

THE
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North Carolina Court Dismisses NCAA from Lawsuit Related to UNC's Academic Fraud Scandal

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District Court Judge Loretta Biggs has dismissed the NCAA from the putative class action filed by former UNC-Chapel Hill women's basketball player Rashanda McCants and former UNC football player Devon Ramsay alleging state law claims against the NCAA and UNC. [McCants, et al. v. NCAA, et al.](#), No. 1:15-cv-176 (M.D. N.C. Aug. 12, 2016).

The plaintiffs asserted claims of negligence and breach of fiduciary duty against the NCAA, alleging that from 1989 to 2011, UNC enrolled students in the African and Afro-American Studies Department ("AFAM") independent studies classes that involved no instruction or no faculty supervision and required no class attendance. Student-athletes accounted for a disproportionately high percentage of enrollments in these classes.

The plaintiffs alleged that the NCAA:

1. "voluntarily assumed a duty to protect the education and educational opportunities of student-athletes (including the provision of academically sound courses) participating in NCAA-sponsored athletic programs at NCAA member institutions"; and
2. "voluntarily assumed a fiduciary duty — which includes duties of loyalty, cooperation, honesty, good faith and fair dealing, and the exercise of due care — to protect the education and educational opportunities of student-athletes (including the provision of academically sound courses) participating in NCAA-sponsored athletic programs at NCAA member institutions."

The NCAA argued the plaintiffs have not plausibly alleged that it has assumed such a duty to protect or the existence of a fiduciary relationship or a fiduciary duty between them and the NCAA. The court agreed with the NCAA.

With respect to the negligence claim, Plaintiffs alleged that the NCAA has a duty of reasonable care in safeguarding the provision of "academically sound classes" at UNC the court found the plaintiffs' 259-paragraph, 100-page complaint contained "generalized, sweeping assertions." The court said, "public statements by NCAA officials, as well as general, gratuitous statements contained in NCAA governing documents and on its website . . . are insufficient as a matter of law to support imposition of a legal duty upon the NCAA premised on the voluntary undertaking doctrine under North Carolina law." Similarly, "Plaintiffs' reliance on the NCAA's adoption of rules and regulations, including the administration of its eligibility requirements, fails as a matter of law to support Plaintiffs' claim that the NCAA assumed a duty to ensure the 'academic soundness' of classes offered at UNC-Chapel Hill."

With respect to the breach of fiduciary duty claim, the court stated,

"The breadth of [Plaintiffs'] allegations would seem to suggest that Plaintiffs seek to impose a fiduciary duty on the NCAA to safeguard the 'academic soundness' of classes to the 'more than 170,000 college athletes [that] compete in [Division I] NCAA-sanctioned sports each year.'"

North Carolina courts have consistently declined to recognize a fiduciary relationship in the academic setting, such as between a university and its students, and the court found no basis

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to conclude the NCAA assume such a duty in this case.

The court “recognized that the public has a strong interest in the myriad of policy concerns surrounding the NCAA’s role in intercollegiate athletics and in connection with the alleged academic improprieties that took place at UNC Chapel Hill; however, the scope of [its] authority is limited to a determination of whether Plaintiffs have alleged a plausible claim for relief against the NCAA under North Carolina law.” The court concluded the plaintiffs failed as a matter of law to state a plausible claim against the NCAA based on either negligence or breach of fiduciary duty.

Claims against UNC remain, but are stayed pending resolution of whether UNC can assert sovereign immunity.

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