

STATE OF MICHIGAN
CIRCUIT COURT FOR THE 22ND JUDICIAL CIRCUIT
WASHTENAW COUNTY

THE BOARD OF REGENTS OF THE
UNIVERSITY OF MICHIGAN; JAMES J.
HARBAUGH,

Plaintiffs,

Case No. 23-_____-CB

v.

THE BIG TEN CONFERENCE, INC.; TONY
PETITTI,

Hon.

Defendants.

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**VERIFIED COMPLAINT FOR
INJUNCTIVE RELIEF**

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This case is to be designated as a
Business Court case in accordance with
MCR 2.112(o).

There is no pending or resolved civil
action among the parties arising out of
the same transaction or occurrence
alleged in the Complaint.

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VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF

Plaintiffs, the Board of Regents of the University of Michigan (“University”) and James J. Harbaugh (“Harbaugh”), allege as follows:

Preliminary Statement

This case arises out of the Defendant Big Ten Conference, Inc’s (“Conference”) decision to suspend the head coach of the University of Michigan football team, without providing the University or Harbaugh any of the basic due process protections incorporated into the Conference rules. On November 10, 2023, the Conference stated that it was suspending Coach Jim Harbaugh for three games, because a former junior staff member allegedly breached an NCAA rule prohibiting in-person scouting of opponents (in order to videotape signal calls). That allegation is the subject of an ongoing NCAA investigation, in which no findings have been issued.

The Conference takes this precipitous action as the University is poised to compete for a National Championship, threatening the loss of a once-in-a-lifetime opportunity for dozens of student athletes and irreversible harm to the University’s and Harbaugh’s reputation. Where every game is significant, depriving the team of its longtime coach threatens massive disruption

and places Michigan (unnecessarily and unfairly) at a competitive disadvantage.

The Conference takes this action despite utterly failing to conduct any genuine investigation, much less the investigatory and adjudicatory process required by its own rules. By way of example, the Conference has not interviewed a single witness from the University of Michigan, and while the Conference may have access to some recordings of interviews conducted in the NCAA's investigation, that investigation has yet to interview the junior analyst or the head coach. Moreover, the Conference purports to impose a sanction (suspension) that it lacks any contractual authority to issue—because the Conference has provided no evidence that Coach Harbaugh directed or knew about the underlying alleged scouting violation. This is no surprise: without a meaningful investigation, how could it?

This shoot first, ask questions later approach to sanctions is a flagrant breach of fundamental fairness. It is also a breach of the Big Ten Conference Rules, which constitute a binding contract between the parties (or in the alternative are binding under the doctrine of promissory estoppel). The potential harm and loss of opportunity to the University and its constituents cannot be overstated. Immediate relief is required to preserve the status quo.

Parties

1. Plaintiff, the Board of Regents of the University of Michigan, governs the University of Michigan. It is an arm of the State of Michigan. The University is a public research university headquartered in Ann Arbor, Michigan. Its football team, the Michigan Wolverines, competes in the Conference.

2. Plaintiff Harbaugh is the head coach of the Michigan Wolverines football team, an employee of the University of Michigan, and a resident of Washtenaw County. An affidavit from Plaintiff Harbaugh is attached hereto as Exhibit A.

3. Defendant The Big Ten Conference, Inc. is a collegiate athletic conference. It is a non-profit corporation incorporated in Delaware and headquartered in Illinois. It is a citizen of Illinois.

4. Defendant Tony Petitti is the Conference's Commissioner.

Relevant Non-Parties

5. Warde Manuel is the University's director of athletics.

6. Connor Stalions is a former junior football analyst for the Michigan Wolverines football team. He was employed at Michigan from mid-2022 until he resigned on November 3, 2023.

7. Chad Hawley is the Conference's senior vice president for policy and compliance.

8. The National Collegiate Athletic Association ("NCAA") is an organization that administers intercollegiate athletics in the United States. Both Michigan and the Conference are members of the NCAA.

Jurisdiction and Venue

9. This Court has subject matter jurisdiction of this business or commercial dispute pursuant to MCL §600.605 and MCL § 600.8035(1). The Conference is a nonprofit organization and the contract claims alleged arise out of its governance. MCL §§ 600.8031(1)(c)(iii), 600.8031(2)(d).

10. This Court has personal jurisdiction over the Conference because the Conference does business in the state. MCL §600.1621; MCL § 600.715(1). The Conference has purposefully availed itself of this forum such that it should reasonably anticipate proceedings against it here, and the exercise of jurisdiction over it is reasonable and comports with traditional notions of fair play and substantial justice.

11. This Court has personal jurisdiction over Plaintiff Harbaugh because he is a resident of, and conducts business in, Washtenaw County.

12. Venue for this civil action is proper in this Court under MCL §§ 600.1621(a), 600, 1629, 600.8035(2).

13. This case is not removable to federal court. The University is an arm of the state, and therefore not a “citizen” of the State of Michigan for purposes of federal diversity jurisdiction. *E.g. Ewing v. Bd. of Regents of Univ. of Mich.*, 552 F. Supp. 881 (E.D. Mich. 1982); *see, e.g., Dougherty v. Univ. of Okla. Bd. of Regents*, 415 F. App’x 23 (10th Cir. 2011). Because complete diversity is lacking and there are no federal law claims, federal courts do not have jurisdiction over this complaint. *Louisiana v. Union Oil Co. of California*, 458 F.3d 364, 366 (5th Cir. 2006); *Penn. Pub. Sch. Emps.’ Ret. Sys. v. Morgan Stanley & Co.*, 772 F.3d 111, 118–19 (2d Cir. 2014); *Hood v. F. Hoffman-La Roche, Ltd.*, 639 F. Supp. 2d 25, 33–34 & n.10 (D.D.C. 2009) (“complete diversity is lacking so long as [a state] also is a real party in interest”); *see also Hood v. AstraZeneca Pharms., LP*, 744 F. Supp. 2d 590, 597 (N.D. Miss. 2010) (“[E]ven if [there is another] real party to this controversy, ... complete diversity is destroyed by the presence of the State of Mississippi.”).

Factual Allegations

I. The Big Ten Conference and Its Members Agreed to Follow and Be Bound by Conference Rules, Including the Enforcement Procedures

14. The Big Ten Conference is a collegiate sports organization comprised of the University and 13 of its athletic rivals. Each of the schools admitted to the Conference is a member of the Conference’s corporation. And each school’s president or chancellor sits on the corporation’s board of directors.

15. Like any joint enterprise undertaken by rivals, the Conference relies on agreed-

upon and consistently enforced rules to function. By joining the Conference, each school agrees to follow and to be bound by the corporation's bylaws.¹ Those bylaws incorporate the Big Ten Conference Handbook ("Handbook"),² which itself must be approved by the Conference's board of directors. Bylaws Art. II. And that Handbook contains the rules of organization and procedure that the Conference and each member school agree to follow and be bound by.

16. One of the Handbook's most critical components is the process through which the Conference enforces its rules on member institutions and their constituents, including coaches and student-athletes. Each member school and the Conference itself agreed to be bound by that enforcement process. And each member school expects and has the right to demand that the Conference follow the enforcement process and treat the school and its constituents fairly.

17. The stakes are high: As part of the bargain, each school grants to the Conference the power to investigate its students, coaches, staff, and the school itself. Each school promises to comply with and cooperate with those investigations and to hand over evidence in its possession. And each school grants to the Conference the power to punish not only the school itself but its students, coaches, and staff. The Conference can bar students and staff members from participating in a sport; bar the school from scheduling or participating in games or championships; force the school to forfeit games; strip a school of its right to televise its games; impose fines on students, coaches, and schools; or deny the school the right to its share of in Conference revenue. These potential penalties can and do have enormous consequences for the students, coaches, and staff who are subject to them, not to mention the schools themselves.

18. Given the stakes, it is no surprise that the schools insist that the enforcement

¹ A copy of the Bylaws is attached as Exhibit B.

² A copy of the Handbook is attached as Exhibit C.

process provides various binding procedural protections that the Conference is required to follow. The University relied on the Conference's promise to abide by these standards when it agreed to enter the Conference, chose to remain a member of the Conference, and allowed its student-athletes to participate in Conference events. It relied on these procedures when creating its own compliance and response programs to ensure that it mitigates and resolves conflicts in accordance with the Handbook and Bylaws. Like football itself, an athletics conference cannot function without rules that both sides agree to. What makes the venture possible is the parties' commitment to those rules, particularly when there is a dispute. The University would not have agreed to join, nor remain a member of, the Conference if it did not believe the Conference would protect the institution, its coaches, and its players by adhering to the Bylaws and Handbook.

19. The Handbook establishes the “principle ... that a case, whether major or secondary, shall be administered primarily by *either* the Big Ten *or* NCAA,” because it is the “policy of [the Conference's enforcement] program to avoid duplication [and] increase consistency.” Rule 6.03.C (emphasis added). In complex cases like this one, the NCAA is often “the preferred organization to determine the facts and penalty” “because of its superior resources and experience.” *Id.* For that reason, when, as here, a case has been initiated by the NCAA, Rule 32 of the Handbook requires that “the Conference will cooperate with university and NCAA representatives in the processing of that case through the normal NCAA investigation, hearing and appeal processes.” Rule 32.2.2.C.1. “While the case will be processed through normal NCAA channels, the Conference Compliance and Reinstatement Committee shall review the case and may impose additional penalties, if warranted, *subsequent to* the NCAA action.” Rule 32.2.2.C.2 (emphasis added). Thus, the proper process when there is a pending NCAA

investigation is for the Conference to “cooperate” with the NCAA investigation while “the case [is] processed through normal NCAA channels,” and to impose any additional punishment “subsequent to the NCAA action”—not to conduct a parallel investigation, or issue penalties before any investigation has concluded. Rule 32.2.2.C.1.2. Indeed, by joining the NCAA the Conference agreed to “comply completely and promptly” with the NCAA’s enforcement process. NCAA Constitution Art. 2. These rules avoid duplication, protect the integrity of investigations, and prevent inconsistent results that would undermine the legitimacy of any investigation or sanction by either governing body.

20. Handbook Rule 32 also provides binding protections in cases that the Conference itself initiates. Those protections escalate depending on the nature of the investigation and infraction. Informal inquiries require “a letter of inquiry regarding the possibility of secondary infractions of Conference or NCAA rules.” Rule 32.2.2.D.1. Preliminary inquiries require “written or in-person inquiries regarding the possibility of major infractions of NCAA or Conference rules,” with appropriate notice to university officials. Rule 32.2.2.D.2. Official inquiries require “a written document outlining major allegations of NCAA and/or Conference rules [violations].” Rule 32.2.2.D.3. And prior to either a preliminary or official inquiry for a major violation, the “Compliance and Reinstatement Committee”—not merely the Commissioner—must “determine if a ‘reasonable basis’ exists to believe that a major violation may have occurred,” again with appropriate notice to interested parties. Rule 32.2.2.D.4.

21. The Commissioner must also provide a Commissioner’s Report to the Chair of the Compliance and Reinstatement Committee, including a summary of the allegations, relevant rules, involved sports, and other information. Rule 32.4. For rules violations, the Compliance and Reinstatement Committee is tasked with “recommending and imposing penalties when

appropriate.” Rule 4.4.2.1.C.2; *see also* Rule 6.02. The Committee’s punishment decision is then communicated by the Commissioner or another Conference designee to the Faculty Representative of the involved member university. Rule 32.10.2.A. The Faculty Representative must in turn provide a notice of appeal to the Conference within ten days. *Id.* An appeal may stay the effects of a punishment. Rule 19.5.A.

22. The Handbook then provides an appeal process involving a notice of appeal, responses from affected institutions, documentary submissions, and a hearing at which parties have the right to make oral presentations to the Joint Group Appeals Committee (JGAC). *See* Rule 32.10. JGAC members, faculty representatives, the Commissioner or designee, the Conference General Counsel, and any others whose presence is requested may participate, and JGAC members then deliberate and determine whether to “set aside, modify, remand, or reverse” the decision made by the Compliance and Reinstatement Committee. Rules 32.10.7, 32.10.10. Penalties are governed by an express rule. *See* Rule 19.

23. In addition to a process for adjudicating violations of *rules*, the Handbook contains a process for adjudicating unsportsmanlike conduct. Agreement 10, the “Sportsmanship Policy,” provides procedures for the Commissioner to determine whether an individual has committed unsportsmanlike behavior, and to hold both that individual and the institution with which he or she is affiliated responsible. Unsportsmanlike behaviors are “[a]ctions that are offensive to the integrity of the competition, actions that offend civility, and actions of disrespect are subject to review and are punishable in accordance with the terms of this policy.” Agreement 10.01.

24. Unlike the Rule 32 process, the Sportsmanship Policy provides a truncated investigatory and decisional process, no clear standards, and the lack of any right to appeal.

Under the Sportsmanship Policy, the Commissioner has discretion whether to “pursue, or not to pursue, an investigation” of an alleged violation, and then to “determine” whether “an offensive action occurred.” Agreement 10.3.1. Any involved institution or individual at risk of disciplinary action is entitled to an opportunity to offer its position on whether an offensive action occurred, and the “timeframe within which an institution or individual shall provide its or his or her position shall be set by the Commissioner, and shall be reasonable in light of the circumstances.” *Id.* The Commissioner must “notify” a school if it is at risk of disciplinary action. Agreement 10.3.2. And the Commissioner may find any action a violation of the policy if the action is “deemed by the Commissioner to offend the underlying objective this policy seeks to achieve.” Agreement 10.01. Indeed, the “Commissioner shall have the *exclusive* authority to determine whether an offensive action, as contemplated in Agreement 10.01 above, has been committed.” Agreement 10.2.1.

25. The Commissioner, under the Sportsmanship Policy, has discretion to impose almost any disciplinary action, though actions above a certain threshold must receive prior approval of the Conference’s Joint Group Executive Committee. Agreement 10.3.3. However, the Sportsmanship Policy authorizes the Commissioner to impose disciplinary action on only two, specifically delineated categories of respondents: First, the Commissioner may “h[o]ld individually accountable” a person associated with an institution “if [that person is] found to have *committed an offensive action*.” Agreement 10.1.1 (emphasis added). Second, the Commissioner may “h[o]ld accountable” an “institution” that is “responsible for” the person who committed an offensive action. *Id.*

26. The Sportsmanship Policy thus permits the Commissioner alone to decide whether to conduct an investigation, whether a violation of the Sportsmanship Policy occurred,

and (in most cases) what the penalty should be. Agreement 10.3.1.

27. Agreement 10.3.4 requires the Conference to perform an annual review of Sportsmanship Policy investigations. In the last three years' worth of sportsmanship investigations for which information is readily available, those investigations invariably involve offenses such as disparaging public comments regarding officiating, postgame insults, profane language directed at officials, taunting, aggressive actions toward opponents, referees inappropriately addressing players, using a racial slur, scuffles between players, disrespectful social media posts, and obscene gestures. No investigation appeared to impose vicarious liability on a coach for conduct of a subordinate. No investigation appeared to involve an offensive action founded upon violations of particular rules.

28. The matters at issue here, alleged violations of specific Conference and NCAA rules, were required to be addressed under Rule 32 and not under the Sportsmanship Policy.

II. Connor Stalions Comes Under Investigation

29. Connor Stalions worked for the Michigan Wolverines football team in 2021 as a junior volunteer analyst. The University hired Stalions in May 2022 to work for the team as a football analyst.

30. In October 2023, the NCAA began investigating the Michigan Wolverines football team for an alleged violation of NCAA Bylaw 11.6.1 arising from Stalions's conduct (in-person scouting).

31. On October 18, 2023, the NCAA informed the Conference and the University that it was investigating that alleged violation.

32. On October 20, 2023, the University suspended Stalions's employment with the football team.

33. On information and belief, the NCAA expects to complete its investigation by the end of fall 2023.

34. On November 3, 2023, Stalions resigned from his analyst position with the Michigan Wolverines football team.

III. The Big Ten Conference Throws Out Procedure and Imposes Summary Punishment

35. On November 3, 2023, in a meeting between representatives of the University and the Conference, Commissioner Petitti expressed concern regarding the mounting pressure from other Conference members' coaches, athletic directors, and presidents and chancellors to immediately sanction the University and Coach Harbaugh for Mr. Stalions's actions.

36. On November 4, 2023, Conference officer Chad Hawley emailed University representatives to announce the Conference's "belief" that both the University and Coach Harbaugh had violated the Sportsmanship Policy because of Mr. Stalions's actions.

37. In doing so, the Conference accused Stalions of "coordinating" a "scheme" to perform "in-person" advance scouting of opponents. In most alleged cases, Stalions allegedly purchased tickets to opponents' games and transferred them to others, who would attend the games and allegedly video record the sidelines of the field. Those persons would then send the sideline video to Stalions, who allegedly would use the video to decode opponents' signals. In some cases, Stalions allegedly may have attended opponents' games himself.

38. Mr. Hawley's email was the first formal notice to the University that the Conference was considering disciplinary action either before the conclusion of the NCAA's investigation or outside the process established by Handbook Rule 32.

39. The notice expressly based the "sportsmanship" violation on alleged violations of NCAA and Conference rules.

40. Mr. Hawley's email explained that the Conference was

informed by NCAA staff on November 2, 2023 that evidence characterized by the NCAA as uncontroverted exists to demonstrate that a noncoaching football staff member, Connor Stalions, coordinated a scheme by which individuals were directed to attend games of future opponents for scouting purposes in violation of NCAA Bylaw 11.6.1, which prohibits in-person scouting of future opponents. In addition, the individuals engaged in scouting were instructed to make video recordings of signals used by opposing teams, which violates NCAA football playing rules (FR 1-4-11-h, prohibition on recording "signals given by an opposing player, coach or other team personnel") and the Conference's [Big 10's] Football Game Management Manual (Section 14.A, prohibition on taking videos for scouting purposes of games in which the team is not participating).

41. Mr. Hawley's email generally described purported "evidence possessed or viewed by the Conference" that, it claimed, supported its allegations of rules violations. The Conference did not send any of the purported evidence at that time. Indeed, it appears that even the Conference had never seen some of the evidence on which it relied in its notice. Nor has the Conference interviewed a single witness from the University of Michigan. Although the Conference may have access to audio recordings or transcripts of interviews conducted by the NCAA, even the NCAA itself has yet to interview Coach Harbaugh or Mr. Stalions.

42. Mr. Hawley's email notified the University that both the University and Coach Harbaugh were at risk of disciplinary action under the Sportsmanship Policy.

43. Mr. Hawley expressly premised the alleged violation of the Sportsmanship Policy on alleged violations of three explicit rules. He claimed Mr. Stalions's conduct violated (1) NCAA Bylaw 11.6.1, which prohibits "[o]ff-campus, in person scouting of future opponents," (2) NCAA Football Rule 1-4-11-h, and (3) the Conference's Football Game Management Manual Section 14.A. Despite describing no evidence suggesting that Coach Harbaugh himself committed an offensive action, Mr. Hawley claimed that the Conference could hold Coach Harbaugh accountable for Stalions's conduct pursuant to the NCAA head coach

responsibility rule, NCAA Bylaw 11.1.1.1. This position conflicts with the Sportsmanship Policy’s “Responsibility and Accountability” section, which gives the Commissioner authority to punish only individuals who “committed” offensive acts and the “*institutions*” “responsible for” the individuals who committed that conduct. Agreement 10.1.1 (emphasis added).

44. Although the Conference based its notice against the University and Coach Harbaugh on violations of explicit rules, the Conference made no apparent attempt to comply with the procedures of Rule 32, which govern enforcement actions for “NCAA or Conference rules.” Handbook Rule 32.2.2.D; *see id.* 32.2.2.C.

45. On information and belief, the Conference’s Compliance and Reinstatement Committee has not determined that there is a “‘reasonable basis’ to believe a major violation may have occurred,” as Handbook Rule 32.2.2.D.4 requires before commencing either a preliminary or an official inquiry.

46. On information and belief, Conference Commissioner Petitti has not provided the Compliance and Reinstatement Committee a report summarizing the allegations, evidence, and relevant rules, as Handbook Rule 32.4 requires before the imposition of any penalty.

47. On information and belief, the sanction also was determined by Commissioner Petitti himself, not by the Compliance and Reinstatement Committee, as Handbook Rule 4.4.2.1.C.2 requires.

48. The University has not been provided all of the “evidence” the Conference purports to rely on.” The evidence the University has seen from the Conference does not prove the allegations. Because of that evidentiary deficiency, the University has not been provided an opportunity to respond meaningfully to the Conference’s factual allegations or arguments about the application of the rules.

49. Before the University's deadline to respond to the Conference's allegations, widespread media reporting suggested the Conference was considering immediately suspending Coach Harbaugh.³

50. Media reports also observed mounting pressure from other Conference members and from some members of the public for Petitti to act quickly.⁴

51. The University responded to the Conference's allegations on November 8, 2023. Its response cautioned the Conference to refrain from immediate disciplinary action and to comply with its contractual obligations to the University.

52. On November 10, 2023, Commissioner Petitti purported to suspend Coach Harbaugh for 3 games. The Commissioner's correspondence is included as Exhibit D.

53. Pursuant to his Employment Agreement with the University, of which the Conference was aware, Coach Harbaugh expected to coach his team through the remainder of the season.

IV. The Plaintiffs Face Irreparable Harm

54. The Conference's decision to punish the University and immediately suspend Coach Harbaugh is causing and will continue to cause irreparable harm to Plaintiffs and University constituents.

55. Most obviously, the reputational harm caused by the Conference's conduct is enormous and quintessentially irreparable. The University itself, its student athletes, Coach

³ See, e.g., Ross Dellenger and Dan Wetzel, *Sources: NCAA revealed Michigan findings to Big Ten; conference mulling Jim Harbaugh suspension*, Yahoo Sports (Nov. 7, 2023); Dean Straka, *Big Ten sends Michigan notice of potential discipline as league mulls Jim Harbaugh suspension*, CBS Sports (Nov. 6, 2023); Kevin Skiver, *Michigan football sign-stealing: Jim Harbaugh reportedly could be suspended by Big Ten*, Detroit Free Press (Nov. 4, 2023).

⁴ See, e.g., Dellenger & Wetzel, *supra* note 3; Ralph D. Russo, *Frustrated Big Ten coaches push for league to discipline Michigan for sign-stealing*, AP Sources say, Associated Press (Nov. 3, 2023).

Harbaugh, and the athletics program, will suffer significant, lasting, and unjustified reputational injury if the Conference is permitted to impose a sanction in advance of a full and fair investigation. Michigan prides itself on fairness and integrity. It is dedicated to following all of the NCAA and Big Ten Conference rules, and is cooperating with the NCAA's investigation. Any sanction would unjustifiably undermine this image, reflecting poorly on the University's compliance before any determination of wrongdoing—or of the scope of any wrongdoing—has been made.

56. Such a reputational hit would have a negative effect on athletic recruitment, including both the University's ability to attract top high-school talent and to retain the players already on its team.

57. This is to say nothing of the irreparable harm suspension will cause Coach Harbaugh personally. No more dramatic blow could be given to his character and reputation than the permanent lifetime label of "missing in action" because of a purported—but still unsubstantiated—cheating scandal.

58. The harm to the University's student-athletes would be irreversible. Foundational to the entire enterprise of collegiate athletics is a recognition of the value of participation in athletics as part of the formational and educational experience. The University offers that experience to its students, including the many student-athletes on its football team. Coaching is an enormous part of that. As legendary Notre Dame football coach Ara Parseghian aptly said, "a good coach will make his players see what they can be rather than what they are." This type of relationship is not built overnight, and it is core to student-athletes' educational and formational experience, which is a critical part of the University's educational offering.

59. Suspension of Coach Harbaugh deep into the team's season would dramatically

and irreparably harm his and the student athletes' chances of success. This is not merely conjecture. A study out of the University of Chicago's Harris School of Public Policy found that "coaches account for 20 percent to 30 percent of the variation in team outcomes." See "How Much Do Coaches Impact Success in Sports?," *UChicago News* (Mar. 6, 2019). This is particularly pronounced in college football, where coaches "significantly affect points scored, points allowed, point differential and victories." *Id.*

60. The success of this season's football team only elevates the irreparable harm. Now 9-0 on the season, it is undisputed that the team is in contention for the National and Conference Championship. Standing between the University and a chance at this extraordinary opportunity for the University and its students are three Big Ten conference games against highly-ranked Penn State, the University of Maryland, and Ohio State University. For the seniors on the Michigan team, this will be their last contest against these rival conference schools and their last chance to compete for a Conference and National Championship. These are once-in-a-lifetime events: the games cannot be replayed.

V. An Injunction Poses Zero Risk of Continuing Misconduct or Future Ramifications from Past Misconduct

61. No current member of the University coaching staff is alleged to have been involved in improper in-person scouting. There is no evidence of any risk that improper in-person scouting will continue.

62. Even if it were somehow possible that other members of the University's coaching staff retained information about other teams' prior signals—a possibility the Conference has not alleged and for which there is no evidence—it would not benefit the University because "most teams will switch up their signals from week to week." Pat Forde, *Follow the Signs: How Clemson Football Mastered the (Totally Legal) Art of Signal Stealing*, *Sports Illustrated* (Nov. 6, 2020).

63. In any case, although the prohibition on in-person scouting seems to derive from a concern with “sign stealing,” a term that connotes an unfair competitive advantage, sign stealing itself—the practice of decoding opponents’ play signals—is legal under NCAA and Conference rules.

64. It is also standard practice and becoming increasingly common. Teams regularly review publicly available footage, as the NCAA recognized when considering removing the in-person scouting restriction altogether. Division I Proposal 2021-32. That televised broadcast, all-22, and social media footage often shows sideline views that include schools’ signals. Recent accounts have suggested that the alleged signal decoding is more widespread than previously realized. *See David Hale, Sign-stealing and the quest to crack the opponent’s code, ESPN* (Nov. 9, 2023).

Count I

(Breach of Contract–Disregard of Handbook Rules)
(The Board of Regents of the University of Michigan)

65. The University repeats and realleges the allegations in this complaint, and incorporates them by reference, as though set forth herein.

66. The Conference’s Bylaws and Handbook constitute a contract between parties including Michigan and the Conference.

67. The Conference’s allegations of misconduct implicate the procedural protections of Handbook Rule 32.

68. Commissioner Petitti has imposed discipline on the Michigan Wolverines football team and on Coach Harbaugh without conforming to the process established by Handbook Rule 32 and in excess of his authority under the Sportsmanship Policy.

69. Thus, the Conference breached a contract between the Conference and the

University.

70. If allowed to stand, that breach will irreparably harm the University. The University has no adequate remedy at law.

Count II

(Breach of Contract–Implied Covenant of Good Faith)
(The Board of Regents of the University of Michigan)

71. The University repeats and realleges the allegations in this complaint, and incorporates them by reference, as though set forth herein.

72. The Conference’s Bylaws and Handbook constitute a contract between parties including the Conference and the University.

73. Whether Rule 32 or the Sportsmanship Policy governed the allegations of misconduct at issue here, each would do so subject to an implied covenant of good faith.

74. By imposing discipline on the Michigan Wolverines football team and on Coach Harbaugh under the Sportsmanship Policy for alleged violations of enumerated rules, the Conference has exercised its purported discretion in bad faith. And by failing to abide by Rule 32 or provide reasonable process required under the Handbook under any policy, the Conference has acted in bad faith.

75. Thus, the Conference breached a contract between the Conference and the University.

76. If allowed to stand, that breach will irreparably harm the University. The University has no adequate remedy at law.

Count III

(Promissory Estoppel)
(The Board of Regents of the University of Michigan)

77. The University repeats and realleges the allegations in this complaint, and

incorporates them by reference, as though set forth herein.

78. Even if the Conference's Bylaws and Handbook were not a contract whose parties included the Conference and the University, the procedural rules contained there still constitute a clear, unequivocal promise by the Conference to the University that the Conference will afford the University those procedural protections when investigating an alleged rule violation.

79. The University has relied on that promise by joining and remaining in the Conference, creating compliance and response programs to mitigate and resolve conflicts according to that process, and allowing its student-athletes to participate in Conference events. The Conference knew or should have known that the University would abide by its promises.

80. Commissioner Petitti has imposed discipline on Michigan and on Coach Harbaugh without conforming to that process.

81. If allowed to stand, that discipline will irreparably harm Michigan. The University has no adequate remedy at law.

Count IV
(Breach of Fiduciary Duty)
(The Board of Regents of the University of Michigan)

82. The University repeats and realleges the allegations in this complaint, and incorporates them by reference, as though set forth herein.

83. Defendant Petitti is responsible for breaching the fiduciary duty he owes the University as Commissioner.

84. The University reasonably relied upon Commissioner Petitti to act in good faith toward the University in light of his role and the discretion there afforded.

85. The breach of that duty has resulted in significant harm to the University.

Count V
(Breach of Contract- Disregard of Handbook Rules/Third-Party Beneficiary)
(Plaintiff Harbaugh)

86. Plaintiff Harbaugh repeats and realleges the allegations in this complaint, and incorporates them by reference, as though set forth herein.

87. The Conference's Bylaws and Handbook constitute a contract between parties including the University and the Conference.

88. The Bylaws and Handbook contain obligations and responsibilities required of the University and its employees.

89. Harbaugh, as a head coach of the football team and employee of the University was and is an intended third-party beneficiary of the contract between the Conference and the University.

90. Plaintiff Harbaugh contends that Defendant Conference breached the Bylaws and Handbook as more fully described in this Verified Complaint, including in Count I and as a result of said breach Harbaugh was and continues to be injured as a result of said breaches.

91. The breaches include, but are not limited to, a violation of the Conference's specific enforcement policies and procedures in Handbook Rules 32.2, 32.2.2 and Agreement 10, the "Sportsmanship Policy." Indeed, the suspension imposed against Plaintiff Harbaugh violates the Sportsmanship Policy's "Responsibility and Accountability" section, which gives the Commissioner authority to punish only individuals who "committed" offensive acts and the "institutions" "responsible for" the individuals who committed that conduct. Agreement 10.1.

92. The Conference has imposed a penalty on Plaintiff Harbaugh directly even though there is no evidence that Plaintiff Harbaugh violated Agreement 10.1.1. Indeed, un rebutted evidence widely available to the public clears Plaintiff Harbaugh of any wrongdoing. See, for

example, the statement from Mr. Stalions, which provides: that to [Stalions'] knowledge, neither Coach [Jim] Harbaugh, nor any other coach or staff member, told anyone to break any rules or were aware of improper conduct regarding the recent allegations of advanced scouting” and that, “to [Stalions'] knowledge, neither Coach [Jim] Harbaugh, nor any other coach or staff member, told anyone to break any rules or were aware of improper conduct regarding the recent allegations of advanced scouting.”

Count VI
(Intentional Interference)
(Plaintiff Harbaugh)

93. Plaintiff Harbaugh repeats and realleges the allegations in this complaint, and incorporates them by reference, as though set forth herein.

94. Plaintiff Harbaugh has contractual and business relationships and expectations with the University of Michigan which are more fully outlined in his Employment Agreement, a copy of which is already in the possession of Defendant Conference, and attached to Plaintiff Harbaugh's Affidavit.

95. At all relevant times, Defendant Conference was aware of this relationship and expectancy.

96. Defendant Conference intentionally and improperly interfered with this relationship and expectancy in the ways described above.

97. The actions by Defendant Conference were fraudulent, unlawful, unethical, unjustified, and per se wrongful, and were done with malice for the improper purpose of causing the termination or disruption of Plaintiff Harbaugh's relationship and expectancy.

98. The conduct of Defendant Conference has caused and threatened to cause breaches and disruptions of Plaintiff Harbaugh's relationship and expectancy.

99. Plaintiff Harbaugh has suffered and will continue to suffer, damages as a result of Defendant Conference's conduct.

100. Plaintiff Harbaugh prays this Honorable Court make and enter its Order enjoining Defendant Conference from interfering with Plaintiff Harbaugh's business relationship and expectancy now and in the future.

Count VII
(Invasion of Privacy- False Light)
(Plaintiff Harbaugh)

101. Plaintiff Harbaugh incorporates all paragraphs of this complaint as if set forth in full.

102. Defendant Conference is responsible for invasion of Plaintiff Harbaugh's privacy.

103. Defendant Conference placed Plaintiff Harbaugh in a false light in the public eye.

104. Defendant Conference has made disclosures to the general public of information that is highly objectionable to a reasonable person, which attributed to Plaintiff Harbaugh's characteristics, conduct or beliefs that are false and place Plaintiff Harbaugh in a false light.

105. Defendant Conference had knowledge or acted in reckless disregard as to the falsity of the disclosed information and the false light in which Plaintiff Harbaugh was placed.

106. Plaintiff Harbaugh respectfully requests that this Honorable Court award equitable relief in the form of an order that Defendant remove, and never publish again, defamatory statements against Plaintiff Harbaugh.

Prayer for Relief

WHEREFORE, the Plaintiffs seek the following relief:

a. Temporary, preliminary, and permanent injunctive relief against the Big Ten Conference staying the disciplinary action taken on November 10, 2023, any staying purported

disciplinary action against the University or Coach Harbaugh based on alleged misconduct arising from Connor Stalions's alleged in-person scouting of future opponents that does not comply with the Handbook Rules, at least until the NCAA completes its investigation and subsequent action into the same allegations;

b. Temporary, preliminary, and permanent injunctive relief against the Big Ten Conference enjoining Big Ten Conference and its representatives from publicly announcing any conclusions derived from its investigation into alleged misconduct arising from Connor Stalions's alleged in-person scouting of future opponents until the NCAA completes its investigation into the same allegations;

c. As to all Counts, damages, and costs associated with this action; and

d. As to all Counts, such further relief to which the Board may be entitled.

Respectfully submitted,

/s/ Keefe A. Brooks

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Dated: November 10, 2023

Attorneys for Plaintiff James Harbaugh

Certificate of Service

I hereby certify that on the 10th day of November, 2023, I electronically filed the foregoing with the Clerk of Court and that I have served a true and correct copy of the foregoing document on counsel listed below via email:

Frank J. Favia, Jr.
Counsel, Big Ten Conference
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Chicago, IL 60603
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Angela L. Jackson
Angela L. Jackson

Verification of Warde Manuel

I, Warde Manuel, declare as follows:

1. I am an agent of the plaintiff in this case.
2. I have personal knowledge of the factual allegations in the Verified Complaint for Injunctive Relief.
3. I declare under the penalties of perjury that this Verified Complaint for Injunctive Relief has been examined by me and that its contents are true to the best of my information, knowledge, and belief.

Executed on November 10, 2023



Warde Manuel
Donald R. Shepherd Director of Athletics