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A Lasting Image: Standing Up to the N.C.A.A.

By [WILLIAM C. RHODEN](#)
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Ed O'Bannon's last basketball season at [U.C.L.A.](#) was in 1995.



G. Paul Burnett/The New York Times

The former U.C.L.A. player Ed O'Bannon has filed suit over the use of likenesses.

Fourteen years later, customers can see images of O'Bannon and his teammates on DVDs and selected video games — and O'Bannon isn't receiving a dime. That may soon change.

Earlier this week, [O'Bannon sued the N.C.A.A.](#), as well as Collegiate Licensing Company, member colleges and athletic conferences, as part of a class-action suit. His complaint maintains that former athletes should be compensated by the N.C.A.A. for the use of their likenesses in television advertisements, video games and apparel.

The N.C.A.A. has yet to respond, but you have to assume that the nation's greatest unofficial monopoly is beginning to sweat. This is the latest suit challenging the N.C.A.A.'s unbridled arrogance and the iron-fisted control of its chief commodity: athletes.

This spring [Sam Keller filed a class-action lawsuit](#) against the video-game maker Electronic Arts and the N.C.A.A., arguing that they illegally profit from images of college football and basketball players.

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Last month, Ryan Hart, a former Rutgers quarterback, filed a similar lawsuit against Electronic Arts. Each case raises the question of whether the N.C.A.A. owns a player's image in perpetuity. To put it another way: Does accepting an athletic scholarship obligate an athlete to turn his image over to the N.C.A.A. forever and always?

O'Bannon left U.C.L.A. in 1995. Does the N.C.A.A. have the right to continue to make money off O'Bannon and his teammates without compensation?

"Is that part of what an athlete's grant-in-aid is about?" asked Richard M. Southall, the director of the [College Sport Research Institute](#) at the [University of North Carolina](#). "You've left the plantation and now 15 years later you have a wife and children and the plantation still owns you, no matter what."

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College merchandise licensing is a \$4-billion-a-year industry, and the N.C.A.A. has cornered the market. An N.C.A.A. business partner, Thought Equity Motion, has called the N.C.A.A.'s video content archive "one of the most unique and valuable content collections in the world."

As Southall noted: "Everybody recognizes that college sports is big business — nobody questions that. But over the 100 years we've become comfortable with the system as it is and nobody wants to change it."

The N.C.A.A. has had a sweetheart deal for years — using players' likenesses, selling jerseys with popular players' numbers and using athletes as uncompensated on-campus entertainment. Of course, athletes and their parents have had their own sweetheart deal, choosing colleges for sports and not for an academic fit.

There is not a lot of sympathy these days for athletes' woes — at any level. The perception is that scholarship athletes and their families receive a pretty good deal. Yes, the hours are long and daily practices make this a rigorous part-time job.

"The general thinking among the public is that, 'It could be a heck of a lot worse — you should be just be thankful for what the school has given you,' " Southall said. If that means eternal rights to your image, then so be it.

And the public does not care.

Just wait. Come September, college football stadiums from Harvard to Southern California will be filled with fans. Fans do not worry about steroids or licensing issues; they just want to be entertained.

O'Bannon's case and the others raise an old but still unanswered question: Who protects the college athlete? In the [N.F.L.](#), a players association protects players against owners. In major league baseball and the [N.B.A.](#), unions look after the players' interests.

Not so in college.

The N.C.A.A. describes itself as "the organization through which colleges and universities of the nation speak on athletics at the national level." The N.C.A.A. tries to act as mother, father and paternalistic overseer who supposedly knows what's best for the young athlete.

But don't count on it.

Every year, beginning in their freshman season, scholarship athletes are compelled to sign mountains of forms.

How many athletes or parents or guardians read the forms? How many challenge the athletic department? College administrators and coaches pay lip service to "educating the kids," but how many insist that their new recruits know exactly what they are signing?

More to the point, how many recruits — and parents of recruits — have the nerve to tell [Duke's Mike Krzyzewski](#) or Tennessee's Pat Summit that, based on a lawyer's advice, they are not signing anything granting a release of their image.

All involved usually are too filled with gratitude and ego to consider reading between the lines.

"Until someone says something, stuff can go on," Southall said. "Nobody wants to be the athlete who's blackballed. Nobody wants to be the test case that's thrown out."

Ed O'Bannon wishes he had raised the question and resisted 15 years ago. Perhaps as a result of his suit, future athletes won't have to.

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