

STATE OF NORTH DAKOTA
COUNTY OF GRAND FORKS

IN DISTRICT COURT
NORTHEAST CENTRAL JUDICIAL DISTRICT

STATE OF NORTH DAKOTA, BY AND THROUGH
THE NORTH DAKOTA STATE BOARD OF HIGHER
EDUCATION, AND THE UNIVERSITY OF NORTH
DAKOTA,

Plaintiff,

v.

NATIONAL COLLEGIATE ATHLETIC
ASSOCIATION,

Defendant.

**MOTION FOR PRELIMINARY
INJUNCTION**

Civil No. _____

Plaintiff, State of North Dakota, by and through the North Dakota State Board of Higher Education and the University of North Dakota (“UND”), hereby moves this court pursuant to N.D.C.C. ch. 32-05 and 32-06 for a preliminary injunction in order to preserve the status quo and prevent irreparable harm to UND, its students, athletes, and consumers of intercollegiate athletic competition from the application of an arbitrary, unreasonable and unlawful “policy” of the National Collegiate Athletic Association (“NCAA”). This Motion is supported by the attached Memorandum in Support of Motion for Preliminary Injunction, the Affidavits of Charles E. Kupchella, Thomas W. Buning and Jody J. Hodgson, and all papers on file and submitted with this application and is made on the following grounds:

Unless enjoined, the NCAA will deny UND home-field advantage in regional post-season events, for which UND would be entitled under the criteria established by the NCAA membership, placing qualifying UND teams at a tremendous competitive disadvantage, and denying North Dakota consumers of intercollegiate athletic championship competition opportunities that would exist without the unlawful restraint on competitive determinations. The NCAA will also deny UND the right to play while wearing its current year team uniforms, raising the possible threat of disqualification unless the name and logo are deemed sufficiently shrouded by the NCAA. These games, quite obviously, cannot be replayed and opportunities for

successful championship competition cannot be recaptured. The damage to the reputation of UND, its ability to recruit athletes, students, supporting fans, and alumni would be tremendous, long lasting, and could not be remedied by monetary damages. The damage done to the reputation of UND and its academic and athletic programs by having its name and logo shrouded in televised NCAA championship competition would also be tremendous, long lasting, and could not be remedied by monetary damages.

The NCAA also has and will continue to deny UND the ability to host and bid to host championship events at predetermined sites. The process for bidding and awarding contracts to host predetermined championship events typically takes place years in advance. Once a championship event is awarded to another institution that did not have to face competition in the bidding from UND, the process cannot realistically be undone. The damage to UND from being prohibited from competing with other institutions to host predetermined events is tremendous and cannot be remedied by money damages alone.

WHEREFORE, UND requests that this court issue a preliminary injunction restraining the NCAA from applying the "Policy" to UND until a final resolution on the merits can be reached.

Dated this ____ day of October, 2006.

State of North Dakota
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