

24. Defendant NCAA is an Indiana unincorporated association comprised of member academic institutions.

25. Defendant NCAA schedules, coordinates, sanctions, and regulates intercollegiate athletic games and matches in North Carolina. Employees and agents of the NCAA traveled to North Carolina and conducted interviews with McAdoo and other student athletes as part of the NCAA's investigation of the UNC football program.

26. Upon information and belief, there are at least 46 NCAA member institutions in the State of North Carolina. Upon information and belief, 5 NCAA member institutions in North Carolina participate in the Defendant NCAA's Division I FBS (Football Bowl Subdivision) intercollegiate football, including UNC.

27. Defendant UNC is an active Division I member institution of Defendant NCAA.

28. Upon information and belief, UNC applied to be a member institution of the NCAA, and the NCAA accepted UNC as a member institution.

29. As an active member of the NCAA, UNC has the right to compete in NCAA championships, to vote on legislation and other issues before the NCAA, and to enjoy other privileges of membership designated in the constitution and bylaws of the NCAA.

30. To be an active member of the NCAA, UNC has agreed to administer its athletics program in accordance with the constitution, bylaws and other legislation of the NCAA.

31. The relationship between the NCAA and UNC is contractual in nature.

32. UNC's membership in the NCAA is intended to benefit the student athletes enrolled at UNC.

33. McAdoo brings this action to protect rights guaranteed to him under North Carolina law and the Constitution of North Carolina, but makes no claims under federal law or the Constitution of the United States.

34. Jurisdiction is proper in this court.

35. Venue is proper in this court.

FACTS

36. McAdoo enrolled as a full-time student at UNC in the summer of 2008. While he was in high school in Antioch, Tennessee, McAdoo was recruited to play football at UNC. He applied for admission, was accepted, and was awarded a full scholarship to play football.

McAdoo's Work with a University-Assigned Tutor and Mentor

37. As a student athlete at UNC, the University assigned McAdoo to work with Jennifer Wiley ("Wiley") as his academic tutor and mentor. In the fall of 2008, Wiley was an upperclass student at UNC who, upon information and belief, had been trained by UNC to work with student athletes, and upon information and belief, had been specifically trained as to the boundaries of the types of academic assistance a tutor could provide to a student athlete consistent with the UNC Honor Code and the NCAA Bylaws.

38. Upon information and belief, the tutoring program, through which Wiley tutored McAdoo, is organized and run by UNC's Department of Arts and Sciences. Upon information and belief, it is not organized or run by the UNC football team.

39. McAdoo worked with Wiley every week night in study hall, which was mandatory for McAdoo. Wiley was McAdoo's tutor for every class in the fall semester of 2008.

40. Upon information and belief, Wiley, like all student tutors assigned to student athletes at UNC, was paid on an hourly basis by UNC. McAdoo did not directly pay Wiley for her tutoring services.

41. In the fall of 2008, McAdoo enrolled in several courses, including a course in the African Studies Department, AFRI 266 ("Contemporary Africa: Issues in Health, Population and the Environment"). During that quarter, McAdoo worked with Wiley on a paper he was writing for AFRI 266. McAdoo and Wiley reviewed several drafts of the paper, with Wiley providing editorial comments and suggestions for how McAdoo could improve the paper. Among other things, Wiley assisted McAdoo with proper citations throughout the paper, and with preparing a "Works Cited" page for the paper.

42. In the summer of 2009, McAdoo enrolled in several courses, including AFAM 428 ("Afro American Studies: Bioethics") for Summer Session I and SWAH 403 ("Intermediate Kiswahili") for Summer Session II. McAdoo was required to write papers for both AFAM 428 and SWAH 403, and as he had with AFRI 266 in the fall quarter of 2008, McAdoo sought Wiley's assistance.

43. By the second summer session of 2009, Wiley had graduated from UNC, and a new student tutor had been assigned to McAdoo. However, McAdoo wanted to continue to work with Wiley, with whom he had developed a good working relationship and a friendship. Although she was no longer a student at UNC and would no longer be paid by UNC, Wiley agreed to continue to work with McAdoo. As before, McAdoo did not pay Wiley for her tutoring services.

44. At the time Wiley assisted McAdoo with SWAH 403 in Summer Session II, McAdoo was unaware that Wiley was no longer a student at UNC, and had no reason to believe that her assistance would constitute an improper benefit.

45. In June 2009, McAdoo and Wiley worked to revise and edit his paper for AFAM 428.

46. In June and July 2009, McAdoo and Wiley worked to revise and edit his paper for SWAH 403. In late June of 2009, McAdoo and Ms. Wiley exchanged emails regarding this assignment.

47. On July 15, 2009, McAdoo emailed Ms. Wiley two emails, sent eight (8) minutes apart. The first email, sent at 8:26 p.m. contained a draft of McAdoo's paper. The second email, sent at 8:34 p.m. contained McAdoo's list of works cited.

48. In the body of McAdoo's SWAH 403 paper that he emailed to Ms. Wiley, McAdoo had used a numbering system to signal where he believed he needed to add citations in the text of his paper. Each number in the text of his draft indicated that a citation was needed, and the number corresponded to a particular source on the list of works cited for the entire paper.

49. McAdoo's list of works cited included a book and websites numbered 1 through 8.

50. On that same evening, July 15, 2009, at 10:31 p.m., Ms. Wiley responded to McAdoo's email. Her email attached McAdoo's paper, and it contained references in the text of the paper that conformed with APA format, as well as a list of works cited. (APA format refers to the rules and conventions established by the American Psychological Association for documenting sources used in a research paper.)

51. The works cited list attached to Ms. Wiley's email made no changes to the book reference on McAdoo's list, but it re-formatted the citations for the websites that served as sources for McAdoo's paper into APA format.

52. Upon information and belief, Wiley's assistance in this regard constituted the one hour of improper extra tutoring benefits valued at \$11 as alleged by the NCAA.

53. McAdoo turned in this final, revised version of the paper for SWAH 403.

McAdoo's April 2010 Trip to Washington, D.C.

54. In April 2010, McAdoo took a trip to the Washington, D.C. area with two of his football teammates, Greg Little and Marvin Austin (who was from the Washington, D.C. area). McAdoo, Little and Austin stayed two nights in a hotel room in New Carrollton, MD, outside of Washington, D.C., at a rate of \$89/night, inclusive of tax.

55. Austin told McAdoo that he (Austin) was paying for expenses during the weekend, including the hotel and meal costs that were incurred. McAdoo believed that Austin was treating him (McAdoo) to a weekend in Austin's hometown.

56. In a subsequent investigation by UNC, it was revealed that the hotel room in which McAdoo and Little stayed was booked and originally paid for by Todd Stewart, who because of his self-identified ties to a financial advising firm was deemed a "prospective agent" pursuant to NCAA bylaws.

57. Also on the April 2010 trip to Washington, D.C., McAdoo received entry into a nightclub free of charge, despite the general \$10 cover charge for entry. McAdoo believed that Austin had paid the cover charge for McAdoo's admission. Subsequent investigation by UNC revealed that Stewart or Vernon Davis, a long-time friend of Austin, had obtained free entry for McAdoo into the nightclub.

58. McAdoo was unaware at the time that the hotel charges and nightclub entry fee were ultimately paid by an individual whom the NCAA alleges to be a prospective agent.

UNC and the NCAA Investigate the UNC Football Program, Including McAdoo

59. On July 13, 2010, officials from the NCAA, having traveled to UNC, interviewed McAdoo in two separate sessions about alleged contact with prospective agents. During the July 13, 2010 interviews, there was no discussion of any alleged academic issues with McAdoo.

60. On or about September 2, 2010, UNC declared McAdoo and 6 other football players (including Austin and Little) ineligible to play in UNC's first football game of the season against Louisiana State University ("LSU"), to be played at the Georgia Dome in Atlanta, Georgia.

61. Upon information and belief, UNC declared McAdoo ineligible on or about September 2, 2010 for alleged violations of NCAA Bylaw 12.3.1.2 ("Benefits from Prospective Agents") arising from his April 2010 trip to Washington, D.C. with Austin and Little, and NCAA Bylaws 16.02.3 ("Extra Benefit") and 16.11.12 ("Nonpermissible extra benefit"), arising from his receipt of tutoring assistance from Wiley after she had graduated from UNC and was no longer being paid to serve as McAdoo's tutor.

62. UNC calculated that the dollar value of the benefits McAdoo received from prospective agents amounted to \$99 (\$89 for the hotel room, and \$10 for the cover charge to the nightclub), and that McAdoo had improperly received one hour of tutoring services worth \$11. UNC directed that McAdoo make a donation to charity in the amount of the improper benefits that UNC determined McAdoo had received, and McAdoo has made such a donation.

63. Upon information and belief, on or about September 2, 2010, UNC reported to the NCAA that UNC had declared McAdoo ineligible to play collegiate athletics for alleged violations of NCAA Bylaws 12.3.1.2, 16.02.3, and 16.11.2.1.

64. Having been declared ineligible by UNC, McAdoo did not play in UNC's football games against LSU (Sept. 4), The Georgia Institute of Technology (Sept. 18) or Rutgers, the State University of New Jersey (Sept. 25). McAdoo continued to practice with the UNC team.

UNC Reported to the NCAA that McAdoo Violated NCAA Bylaw 10.1-(b)
("Unethical Conduct") with Respect to Three Academic Courses

65. On September 28, 2010, UNC submitted a Request for Reinstatement and/or Self Report of NCAA Secondary Violation (Level I) to the NCAA regarding McAdoo. In this report, UNC reported that McAdoo had violated NCAA Bylaws 12.3.1.2, 16.02.3, 16.11.2.1, and, for the first time, reported a violation of NCAA Bylaw 10.1-(b) ("Unethical Conduct").

66. In an accompanying letter on September 28, 2010, Mr. Richard A. Baddour, Athletic Director for UNC ("Baddour"), wrote the NCAA regarding McAdoo:

I write to report violations of NCAA Bylaw 16.02.3, Extra Benefit, Bylaw 16.11.2.1, General Rule, Bylaw 12.3.1.2, Benefits from Prospective Agents, and Bylaw 10.1-(b) Unethical Conduct. During the time period from August 25, 2009 to July 23, 2010, Michael McAdoo, football student-athlete at The University of North Carolina at Chapel Hill (UNC), received academic tutoring assistance, at no charge, from a former mentor/tutor (Tutor A) in the Academic Support Program for Student-Athletes. Because of her provision of these benefits to student-athletes, the former tutor has been identified as a representative of athletic interests, thus resulting in a violation of extra benefit regulations. Also, on a trip to Washington, D.C., Mr. McAdoo unknowingly accepted minimal benefits from an individual (Todd Stewart) who has recently been determined to have triggered legislation regarding prospective agents. Finally, Mr. McAdoo has provided information to UNC administrators that indicate that violations of Bylaw 10.1-(b) have occurred with

regard to the academic assistance provided him by Tutor A throughout her employment in the Academic Support Program.

67. NCAA Bylaw 10.1-(b) provides as follows:

Unethical conduct by a prospective or enrolled student-athlete or a current or former institutional staff member (e.g., coach, professor, tutor, teaching assistant, student manager, student trainer) may include, but is not limited to:

(b) *Knowing involvement* in arranging for fraudulent academic credit or false transcripts for a prospective or an enrolled student athlete.

(emphasis added)

68. Upon information and belief, before sending the September 28, 2010 letter, UNC asked the NCAA for an interpretation of a "hypothetical" set of facts to determine whether the NCAA considered McAdoo's academic conduct a violation of Bylaw 10.1-(b).

69. Absent from the "hypothetical" facts provided to the NCAA by UNC was any indication whether the student athlete had knowledge of any wrongdoing. See Exhibit D.

70. Upon information and belief, the NCAA notified UNC of its interpretation that the hypothetical facts provided by UNC constituted a violation of NCAA Bylaw 10.1-(b).

71. Upon information and belief, the NCAA's notification to UNC of its interpretation that the hypothetical facts provided by UNC constituted a violation of NCAA Bylaw 10.1-(b) did not specify *who* had committed a violation of NCAA Bylaw 10.1(b).

72. Upon information and belief, after receiving the NCAA's interpretation, Baddour sent the September 28, 2010 letter to the NCAA, which included a report of McAdoo's purported Bylaw 10.1-(b) violations.

73. Upon information and belief, UNC believed that upon receiving an affirmative interpretation from the NCAA that the reported hypothetical facts constituted a violation of

NCAA Bylaw 10.1-(b), UNC had an obligation to report McAdoo's purported violations of NCAA Bylaw 10.1-(b).

74. In the September 28, 2010 letter, Baddour described McAdoo's purported violation of NCAA Bylaw 10.1-(b) as follows:

During his two interviews, Mr. McAdoo stated that the assistance provided by Tutor A was consistent throughout his time working with her (both during and in the one instance immediately following her employment). He stated that Tutor A would help him with his citations and reference pages, sometimes typing them for him in correct format. He also stated that she would help fix grammar/spelling issues in the papers, but that she would not make such changes without first speaking with him about them. He stated that the writing throughout all of these papers was his, aside from the minor corrections (described above), references, and citations that she would make.

75. Although NCAA Bylaw 10.1-(b) makes it a violation for "*knowing* involvement in arranging for fraudulent academic credit" (emphasis added), Baddour reported to the NCAA that UNC "was confident" that McAdoo reasonably assumed that the assistance provided by Wiley was permissible, and that McAdoo was not aware that the assistance was improper. Specifically, Baddour wrote:

[W]hile we acknowledge that the academic assistance provided to Mr. McAdoo throughout the Fall of 2008 and Summer of 2009 has, at least in some instances, crossed the line into academic fraud, as interpreted by the AMA staff under Bylaw 10.1-(b), we assert that it was reasonable for Mr. McAdoo to assume that the type of assistance offered and provided to him by his formally-assigned tutor in the Academic Support Program would be permissible. Since his work with her began during the fall of his freshman year and it was, therefore, his first experience with academic assistance and tutoring at the collegiate level, it is understandable that he was not aware that some of the assistance was impermissible. Therefore, while we acknowledge that a violation of 10.1-(b) occurred (as a result of the impermissible assistance being provided by an institutional staff member), we are confident that Mr. McAdoo was not aware that the assistance

being provided him by the institutional staff member was improper.

UNC's Reporting to the NCAA is Inconsistent with the UNC Honor Court
Investigation and Adjudication of McAdoo's Academic Conduct

76. By September 28, 2010, UNC had submitted the results of its investigation of McAdoo's involvement with Wiley with respect to AFRI 266, AFAM 428, and SWAH 403 to the UNC Student Attorney General for review and, as the Student Attorney General found appropriate, referral to the UNC Honor Court.

77. The Student Attorney General charged McAdoo with representing another's work as his own in both AFRI 266 and SWAH 403 in violation of the UNC Honor Code, but determined that there was insufficient evidence to charge McAdoo with any academic misconduct or wrongdoing with respect to AFAM 428.

78. The Instrument of Student Governance, which includes the UNC Honor Code, was adopted by UNC to govern the conduct of its students. According to the Instrument, the "[i]deals of academic honesty, personal integrity, and responsible citizenship are essential to the performance of all academic work and all other activities of students while members of the University community." See Exhibit B, and exhibit 9 attached thereto.

79. The Instrument provides that "Application by a student for admission and subsequent enrollment in the University presupposes a commitment to the principles embodied in the Honor Code. Such action also represents consent to be bound by its terms at any time between a student's application for enrollment and the granting of his degree or other termination of enrollment, including the period between academic semester."

80. The Instrument, which includes the UNC Honor Code, is a contract entered between the University and every enrolled student.

81. The Instrument, which includes the UNC Honor Code, is a contract between the University and McAdoo.

82. The UNC Honor Court, through enforcement of the Instrument, has sole authority at UNC to adjudicate questions of academic misconduct under the UNC Honor Code by students enrolled at UNC. The Student Attorney General at UNC, through enforcement of the Instrument, has sole authority at UNC to investigate questions of academic misconduct under the UNC Honor Code by students enrolled at UNC.

83. Notwithstanding that the UNC Honor Court had not yet adjudicated the facts of McAdoo's involvement with Wiley with respect to these courses to determine whether McAdoo had, in fact, represented another's work as his own, UNC, through Baddour, reported that the assistance McAdoo had received "crossed the line into academic fraud" in violation of NCAA Bylaw 10.1-(b).

84. Upon information and belief, UNC reported on September 28, 2010 that McAdoo had violated NCAA Bylaw 10.1-(b) in order to seek McAdoo's reinstatement so that McAdoo could participate in at least a portion of UNC's remaining football games in the 2010 season, including any post-season bowl game. In his September 28, 2010 letter, Baddour wrote:

[T]he facts surrounding the academic fraud have been submitted to the UNC Honor Court to be processed according to their policies for all students. Unfortunately, given the student-run nature of that system and the procedural steps that must be taken, it is unlikely that the case will be resolved until early November. Thus, we seek permission from the [NCAA] Committee on Student-Athlete Reinstatement to submit this reinstatement request in advance of the conclusion of the UNC Honor Court process. If we receive any additional information from the Honor Court prior to your determination, we will promptly provide it to you for consideration in this matter.

85. As of September 28, 2010, UNC had not yet informed McAdoo that his involvement with Wiley in AFRI 266, AFAM 428, or SWAH 403 had been referred to the UNC Honor Court, or that UNC had reported this involvement to the NCAA as academic fraud in violation of NCAA Bylaw 10.1-(b).

86. At the time, UNC did not provide McAdoo with a copy of the September 28, 2010 letter.

87. On or about October 4, 2010, UNC submitted a "revised" self-report to the NCAA regarding McAdoo. Yet again, the letter stated that "violations of Bylaw 10.1-(b) have occurred with regard to the academic assistance provided him by [Wiley] throughout her employment in the Academic Support Program[.]" and UNC "acknowledge[d] that the academic assistance provided to Mr. McAdoo throughout the Fall of 2008 and Summer of 2009 has, at least in some instances, crossed the line into academic fraud as interpreted by the AMA staff under Bylaw 10.1(b)" See Exhibit B, and exhibit 4 attached thereto.

88. On or about October 14, 2010, *after* UNC reported these alleged violations of NCAA Bylaws to the NCAA based on purported academic fraud, the Honor Court conducted an adjudication of the facts surrounding AFRI 266 and SWAH 403 as to whether McAdoo had, in fact, violated the University Honor Code.

89. With respect to the AFRI 266 course, McAdoo was found not guilty.

90. With respect to the SWAH 403 course, the Honor Court determined that McAdoo received impermissible assistance from Wiley on the paper, and he was found guilty of representing another's work as his own.

91. The Honor Court published its decision titled Rationale for the Undergraduate Honor Court ("Rationale"), which explained the evidentiary findings of the Honor Court as well as the Honor Court's decision and the corresponding penalty imposed on McAdoo.

92. According to the Rationale, the Honor Court placed McAdoo on probation for the fall 2010 semester, allowing him to continue his academic work, and suspended him for the spring of 2011. The Honor Court's decision expressly ruled that McAdoo could re-enroll in the summer of 2011 and be eligible to play intercollegiate football in the fall of 2011. As the Rationale explicitly states, "the sanctions rendered by the Court will allow Mr. McAdoo to become eligible to play football again in the Fall of 2011." See Exhibit B, and exhibit 5 attached thereto.

93. Upon information and belief, the Rationale was provided to the NCAA after its issuance on October 14, 2010. However, UNC did not submit any report to the NCAA after the Honor Court issued the Rationale, and UNC did not amend its reports to reflect that McAdoo was found not guilty in AFRI 266.

The NCAA Declares McAdoo Permanently Ineligible
to Participate in Intercollegiate Athletics

94. Since September 2, 2010, McAdoo has been declared ineligible by UNC based on the improper benefits he received from a prospective agent totaling \$99, and improper benefits in the form of one hour of free tutoring for \$11.

95. On November 12, 2010, the NCAA staff, having received the September 28, 2010 and the October 4, 2010 correspondence from Baddour, declared McAdoo permanently ineligible to participate in intercollegiate athletics.

96. According to the NCAA staff's rationale, when an athlete has been alleged to have committed "academic fraud", the NCAA starts with the expectation that the student

athlete will be permanently ineligible. The NCAA does purport to consider mitigating factors that may reduce the penalty and allow the student athlete to retain some eligibility.

97. Upon information and belief, UNC and McAdoo informed the NCAA that they would be appealing the NCAA's decision to declare McAdoo permanently ineligible, and would be requesting that he be reinstated.

98. Pursuant to NCAA Bylaw 14.12.1:

When a student-athlete is determined to be ineligible under any applicable provision of the constitution, bylaws or other regulations of the Association [NCAA], the member institution, having applied the applicable rule and having withheld the student-athlete from all intercollegiate competition, may appeal to the Committee on Student-Athlete Reinstatement for restoration of the student's eligibility.

99. On December 14, 2010, an appeals hearing was held telephonically by the NCAA's Division I Student Athlete Reinstatement Committee ("Committee"). This hearing provided the forum for UNC's and McAdoo's appeal of the NCAA staff's determination of permanent ineligibility and their request for McAdoo's reinstatement.

100. UNC's Office of University Counsel provided legal representation for the University in connection with the appeals hearing held on December 14, 2010.

101. McAdoo did not have independent legal counsel to represent him at the appeals hearing.

102. Upon information and belief, no representative from UNC ever advised McAdoo that counsel for UNC could not represent McAdoo's individual interest, or that he should consider getting separate counsel.

instances – number of instances – during the academic year are unknown, however this was part of the reported violation from the institution.”

106. The NCAA did not investigate the facts of McAdoo's conduct in AFAM 428, AFRI 266, and SWAH 403. The NCAA relied on the reporting from UNC for the facts of McAdoo's conduct in those courses.

107. The University's legal counsel brought to the Committee's attention that the Honor Court had only found McAdoo culpable in one of the three classes that formed the basis for the NCAA's decision. However, at no point did anyone from UNC request that the hearing be suspended based on the existence of disputed facts.

108. On January 27, 2011, the NCAA Committee upheld its decision to declare McAdoo permanently ineligible. This decision is contained in a Student-Athlete Reinstatement Case Report, referred to hereinafter as the "Ineligibility Decision," which was attached to correspondence from Jennifer Henderson, Director of Academic and Membership Affairs for the NCAA.

109. The Ineligibility Decision again recounted that McAdoo "received the impermissible assistance on multiple assignments across several academic terms." It further stated that "[b]ased on case precedent, the facts of the case and the NCAA Division I Committee on Student Reinstatement's December 2007 guidelines directing staff to begin its withholding analysis for academic fraud at permanent ineligibility, with consideration of mitigating factors permitting a minimum withholding condition of sit one season and charging one season of competition, staff did not reinstate [McAdoo]." See Exhibit B, and exhibit 7 thereto.

110. The Ineligibility Decision also included references to the improper benefits from a prospective agent totaling \$99. The penalty for this violation alone would have been a minimum of 10% of one season. The Ineligibility Decision stated that this penalty would have applied if McAdoo's eligibility had been reinstated.

111. Ms. Henderson's January 27, 2011 correspondence informed McAdoo that "no additional appeal opportunity exists." *See id.*

Defendant NCAA's Notice of Allegations to UNC Knowingly
Contains Erroneous "Factual" Allegations Regarding McAdoo

112. In March of 2011, McAdoo retained undersigned counsel to represent his interests.

113. On Friday June 3, 2011, undersigned counsel sent correspondence to Ms. Henderson, requesting McAdoo's reinstatement based on the evidence provided with that letter, not all of which the NCAA had when it made its decision that McAdoo would be permanently ineligible. *See Exhibit B.*

114. As of the date of this filing, Ms. Henderson has not responded to undersigned counsel's June 3, 2011 letter.

115. On June 21, 2011, the NCAA issued a "Notice of Allegations" to UNC. *See Exhibit C.* Included in this Notice to UNC are allegations relating to McAdoo.

116. On the first page of the Notice of Allegations, the violation listed as 1.c. relates to McAdoo. It states as follows:

During the fall of 2008 and summer of 2009, Wiley provided improper academic assistance to McAdoo by composing and typing citations and works-cited pages for three of his writing assignments, making substantive changes to the body of two of the assignments and researching sources for one assignment. In November 2008, Wiley composed a works-cited page, composed and inserted citations into the body of the paper, and added words to an African studies course writing assignment regarding the politics of structural adjustment in

Zambia. Further, in June 2009, Wiley composed a works-cited page, composed and inserted citations into the body of the paper, and added and edited content to an African Studies 428 writing assignment regarding the history of AIDS in America. Additionally, in July 2009, Wiley composed a works-cited page, composed and inserted citations into the body of the paper, and conducted research for a Swahili 403 writing assignment regarding the evolution of Swahili culture.

117. There are only two other allegations in the Notice of Allegations relating to McAdoo. The allegation at 2.b. on page 4 includes the one hour of free tutoring services McAdoo received at a value of \$11. The allegation at 4.g. relates to improper benefits from a prospective agent, and lists improper benefits for McAdoo totaling \$54.50. Upon information and belief, this allegation relates to the same instance for which McAdoo was charged with receiving \$99 in improper benefits from an alleged prospective agent.

118. The NCAA sent this Notice of Allegations to UNC on July 21, 2011, eighteen days after McAdoo's counsel notified the NCAA that the facts relied on by the NCAA in making its decision on McAdoo's eligibility were incorrect.

119. The facts in the June 21, 2011 Notice of Allegations relating to the courses in which McAdoo received assistance from Wiley are different from the facts in the correspondence sent to the NCAA by McAdoo's counsel on June 3, 2011 relating to those same courses.

120. When the NCAA sent the Notice of Allegations to UNC on June 21, 2011, it knew or should have known that with respect to AFRI 266, the UNC Honor Court found McAdoo not guilty of any academic misconduct, and that with respect to AFAM 428, the UNC Student Attorney General did not charge McAdoo with any academic misconduct.

121. But for the determination by the NCAA that McAdoo committed academic fraud pursuant to Bylaw 10.1-(b), McAdoo currently would be eligible to participate in NCAA intercollegiate athletics.

122. Upon information and belief, if the NCAA had not ruled that McAdoo is permanently ineligible to participate in intercollegiate athletics, McAdoo would be a member of the UNC football team eligible to participate in practice and competition.

FIRST CLAIM FOR RELIEF
(Breach of Express Contract as to UNC)

123. McAdoo restates the allegations set forth in paragraphs 1 through 122 as if fully set forth herein.

124. Section I(A)(1) of the UNC Instrument of Student Governance (the "Instrument") provides, in pertinent part:

Application by a student for admission and subsequent enrollment in the University presupposes a commitment to the principles embodied in the Honor Code. Such action also represents consent to be bound by its terms at any time between a student's application for enrollment and the granting of his degree or other termination of enrollment, including the period between academic semesters.

125. By applying for admission and enrolling as a student at UNC, McAdoo consented to be bound by the terms of the Instrument and the Honor Code.

126. The Instrument is an express contract between UNC and McAdoo regarding academic conduct and the investigation and adjudication of alleged violations of the UNC Honor Code.

127. In the course of UNC's investigation into alleged violations of the NCAA Bylaws by student athletes and others connected with the UNC Football program, UNC

developed a belief that McAdoo may have violated the Honor Code with respect to three specific academic courses in the fall of 2008 and the summer of 2009: AFRI 266, AFAM 428, and SWAH 403.

128. Among the terms of the contract between UNC and McAdoo contained in the Instrument are certain substantive and procedural rights afforded to McAdoo upon UNC's belief that McAdoo may have violated the Honor Code, including:

- a. The right to examine [the] Instrument; to be advised of the charge, the character of the evidence against him [], the alternatives for responding, the possible sanctions, [McAdoo's] rights, and [McAdoo's] responsibilities to appear for relevant proceedings; and to make choices of [McAdoo's] own free will, including the choice to waive any rights provided by [the] Instrument after receiving an explanation of the possible consequences as long as any such waiver is made in writing.
- b. The right to be presumed innocent until proven guilty, and to plead not guilty without fear that the plea itself (as distinct from any related lies or misrepresentations) may give rise to a charge of lying should [McAdoo] be found guilty of violating the Honor Code.
- c. The right to a fair, impartial, and speedy hearing, including a separate hearing upon request.
- d. The right prior to the hearing to review written evidence and obtain a list of anticipated witnesses; to hear or face witnesses testifying against him [] and question any material witnesses; to challenge and rebut any evidence or written testimony; to present material and character witnesses; and to testify and present evidence in his [] own behalf provided that such evidence is relevant to the charge or other evidence presented and does not otherwise infringe on the rights of other students.
- e. The right to have an alleged offense proven beyond a reasonable doubt, where "beyond a reasonable doubt" means a doubt that is based upon reason and common sense after careful and impartial consideration of all evidence, and does not mean a mere "shadow of a doubt" or any conceivable doubt.
- f. The right . . . to be free from rehearing under [the] Instrument for the same offense after being found not guilty

Instrument, Exhibit B, exhibit 9, §§ IV(A)(1), (2), (4), (6), (7), and (8).

129. By reporting to the NCAA on September 28 and October 4, 2010, that McAdoo's academic conduct with respect to AFRI 226, AFAM 428, and SWAH 403 "crossed the line into academic fraud" and was a violation of NCAA Bylaw 10.1-(b) without affording McAdoo the procedural and substantive contractual rights agreed upon in the Instrument (e.g., prior to advising McAdoo of any charge, prior to any Honor Court hearing at which McAdoo had an opportunity to confront the evidence against him, and while McAdoo had the express right to be presumed innocent), UNC breached its contract with McAdoo.

130. When the Honor Court found McAdoo not guilty of having violated the Honor Code with respect to AFRI 226 after a full hearing on October 14, 2010, UNC breached its contract with McAdoo by failing to revise its report to the NCAA or otherwise withdraw its statement that McAdoo's conduct with respect to AFRI 226 "crossed the line into academic fraud" and constituted a violation of NCAA Bylaw 10.1-(b).

131. When the Student Attorney General reviewed the allegations and information regarding McAdoo's conduct with respect to AFAM 428 and determined there was no probable cause that McAdoo had violated the Honor Court and therefore did not refer the matter to the Honor Court for a hearing, UNC breached its contract with McAdoo by failing to revise its Report to the NCAA or otherwise withdraw its statement that McAdoo's conduct with respect to AFAM 428 "crossed the line into academic fraud" and constituted a violation of NCAA Bylaw 10.1-(b).

132. UNC breached its contract with McAdoo by reporting to the NCAA on September 28 and October 4, 2010, that "violations" (plural) "of Bylaw 10.1-(b) have occurred with regard to the academic assistance provided [McAdoo] by [Wiley] throughout her employment in the Academic Support Program."

133. UNC breached its contract with McAdoo by continuing to report to the NCAA, subsequent to October 14, 2010, that "violations" (plural) "of Bylaw 10.1-(b) have occurred with regard to the academic assistance provided [McAdoo] by [Wiley] throughout her employment in the Academic Support Program."

134. McAdoo was damaged by UNC's breach of its contract with McAdoo.

135. As a result of UNC's breach of its contract with McAdoo, the NCAA Division I Committee on Student-Athlete Reinstatement refused to reinstate McAdoo's eligibility to participate in collegiate athletics, in substantive part, because of the erroneous understanding that "[McAdoo] received the impermissible assistance on multiple assignments across several academic terms."

136. McAdoo is entitled to recover from UNC as a result of UNC's breach of its contract with McAdoo in an amount in excess of \$10,000 to be proved at trial.

SECOND CLAIM FOR RELIEF
(Breach of Fiduciary Duty as to UNC and Thorp)

137. McAdoo restates the allegations set forth in paragraphs 1 through 136 as if fully set forth herein.

138. At all times described herein, UNC and Thorp, collectively and individually, had a fiduciary duty to McAdoo, as a student athlete at UNC, to adequately and appropriately investigate any allegation of a violation of the NCAA Bylaws by McAdoo.

139. At all times described here, UNC and Thorp, collectively and individually, had a fiduciary duty to McAdoo, as a student athlete at UNC, to refrain from declaring McAdoo ineligible to participate in intercollegiate athletics before conducting an appropriate investigation of any allegation of a violation of the NCAA Bylaws by McAdoo.

140. At all times described herein, UNC and Thorp, collectively and individually, had a fiduciary duty to McAdoo, as a student athlete at UNC, to refrain from declaring McAdoo ineligible to participate in intercollegiate athletics because of any allegation of academic dishonesty or academic fraud or the like until McAdoo had been found guilty of having committed an act of academic dishonesty, academic fraud, or the like by the UNC Honor Court.

141. At all times described herein, UNC and Thorp, collectively and individually, had a fiduciary duty to McAdoo, as a student athlete at UNC, to refrain from reporting to the NCAA that McAdoo had violated NCAA Bylaw 10.1-(b) until McAdoo had been found guilty of having committed an act of academic dishonesty, academic fraud, or the like by the UNC Honor Court.

142. UNC and Thorp, collectively and individually, breached their fiduciary duty to McAdoo by failing to adequately investigate allegations regarding McAdoo's work with Wiley before reporting to the NCAA that McAdoo had committed violations of NCAA Bylaw 10.1-(b).

143. UNC and Thorp, collectively and individually, breached their fiduciary duty to McAdoo by failing to refrain from reporting to the NCAA that McAdoo had committed violations of NCAA Bylaw 10.1-(b) until after the UNC Honor Court had adjudicated allegations regarding McAdoo's conduct with respect to AFRI 266 and SWAH 403.

144. UNC and Thorp, collectively and individually, breached their fiduciary duty to McAdoo by reporting to the NCAA that McAdoo had committed a violation of NCAA Bylaw 10.1-(b) with respect to AFAM 428 where the UNC Student Attorney General had determined that there was insufficient evidence that McAdoo had committed an act of academic dishonesty.

academic fraud, or the like to refer the matter to the Honor Court for investigation and adjudication.

145. UNC and Thorp, collectively and individually, breached their fiduciary duty to McAdoo by reporting to the NCAA that McAdoo had committed a violation of NCAA Bylaw 10.1-(b) with respect to AFRI 266 when the UNC Honor Court had found McAdoo not guilty of the charge of violating Section II.B.4.b of the Instrument.

146. UNC and Thorp, collectively and individually, breached their fiduciary duty to McAdoo by failing to revise or otherwise withdraw their report to the NCAA that McAdoo had committed multiple violations of NCAA Bylaw 10.1-(b) over several academic semesters when the UNC Honor Court found McAdoo not guilty of the charge of violating Section II.B.4.b of the Instrument with respect to AFRI 266, and when the UNC Student Attorney General determined that there was insufficient evidence that McAdoo had committed an act of academic dishonesty, academic fraud, or the like to refer the matter to the Honor Court for investigation and adjudication with respect to AFAM 428.

147. The conduct of UNC and Thorp, collectively and individually, as described herein, caused and continues to cause McAdoo damage and harm.

148. As a direct and proximate result of the aforementioned acts of UNC and Thorp, individually and collectively, McAdoo has suffered general and specific damages in excess of \$10,000 in an amount to be proved at trial.

THIRD CLAIM FOR RELIEF
(Breach of Contract as to NCAA and UNC)

149. McAdoo restates the allegations set forth in paragraphs 1 through 148 as if fully set forth herein.

150. The NCAA is a member organization, and UNC is a member of the NCAA.

151. The NCAA Bylaws are an express and/or implied contract between the NCAA and its member organizations, including UNC.

152. As a student athlete at UNC, McAdoo is an intended third-party beneficiary of the contract between the NCAA and UNC.

153. In order to find a student athlete to have committed unethical conduct in violation of NCAA Bylaw 10.1-(b), the student athlete's involvement in arranging for fraudulent academic credit must be "knowing."

154. Pursuant to NCAA Bylaw 10.1-(b), obtaining "fraudulent academic credit" must involve at least one act committed with an intent to deceive by the person found to have violated Bylaw 10.1-(b).

155. In its investigation, UNC did not find that McAdoo had an intent to deceive his professors to obtain fraudulent academic credit.

156. In its investigation, UNC concluded that UNC was "confident that Mr. McAdoo was not aware that the assistance being provided him by the institutional staff member was improper."

157. The NCAA did not independently investigate the facts of McAdoo's conduct in AFRI 266, AFAM 428, and SWAH 403.

158. The NCAA relied on the reporting from UNC for the facts of McAdoo's conduct in AFRI 266, AFAM 428, and SWAH 403.

159. A student athlete does not commit an intentional act of deception to obtain fraudulent academic credit when he is not aware that the assistance he is receiving is improper.

160. A student athlete does not commit an intentional act of deception to obtain fraudulent academic credit when he reasonably believes that the assistance he is receiving from a university-assigned and trained tutor is proper and permissible.

161. By reporting to the NCAA that McAdoo had violated NCAA Bylaw 10.1-(b) even though UNC was confident that McAdoo was not aware that the assistance being provided him by Wiley was improper, UNC breached its contract with the NCAA to the detriment of McAdoo, an intended third party beneficiary.

162. By acting on UNC's report that McAdoo had violated NCAA Bylaw 10.1-(b) even though McAdoo was not aware that the assistance being provided him by Wiley was improper, the NCAA breached its contract with UNC to the detriment of McAdoo, an intended third party beneficiary.

163. By declaring McAdoo permanently ineligible to participate in intercollegiate athletics as a result of violations of NCAA Bylaw 10.1-(b) even though McAdoo was not aware that the assistance being provided him by Wiley was improper, the NCAA breached its contract with UNC to the detriment of McAdoo, an intended third party beneficiary.

164. By concluding that McAdoo had violated NCAA Bylaw 10.1-(b) with respect to AFRI 266 and AFAM 428 when the UNC Honor Court had found McAdoo not guilty of having committed any academic misconduct or wrongdoing with respect to AFRI 266, and when the UNC Student Attorney General had found there was insufficient evidence to even charge McAdoo with academic misconduct or wrongdoing with respect to AFAM 428, the NCAA breached its contract with UNC to the detriment of McAdoo, an intended third party beneficiary.

165. By refusing to reinstate McAdoo's eligibility to participate in intercollegiate athletics because, in substantial part, of the NCAA's conclusion that McAdoo "received the impermissible assistance on multiple assignments across several academic terms," when UNC's investigation had concluded otherwise, the NCAA breached its contract with UNC to the detriment of McAdoo, an intended third party beneficiary.

166. By imposing a sanction on McAdoo that differs substantially from the sanction imposed by the UNC Honor Court for the same alleged conduct, the NCAA breached its contract with UNC to the detriment of McAdoo, an intended third party beneficiary.

167. By failing to follow its own procedures at the reinstatement hearing concerning McAdoo held on December 14, 2010, the NCAA breached its contract with UNC to the detriment of McAdoo, an intended third party beneficiary.

168. McAdoo was damaged by UNC's and the NCAA's breaches of the contract between UNC and the NCAA, of which McAdoo is an intended third-party beneficiary.

169. McAdoo is entitled to recover from UNC and the NCAA as a result of UNC's and the NCAA's breaches of the contract between UNC and the NCAA in an amount in excess of \$10,000 to be proved at trial.

FOURTH CLAIM FOR RELIEF
(Negligence as to NCAA)

170. McAdoo restates the allegations set forth in paragraphs 1 through 169 as if fully set forth herein.

171. At all times described herein, the NCAA had a duty to use reasonable care in the manner in which it conducted itself toward and regarding McAdoo.

172. At all times described herein, the NCAA owed McAdoo a duty to refrain from acting in an arbitrary and capricious manner in the application and enforcement of the NCAA Bylaws.

173. The NCAA, by failing to use due and reasonable care in its conduct toward and regarding McAdoo, was negligent.

174. The NCAA, by acting in an arbitrary and capricious way in the manner in which it conducted its investigation and enforced the NCAA Bylaws, was negligent.

175. The conduct of the NCAA, as described herein, caused and continues to cause McAdoo damage and harm.

176. As a direct and proximate result of the aforementioned acts of the NCAA, McAdoo has suffered general and specific damages in excess of \$10,000 in an amount to be proved at trial.

FIFTH CLAIM FOR RELIEF
(Gross Negligence as to the NCAA)

177. McAdoo restates the allegations set forth in paragraphs 1 through 176 as if fully set forth herein.

178. On October 4, 2010, Baddour reported to the NCAA that the UNC Student Attorney General did not find sufficient evidence to charge McAdoo with a violation of the Honor Code with respect to AFAM 428.

179. In November 2010, the NCAA specifically requested that UNC provide the NCAA with a report on the Honor Court proceedings with respect to McAdoo, as well as a copy of the written Honor Court decision. UNC reported to the NCAA that the Honor Court had found McAdoo not guilty with respect to AFRI 266, and guilty with respect to SWAH

403. UNC also provided the NCAA with a redacted copy of the Honor Court's written decision.

180. Notwithstanding the above-referenced report, and despite being specifically made aware of the insufficient evidence to charge McAdoo with an Honor Court violation with respect to APAM 428 and McAdoo's acquittal of the charge of representing another's work as one's own with respect to ARFI 266, the NCAA found that McAdoo "received the impermissible assistance [from Wiley] on multiple assignments across several academic terms."

181. The NCAA lacked a good faith basis to conclude that McAdoo had received impermissible assistance from Wiley on multiple assignments across several academic terms.

182. The NCAA was aware that no good faith basis existed to conclude that McAdoo had received impermissible assistance from Wiley on multiple assignments across several academic terms.

183. By concluding that McAdoo had received impermissible assistance from Wiley on multiple assignments across several academic terms, and by basing its decision to declare McAdoo permanently ineligible to play intercollegiate athletics as a result of the same, the NCAA was grossly negligent.

184. The NCAA wilfully and wantonly breached its duty to McAdoo by concluding that McAdoo had received impermissible assistance from Wiley on multiple assignments across several academic terms, and by basing its decision to declare McAdoo permanently ineligible to play intercollegiate athletics as a result of the same.

185. The grossly negligent conduct of the NCAA, as described herein, caused and continues to cause McAdoo damage and harm.

186. As a direct and proximate result of the aforementioned acts of gross negligence by the NCAA, McAdoo has suffered general and specific damages in excess of \$10,000 in an amount to be proved at trial.

187. As a result of the NCAA's gross negligence, McAdoo is entitled to an award of punitive damages in an amount to be proved at trial, and an award of attorney's fees.

SIXTH CLAIM FOR RELIEF
(Gross Negligence as to the NCAA)

188. McAdoo restates the allegations set forth in paragraphs 1 through 187 as if fully set forth herein.

189. On or about October 4, 2010, UNC informed the NCAA that the UNC Student Attorney General had concluded that there was insufficient evidence that McAdoo had committed academic misconduct or wrongdoing with respect to AFAM 428 to charge him with a violation of the UNC Honor Code.

190. In or about November 2010, UNC provided the NCAA with a copy of a portion of the Honor Court's Rationale finding McAdoo not guilty of having committed academic misconduct or wrongdoing with respect to AFRI 266.

191. On June 3, 2011, McAdoo's counsel sent correspondence to the NCAA with a number of exhibits that confirmed that McAdoo had been found not guilty of having violated the UNC Honor Code with respect to AFRI 266, and that insufficient evidence existed to even charge McAdoo with a violation of the UNC Honor Code with respect to AFAM 428.

192. As of June 21, 2011, the NCAA was or should have been aware that McAdoo did not commit academic misconduct or wrongdoing with respect to AFRI 266 and AFAM 428.

193. As of June 21, 2011, the NCAA was or should have been aware that McAdoo did not violate NCAA Bylaw 10.1-(b) with respect to AFRI 266 and AFAM 428.

194. Notwithstanding, and despite being specifically made aware of the facts with respect to AFRI 266 and AFAM 428, on June 21, 2011, the NCAA sent its Notice of Allegations to UNC stating, in pertinent part, that McAdoo committed "academic fraud" in violation of NCAA Bylaw 10.1-(b) with respect to AFRI 266 and AFAM 428.

195. The NCAA lacked a good faith basis to conclude that McAdoo had committed academic fraud with respect to AFRI 266 and AFAM 428.

196. The NCAA lacked a good faith basis to conclude that McAdoo violated NCAA Bylaw 10.1-(b) with respect to AFRI 266 and AFAM 428.

197. The NCAA was aware that no good faith basis existed to conclude that McAdoo committed academic fraud with respect to AFRI 266 and AFAM 428.

198. The NCAA was aware that no good faith basis existed to conclude that McAdoo violated NCAA Bylaw 10.1-(b) with respect to AFRI 266 and AFAM 428.

199. By stating in its June 21, 2011 Notice of Allegations that McAdoo committed academic fraud with respect to AFRI 266 and AFAM 428, the NCAA was grossly negligent.

200. By stating in its June 21, 2011 Notice of Allegations that McAdoo violated NCAA Bylaw 10.1-(b) with respect to AFRI 266 and AFAM 428, the NCAA was grossly negligent.

201. The NCAA willfully and wantonly breached its duty to McAdoo by stating in its June 21, 2011 Notice of Allegations that McAdoo committed academic fraud with respect to AFRI 266 and AFAM 428.

202. The NCAA willfully and wantonly breached its duty to McAdoo by stating in its June 21, 2011 Notice of Allegations that McAdoo violated NCAA Bylaw 10.1-(b) with respect to AFRI 266 and AFAM 428.

203. The grossly negligent conduct of the NCAA, as described herein, caused and continues to cause McAdoo damage and harm.

204. As a direct and proximate result of the aforementioned acts of gross negligence by the NCAA, McAdoo has suffered general and specific damages in excess of \$10,000 in an amount to be proved at trial.

205. As a result of the NCAA's gross negligence, McAdoo is entitled to an award of punitive damages in an amount to be proved at trial, and to an award of attorney's fees.

SEVENTH CLAIM FOR RELIEF
(Libel as to the NCAA)

206. McAdoo restates the allegations set forth in paragraphs 1 through 205 as if fully set forth herein.

207. On June 21, 2011, the NCAA issued a written "Notice of Allegations" to UNC. Included in this Notice to UNC are allegations relating to McAdoo.

208. On the first page of the Notice of Allegations, the NCAA stated that Wiley provided impermissible academic assistance to McAdoo "which constituted academic fraud".

209. On the first page of the Notice of Allegations, the violation "which constituted academic fraud" listed as 1.c. relates to McAdoo. It states as follows:

During the fall of 2008 and summer of 2009, Wiley provided improper academic assistance to McAdoo by composing and typing citations and works-cited pages for three of his writing assignments, making substantive changes to the body of two of the assignments and researching sources for one assignment. In November 2008, Wiley composed a works-cited page, composed and inserted citations into the body of the paper, and added words to an African studies

course writing assignment regarding the politics of structural adjustment in Zambia. Further, in June 2009, Wiley composed a works-cited page, composed and inserted citations into the body of the paper, and added and edited content to an African Studies 428 writing assignment regarding the history of AIDS in America. Additionally, in July 2009, Wiley composed a works-cited page, composed and inserted citations into the body of the paper, and conducted research for a Swahili 403 writing assignment regarding the evolution of Swahili culture.

210. The statements contained in section 1 of the Notice of Allegations with respect to McAdoo are false, and the NCAA knew or should have known that the statements were false at the time they were made.

211. The NCAA's statement that "[i]n November 2008, Wiley composed a works-cited page, composed and inserted citations into the body of the paper, and added words to an African studies course writing assignment regarding the politics of structural adjustment in Zambia," is false, and the NCAA knew or should have known that the statement was false at the time it was made.

212. The NCAA's statement that "[f]urther, in June 2009, Wiley composed a works-cited page, composed and inserted citations into the body of the paper, and added and edits content to an African Studies 428 writing assignment regarding the history of AIDS in America," is false, and the NCAA knew or should have known that the statement was false at the time it was made.

213. The NCAA's statement that "[a]dditionally, in July 2009, Wiley composed a works-cited page, composed and inserted citations into the body of the paper, and conducted research for a Swahili 403 writing assignment regarding the evolution of Swahili culture," is false, and the NCAA knew or should have known that the statement was false at the time it was made.

214. The NCAA's statement in the Notice of Allegations that McAdoo's conduct "constituted academic fraud" is an accusation of an offense involving moral turpitude.

215. The NCAA's statements in the Notice of Allegations that McAdoo's conduct "constituted academic fraud," and the statements regarding AFRI 266, AFAM 428, and SWAH 403, were made with a reckless disregard for the truth.

216. The NCAA was aware, or reasonably should have been aware, that UNC is a public institution in the State of North Carolina.

217. The NCAA was aware, or reasonably should have been aware, of litigation brought by various media outlets against UNC under North Carolina's Public Records Act, specifically with regard to public records related to the NCAA's investigation into UNC's football program, and that said litigation resulted in a ruling from the North Carolina Superior Court (and affirmed by the North Carolina Court of Appeals) that UNC was required to produce such records.

218. The NCAA was aware, or reasonably should have been aware, that the June 21, 2011 Notice of Allegations, which the NCAA sent to Thorp as Chancellor of UNC, would be a public record and would likely be widely published and its contents widely disseminated to the broader public.

219. The NCAA was aware, or reasonably should have been aware, that any false statements regarding McAdoo contained in the Notice of Allegations would be published and disseminated to the broader public.

220. The NCAA's false statements in the Notice of Allegations that McAdoo's conduct "constituted academic fraud" have caused and continue to cause injury to McAdoo's reputation and emotional distress.

221. The NCAA's false statements in the Notice of Allegations regarding McAdoo's conduct in AFRI 266, AFAM 428, and SWAH 403 have caused and continue to cause injury to McAdoo's reputation.

222. Based on the foregoing injuries, McAdoo is entitled to recover against the NCAA an amount in excess of \$10,000 to be proved at trial.

EIGHTH CLAIM FOR RELIEF
(Tortious Interference with Contract as to the NCAA)

223. McAdoo restates the allegations set forth in paragraphs 1 through 222 as if fully set forth herein.

224. McAdoo has an express and/or implied contract with UNC, and UNC and McAdoo have a valid contractual relationship.

225. Both UNC and McAdoo are bound by the terms of the Instrument.

226. UNC and McAdoo each owe one another the duty of good faith and fair dealing.

227. Defendant NCAA is aware, or reasonably should be aware, that some of its member institutions, including UNC, have an express and/or implied contractual relationship with the student-athletes who enroll at the member institution.

228. Pursuant to NCAA Bylaws 14.01.1 and 14.01.3, the member institution, not the NCAA, has the responsibility to apply eligibility requirements to student athletes, including eligibility requirements of the institution, the conference, and the NCAA.

229. Pursuant to NCAA Bylaws 14.01.1 and 14.01.3, the NCAA recognizes that the member institution may have eligibility requirements of its own, separate and apart from NCAA legislation, and the student-athlete's eligibility relies on his compliance with the institution's regulations.

230. NCAA knew or should have known that UNC has eligibility requirements of its own, separate and apart from NCAA legislation, and that McAdoo's eligibility relies on his compliance with the institution's regulations.

231. NCAA knew or should have known that UNC owed to McAdoo the duty of good faith and fair dealing.

232. NCAA knew or should have known that UNC owed to McAdoo the duty to comply with the terms of the Instrument.

233. But for the NCAA's determination on both November 12, 2010 and January 27, 2011 that McAdoo should be permanently ineligible, McAdoo would be eligible as a member of the UNC football team.

234. NCAA Bylaw 14.11.1 provides that:

If a student-athlete is ineligible under the provisions of the constitution, bylaws or other regulations of the Association [NCAA], the institution shall be obligated to apply immediately the applicable rule and to withhold the student-athlete from all intercollegiate competition.

235. The NCAA, having declared McAdoo ineligible, has compelled UNC to withhold McAdoo from football practice and competition pursuant to NCAA Bylaw 14.11.1, despite UNC's belief and determination that McAdoo has not violated NCAA Bylaw 10.1(b), and that he has met all applicable eligibility requirements.

236. NCAA intentionally interfered with the contract between McAdoo and UNC, which interference induced UNC to breach its express and/or implied contract with McAdoo.

237. McAdoo has suffered and continues to suffer damage caused by the NCAA's interference in his express and/or implied contract with UNC.

238. McAdoo is entitled to recover against the NCAA an amount in excess of \$10,000 to be proved at trial.

NINTH CLAIM FOR RELIEF

Declaratory Judgment (Delegation of Legislative Authority, N.C. Const, Art. IX, § 8)

239. McAdoo restates the allegations set forth in paragraphs 1 through 238 as if fully set forth herein.

240. With respect to allegations of academic misconduct for all enrolled students at the University, other than student athletes subject to the NCAA Bylaws, the University applies the terms of the Instrument in determining the eligibility of students to participate in University-sponsored activities.

241. With respect to allegations of academic misconduct for student athletes subject to the NCAA Bylaws, the University applies the NCAA Bylaws in determining eligibility of student athletes enrolled at the University to participate in intercollegiate athletics.

242. The University's application of NCAA Bylaws to determine McAdoo's eligibility, in place of the application of the Instrument, as applied in this case, improperly delegates the legislative authority vested in the University pursuant to Article IX, § 8 of the Constitution of North Carolina, to the NCAA without adequate guiding standards or procedural safeguards to ensure that the NCAA's decisions are not arbitrary, unreasoned or affected by its self-interest, and therefore violates Article IX, § 8 of the Constitution of North Carolina.

243. The University's failure to declare McAdoo eligible, based on the NCAA's determination of ineligibility and the NCAA Bylaws, despite the University's determination that McAdoo should be eligible, as applied in this case, improperly delegates the legislative authority vested in the University pursuant to Article IX, § 8 of the Constitution of North

Carolina, to the NCAA without adequate guiding standards or procedural safeguards to ensure that the NCAA's decisions are not arbitrary, unreasoned or affected by its self-interest, and therefore violates Article IX, § 8 of the Constitution of North Carolina.

244. Pursuant to N.C. Gen. Stat. § 1-253 and Rule 57 of the North Carolina Rules of Civil Procedure, McAdoo is entitled to a declaratory judgment that the University's failure to declare McAdoo eligible deprived him of rights secured him under Article IX, § 8 of the Constitution of North Carolina.

TENTH CLAIM FOR RELIEF

Declaratory Judgment (Equal Protection under N.C. Const, Art. I, § 19)

245. McAdoo restates the allegations set forth in paragraphs 1 through 244 as if fully set forth herein.

246. UNC is an agency of the State of North Carolina and as such, is subject to the requirements of Art. I, § 19 of the Constitution of North Carolina.

247. With respect to allegations of academic misconduct for all enrolled students at the University, other than student athletes subject to the NCAA Bylaws, the University applies the terms of the Instrument.

248. The Instrument provides enrolled students with procedural safeguards, including: the right to be advised of the charge; the right to be presumed innocent until proven guilty; the right to a fair trial; the right to a hearing and to question witnesses; the right to have an offense proven beyond a reasonable doubt. Instrument, Exhibit B, exhibit 9, §§ IV(A)(1), (2), (4), (6), (7), and (8).

249. Upon information and belief, the NCAA Bylaws provide none of these procedural safeguards.

250. Upon information and belief, McAdoo received no procedural safeguards related to his alleged academic misconduct in any forum other than the UNC Honor Court.

251. With respect to allegations of academic misconduct for student athletes subject to the NCAA Bylaws, the University applies the NCAA Bylaws in determining eligibility of student athletes enrolled at the University.

252. The University's failure to apply the terms of the Instrument to McAdoo and failure to find McAdoo eligible in accordance with the decision of the UNC Honor Court, based on the NCAA's determination of ineligibility and the NCAA Bylaws, as applied in this case, violates McAdoo's right to equal protection under the laws guaranteed by Article I, § 19 of the Constitution of North Carolina.

253. Pursuant to N.C. Gen. Stat. § 1-253 and Rule 57 of the North Carolina Rules of Civil Procedure, McAdoo is entitled to a declaratory judgment that the University's failure to apply the terms of the Instrument to McAdoo and failure to declare him eligible in accordance with the decision of the UNC Honor Court deprived McAdoo rights secured him under Article I, § 19 of the Constitution of North Carolina.

ELEVENTH CLAIM FOR RELIEF

Declaratory Judgment (Procedural Due Process under N.C. Const, Art. I, § 19)

254. McAdoo restates the allegations set forth in paragraphs 1 through 253 as if fully set forth herein.

255. UNC is an agency of the State of North Carolina and as such, is subject to the requirements of Art. I, § 19 of the Constitution of North Carolina.

256. The Instrument provides enrolled students with procedural safeguards, including: the right to be advised of the charge; the right to be presumed innocent until proven

guilty; the right to a fair trial; the right to a hearing and to question witnesses; the right to have an offense proven beyond a reasonable doubt. Instrument, Exhibit B, exhibit 9, §§ IV(A)(1), (2), (4), (6), (7), and (8).

257. Upon information and belief, the NCAA Bylaws provide none of these procedural safeguards.

258. UNC applied NCAA Bylaws to McAdoo in determining whether he was eligible to participate in practice and competition as a member of the UNC football team.

259. UNC's application of the NCAA Bylaws, as applied in this case, deprive McAdoo of his right to procedural due process of law guaranteed by Article I, § 19 of the Constitution of North Carolina because they subject McAdoo to a penalty of permanent ineligibility based on the NCAA's determination, but deprive him of a reasonable opportunity to defend himself against the allegations of violations to NCAA Bylaws.

260. Pursuant to N.C. Gen. Stat. § 1-253 and Rule 57 of the North Carolina Rules of Civil Procedure, McAdoo is entitled to a declaratory judgment that UNC's application of the NCAA Bylaws to declare him ineligible in this case deprive McAdoo rights secured him under Article I, § 19 of the Constitution of North Carolina.

TWELFTH CLAIM FOR RELIEF

Declaratory Judgment (Equality and Rights of Persons under N.C. Const, Art. I, § 1)

261. McAdoo restates the allegations set forth in paragraphs 1 through 260 as if fully set forth herein.

262. UNC is an agency of the State of North Carolina and as such, is subject to the requirements of Art. I, § 1 of the Constitution of North Carolina.

263. McAdoo is gifted with the physical characteristics (size, strength, speed, quickness, agility) and developed skills to enable him to compete as a football player at a very high level.

264. While still in high school, McAdoo was recruited by UNC and other NCAA member institutions to play intercollegiate football.

265. UNC recognized McAdoo's physical characteristics and developed skills as a football player and awarded him a full scholarship to play football at UNC.

266. In his freshman and sophomore years, McAdoo had success as football player at the Division I FBS level. It is reasonably anticipated that, if permitted to play football at UNC in the 2011 season, McAdoo would continue to improve as a football player.

267. Upon information and belief, if McAdoo continues to progress and improve as a football player as expected if permitted to play football at UNC in the 2011 season, there is a significant possibility that McAdoo would be a prospective draft selection in the 2012 National Football League ("NFL") Draft, or that McAdoo would be signed as a free agent to play professional football following the 2011 NCAA season.

268. As provided by the Constitution of North Carolina, Article I, § 1, "all persons are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, the enjoyment of the fruits of their own labor, and the pursuit of happiness."

269. The University's failure to declare McAdoo eligible, based on the NCAA's determination of ineligibility and the NCAA Bylaws, despite the University's determination that McAdoo should be eligible, as applied in this case, violates McAdoo's right to enjoy the fruits of his own labor.

270. Pursuant to N.C. Gen. Stat. § 1-253 and Rule 57 of the North Carolina Rules of Civil Procedure, McAdoo is entitled to a declaratory judgment that the University's failure to declare McAdoo eligible deprived McAdoo rights secured him under Article I, § 1 of the Constitution of North Carolina.

THIRTEENTH CLAIM FOR RELIEF
(Mandatory Injunction or Writ of Mandamus as to UNC and Thorp)

271. McAdoo restates the allegations set forth in paragraphs 1 through 270 as if fully set forth herein.

272. NCAA Bylaw 14.01.1, entitled "Institutional Responsibility" provides that:

As institution shall not permit a student-athlete to represent it in intercollegiate athletics competition unless the student-athlete meets all applicable eligibility requirements, and the institution has certified the student-athlete's eligibility. A violation of this bylaw in which the institution fails to certify the student-athlete's eligibility prior to allowing him or her to represent the institution in intercollegiate competition shall be considered an institutional violation per Constitution 2.8.1.

273. NCAA Bylaw 14.01.3, entitled "Compliance with Other NCAA and Conference Legislation" provides that:

To be eligible to represent an institution in intercollegiate athletics competition, a student-athlete shall be in compliance with all applicable provisions of the constitution and bylaws of the Association [NCAA] and all rules and regulations of the institution and the conference, if any, of which the institution is a member.

274. Pursuant to the terms of NCAA Bylaws 14.01.1 and 14.01.3, it is UNC's responsibility to determine whether a student-athlete enrolled at UNC meets all applicable eligibility requirements, i.e., the member institution's eligibility requirements and NCAA

requirements. Therefore, it is the duty and responsibility of UNC to determine if McAdoo meets all applicable eligibility requirements.

275. The duties of the member institution, UNC, were recognized in the opening remarks of the appeals hearing held by the Committee on December 14, 2010, when the Chair of the Committee, Dr. Ken White stated:

[P]lease bear in mind that this is an appeal and it is being conducted because *the institution* has [determined] that the student athlete was involved in an NCAA violation and is ineligible for competition under the NCAA Rules. (emphasis added)

276. If UNC determines that McAdoo meets all applicable eligibility requirements, it is UNC's duty and responsibility to declare that he is eligible, and to certify the same to the NCAA.

277. On November 15, 2010, shortly after the NCAA issued its decision on November 12, 2010 that McAdoo was permanently ineligible, Baddour was quoted in an article published by the Entertainment Sports Programming Network ("ESPN") as saying: "While we respect the decision, the facts of the cases [McAdoo and Devon Ramsey] simply do not support permanent ineligibility. We will aggressively appeal and are hopeful the reinstatement committee will reach the same conclusion."

278. Baddour, as the Director of Athletics at UNC, is an agent of the University with actual authority to speak for the University with respect to its athletic teams and its student athletes.

279. UNC appealed the NCAA's November 12, 2010 decision that McAdoo was ineligible pursuant to NCAA Bylaw 14.12.1, which provides that:

When a student-athlete is determined to be ineligible under any applicable provision of the constitution, bylaws or other regulations of the Association [NCAA], the member institution,

having applied the applicable rule and having withheld the student-athlete from all intercollegiate competition, may appeal to the Committee on Student-Athlete Reinstatement for restoration of the student's eligibility, provided the institution concludes that the circumstances warrant restoration of eligibility.

280. When it appealed the NCAA's November 12, 2010 determination that McAdoo was ineligible, UNC had concluded that the circumstances of McAdoo's case warrant the restoration of his eligibility.

281. Pursuant to NCAA Bylaw 14.12.3, "the Committee on Student-Athlete Reinstatement may restore the eligibility of a student involved in any violation only when circumstances clearly warrant restoration."

282. When it refused to restore McAdoo's eligibility on January 27, 2011, the NCAA, through its Committee on Student-Athlete Reinstatement, had concluded that the circumstances of McAdoo's case do not warrant restoration of eligibility.

283. UNC and the NCAA disagree about whether the circumstances of McAdoo's case warrant the restoration of his eligibility.

284. On February 9, 2011, shortly after the NCAA issued its decision on January 27, 2011 that UNC's appeal was denied and that McAdoo was permanently ineligible, Baddour was quoted in an article published by ESPN as saying: "We appealed this decision because we believed it was unfair and we continue to believe that."

285. Upon information and belief, UNC, through its responsible agents, believes that McAdoo has not violated NCAA Bylaw 10.1-(b).

286. Upon information and belief, UNC, through its responsible agents, believes that McAdoo meets all applicable eligibility requirements.

287. Upon information and belief, UNC, through its responsible agents, believes that McAdoo should be eligible to participate in practice and competition for the UNC football team.

288. As between UNC and NCAA, and in accordance with NCAA Bylaw 14.01.1, UNC, as the member institution, has the duty and responsibility to make a determination about McAdoo's eligibility under all applicable eligibility requirements.

289. NCAA Bylaw 14.10.1 provides that the "president or chancellor is responsible for approving the procedures for certifying the eligibility of an institution's student-athletes under NCAA legislation."

290. Thorp, as the Chancellor of UNC, is ultimately responsible for UNC's procedures for certifying eligibility.

291. Pursuant to N.C. Gen. Stat. § 116-34, Thorp is also the administrative and executive head of UNC, and he exercises "complete executive authority therein," subject to direction from the President of the University.

292. Thorp, as the Chancellor of UNC, is ultimately responsible for the University's determination, pursuant to NCAA Bylaw 14.01.1, whether a student athlete has met all applicable eligibility requirements.

293. Upon information and belief, the University, through its responsible agents, believes and has determined that McAdoo has not violated NCAA Bylaw 10.1-(b). This belief and determination is evidenced by the decision of the UNC Honor Court, Baddour's statements, and the appeal taken by the University of the NCAA's determination of ineligibility.

294. Upon information and belief, the University, through its responsible agents, believes and has determined that McAdoo has met all eligibility requirements of the University and the NCAA, as evidenced by the decision of the UNC Honor Court, Baddour's statements, and the appeal taken by the University of the NCAA's determination of ineligibility.

295. Upon information and belief, the University, through its responsible agents, believes and has determined that McAdoo should be eligible to participate without limitation as a member on UNC's football team, as evidenced by the decision of the UNC Honor Court, Baddour's statements, and the appeal taken by the University of the NCAA's determination of ineligibility.

296. Based on the University's belief and determination that McAdoo has not violated NCAA Bylaw 10.1(b), and that he has met all applicable eligibility requirements, Thorp has a ministerial duty to declare McAdoo eligible and reinstate him as a member of the UNC football team without limitation.

297. Thorp, as Chancellor of UNC, is under a positive legal obligation to declare McAdoo eligible and reinstate him as a member of the UNC football team without limitation.

298. A mandatory injunction or a writ of mandamus should issue to compel Thorp to perform his ministerial duty to declare McAdoo eligible and reinstate him as a member of the UNC football team without limitation.

299. If the writ of mandamus issues, and Thorp declares McAdoo eligible and reinstates him as a member of the UNC football team without limitation, then an injunction against the NCAA is also necessary and warranted, to keep it from enforcing NCAA Bylaw 19.7.

FOURTEENTH CLAIM FOR RELIEF
(Preliminary and Permanent Injunctive Relief as to UNC and Thorp)

300. McAdoo restates the allegations set forth in paragraphs 1 through 299 as if fully set forth herein.

301. Voluntary workouts for the UNC varsity football team have begun, and will be ongoing until official practices begin in early August 2011.

302. UNC has scheduled regular-season competitive football games for the 2011-12 season. Its first game is scheduled for September 3, 2011, and its last regular-season game is scheduled for November 26, 2011. This does not include any post-season game in which UNC may compete.

303. Based on the NCAA's decision to declare Mr. McAdoo permanently ineligible, and based on UNC's implementation of the NCAA's decision and penalty instead of the UNC Honor Court's decision and penalty, Mr. McAdoo is not permitted to participate in the currently ongoing voluntary workouts of the UNC varsity football team. He will also not be permitted to participate in official practices starting in early August, and he will not be permitted to participate in UNC's scheduled competitions this season.

304. According to the correspondence from the NCAA to UNC regarding the Notice of Allegations, the NCAA anticipates that the Committee on Infractions will meet on October 28, 2011, at which meeting an appearance by UNC representatives is welcome, to consider the allegations contained in the Notice, including the allegations regarding McAdoo.

305. Mr. McAdoo was improperly punished pursuant to the NCAA's erroneous determination of permanent ineligibility, instead of pursuant to the UNC Honor Court's determination that Mr. McAdoo is eligible to play football in fall 2011.

306. Mr. McAdoo is likely to succeed on the merits of the claims contained in his Verified Complaint.

307. Absent a preliminary injunction, Mr. McAdoo will suffer irreparable harm by losing the opportunity he has earned to compete and participate as a member of the UNC football team. Absent an injunction, Mr. McAdoo will be kept off of the football field for practices and competitions with the UNC football team until the majority of the football season, or the entire season, is over.

308. To prevent imminent, irrevocable harm to McAdoo, Defendants UNC and Thorp should be preliminarily enjoined during the pendency of this action from imposing any penalty on McAdoo for academic misconduct other than the penalty imposed by the UNC Honor Court, and should be preliminarily enjoined from imposing any eligibility restriction on McAdoo's membership and participation on the UNC varsity football team, other than the restriction imposed by the UNC Honor Court.

309. For the 2011-12 academic year, Mr. McAdoo will be a Senior at UNC. If an injunction is not granted and he is not permitted to play football as for UNC in the fall of 2011, he will never be able to compete on the UNC football team again, even if he is successful in this litigation.

310. If the preliminary injunction is granted, the damage to Defendants UNC and Thorp, if any, would be insubstantial.

311. If an injunction is granted, and UNC is enjoined from keeping Mr. McAdoo from competing in NCAA competitions as a member of the football team, then an injunction against the NCAA is also necessary and warranted, to keep it from enforcing NCAA Bylaw 19.7.

FIFTEENTH CLAIM FOR RELIEF
(Preliminary and Permanent Injunctive Relief as to NCAA)

312. McAdoo restates the allegations set forth in paragraphs 1 through 311 as if fully set forth herein.

313. Upon information and belief, if the writ of mandamus issues and the injunctive relief requested above is granted, and McAdoo participates in practices or competition for the UNC football team, the NCAA will likely seek to penalize UNC at some point in the future if the writ or injunction is ever dissolved or reversed.

314. NCAA Bylaw 19.7 provides that:

If a student-athlete who is ineligible under the terms of the constitution, bylaws or other legislation of the Association is permitted to participate in intercollegiate competition contrary to such NCAA legislation but in accordance with the terms of a court restraining order or injunction operative against the institution attended by such student-athlete or against the Association, or both, and said injunction is voluntarily vacated, stayed or reversed or it is finally determined by the courts that injunctive relief is not or was not justified, the Board of Directors may take any one or more of the following actions against such institution in the interest of restitution and fairness to competing institutions:

- a. Require that individual records and performances achieved during participation by such ineligible student athlete shall be vacated or stricken;
- b. Require that team records and performances achieved during participation by such ineligible student-athlete shall be vacated or stricken;
- c. Require that team victories achieved during participation by such ineligible student-athlete shall be abrogated and the games or events forfeited to the opposing institutions;
- d. Require that individual awards earned during participation by such ineligible student-athlete shall be returned to the Association, the sponsor or the competing institution supplying same;
- e. Require that team awards earned during participation by such ineligible student-athlete shall be returned to the Association, the sponsor or the competing institution supplying same;

- f. Determine that the institution is ineligible for one or more NCAA championships in the sports and in the seasons in which such ineligible student-athlete participated;
- g. Determine that the institution is ineligible for invitational and postseason meets and tournaments in the sports and in the seasons in which such ineligible student-athlete participated;
- h. Require that the institution shall remit to the NCAA the institution's share of television receipts (other than the portion shared with other conference members) for appearing on any live television series or program if such ineligible student-athlete participates in the contest(s) selected for such telecast, or if the Board of Directors concludes that the institution would not have been selected for such telecast but for the participation of such ineligible student-athlete during the season of the telecast; any such funds thus remitted shall be devoted to the NCAA postgraduate scholarship program; and
- i. Require that the institution that has been represented in an NCAA championship by such a student-athlete shall be assessed a financial penalty as determined by the Committee on Infractions.

315. In order to give full force and effect to the writ of mandamus and injunctive relief requested herein, the Court should also enjoin the NCAA from applying Bylaw 19.7 to UNC in the future based on Mr. McAdoo's participation in football practice and competition with the UNC football team.

316. The public interest supports the issuance of an injunction on the facts of this case.

317. If the preliminary injunction is granted, the damage to Defendant NCAA, if any, would be insubstantial.

318. To prevent imminent, irrevocable harm to McAdoo, Defendant NCAA should be preliminarily enjoined during the pendency of this action from interfering with or preventing in any way UNC's failure to impose any penalty on McAdoo for academic misconduct other than the penalty imposed by the UNC Honor Court, and should be preliminarily enjoined from imposing any eligibility restriction on McAdoo's membership and participation on the UNC varsity football team, other than the restriction imposed by the UNC Honor Court.

319. To prevent imminent, irrevocable harm to McAdoo, Defendant NCAA should be permanently enjoined from imposing Bylaw 19.7, Restitution, on UNC based on McAdoo's participation in practice and competition for the UNC football team.

WHEREFORE, the Plaintiff prays for judgment in his favor and against Defendants providing the following relief:

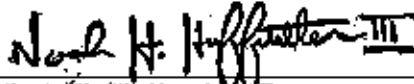
- A. That Plaintiff be awarded damages in an amount to be determined at trial for UNC's breach of its contract to McAdoo;
- B. That Plaintiff be awarded damages in an amount to be determined at trial for UNC's and Thorp's breach of fiduciary duty to McAdoo;
- C. That Plaintiff be awarded damages in an amount to be determined at trial for UNC's and the NCAA's breaches of contract between UNC and NCAA, of which McAdoo is an intended third party beneficiary;
- D. That Plaintiff be awarded damages in an amount to be determined at trial for the NCAA's negligence;
- E. That Plaintiff be awarded damages in an amount to be determined at trial for the NCAA's gross negligence;
- F. That Defendant NCAA be ordered to pay pre-judgment interest and post-judgment interest on the amount of damages awarded, together with Plaintiff's reasonable collection costs and attorneys fees in pursuing this action, as well as punitive damages in an amount to be proved at trial, for the NCAA's gross negligence;
- G. That Plaintiff be awarded damages in an amount to be proved at trial for the NCAA's libel of McAdoo;

- H. That Plaintiff be awarded damages in an amount to be determined at trial for the NCAA's tortious interference with the contract between McAdoo and UNC;
- I. That Plaintiff be awarded a declaratory judgment that the University deprived him of rights secured him under Article IX, § 8 of the Constitution of North Carolina;
- J. That Plaintiff be awarded a declaratory judgment that the University deprived him of equal protection, a right secured him under Article I, § 19 of the Constitution of North Carolina;
- K. That Plaintiff be awarded a declaratory judgment that the University deprived him of procedural due process, a right secured him under Article I, § 19 of the Constitution of North Carolina;
- L. That Plaintiff be awarded a declaratory judgment that the University deprived him of equality and rights of persons, rights secured him under Article I, § 1 of the Constitution of North Carolina;
- M. That Defendants UNC and Thorp be required, through issuance of a writ of mandamus, to declare McAdoo eligible and reinstate him as a member of the UNC football team without limitation;
- N. That Defendants UNC and Thorp be enjoined from refusing to determine that McAdoo is eligible based on the penalty imposed by the UNC Honor Court;
- O. That Defendant NCAA be enjoined from interfering in any way with UNC's determination of McAdoo's eligibility, and be enjoined from imposing any eligibility restriction on McAdoo's membership and participation on the UNC football team;
- P. That Defendant NCAA be enjoined from imposing NCAA Bylaw 19.7 on UNC based on McAdoo's participation in practice and competition for the UNC football team;

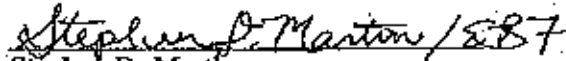
- Q. For a trial by jury on all issues so triable; and
R. For such other relief as the Court deems just and proper.

This, the 1st day of July, 2011.

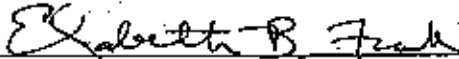
NELSON MULLINS RILEY & SCARBOROUGH, LLP



Noah H. Huffstetler III
N.C. State Bar No. 7170



Stephen D. Martin
N.C. State Bar No. 28658



Elizabeth B. Frock
N.C. State Bar No. 36765

GlenLake One, Suite 200
4140 Parklake Avenue
Raleigh, NC 27612
Telephone: (919) 877-3800
Facsimile: (919) 877-3799

E-mail: noah.huffstetler@nelsonmullins.com
E-mail: steve.martin@nelsonmullins.com
E-mail: elizabeth.frock@nelsonmullins.com

Attorneys for Plaintiff Michael McAdoo

STATE OF NORTH CAROLINA)
)
COUNTY OF WAKE)

VERIFICATION

The undersigned, being first duly sworn, deposes and states that he has read the attached Complaint, and he verifies that he knows to be true those matters on which he has personal knowledge, and he believes to be true those matters which are stated upon information and belief.

This the 1st day of July, 2011.



Michael McAdoo

Signed and sworn to before me this day by MICHAEL McAdoo.

Date: 7-01-2011



Notary's Signature

MICHAEL COX
Notary's Name (Printed or Typed)

Notary's Seal:



My commission expires: 3-30-2014