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9
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF SANTA CLARA

12 HAYLEY HODSON, an individual,)

CASE NO. 18CV325565

13 Plaintiffs,)

COMPLAINT FOR DAMAGES

14 v.)

DEMAND FOR JURY TRIAL

15 STANFORD UNIVERSITY, a California)
16 Nonprofit Organization; NATIONAL)
17 COLLEGIATE ATHLETIC)
18 ASSOCIATION, (aka the "NCAA"); and)
19 DOES 1-100,)

20 Defendants.)
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1 COMPLAINT

2 HAYLEY HODSON, an individual, (hereinafter "Plaintiff") brings this action and alleges the
3 following against Defendants Stanford University (hereinafter "Stanford"), National Collegiate Athletic
4 Association (hereinafter "NCAA"), and DOES 1-100, inclusive, (hereinafter collectively "Defendants"),
5 and each of them as follows:
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7 I.

8 FACTUAL BACKGROUND

9 1. PLAINTIFF Haley Hodson (hereinafter "PLAINTIFF") participated in Defendants NCAA's
10 Volleyball program while attending Stanford University. As a result of Defendants' actions and omissions,
11 as further described below, PLAINTIFF sustained various injuries, including, but not limited to, severe
12 injuries to her brain.

13 2. Defendants violated their professional duty of care by failing to provide PLAINTIFF with
14 proper medical care. Defendants denied PLAINTIFF proper and adequate medical treatment and cleared
15 PLAINTIFF to actively compete in a Volleyball program hosted by Defendants after she sustained serious
16 injuries.

17 II.

18 THE PARTIES

19 **PLAINTIFF**

20 3. Plaintiff, Hayley Hodson, (hereinafter "Plaintiff") is a resident of the County of Los
21 Angeles, in the State of California. PLAINTIFF participated in Defendants NCAA's Volleyball program
22 from 2015 through 2016. In particular, Plaintiff was the star player of Stanford University Women's
23 Volleyball team in 2015. As a result of Defendants' actions and omissions, as further described below,
24 Plaintiff sustained various injuries, including, but not limited to, severe injuries to her brain.

25 **Defendants:**

26 4. Defendant the National Collegiate Athletic Association (hereinafter "NCAA") is an
27 unincorporated association of private and public colleges and universities which governs intercollegiate
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1 athletics. Its principal place of business is located in Indianapolis, Indiana. As an unincorporated
2 association it is a citizen of each state its member is a citizen, including the State of California.

3 5. Defendant Stanford University (hereinafter "Stanford") was, and is, a corporation duly
4 organized and existing under the laws of the State of California with its principal place of business in Palo
5 Alto, Santa Clara County, California.

6 6. Plaintiff is informed and believes, and based thereupon alleges, that at all times mentioned
7 herein, Defendants, and each of them, including DOES 1 through 100, were the agents, servants,
8 employees, alter-egos, and/or joint venturers of their co-Defendants, and were, as such, acting within the
9 course, scope and authority of said agency, employment and/or joint venture, and that each and every
10 Defendants, as aforesaid, when acting as a principal, was negligent in the selection and hiring of each and
11 every Defendants as an agent, employee and/or joint venturer.

12 7. The true names and/or capacities, whether individual, corporate, associate or otherwise, of
13 Defendants DOES 1 through 100, inclusive, and each of them, are unknown to Plaintiff, who therefore sues
14 said Defendants by such fictitious names. Plaintiff is informed and believes, and upon such information and
15 belief alleges, that each of the Defendants fictitiously named herein as a DOE is legally responsible,
16 negligently or in some other actionable manner, for the events and happenings hereinafter referred to, and
17 proximately caused the injuries and damages to Plaintiff hereinafter alleged. Plaintiff will seek leave of
18 Court to amend this Complaint to assert the true names and/or capacities of such fictitiously named
19 Defendants when the same have been ascertained.

20 **III.**

21 **JURISDICTION AND VENUE**

22 8. This Court has jurisdiction over DEFENDANTS because their extensive business practice
23 has created substantial contact within the State of California.

24 9. Venue is proper in this county because DEFENDANTS' wrongful conduct occurred in the
25 County of Santa Clara.

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IV.

GENERAL ALLEGATIONS

10. DEFENDANTS, STANFORD, NCAA, and DOES 1 through 100 (collectively “DEFENDANTS”) and each of them undertook professional care of PLAINTIFF in or around November 2015.

11. On or about November 2015, PLAINTIFF participated in the NCAA Volleyball program and presented symptoms of brain injuries to DEFENDANTS Stanford and NCAA, after sustaining a forceful hit to the head during volleyball practice located at Stanford University. PLAINTIFF complained of migraines, visual changes, exhaustion, mood changes, and fatigue – all of which are signs of a brain injury. Stanford coaches and trainers were present and tasked with the duty of supervising NCAA participants at Stanford University. DEFENDANTS withheld proper medical care from PLAINTIFF. As a result, PLAINTIFF was forced to cope with untreated brain injuries for a substantial amount of time.

12. The first brain injury occurred in November 2015 during a dangerous practice digging drill and was termed as a “mere concussion” by the team trainer. DEFENDANTS withheld proper medical care from PLAINTIFF. Instead, DEFENDANTS instructed PLAINTIFF to continue to perform multiple drills and play in a volleyball competition, just two days after PLAINTIFF sustained her brain injury. DEFENDANTS NCAA and Stanford failed to follow and/or enforce the NCAA's strict seven day policy for all athletes who are suspected to have suffered a head injury. PLAINTIFF was never given a baseline test nor cleared to return to play.

13. DEFENDANTS Stanford and NCAA directly supervised and assessed PLAINTIFF'S readiness to return to play. DEFENDANTS Stanford and NCAA disregarded all evaluations and brain injury indicators demonstrating PLAINTIFF'S lack of readiness to return to the court. DEFENDANTS disregarded laws, performance readiness guidelines, and the fundamental tenants of coaching by returning PLAINTIFF to the court before she satisfied any and all performance readiness requirements. NCAA performance readiness guidelines require coaches and trainers to closely evaluate a participant suffering from a brain injury. Furthermore, NCAA performance readiness guidelines require coaches and trainers to remove said athletes suspected of brain injuries from practice and competitions until the participant is

1 completely symptom free. NCAA uses a seven day return to play process to monitor NCAA athletes' brain
2 injuries and to evaluate the health of players.

3 14. According to the NCAA performance readiness guidelines, once all symptoms diminish, the
4 athlete is placed on a seven day return to play trial period. All symptoms must be nonexistent at the time
5 the seven-day period begins, and all symptoms must not resurface by the end of the seven-day period. If a
6 player begins to show symptoms related to the brain injury before the seven-day period ends, then the
7 player must be reevaluated and restart the entire seven-day return to play protocol. DEFENDANT
8 Stanford's concussion protocol is quite different than other places. In fact, Stanford's team doctor admits
9 that that it aggressively returns players back to the game within six days, contrary to the NCAA
10 performance readiness guidelines.

11 15. After Plaintiff sustained a brain injury in November 2015, Plaintiff's visual alertness
12 declined on the court. Despite this fact, DEFENDANTS insisted on PLAINTIFF flying on an airplane for a
13 scheduled game. Stanford coaches and trainers actions exposed her brain injuries to high pressures and high
14 altitudes while in an airplane cabin. In addition, her coaches and trainers compounded the problem by
15 requiring that Plaintiff perform cardio and practice drills, despite the seven day protocol. Plaintiff Haley
16 Hodson's second brain injury was televised live on November 27, 2015. Plaintiff Hodson sustained the
17 second impact to the head area within two weeks of the first hit. Despite the traumatic hit, Plaintiff was not
18 removed from the game or evaluated for brain injury. Despite its severity, Plaintiff's brain injury was not
19 addressed or checked by DEFENDANTS nor Stanford's trainer. Plaintiff again began to experience vision
20 problems and was seen by a retinal specialist, however, Plaintiff did not receive treatment to address her
21 nearly fatal brain injury.

22 16. Thereafter, DEFENDANTS not only ignored PLAINTIFF Hayley Hodson's pleas for help,
23 but DEFENDANTS also coerced PLAINTIFF to participate in the NCAA program with untreated brain
24 injuries. PLAINTIFF complained to her coaches and DEFENDANTS that she was experiencing vision
25 problems. DEFENDANTS ignored PLAINTIFFS complaints and did not provide PLAINTIFF with
26 treatment to address her serious brain injury.

27 17. Brain injuries occur when the brain slams back and forth against the skull, called a coup and
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1 countercoup. Rotational forces cause the brain to twist, which leads to the sheering of long, slender axons
2 of brain cells. This is exactly the type of trauma and injury PLAINTIFF sustained. Therefore PLAINTIFF
3 Hodson's "mere concussions", were in fact serious brain injuries that showed the classic symptoms of brain
4 injury damage and disease. DEFENDANT NCAA identifies the following as symptoms of a concussion:

- 5 • Amnesia
- 6 • Confusion
- 7 • Nausea
- 8 • Loss of consciousness
- 9 • Balance problem or dizziness
- 10 • Double or fuzzy vision
- 11 • Sensitivity to light or noise
- 12 • Headache
- 13 • Feeling sluggish, foggy or groggy
- 14 • Concentration or memory problems
- 15 • Slowed reaction time
- 16 • Headache or "pressure" in head
- 17 • Nausea or vomiting
- 18 • Does not "feel right"
- 19 • Pleas for Help

20 18. The obvious signs from Plaintiff, however, did not concern either DEFENDANT Stanford
21 nor DEFENDANT NCAA. DEFENDANTS ignored signs of PLAINTIFF'S apparent brain injury and
22 failed to adequately treat her. Instead, Plaintiff's brain injuries were masked and overlooked as Stanford
23 instructed PLAINTIFF to continue competing and take medication at high doses.

24 19. Defendants supposedly adhere to strict policies and requirements, demanding all NCAA
25 players to perform a base line test. However, DEFENDANT Stanford University failed to conduct a base
26 line test on Plaintiff. As a result of DEFENDANTS' negligent enforcement and monitoring of NCAA
27 Women's Volleyball program at Stanford University, PLAINTIFF sustained two brain injuries, which were
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1 termed "mild" by the team doctor and left untreated. As a result of DEFENDANTS' failure to adequately
2 treat PLAINTIFF'S condition, PLAINTIFF sustained a severe brain injury.

3 20. PLAINTIFF struggled with brain injury symptoms from the end of the 2015 season to the
4 beginning of the 2016 season. PLAINTIFF was forced to rely on Stanford's medical clearances and submit
5 to NCAA authority because Stanford University coaches and trainers only accepted medical clearances and
6 evaluations from medical providers located in Stanford institutions. Defendants concealed the true nature
7 and cause of Plaintiff's injuries from Plaintiff. Plaintiff did not begin to discover her alleged injuries and
8 their cause until on or around March 2017.

9 21. While Stanford allegedly had concussion protocol, or had knowledge of it, it did not follow
10 said protocol.

11 22. Instead of placing the athletes' health and wellbeing above all else, DEFENDANTS Stanford
12 and NCAA created an environment where players would be punished if they disclosed their injuries or
13 sought relief. Indeed, players that were injured, including those that were diagnosed with a brain injuries,
14 were required to return to the game without proper medical treatment and ridiculed for taking time off to
15 recover.

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17 **V.**

18 **FIRST CAUSE OF ACTION:**

19 **NEGLIGENCE**

20 **(As Against All Defendants and Does)**

21 23. Plaintiff re-alleges and incorporates by reference each of the preceding allegations in this
22 complaint as though fully set forth at length herein.

23 24. DEFENDANTS NCAA, Stanford, and DOES 1 through 100, and each of them, have
24 violated Section 323 of the Restatement (Second) of Torts as adopted by the Courts in California, which
25 states that:

26 One who undertakes, gratuitously or for consideration, to render services to another which
27 he should recognize as necessary for the protection of the other's person or things, is
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1 subject to liability to the other for physical harm resulting from his failure to exercise
2 reasonable care to perform his undertaking, if (a) his failure to exercise such care increases
3 the risk of such harm, or (b) the harm is suffered because of the other's reliance upon the
4 undertaking.

5 25. Each Defendant voluntarily assumed a duty to protect the health and safety of amateur
6 participants of the NCAA volleyball, including Plaintiff.

7 26. Defendant NCAA voluntarily created a volleyball program for amateur athletes. By and
8 through this program, Defendant NCAA created an environment wherein amateur athletes, under
9 Defendant NCAA's supervision, engage in an activity that increases the risk to their health and safety.
10 Moreover, Defendant NCAA develops rules and regulations governing NCAA players and coaches while
11 engaged in Defendant's program.

12 27. Defendants breached their duty to Plaintiff, as a NCAA participant, to use ordinary care to
13 protect her physical and mental health, and to prevent her from being exposed to unreasonable risk of
14 injury, and thereby increasing Plaintiff's risk of harm and future injury.

15 28. Moreover, Defendants NCAA, Stanford, and DOES 1 through 100, and each of them, have
16 failed to ensure that actions with regard to injuries does not increase the risk to Plaintiff.

17 29. DEFENDANTS failure to fulfill their assumed duties to protect amateur NCAA participants,
18 including Plaintiff, include, but is not limited to, the following failures:

- 19 a. Failure to regulate and monitor practices, games, rules, coaches and medical care so
20 as to minimize the long-term risks associated with brain injuries including repetitive
21 sub-concussive hits suffered by Plaintiff;
- 22 b. Failure to require that an adequate brain injury history be taken of NCAA
23 participants;
- 24 c. Failure to ensure accurate diagnosis and recording of a brain injury so the condition
25 can be treated in an adequate and timely manner;
- 26 d. Failure to prevent the increased risk of injury to amateur athletes through repetitive
27 head trauma.

1 30. Moreover, DEFENDANTS breached their assumed duty to protect Plaintiff's health and
2 safety by failing to ensure that coaches are adequately trained and educated on the risks to amateur athletes
3 of developing brain injury, damage or disease.

4 31. Under all of the above circumstances, it was reasonably foreseeable that DEFENDANTS'
5 violations of their duties would cause or substantially contribute to the personal injuries suffered by
6 Plaintiff.

7 32. The aforementioned acts and omissions of the DEFENDANTS demonstrate that each
8 Defendant acted with callous indifference to the rights and duties owed to Plaintiff.

9 33. DEFENDANTS acted willfully, wantonly, egregiously, with reckless abandon, and with a
10 high degree of moral culpability.

11 34. DEFENDANTS committed acts of omission and commission, which collectively and
12 severally, constituted gross negligence. DEFENDANTS' gross negligence was a proximate and producing
13 cause of the personal injuries and other damages suffered by Plaintiff.

14 35. DEFENDANTS concealed the true nature and cause of PLAINTIFF'S injuries from
15 PLAINTIFF.

16 36. Plaintiff did not begin to discover her alleged injuries and their cause until on or around
17 March 2017.

18 37. As a direct and proximate result of Defendants' gross negligence, Plaintiff was injured in her
19 health, strength, activity, mind, sustaining injuries to her body, all of which have caused Plaintiff physical,
20 mental, and emotional pain and suffering in a sum exceeding the jurisdictional limits of this Court.

21 38. Defendants' acts of gross negligence as alleged herein were oppressive and malicious within
22 the meaning of California Civil Code § 3294 in that they were willful and done with a conscious disregard
23 of Plaintiff's rights and safety, and that they subjected Plaintiff to cruel and unjust hardship. Plaintiff is
24 thus entitled to an award of punitive damages in an amount appropriate to punish and make an example of
25 Defendants.

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1 VI.

2 SECOND CAUSE OF ACTION:

3 MEDICAL NEGLIGENCE

4 (As Against All Defendants and Does)

5 39. Plaintiff re-alleges and incorporates by reference each of the preceding allegations in this
6 complaint as though fully set forth at length herein.

7 40. Plaintiff, was under the exclusive care and treatment of Defendants, and DOES 1 through
8 100, inclusive, and each of them, related to complaints brain injury. Defendants, and DOES 1 through 100,
9 inclusive, and each of them, negligently and carelessly examined, misdiagnosed, cared for and treated
10 Plaintiff, failing to follow the standard of care in common practice during such time in the community,
11 thereby causing Plaintiff to suffer injuries and damages.

12 41. DEFENDANTS concealed the true nature and cause of PLAINTIFF'S injuries from
13 PLAINTIFF.

14 42. Plaintiff did not begin to discover her alleged injuries and their cause until on or around
15 March 2017.

16 43. As a direct and proximate result of the gross negligence and carelessness of Defendants',
17 Plaintiff was injured in her health, strength, activity, mind, sustaining injuries to her body, all of which
18 have caused Plaintiff physical, mental, and emotional pain and suffering in a sum exceeding the
19 jurisdictional limits of this Court.

20 44. Defendants' acts of gross negligence and carelessness as alleged herein were oppressive and
21 malicious within the meaning of California Civil Code § 3294 in that they were willful and done with a
22 conscious disregard of Plaintiff's rights and safety, and that they subjected Plaintiff to cruel and unjust
23 hardship. Plaintiff is thus entitled to an award of punitive damages in an amount appropriate to punish and
24 make an example of Defendants.

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VII.

THIRD CAUSE OF ACTION

INDIVIDUALLY AND ON BEHALF OF THE CLASS MEMBERS:

FRAUD

(As Against All Defendants and Does)

45. Plaintiff re-alleges and incorporates by reference each of the preceding allegations in this complaint as though fully set forth at length herein.

46. According to California Code of Civil Procedure §1709 "One who willfully deceives another with intent to induce him to alter his position to his injury or risk, is liable for any damage which he thereby suffers." C.C.P. §1710 further states "A deceit, within the meaning of the last section, is either:

The suggestion, as a fact, of that which is not true, by one who does not believe it to be true; The assertion, as a fact, of that which is not true, by one who has no reasonable ground for believing it to be true; The suppression of a fact, by one who is bound to disclose it, or who gives information of other facts which are likely to mislead for want of communication of that fact; or, A promise, made without any intention of performing it."

47. DEFENDANTS NCAA, Stanford, and DOES 1 through 100, and each of them, made material misrepresentations to volleyball participants, including Plaintiff, and the public at large regarding the safety of volleyball for amateur participants and the level of training, education, and oversight provided by the coaches of NCAA volleyball.

48. DEFENDANTS concealed the true nature and cause of PLAINTIFF'S injuries from PLAINTIFF.

49. Persons and or entities, made misrepresentations as agents and/or representatives of DEFENDANTS and furthermore, DEFENDANTS intended to defraud, amongst others illegal actions, Plaintiff, in order to encourage her participation in volleyball programs, including, but not limited to, the NCAA's program.

50. Plaintiff justifiably relied on DEFENDANTS NCAA, Stanford, and DOES 1 through 100, and each of them, misrepresentations to her detriment.

1 51. DEFENDANTS NCAA, Stanford, and DOES 1 through 100, and each of them, knew that
2 Plaintiff would rely on their respective misrepresentations.

3 52. Plaintiff was damaged by these misrepresentations made by DEFENDANTS.

4 53. Plaintiff did not begin to discover her alleged injuries and their cause until on or around
5 March 2017.

6 54. As a direct and proximate result of Defendants' fraudulent conduct, Plaintiff was injured in
7 her health, strength, activity, mind, sustaining injuries to her body, all of which have caused Plaintiff
8 physical, mental, and emotional pain and suffering in a sum exceeding the jurisdictional limits of this
9 Court.

10 55. Defendants' acts of fraudulent conduct as alleged herein were oppressive and malicious
11 within the meaning of California Civil Code § 3294 in that they were willful and done with a conscious
12 disregard of Plaintiff's rights and safety, and that they subjected Plaintiff to cruel and unjust hardship.
13 Plaintiff is thus entitled to an award of punitive damages in an amount appropriate to punish and make an
14 example of Defendants.

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16 **VIII.**

17 **FOURTH CAUSE OF ACTION**

18 **INDIVIDUALLY AND ON BEHALF OF THE CLASS MEMBERS:**

19 **FRAUDULENT CONCEALMENT**

20 **(As Against All Defendants and Does)**

21 56. Plaintiff re-alleges and incorporates by reference each of the preceding allegations in this
22 complaint as though fully set forth at length herein.

23 57. According to C.C.P. §1709 "One who willfully deceives another with intent to induce him to
24 alter his position to his injury or risk, is liable for any damage which he thereby suffers." C.C.P. §1710
25 further states "A deceit, within the meaning of the last section, is either:

26 a. The suggestion, as a fact, of that which is not true, by one who does not believe it to be true;

27 b. The assertion, as a fact, of that which is not true, by one who has no reasonable ground for
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1 believing it to be true;

2 c. The suppression of a fact, by one who is bound to disclose it, or who gives
3 information of other facts which are likely to mislead for want of communication of
4 that fact; or,

5 d. A promise, made without any intention of performing it."

6 58. DEFENDANTS NCAA, Stanford, and DOES 1 through 100, and each of them, concealed
7 from Plaintiff the increased risks and health consequences of amateur volleyball players who sustain
8 repetitive sub-concussive hits and brain injuries.

9 59. Moreover, DEFENDANTS NCAA and Stanford misrepresented that (1) the standards
10 promulgated by Defendants were sufficient to protect amateur NCAA volleyball participants, (2) injury
11 procedures and protocols are followed to address potential athlete injuries; and (3) coaches are adequately
12 supervised to ensure player safety.

13 60. Defendants also misrepresented the level of training and education received by their coaches
14 so as to instill a false sense of security in Plaintiff regarding the safety of the NCAA.

15 61. Defendants, through misleading advertisements, public statements and published articles
16 misrepresented the level of risk associated with college volleyball and concealed the lack of adequate
17 safeguards and checks and balances to ensure the safety of NCAA volleyball participants.

18 62. Defendants willfully concealed their omissions and false representations from Plaintiff in
19 order to prevent negative publicity and induce Plaintiff to participate in the NCAA program.

20 63. Defendants NCAA, Stanford, and DOES 1 through 100, and each of them, knew that
21 Plaintiff would rely on the inaccurate information they provided.

22 64. Plaintiff relied on this inaccurate information during their enrollment in Defendants' sports
23 programs.

24 65. Plaintiff had no way of knowing that DEFENDANTS' representations were false and
25 dangerously misleading.

26 66. Plaintiff reasonably relied on Defendants care and treatment of her injuries. Moreover,
27 Plaintiff reasonably relied on Defendants representations that Plaintiff was receiving adequate care
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1 treatment.

2 67. Moreover, DEFENDANTS concealed the true nature and cause of PLAINTIFF'S injuries
3 from PLAINTIFF.

4 68. Plaintiff did not begin to discover her alleged injuries and their cause until on or around
5 March 2017.

6 69. As a direct and proximate result of Defendants' fraudulent concealment, Plaintiff was injured
7 in her health, strength, activity, mind, sustaining injuries to her body, all of which have caused Plaintiff
8 physical, mental, and emotional pain and suffering in a sum exceeding the jurisdictional limits of this
9 Court.

10 70. Defendants' acts of fraudulent concealment alleged herein were oppressive and malicious
11 within the meaning of California Civil Code § 3294 in that they were willful and done with a conscious
12 disregard of Plaintiff's rights and safety, and that they subjected Plaintiff to cruel and unjust hardship.
13 Plaintiff is thus entitled to an award of punitive damages in an amount appropriate to punish and make an
14 example of Defendants.

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16 **IX.**

17 **FIFTH CAUSE OF ACTION**

18 **INDIVIDUALLY AND ON BEHALF OF THE CLASS MEMBERS:**

19 **NEGLIGENT MISREPRESENTATION**

20 **(As Against All Defendants and Does)**

21 71. Plaintiff re-alleges and incorporates by reference each of the preceding allegations in this
22 complaint as though fully set forth at length herein.

23 72. Defendants made multiple material misrepresentations to Plaintiff through public
24 statements, published articles and advertisements which Defendant NCAA, knew or should have known,
25 were misleading. These material misrepresentations involve: (1) the safety of the NCAA; (2) the
26 supervision of NCAA participants and coaches; and (3) the level of training and education received by the
27 coaches of NCAA volleyball.

1 73. In particular, Defendant NCAA website states, "If you think you had a concussion, don't
2 hide it, report it, take time to recover, it's better to miss one game than the whole season. When in doubt,
3 get checked out." The website goes on to state "A student-athlete who exhibits signs, symptoms or
4 behaviors consistent with a concussion, either at rest or during exertion, should be removed immediately
5 from practice or competition and should not return to play until cleared by an appropriate health care
6 professional. Sports have injury timeouts and player substitutions so that student-athletes can receive
7 appropriate medical evaluation. IF A CONCUSSION IS SUSPECTED: Remove the student-athlete from
8 play. Look for the signs and symptoms of concussion if the student-athlete has experienced a blow to the
9 head. Do not allow the student-athlete to just 'shake it off.' Each student-athlete will respond to
10 concussions differently."

11 74. Plaintiff is informed and believes, and upon such information and belief alleges, that
12 Defendants do not check whether coaches maintain record of student-athletes return to play authorization.
13 Plaintiff is informed and believes, and upon such information and belief alleges, that Defendants do not
14 properly maintain the volleyball participants baseline test.

15 75. DEFENDANTS failed to warn Plaintiff of the increased risk of brain injuries, due to the
16 lack of oversight and regulation surrounding player safety and performer readiness.

17 76. Defendants knew or should have known that coaches are inadequately supervised and
18 trained to ensure Plaintiff's safety, as a participant of NCAA volleyball.

19 77. DEFENDANTS Stanford University, NCAA and DOES 1 through 100, and each of them,
20 made these misrepresentations and actively concealed adverse information at a time when DEFENDANTS
21 knew, or should have known, because of their superior position of knowledge, that the statements and
22 representations were not true.

23 78. DEFENDANTS Stanford University, NCAA and DOES 1 through 100, and each of them,
24 knew or should have known of the misleading nature of these statements when they were made.

25 79. Although DEFENDANTS Stanford University, NCAA and DOES 1 through 100, and each
26 of them, may have honestly believed that their representations were true, they had no reasonable grounds
27 for believing that the representations were true when they made them.
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1 80. Plaintiff reasonably relied on DEFENDANTS Stanford University, NCAA and DOES 1
2 through 100, and each of them, misrepresentations to their detriment when deciding whether to participate
3 and/or enroll in NCAA Women's Volleyball program.

4 81. Plaintiff reasonably relied on Defendants care and treatment of her injuries. Moreover,
5 Plaintiff reasonably relied on Defendants representations that Plaintiff was receiving adequate care
6 treatment.

7 82. DEFENDANTS Stanford University, NCAA, and DOES 1 through 100, and each of them,
8 knew, or should have known, that Plaintiff would rely on DEFENDANTS' misrepresentations.

9 83. DEFENDANTS Stanford University, NCAA and DOES 1 through 100, and each of them,
10 made misrepresentations and actively concealed information with the intention that Plaintiff would rely on
11 said misrepresentations or omissions in selecting their course of action.

12 84. Plaintiff was damaged by DEFENDANTS' misrepresentations.

13 85. Plaintiff did not begin to discover her alleged injuries and their cause until on or around
14 March 2017.

15 86. As a direct and proximate result of Defendants' negligent misrepresentations, Plaintiff was
16 injured in her health, strength, activity, mind, sustaining injuries to her body, all of which have caused
17 Plaintiff physical, mental, and emotional pain and suffering in a sum exceeding the jurisdictional limits of
18 this Court.

19 87. Defendants' acts of negligent misrepresentation as alleged herein were oppressive and
20 malicious within the meaning of California Civil Code § 3294 in that they were willful and done with a
21 conscious disregard of Plaintiff's rights and safety, and that they subjected Plaintiff to cruel and unjust
22 hardship. Plaintiff is thus entitled to an award of punitive damages in an amount appropriate to punish and
23 make an example of Defendants.

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X.

SIXTH CAUSE OF ACTION

INDIVIDUALLY AND ON BEHALF OF THE CLASS MEMBERS:

VIOLATION OF BUSINESS & PROFESSIONS CODE § 17200 et seq.;

DECEPTIVE BUSINESS PRACTICES

(As Against All DEFENDANTS and DOES)

88. Plaintiff re-alleges and incorporates by reference each of the preceding allegations in this complaint as though fully set forth at length herein.

89. The conduct of DEFENDANTS NCAA, Stanford and DOES 1 through 100, and each of them, with respect to the systematic marketing and deception NCAA participants, both amateur athletes and the parents and/or guardians of said athletes, including Plaintiff, as more particularly described above is an unlawful or deceptive business practice within the meaning of California Business and Professions Code § 17200. DEFENDANTS' unlawful practices include Defendants misrepresentations through advertising that their program provided a safe environment for amateur athletes. These statements were made despite DEFENDANTS' knowledge of the inadequate safety precautions for amateur athletes.

90. Plaintiff seeks an order requiring DEFENDANTS NCAA, Stanford and DOES 1 through 100, and each of them, to immediately cease such acts of unlawful, deceptive and misleading advertising and enjoining DEFENDANTS from continuing to violate Business & Professions Code § 17200 et seq. Plaintiff additionally request an order requiring DEFENDANTS to engage in a corrective advertising campaign. Plaintiff also requests an order requiring DEFENDANTS to make restitution to Plaintiff of all monies wrongfully acquired by DEFENDANTS by means of their violations of Business & Professions Code § 17200 et seq.

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1 XI.

2 SEVENTH CAUSE OF ACTION

3 INDIVIDUALLY AND ON BEHALF OF THE CLASS MEMBERS:

4 VIOLATION OF BUSINESS & PROFESSIONS CODE

5 SECTION 17500 et seq.

6 (As Against All DEFENDANTS and DOES)

7 91. Plaintiff re-alleges and incorporates by reference each of the preceding allegations in this
8 complaint as though fully set forth at length herein.

9 92. Business & Professions Code § 17500 prohibits unfair, deceptive, untrue, and misleading
10 advertising.

11 93. DEFENDANTS, NCAA, Stanford and DOES 1 through 100, and each of them, use of
12 various forms of media to advertise, call attention to, or give validity to the sale of services, which are not
13 as represented in their advertising constitutes unfair, deceptive, untrue and/or misleading advertising within
14 the meaning of Business & Professions Code § 17500 et seq. DEFENDANTS' advertising conduct,
15 including their misrepresentations and concealment of the true facts alleged above is likely to have
16 deceived and will continue to deceive Plaintiff, and the public at large. DEFENDANTS should have
17 reasonably known and know that such advertisements were unfair, deceptive, untrue and/or misleading.
18 The misrepresentations and non-disclosures by DEFENDANTS of material facts detailed above constitute
19 unfair, deceptive, untrue and misleading advertising and constitute a violation of Business & Professions
20 Code § 17500, et seq.

21 94. Plaintiff requests an order requiring DEFENDANTS to make restitution to Plaintiff of all
22 monies wrongfully acquired by DEFENDANTS by means of their violations of Business & Professions
23 Code § 17535 et seq.. Pursuant to Business & Professions Code § 17535 et seq. Plaintiff, and the general
24 public, also seek an order requiring DEFENDANTS to immediately cease such acts of deceptive and
25 misleading advertising, including DEFENDANT'S statements surrounding the following: (1) NCAA
26 volleyball is safe for amateur volleyball players, and (2) All coaches are adequately trained to offer the best
27 and safest programs for amateur volleyball participants, and enjoining DEFENDANTS from continuing to
28

1 violate Business & Professions Code § 17500 et seq.

2
3 XII.

4 PRAYER FOR RELIEF

5 WHEREFORE, Plaintiff respectfully request that the Court enter judgment in her favor and against
6 DEFENDANTS, as follows:

7 A. An order temporarily and permanently enjoining DEFENDANTS from continuing the
8 unlawful, deceptive, fraudulent, and unfair business practices alleged in this Complaint;

9 B. An order requiring DEFENDANTS NCAA and Stanford to provide warning labels on all
10 volleyballs including disclosure of the risk of exposure to brain injury and other neurological damage and
11 disease;

12 C. An order requiring DEFENDANTS NCAA to train, discipline, monitor, and properly train
13 all coaches and training staff on how to identify athletes with brain injuries; remove coaches or trainers
14 failing to adhere to safety procedures required to monitor the increased risk of injury; as well as require
15 DEFENDANTS to properly administer and monitor how coaches manage and return to play athletes with
16 brain injuries according to protocol.

17 D. An order requiring DEFENDANTS NCAA and Stanford to provide volleyball safety and
18 design standards designed for amateur volleyball participants;

19 E. For future medical monitoring costs, according to proof;

20 F. Compensatory damages for pain and suffering as well as economic damages for past and
21 future losses, according to be determined at trial;

22 G. Costs, restitution, damages, including punitive damages, and disgorgement in an amount to
23 be determined at trial;

24 ///

25 ///

26 ///

27 ///

1 H. An order requiring DEFENDANTS to pay both pre- and post-judgment interest on any
2 amounts awarded;

3 I. An award of costs and attorneys' fees; and;

4 J. Any other relief the Court may deem appropriate.
5

6 DATED: March 26, 2018

GIRARDI | KEESE

7
8 BY: 

9 THOMAS V. GIRARDI
10 ROBERT W. FINNERTY
11 Attorney for Plaintiffs

12 **XIII.**

13 **DEMAND FOR JURY TRIAL**

14 Plaintiff hereby demand a jury trial for all claims so triable.

15
16 DATED: March 26, 2018

GIRARDI | KEESE

17
18 BY: 

19 THOMAS V. GIRARDI
20 ROBERT W. FINNERTY
21 Attorney for Plaintiffs
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