NCAA Name, Image, Likeness Settlement Is A $2.8B Mistake

By **William Lavery and Dodi Allocca** (March 11, 2025)

William Lavery

Dodi Allocca

In House v. National Collegiate Athletic Association, in the U.S. District Court for the Northern District of California, objectors filed more than 20 objections and submitted more than 60 letters opposing the NCAA's $2.8 billion antitrust settlement on the court's Jan. 31 objection deadline.

Over the following weeks, around 250 former collegiate athletes who opted out of the settlement also launched a new round of lawsuits or joined existing suits.[1]

These moves aren't trivial formalities. They're a full-throated rejection of the idea that this settlement is a win for fairness.

While the plaintiffs' lawyers and their clients might call the settlement a breakthrough, in reality, it's nothing more than a slap in the face — a half-hearted, legally dubious Band-Aid that props up a system favoring a select handful of male athletes, mostly from Power 4 conference schools, while female athletes and countless others get left out.

This proposed settlement, which received preliminary approval on Oct. 7, 2024, and is set for its final approval hearing on April 7, isn't bold reform or a radical rethinking of fair compensation in college sports.

Instead, it's a cheap fix that settles three lawsuits, while at the same time locking in outdated gender inequities and setting the stage for even more legal battles down the road.

College athletes deserve better. If we're going to reform compensation in college sports through binding settlement agreements — a terrible idea — the new rules must deliver real fairness, rather than merely entrench an outdated system that rewards a select few while leaving the rest to pick up the scraps.

A Deal for the Few, Not the Many

At first glance, a $2.8 billion settlement is a big number, and some of its revenue-sharing provisions look like a victory for college athletes.

But peel back the layers, and you uncover a rigged payout scheme where a select few — mostly male football and basketball players from major conferences — cash in, while thousands of other athletes, particularly women, are left with virtually nothing.

One objector pointed out that while some male athletes might pocket over $100,000, many female athletes are slated to get as little as $125.[2] This isn't just a minor oversight — it's a stark reminder of how deeply entrenched gender disparities undermine the integrity of college sports.

Some of the plaintiffs' attorneys have tried to deflect criticism by insisting this is solely an antitrust case — not a Title IX issue — arguing that schools must comply with Title IX

anyway. But this rationale is flawed.

If schools are legally bound to comply with Title IX, how can they implement a revenue-sharing model that virtually guarantees disproportionate name, image and likeness, or NIL, payments to men's teams? And does anyone really believe that boosters are entirely independent of the schools themselves?

The plaintiffs also rely on technicalities and incorrect assumptions for their position — for example, arguing in their omnibus response to objections that historical disparities in revenue between men's and women's sports somehow justify permanently embedding those inequalities into the settlement.[3]

This cynical view undermines Title IX's fundamental purpose: ensuring gender equity, not codifying past discrimination.

Though designed to address antitrust concerns, this settlement effectively sets the framework for athlete compensation in a way that cements gender inequities. It imposes binding financial obligations on NCAA schools that will collide with Title IX.

This isn't simply an antitrust fix — it's a giveaway to the few at the expense of everyone else.

Ignoring Alston's Warning

The NCAA's agreement also not only sidesteps, but effectively ignores, the landmark 2021 U.S. Supreme Court decision in NCAA v. Alston.

In that case, the court made its position unequivocally clear — with Justice Brett Kavanaugh emphasizing that the compensation restrictions imposed on college athletes would be "flatly illegal in any other business in America."

By preserving outdated limits and instituting new ones, the settlement echoes practices the court struck down. This isn't progress — it's a rehash of old practices in a new, legally dubious package.

The U.S. Department of Justice seems to agree. In a Jan. 17 filing, the DOJ warned that the settlement's artificial caps on athlete compensation do nothing to eliminate antitrust issues; they merely disguise them.[4]

As the Supreme Court said, in virtually every other industry in America, such caps would be flatly illegal. Yet here, they serve to delay a reckoning that's long overdue.

A Financial Model That Sows Instability

Beyond its inherent unfairness, the settlement compounds existing problems in college sports. With the disruptive forces of NIL money, conference realignments and a transfer portal that's turned team rosters into revolving doors, this deal adds another layer of instability.

Clemson University Athletic Director Graham Neff is one of the few who has spoken publicly about trying to make it work, noting that Clemson would be funding its share and adding scholarships.

But most schools, especially those outside the Power 4, won't have that luxury. For every Power 4 school, countless smaller schools will be forced to slash programs or compromise on Title IX commitments just to stay afloat.

College sports, already teetering on the edge of financial chaos, with recent reports that many athletic departments are already operating on thin margins, now face a model that prioritizes high-revenue programs at the expense of a more balanced and equitable system.[5]

Some coaching legends also see the move as misguided. Former Alabama football head coach Nick Saban — not known for his subtlety — summed it up nicely: "All the things that I believed in, for all these years … no longer exist in college athletics … why are we doing this?"

And as Clemson's head football coach Dabo Swinney put it, college sports are turning into "wackyland."[6] This settlement isn't bold reform or a genuine rethinking of athlete compensation — it's a short-term fix that buries deep-seated inequities under a veneer of legal technicality.

A Call for Real Reform

This settlement is a short-term patch that will only perpetuate inequality and invite further litigation. It institutionalizes a model that benefits the few while sidelining female athletes and smaller institutions, all under the guise of antitrust relief.

Instead of celebrating this $2.8 billion payout as justice served, we should recognize it for what it is: a missed opportunity for meaningful reform in college sports.

It's time for policymakers, courts and the NCAA to get serious. The status quo — where male athletes in marquee sports cash in big, while others get left behind — can no longer be tolerated.

Perhaps it's time to rethink an antitrust exemption for the NCAA. Rather than going from lawsuit to lawsuit — as more seem to be filed almost on a weekly basis at this point — it's time for Congress to step in and create a clear, cohesive framework.

This framework needs to take into account fairness, compliance with antitrust laws, and the principles of amateurism. Such a framework could balance fair compensation for athletes with the principles of education and opportunity that college sports are supposed to represent.

At minimum, any deal needs to serve all athletes without compromising Title IX. Anything less is not just shortsighted — it's a blatant violation of the integrity of collegiate athletics.

William Lavery is a partner and Dodi Allocca is an associate at Clifford Chance LLP.

[1] See Fontenot et al. v. NCAA, 1:23-cv-03076 (D. Col.); Hill et al. v. NCAA, 4:25-cv-01011 (N.D. Cal.); Allen et al. v. NCAA, 2:25-cv-00014 (E.D. Ky.).

[2] Objection to Amended Settlement Agreement and Opposition to Final Settlement Approval Based on Failure to Apply Title IX and Request to Speak at Approval Hearing, ECF No. 618, 4:20-cv-3919 (Jan. 31, 2025). https://static1.squarespace.com/static/5ad3f3d836099b72e443cc35/t/67a0ed4ca579026b85cdda09/1738599771132/show_temp+%2835%29.pdf.

[3] See Plaintiffs' Motion for Final Settlement Approval and Omnibus Response to Objections, ECF No. 717, 4:20-cv-3919 (Mar. 3, 2025).

[4] Statement of Interest of United States of America, ECF No. 595, 4:20-cv-3919 (Jan. 17, 2025), https://fingfx.thomsonreuters.com/gfx/legaldocs/akveeldazvr/DOJ%20statement%20NCAA%20NIL.pdf.

[5] See, e.g., Several Big Ten Universities Bleed Red Ink In Their Athletics Budgets, Forbes (Jan. 28, 2025) https://www.forbes.com/sites/michaeltnietzel/2025/01/28/several-big-ten-universities-bleed-red-ink-in-their-athletics-budgets/ ("A recent Forbes article reported that many schools are struggling with deficits due to rising costs like coaching salaries, facility maintenance, and compliance expenditures. And the NCAA's financial model already resulted in concentrated revenue among a few elite programs. With the new NIL rules and NCAA settlement, if approved, revenue and resources would likely flow even more toward high-profile programs at Power 4 schools, further disadvantaging smaller schools").

[6] Clemson AD Neff says school will fully fund NCAA settlement and add 150 scholarships in two years, Associated Press (Nov. 26, 2024), https://apnews.com/article/clemson-neff-ncaa-settlement-740c62b8d694d437ceba1e77618ea32b.