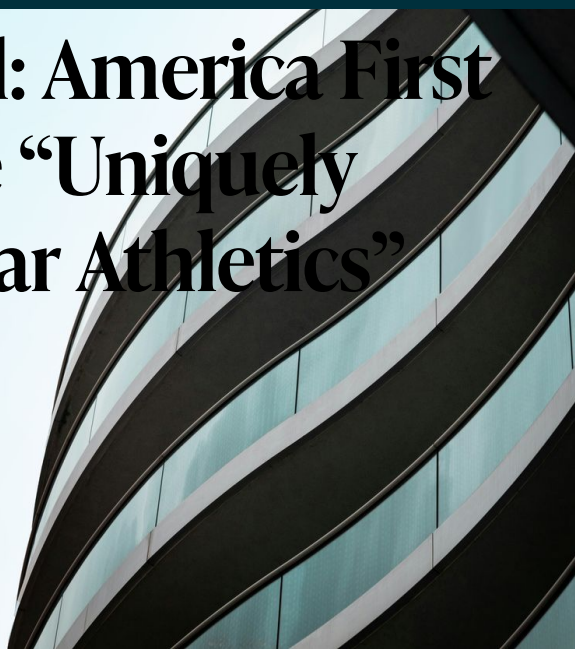
axinn

Keeping an Eye on the Ball: America First Antitrust Weighs in on the "Uniquely American System of Scholar Athletics"



3 MIN READ

June 24, 2025, 8:42 AM
By: Mary Helen Wimberly

Tennessee basketball player Zakai Zeigler has appealed the district court's denial of his bid to secure a preliminary injunction against the NCAA's "Four-Seasons Rule." We will be closely following what the Sixth Circuit does, but a notable aspect of this case took place earlier this month: DOJ filed a statement of interest shortly after the complaint was filed. DOJ's filing shows that this Administration is watching private labor-related antitrust litigation. It also shows that the Trump 2.0 DOJ may not always use discretionary filings to support the position of the worker.

The Four-Seasons Rule limits student-athletes' eligibility to play collegiate athletics to four seasons of competition within a five-year window. Zeigler filed his complaint in late May, claiming a violation of Section 1 of the Sherman Act (as well as Tennessee law). He alleged that the rule is a horizontal restraint among NCAA member institutions to restrict labor supply and that he has lost substantial opportunities for name, image, and likeness ("NIL") compensation because of it.

Just two weeks after the complaint was filed, DOJ filed a statement of interest in the case. DOJ's statement drew from its Supreme Court amicus brief in *NCAA v. Alston*, 594 U.S. 69 (2021), filed under the Biden Administration, showing some continuity across the administrations on DOJ's view of collegiate athletics. DOJ encouraged the district court "to

consider how the [Four-Seasons Rule] may benefit competition in the relevant labor market, including by potentially enhancing the quality of the student-athlete experience."

The district court decided the case at an earlier stage of the analysis, without reaching the potential procompetitive benefits of the Four-Seasons Rule. The court concluded that Zeigler had failed to demonstrate anticompetitive harm in the relevant market. The court described the restraint (the Four-Seasons Rule) as falling on the "labor side of the market," whereas the harm (loss of NIL compensation opportunities) fell on the "wage side of the market." Effectively, the court appeared to conclude that the market for athletic services is distinct from the market for NIL, and harm in the latter did not justify relief from a restraint in the former.

Here are three key takeaways from DOJ's statement of interest:

1. Collegiate athletics are part of "America First Antitrust." DOJ's statement highlighted its "particularly strong interest in ensuring that student-athletes fully benefit from the nation's unique system of intercollegiate athletics" and reiterated "the uniquely American system of scholar athletics." This characterization ties the filing to Assistant Attorney General Gail Slater's description of her enforcement agenda as "America First Antitrust."

2. America First Antitrust will not invariably side with the worker. That said, America First Antitrust does not mean DOJ will file statements of interest only when it agrees with the worker's position. DOJ's *Zeigler* statement declined to take a position on the facts of the case, but the tenor of its argument was more in favor of the Four-Seasons Rule than against it, highlighting the potential procompetitive benefits of the rule. The filing suggests that we may see more DOJ discretionary filings that emphasize the need for a nuanced and fact-specific analysis of labor restraints that do not necessarily favor the worker.

3. DOJ is not arguing that consumer benefits could outweigh labor harm. On the other hand, DOJ's statement of interest departed from its *Alston* brief in one respect that is more favorable to workers. In *Alston*, the Supreme Court explained, "the student-athletes d[id] not question that the NCAA may permissibly seek to justify its restraints in the labor market by pointing to procompetitive effects they produce in the consumer market." The Court, and DOJ in its amicus brief, thus proceeded on the assumption that such "cross-market analysis" was appropriate. DOJ's statement of interest in *Zeigler* does not. DOJ emphasized throughout the statement that the district court's analysis of harms and benefits should take place in "the relevant labor market for student-athletes."

Given DOJ's demonstrated interest in this area, DOJ may well file an amicus brief with the Sixth Circuit. We expect DOJ to continue to keep an eye on private litigation challenging labor restraints. But DOJ's *Zeigler* filing demonstrates that the second Trump Administration's position may not always align with that of the worker.

Related People

Mary Helen Wimberly

Related Services

Antitrust

To subscribe to our publications, click here.

TAGS

regulatory

News & Insights

- ACI 12th Annual Summit for Women Leaders in Life Sciences Law
  SPEAKING ENGAGEMENT **INTELLECTUAL PROPERTY**
- National LGBTQ+ Bar Association Lavender Law Conference and Career Fair 2025
  SPONSORSHIP
- National Bar Association 100th Annual Convention and Exhibits
  SPONSORSHIP **ANTITRUST**
- Keeping Pace: Updates in Cartel Enforcement
  WEBINAR **ANTITRUST**
- Hanging in the Balance: Supreme Court Declines to Decide the Uninjured Class Member Question in Labcorp v. Davis
  AXINN VIEWPOINTS **ANTITRUST**
- New Incentives, New Rewards: What You Need to Know About the Antitrust Division's First-Ever Whistleblower Rewards Program
  AXINN VIEWPOINTS **ANTITRUST**
- Informa Antitrust Midwest
  SPEAKING ENGAGEMENT
- GCR Live: Law Leaders Europe 2025
  SPEAKING ENGAGEMENT **ANTITRUST**
- How I Made Partner: 'Show Up and Build Rapport With Colleagues and Clients,' Says Michael O'Mara of Axinn Veltrop & Harkrider
  MEDIA MENTIONS **ANTITRUST**
- Axinn Counsel Rebecca Clegg Named 2025 MCCA Rising Star
  AWARDS & RECOGNITIONS **INTELLECTUAL PROPERTY**