

Reno : Dr. James Eardley

Mrs. Dorothy S. Gallagher

Mr. Daniel J. Klaich

Gardnerville : Dr. Jill Derby

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to the System that it was a party in the law suit to decide whether the System wished to be in the case as either a plaintiff or a defendant. She stated the purpose of this meeting was to discuss that order and determine how the System should proceed.

General Counsel Klasic stated this was an unusual meeting in that a lawyer/client conference normally is done in private, but because of the Nevada Open Meeting Law, the discussion is to take place in open session. Mr. Klasic acknowledged the presence of other counsel representing parties in the litigation which was also unusual, and that they may wish to lobby the Board during the meeting.

Mr. Klasic related that the 1991 Nevada State Legislature had enacted Chapter 55, Statutes of Nevada 1991, which compels the NCAA to enter into due process procedures before it can impose sanctions upon institutions or require institutions to impose sanctions upon employees. On or about November

- 2) A violation of the First Amendment, interfering with the NCAA's members to clearly associate under their own rules.

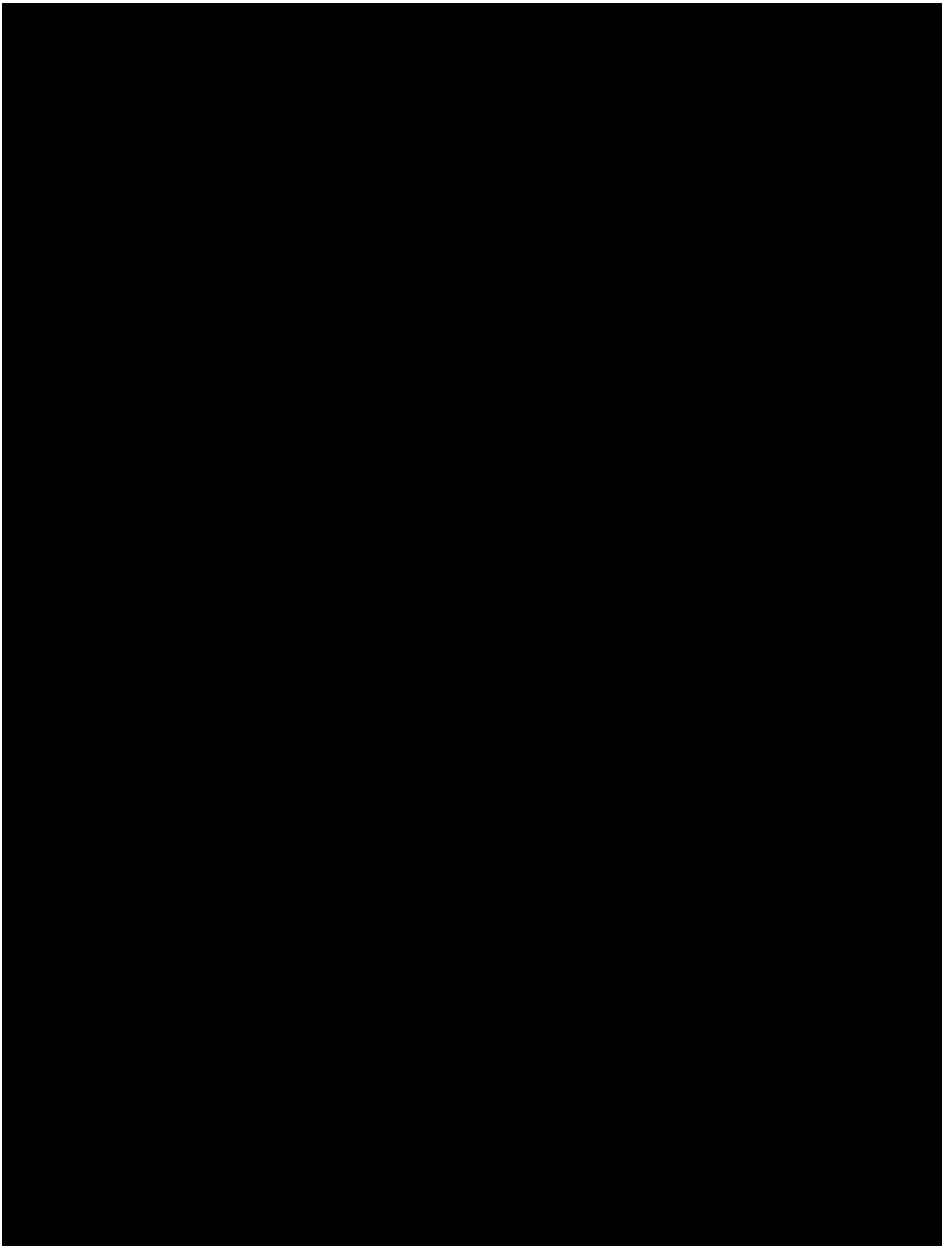
- 3) A violation of the Fourteenth Amendment by forcing the NCAA to be subjected to liability under a vague and over broad statute.

- 4) A violation of the U. S. Constitution prohibition, the impairment of contract, in this case the obligations of the NCAA membership to abide by their own rules and regulations.

Particularly, they are claiming that the NCAA membership have agreed to uniformly apply the rules to everyone and if this law is upheld, and the laws of other states are also upheld, in point of fact this would deny a level playing field to the NCAA membership because there would be in essence, anywhere from 1 to 50 different sets of rules.

(Dr. Hammargren entered the meeting.)

Mr. Klastic continued that at the present tha



defendant, that defendant shall be served with a copy of

this order and the original complaint within five days

may be between plaintiffs and defendants at this time.

Mr. Foley moved that the Regents enter their appearance in this action as intervenors, and that they do so within the time allotted and to request an extension of time until about January 10, 1992 to

quential duty, but failure to do so is not a waiver of the constitutional right otherwise timely asserted."

Mr. Foley stated this fits the Board's position in that last Summer the NCAA promulgated a set of substantive and procedural due process rules. These rules are to be addressed by the NCAA at their meeting in early January, which is the reason Mr. Foley asked for an extension of time. If adopted, Mr. Foley suggested the rules could then be compared with Nevada rules and see what, if any, differences there are. He stated he felt this motion would give the Board the greatest latitude possible at this time.

Dr. Derby asked what would happen after the intervenor

error and Legislature, she felt the NCAA was late in developing

due process procedures and feá

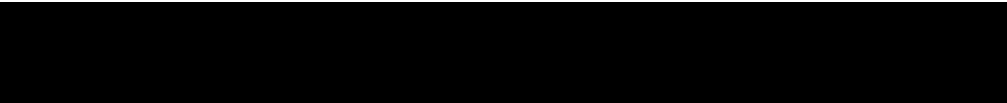
this law suit are Mr. Alsup, Governor Miller (and the Attorney General has filed a motion to have him dismissed), Mr. Jerry Tarkanian, Mr. Tim Grgurich, Mr. Ron Ganulin and Ms. Shelley Fischer. Mr. Klaich asked that if the basis of the suit is to declare the State statute unconstitutional, why are the individuals involved? Mr. Boone stated there is not a specific allegation of unconstitutionality as applied, but it was his understanding that the reasoning behind naming of the individual defendants is that those individuals made specific demands that the Nevada due process statute be followed to the exclusion of the NCAA enforcement procedures in the pending UNLV infractions case. Mr. Alsup, not named in the suit, has served to intervene on the same basis.

Mr. Klaich stated he understood Judge Mc Kibben's point that the NCAA requests that member institutions "punish" individuals rather than imposing any sanctions themselves. However, he wondered whether this lawsuit concerned any particular incident or was about an unconstitutional statute? Mr. Boone stated the prayer for relief in the complaint is a declaration of the unconstitutionality of the statute, but to make clear the the mechanism by which the NCAA operates against individuals if the Infraction Committee finds an individual employee to have committed NCAA violations, then it orders the institution to impose

in the event there is any possibility of a conflict, we can

hire an outside attorney or attorneys to handle the matter for

Mrs. Berkley stated that, notwithstan




where in the law suit does it refer to whether funds are avail-

able. Mr. Klasic stated that UCCSN could not provi

an appearance, you are there for all purposes. And therefore
the first appearance is very important.

Mr. Klastic stated that Regent Klaich had made a very important
point: not to tie the hands of your attorneys here in terms of
possible actions and defenses. He stated th



complaint will be filed naming the Board one or the other, and

he presumed that if no deci

upon the Board's Legal Counsel for advice. He related that he was not called upon as a Regent when the law was developed that someone took advantage of the process and was able to have the bill passed in the Legislature. He related that he understood two things: 1) that the Board policy states it will abide by the NCAA rules, which may have to be changed and 2) that the NCAA's purpose is to keep an honest collegiate program going, and he would not want to go out against them when they are trying to put some sense throughout the country on the type of sports, their legality and how the programs are conducted at the institutions. He stated he would á

is on the defendant's side, the NCAA would clearly look upon it with hostility and suspicion, and may even go against the System on pending matters with the NCAA. He stated that if the Board is on the plaintiff's side and the law is upheld, there would be no liability from these defendants, and reminded the Board that in

and instead it found a way to allow UNLV to pursue a waiver of the rule before the Council at its January meeting. He stated the behavior was far from arbitrary and capricious in manner, and something they did not have to do because the rule is clear, but it took that action because it wished to make available to the institution to seek that waiver.

Nevada State Assemblyman Bob Price stated that he had attended a National Conference for State Legislators in August, 1991, and one of the panel sessions was on collegiate

will dominate the Board's time.

Mr. Foley stated he felt that was a misunderstanding, that the Board is taking a position in support of due process, and that after reading the NCAA proposed rules he feels they will closely follow the Nevada law.

Regent Hammargren stated he felt the Board should follow State law, and should enter the suit as a defendant.

Mr. Alan Burkhalter, attorney for Mr. Jerry Tarkanian, stated he had spent 120 hours studying the State law, and felt that it is constitutional. He related he did not think this suit was a

matter of choosing between academics and athletics, but wat

ess, which will be intensely discussed at the NCAA convention in January and

the motion now reads:

Mr. Foley moved that the Board enters an appearance in this action as intervenors within the time allotted. Mr. Klaich accepted the clarification.

Dr. Hammargren moved to amend the motion that if the Board is not judged as intervenors, that it be judged as a defendant.

Mrs. Berkley seconded.

Upon roll call vote the amendment failed:

Aye: Berkley, Derby, Hammargren, Whitley

Nay: Eardley, Foley, Gallagher, Klaich, Sparks

The original motion carried upon roll call vote:

Aye: Eardley, Foley, Gallagher, Klaich, Whitley, Sparks

Nay: Berkley, Derby, Hammargren

Regent Foley suggested that Board members submit their thoughts to Legal Counsel, that he dr

a statement and present it to the client. The answer must be forwarded to the court by January 3, 1992. In this matter the Board has until January 24, 19 uri