

2. In this manner, UNC maximized the number of football student-athletes who remained eligible to engage in intercollegiate athletics, thus improving the chances of athletic success and falsely increasing the University's revenues and reputation.

3. National Collegiate Athletic Association rules prohibit student-athletes, including football student-athletes, from receiving remuneration from their schools, so the revenue from football games and the sponsorship and advertising related to those games is the universities' alone. The UNC football student-athletes' reward for their athletic participation was supposed to lie in the legitimate UNC education they were promised in exchange for their athletic efforts. UNC systematically deprived its football student-athletes of the benefit of the bargain.

4. UNC has reaped substantial profits from football student-athletes' performance for the school, but it has not provided them a legitimate education in return. As such, UNC has breached its contract with Plaintiff and Class members, in violation of North Carolina common law.

5. The challenged practices also violate North Carolina's consumer protection statute, N.C. Gen Stat. § 75, Article 1 which declares unlawful "[u]nfair methods of competition in or affecting commerce, and unfair or deceptive acts or practices in or affecting commerce."

6. In addition, UNC has engaged in fraud in the inducement by recruiting Plaintiff and Class members through falsely representing that Plaintiff and Class members would receive a legitimate UNC education if they enrolled as football-student athletes at UNC.

7. These violations of law caused injury to Plaintiff and the Class. As such, Plaintiff and the Class are entitled to actual damages for breach of contract, fraud in the inducement, and engagement in deceptive trade practices as well as injunctive relief including, but not limited to, a court appointee reviewing the curriculum and course selection for all football student-athletes and the provision of four-year guaranteed scholarships to all football student-athletes going forward.

8. UNC should not be able to profit from the performance of its football student-athletes without providing them the legitimate education they were promised and deserve.

II. JURISDICTION

9. This action is appropriately filed in federal district court pursuant to 28 U.S.C § 1332, which states “[t]he district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between . . . citizens of different States.” Plaintiff is a citizen of Maryland. Defendant is a citizen of North Carolina. The amount in controversy in this matter, without interest and costs, exceeds the sum of \$75,000.

III. PARTIES

10. Plaintiff is Michael McAdoo. Mr. McAdoo is a citizen of Maryland who resides in Silver Spring, Maryland, and who was a football student-athlete at UNC in 2008, 2009, and 2010.

11. Defendant is the University of North Carolina at Chapel Hill, the state of North Carolina’s flagship institution of higher education, and is a citizen of North Carolina.

IV. FACTUAL ALLEGATIONS

12. For nearly two decades, from 1993 through 2011, UNC, widely regarded as one of the nation's elite public institutions of higher education, systematically and purposely failed to educate many of its students, and particularly its student-athletes, through enrolling them in sham courses that involved no professorial involvement and offered no academic rigor. The majority of the student-athletes funneled into this "shadow curriculum" of fictional courses, and therefore out of UNC's standard rigorous and well-regarded curriculum, were football players.

13. In 2011, this "shadow curriculum" began to leak through investigative reports in the press, and UNC's administration began to investigate it. It took until January of 2014, however, for UNC Chancellor Carol Folt to publicly admit to its scope.

14. In October of 2014, after a lengthy independent investigation commissioned by UNC, the law firm of Cadwalader, Wickersham & Taft issued a 131-page report (the "Cadwalader Report") that revealed, for the first time, the true nature and extent of the fraud, deceit, and miseducation perpetuated at UNC. The Cadwalader Report's findings made clear that the scandal was far worse than Chancellor Folt recognized or admitted in January of 2014.

15. Current Cadwalader partner and former Department of Justice official, Kenneth Wainstein, authored the Cadwalader Report and found that UNC administrators and professors created, administered, and covered up a "shadow curriculum" absolutely devoid of academic rigor from 1993 until 2011.

16. After the Cadwalader Report was released, Chancellor Folt acknowledged the vast scope of the academic fraud, stating "Mr. Wainstein has found that the

wrongdoing at Carolina lasted much longer and affected more students than previously known.” She acknowledged that students had “entrusted [UNC] with their education” and she apologized to those whose trust was betrayed through the “shadow curriculum.”

17. The “shadow curriculum” featured hundreds of sham courses which never met and never involved a professor, and in which hundreds of football student-athletes were enrolled. Typically, the sham courses were designed as follows:

- a. At the beginning of the semester, students were given a topic on which to write a paper. The football student-athletes in any given course were generally given the same topic, and they were generally informed of it by an academic counselor in the Academic Support Program for Student Athletes (ASPSA). The academic counselor received the topic from an administrator in the African American Studies Department -- usually Deborah Crowder, the Department’s Student Services Manager.
- b. Throughout the semester, there were no class meetings, there was no supervision, no drafts of papers were reviewed, and no faculty feedback was given. Students had no communication whatsoever with the course’s listed professor or any other professor about the paper.
- c. At the end of the semester, each student submitted a paper.
- d. Several weeks later, a grade appeared on the student’s transcript. Ms. Crowder, whose duties were officially limited to secretarial and administrative work, assigned grades in the “shadow curriculum” courses with the acquiescence of Department Chair and Professor

Julius Nyang'oro, until Ms. Crowder retired in 2009. After her retirement, Dr. Nyang'oro took over managing the "shadow curriculum." On some occasions, ASPSA academic counselors told their African American Studies Department contacts the particular grades the football student-athletes would have to receive in order to remain athletically eligible. Even the weakest papers and papers featuring long passages of unoriginal text received passing, and often outstanding, grades.

18. Football student-athletes did not take the "shadow curriculum" courses by happenstance. They were funneled into the courses by their coaches, ASPSA academic counselors, and other athletics department representatives, who indicated that their football responsibilities were so time-intensive that "shadow curriculum" courses were a must. If football student-athletes wanted to be considered dedicated team members and have the opportunity to pursue their athletic ambitions, they had essentially no choice but to accept the "shadow curriculum" courses in which they were enrolled.

19. The UNC football program was so committed to football student-athletes taking the "shadow curriculum" courses that when Ms. Crowder announced her retirement in 2009, the UNC football coaches and the ASPSA academic counselors discussed the impending crisis that would unfold if the "shadow curriculum" was discontinued.

20. ASPSA Associate Director Cynthia Reynolds' immediate plan was to have as many papers as possible submitted before Ms. Crowder retired to ensure that football student-athletes received grades high enough to remain eligible to play. To that end, she

sent an email to Andre Williams, who was a Football Operations Coordinator, stating, “Ms. Crowder is retiring at the end of July. . . if the guys papers are not in . . . I would expect D’s or C’s at best. Most need better than that . . .”

21. Another ASPSA academic counselor drafted a document setting out the consequences of Ms. Crowder’s retirement, noting that without the “shadow curriculum” courses, it was not clear how the football program would funnel football student-athletes into courses “that met degree requirements in which [the football players] didn’t go to class...didn’t take notes [or] have to stay awake...didn’t have to meet with professors [and] didn’t have to pay attention or necessarily engage with the material.”

22. In the wake of Ms. Crowder’s retirement, before Dr. Nyang’oro fully engaged in carrying on the “shadow curriculum,” the football team’s collective grade point average dropped to 2.121, its lowest point in a decade.

V. PLAINTIFF FACTS

23. Mr. McAdoo was an all-state football player as a high school senior at Antioch High School in Nashville, Tennessee. In addition, he was a solid student and active member of the school community. He graduated high school with a 2.9 grade point average and served as Student Council President during his senior year. Mr. McAdoo was a committed student-athlete in high school and was widely recruited by universities. He ultimately received dozens of scholarship offers from universities across the country.

24. UNC was one of the schools that aggressively recruited Mr. McAdoo. Butch Davis, the UNC Head Football Coach at the time, and two of his assistant coaches,

John Blake and Charlie Williams, visited Mr. McAdoo's home to recruit him on multiple occasions during Mr. McAdoo's final three years of high school.

25. During each of the visits, the coaches stressed UNC's stellar academic reputation and strength as well as the UNC football program's commitment to its student-athletes' academics. Indeed, during one of the visits, Mr. McAdoo remembers Head Coach Davis telling Mr. McAdoo's mother, grandmother, and grandfather, "I can't guarantee that Michael will play in the NFL, but one thing I can guarantee is that he will get a good education at the University of North Carolina."

26. The "good education" that Head Coach Davis guaranteed Mr. McAdoo would receive at UNC cost at the time over \$30,000 per year. Mr. McAdoo, raised in a low income household, was persuaded as to the merits of playing football at UNC in exchange for such an education, which he could not have otherwise afforded. Mr. McAdoo, therefore, accepted UNC's scholarship offer over numerous other offers from universities including Vanderbilt, Notre Dame, and Duke.

27. The UNC football coaches' assurances as to the UNC football team's commitment to education were decisive to Mr. McAdoo's decision to accept UNC's scholarship offer.

28. In 2008, almost immediately after arriving at UNC to begin his freshman year, Mr. McAdoo realized that the promises Head Coach Davis and his assistants made about the football program's commitment to academics were false. Although Mr. McAdoo had expressed interest in criminal justice when being recruited, once on campus he was told that football student-athletes were urged to consider only three options for a major: Exercise Sport Science, Communications, or African-American Studies. When

Mr. McAdoo asked why he should not pursue other majors, he was told these three were the only majors that would accommodate his football practice and playing schedule, and that the football program had “relationships” with professors in those departments.

29. At a team meeting just before the start of school, Beth Bridger, an ASPSA academic counselor, gave Mr. McAdoo and his teammates pre-assigned course schedules. Mr. McAdoo’s schedule included “shadow curriculum” courses. Mr. McAdoo had no role in selecting the courses. The same thing happened every semester Mr. McAdoo attended the University of North Carolina.

30. Mr. McAdoo questioned his enrollment in the “shadow curriculum” courses and expressed his desire to take more meaningful courses, but representatives of the football program explained to him the importance of taking the courses so that he could focus on football. Taking the courses was part and parcel of being on the team, and not doing so signaled lack of commitment.

31. From selection of a major to selection of courses, the UNC football program controlled football student-athletes’ academic track, with the sole purpose of ensuring that football student-athletes were eligible to participate in athletics, rather than actually educating them. Indeed, Ms. Bridger told football student-athletes she advised that “you can fail one course per semester and still be NCAA eligible.” This emphasis on eligibility at the expense of education, and the systematic funneling of football student-athletes into “shadow curriculum” courses designed not to educate ran directly counter to Coach Davis’ promise that Mr. McAdoo would “get a good education at the University of North Carolina.”

VI. CLASS ACTION ALLEGATIONS

32. Plaintiff brings this action pursuant to Federal Rule of Civil Procedure 23 on behalf of all persons who attended UNC on football scholarships between 1993 and 2011.

33. The Class is so numerous that joinder of all members is impracticable.

34. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy.

35. Plaintiff's claims are typical of the claims of each Class member. He attended UNC on a football scholarship in 2008, 2009, and 2010.

36. There are questions of law and fact common to each Class member, including but not limited to:

- a) Whether UNC systematically deprived football student-athletes of a genuine education as outlined in the Cadwalader Report;
- b) Whether UNC engaged in unfair or deceptive acts in recruiting Plaintiff and Class members to be football student-athletes at the university;
- c) Whether UNC's football program's recruiting activities involved or affected commerce;
- d) Whether UNC's football program's recruiting activities involved false representations reasonably calculated, and made with intent to, deceive, and which did deceive;
- e) Whether Plaintiff and Class members sustained actual injury consequent to UNC's recruiting methods;

- f) Whether Plaintiff and Class members were parties to a scholarship agreement that explicated or implied provision of a legitimate UNC education;
- g) Whether UNC is liable to Plaintiff and Class members for damages under N.C. Gen. Stat. § 75-1.1(a);
- h) Whether UNC is liable to Plaintiff and Class members for damages under North Carolina common law for fraud in the inducement;
- i) Whether UNC is liable to Plaintiff and Class members for damages under North Carolina common law for breach of contract;
- j) Whether UNC should be enjoined from providing football student-athletes with scholarship of less than four years in duration;
- k) Whether UNC should be required to subject its football-student athletes' curricular choices and course selection to review by a court appointee.

37. These and other questions of law and/or fact are common to each Class member and predominate over any questions affecting only individual Class members.

38. Plaintiff will fairly and adequately represent and protect the interests of the members of the Class. Plaintiff does not have any claims antagonistic to those of the Class.

39. Plaintiff has retained counsel competent and experienced in complex class action litigation. Plaintiff's counsel will fairly, adequately and vigorously protect the interests of the Class.

40. Class action status is warranted under Federal Rule of Civil Procedure 23 because the prosecution of separate actions by individual members of each class would

create a risk of inconsistent or varying adjudications with respect to individual members of the Class.

41. Class action status is also warranted under Federal Rule of Civil Procedure 23 because the prosecution of separate actions by or against individual members of the Class would create a risk of adjudications with respect to individual members of the Class which would, as a practical matter, be dispositive of the interests of the other members not parties to the adjudications or substantially impair or impede their ability to protect their interests.

42. Class action status is also warranted under Federal Rule of Civil Procedure 23 because Defendant has acted or refused to act on grounds generally applicable to each Class member, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the Class as a whole.

43. Class action status is also warranted under Federal Rule of Civil Procedure 23 because, as noted above, questions of law or fact common to the members of the Class predominate over any questions affecting only individual members, and a class action is superior to other available methods for the fair and efficient adjudication of this controversy.

VII. CLAIMS FOR RELIEF

COUNT I – VIOLATION OF NORTH CAROLINA N.C. GEN STAT. § 75-1.1, WHICH PROHIBITS UNFAIR AND DECEPTIVE TRADE PRACTICES

44. Plaintiff incorporates by reference the preceding paragraphs as if fully set forth herein.

45. N.C. Gen Stat. § 75-1.1 is a comprehensive statute designed to provide procedures and remedies for practices that injure consumers. To prevail under N.C. Gen Stat. § 75-1.1, a plaintiff must prove a defendant engaged in “1) an unfair or deceptive act or practice . . . 2) in or affecting commerce, 3) which proximately caused actual injury to the plaintiff.” *McInerney v. Pinehurst Area Realty*, 590 S.E.2d 313, 316 (N.C. App. 2004).

46. UNC violated N.C. Gen. Stat. § 75-1.1 in representing that it would provide a legitimate UNC education to Plaintiff and the Class, when in fact it did not.

47. In recruiting Plaintiff and Class members and enticing them to enter scholarship agreements, UNC engaged in unfair and deceptive acts and practices. When recruiting football student-athletes, UNC competes with other universities inside and outside of the state of North Carolina. Competition is fierce, because the football teams with the most talented student-athletes are thought to have the highest likelihood of on-field success. In this recruiting competition, UNC emphasized the excellent academic instruction football student-athletes would receive at UNC, but when athletes arrived on campus they were funneled into UNC’s “shadow curriculum” designed not to educate the football student-athletes.

48. UNC’s recruitment of football student-athletes is “in or affecting commerce.” Collegiate football is big business, with universities spending, and making, millions of dollars on their football programs annually. UNC’s football program has a practice of recruiting throughout the nation and recruited Plaintiff in Tennessee. Moreover, UNC’s football program, like other universities’ football programs, travel nationally and sometimes internationally to compete. UNC’s recruitment of football

student-athletes who will ultimately represent the university in intercollegiate competition and contribute to the sale of athletic jerseys, team paraphernalia, and game programs, certainly affects commerce.

49. UNC's deception in recruiting Plaintiff and Class members and enticing them to enter scholarship agreements has proximately caused them actual injury. The "shadow curriculum" educations they received have lifelong consequences, hampering their cognitive strength and limiting their post-university career prospects. Absent UNC's misrepresentations and deceit, Plaintiff and Class members would have been aware that accepting a football scholarship to UNC meant a sub-standard "shadow curriculum" education and would have been able to pursue opportunities at educational institutions true to their promises of legitimate education.

COUNT II

FRAUD IN THE INDUCEMENT UNDER NORTH CAROLINA COMMON LAW

50. Plaintiff incorporates by reference the preceding paragraphs as if fully set forth herein.

51. Under North Carolina Law, the elements of fraud in the inducement are: "1) false representation or concealment of a material fact, 2) reasonably calculated to deceive, 3) made with intent to deceive, 4) which does in fact deceive, 5) resulting in damage to the injured party." *Tradewinds Airlines, Inc. v. C-S Aviation Servs.*, 733 S.E.2d 162, 168 (N.C. App. 2012).

52. In recruiting Plaintiff and Class members to become football student-athletes at UNC, UNC football coaches and other UNC representatives represented that

Plaintiff and Class members would receive a legitimate UNC education. Indeed, UNC's reputation as excelling in both academics and athletics was one of its major selling points. This representation was calculated to deceive and made with intent to deceive, and it did deceive, resulting in Plaintiff and Class members accepting scholarship offers from UNC and enrolling at UNC with expectations of a legitimate UNC education.

53. In funneling Plaintiff and Class members into the "shadow curriculum" rather than providing them a legitimate UNC education, UNC deprived Plaintiff and Class members of the education they were represented to receive. This caused them injury by stunting their intellectual and academic growth and hampering their future career options.

COUNT III

BREACH OF CONTRACT UNDER NORTH CAROLINA COMMON LAW

54. Plaintiff incorporates by reference the preceding paragraphs as if fully set forth herein.

55. Under North Carolina law, the elements for a breach of contract are: the existence of a valid contract and a breach of the contract terms. *Wollard v. Davenport*, 601 S.E. 2d 319, 322 (N.C. App. 2004).

56. UNC entered into scholarship agreements with Plaintiff and Class members under which Plaintiff and Class members agreed to play football at UNC. In exchange, Plaintiff and Class members were promised a UNC education, either explicitly or implicitly. Under North Carolina law, an implied in fact contract is a valid, enforceable contract, even if its particular terms are not expressed in words.

57. In offering a football scholarship to Plaintiff and each Class member, UNC promised to provide Plaintiff and each Class member with a legitimate UNC education, and not a fictional one funneled through a “shadow curriculum.” By failing to provide the promised legitimate education, UNC breached its contract with Plaintiff and each member of the Class.

VIII. JURY TRIAL DEMANDED

58. Plaintiff hereby demands a trial by jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests that this Court enter a judgment against Defendant and in favor of Plaintiff and the Class and award the following relief:

- A. An order certifying this action as a class action pursuant to Federal Rule of Civil Procedure 23, declaring Plaintiff as representative of the defined Class and Plaintiff’s counsel as counsel for such Class;
- B. An order granting Plaintiff and the Class actual damages for breach of contract, fraud in the inducement, and violations of N.C. Gen. Stat. § 75-1.1(a).
- C. An order granting Plaintiff and the Class costs of suit, reasonable attorney’s fees and expenses;
- D. An order granting Plaintiff and the Class appropriate injunctive and declaratory relief, including but not limited to:
 - 1) A court appointee reviewing the curriculum and course selection for all football student-athletes going forward for 5 years; and
 - 2) Provision of four-year guaranteed scholarships to all football student-athletes going forward
- E. An order granting Plaintiff and the Class such other, further and different relief as the nature of the case may require or as may be determined to be just, equitable and proper by this Court.

This 6th day of November, 2014.

s/ Geraldine Sumter
N.C. State Bar No: 11107
Ferguson, Chambers & Sumter, P.A.
309 E. Morehead Street, Suite 110
Charlotte, North Carolina 28202
Telephone: 704-375-8461
Facsimile: 980-938-4867
gsumter@fergusonsumter.com

Cyrus Mehri, Esq.,
N. Jeremi Duru, Esq.,
Craig Briskin, Esq.
MEHRI & SKALET, PLLC
1250 Connecticut Avenue, NW
Suite 300
Washington, D.C. 20036
Telephone: (202) 822-5100
Facsimile: (202) 822-4997
cmehri@findjustice.com
jduru@findjustice.com
cbriskin@findjustice.com

Attorneys for Plaintiff