

The NCAA's Legal Whiplash: Where NIL Litigation & Eligibility Battles Stand

By Gilad Berkowitz, Esq.

“Ya’ll wait for injury reports to tell you who’s in and who’s out. We wait for tweets from judges, man. What a system we’ve got here.”

As Missouri head football coach Eli Drinkwitz so eloquently alluded to on Sept. 2¹, the current college sports landscape is broken.

More than a year after the historic House v. NCAA settlement was supposed to bring order to college athlete compensation, the courtroom has become the sport's most active venue.

From disputes over who controls third-party Name, Image and Likeness (NIL) deals to clever federal antitrust challenges, the goal posts for the legal landscape around NIL rights keep shifting. There are compensation fights between athletes, NCAA institutions and conferences, and beyond those, a separate — and arguably messier — legal crisis that has engulfed the NCAA over athlete eligibility, producing a rolling wave of temporary restraining orders (TROs) in state and federal courts across the country with new developments unfolding on a daily basis.

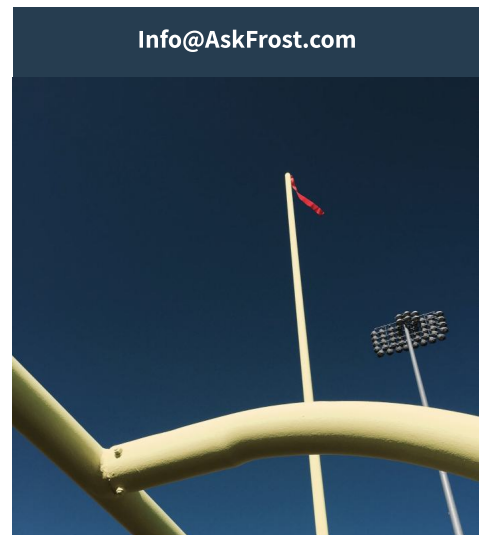
Here's a rundown on behalf of Frost Law of the major developments heading into Fall 2026. Legal references are current as of early September.

Key Case Is Approved — But Far From Settled

The foundational case, *In re College Athlete NIL Litigation* (commonly known as House v. NCAA), reached final approval in June 2025. It resolved three consolidated antitrust suits — House, Hubbard, and Carter — brought against the NCAA and the “Power Four” conferences, referring to the four most prominent conferences in NCAA Division 1 football.

The settlement pays roughly \$2.78 billion in damages to Division I athletes who competed between June 2016 and September 2024. This compensates athletes

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for NIL and video-game royalty opportunities they were denied under the NCAA's old amateurism rules, with the bulk of funds earmarked for football and men's basketball players.² It also created a forward-looking revenue-sharing system, letting schools pay athletes directly for the first time, and it established a new enforcement body — the College Sports Commission— to police the new rules.

Rather than closing the book on athlete-compensation litigation, that settlement has spawned a second wave of fights over interpretation and enforcement. Additionally, there are current lawsuits that sit outside of the House settlement that should have an immense impact on the legal landscape when they are resolved.³

Fight Over Who Controls "Third-Party" NIL Deals

The most consequential recent legal battle centers on the College Sports Commission's (CSC) authority to police NIL deals involving multimedia rights (MMR) companies and outside brand sponsors — the entities that broadcast and market college sports. In a ruling handed down in early August, U.S. District Court Judge Claudia Wilken upheld the settlement administrator's finding that MMR companies and third-party brand sponsors can be classified as "associated entities" under the House settlement agreement, a decision widely read as a win for the CSC.⁴ It affirmed an earlier decision from a magistrate judge that these companies aren't categorically excluded from that definition, cementing the CSC's authority to review NIL deals between athletes and MMRs or third-party sponsors.⁵

That decision followed weeks of tension between the CSC and the athletes' own attorneys. In April, class counsel Jeffrey Kessler asked a special master to rule that athlete NIL deals with MMR companies fall outside the CSC's

authority, arguing the commission had overstepped.⁶ The dispute reflects a deeper concern: The CSC wants to ensure NIL payments reflect genuine commercial value rather than disguised "pay-for-play" arrangements that would undercut the settlement's revenue-sharing cap — currently projected around \$21.3 million per school for the 2026–2027 academic year.⁷

New Antitrust Challenge to the Revenue-Share Cap Itself

Not everyone is satisfied that the *House* framework will survive further antitrust scrutiny. In June 2026, current college football players Talanoa Ili (USC) and Charlie Mirer (Stanford) filed a new lawsuit against the NCAA, the CSC, the four power conferences, and top administrators including NCAA president Charlie Baker, challenging the CSC's enforcement of the House settlement's revenue-share cap on antitrust grounds.⁸ The case is pending in the same California federal court that handled *House*, and plaintiffs have asked that it be formally related to that litigation and assigned to Judge Wilken.

Separately, another case drew attention this spring when a judge weighed granting broader injunctive relief that could upend the settlement's spending structure. Ole Miss quarterback Trinidad Chambliss won a preliminary injunction against the NCAA in a lawsuit heard in Mississippi state court, part of a string of individual eligibility and compensation challenges that has left observers wondering whether the revenue-share cap can hold at all if outside-money deals keep flowing largely unchecked.⁹

The Eligibility Wave: A Legal Patchwork Nobody Can Track

The trigger for the current climate of seemingly daily state

court complaint filings was the NCAA's own rule change. Facing years of one-off lawsuits, the association adopted a new "five-for-five" age-based eligibility model this spring, under which an athlete's eligibility clock starts at initial full-time enrollment or the academic year following their 19th birthday, whichever comes first.¹⁰ The change was meant to resolve disputes like Vanderbilt quarterback Diego Pavia's, in which a federal judge had granted Pavia an extra season in December 2025 after ruling that counting his junior-college years against his NCAA eligibility likely violated antitrust law.¹¹ Pavia's legal team has since pushed further, amending his case into a class action — joined by players from Louisiana Tech, Oklahoma State, and Virginia Tech — aimed at eliminating the junior college eligibility count altogether.¹²

But the new rule created a fresh, arguably bigger, problem: It excluded athletes from the high school class of 2022 who had already played four full seasons by the end of 2025-26, denying them the fifth year everyone else going forward would get. That exclusion triggered a cascade of litigation which is being amended and supplemented on what seems like an hourly basis:

- **Colorado class-wide injunction.** On July 31, 2026, Judge Charlotte Sweeney of the U.S. District Court of Colorado granted a class-wide preliminary injunction requiring the NCAA to declare all class-of-2022 athletes eligible for a fifth season, a ruling that briefly opened the door for undrafted NFL free agents from that class to return to college ball.¹³
- **Tenth Circuit stay.** The win was short-lived. The Tenth Circuit Court of Appeals granted the NCAA's request to stay the Colorado injunction pending an expedited appeal, immediately flipping thousands of athletes who thought they were eligible back to being ineligible —

unless they had secured their own individual Temporary Restraining Order.¹⁴ The court was careful to note the stay didn't touch the House settlement's transfer rules, roster limits, or revenue-share cap.¹⁵

- **A scramble of individual and multi-plaintiff TROs.** With the class-wide injunction stayed, athletes and their attorneys shifted to filing individual suits in favorable state courts. A Louisiana federal judge granted a TRO letting a group of former players — including some already on NFL rosters — enter the transfer portal for 2026.¹⁶ Days later, a Kentucky court granted TROs to 10 more athletes, and former Florida State quarterback Thomas Castellanos won his own TRO clearing a path back for a fifth season.¹⁷ In Arkansas, Washington County judges granted TROs to football defensive backs Caleb Wooden and Sean Williams and soccer player Makenzie Malham just in time for the fall semester.¹⁸ And most recently, a Dallas County judge granted a 14-day TRO to Dallas Cowboys rookie receiver Jordan Hudson and more than three dozen other athletes across multiple sports who fit the same class-of-2022 profile.¹⁹
- **New class actions still being filed.** The legal fight isn't confined to individual TROs. Cases like *Moore v. NCAA* and *James v. NCAA* are pursuing their own preliminary injunctions and class certification, and a brand-new suit, *Helms v. NCAA*, was filed September 1, 2026, challenging the exclusion of four-for-four 2022 grads from the new rule.²⁰

The result, is a crisis that courts can't fix in the near term short of Supreme Court intervention: Teams now field rosters where eligibility depends entirely on which state court an individual player happened to sue in, and the rules can flip week to week as stays, TROs, and appeals move at different speeds in different jurisdictions. Furthermore, the most recent TRO which was confirmed Sept. 3 in Louisiana

(which we anxiously await a forthcoming appeal to the Order), has spawned an even wilder scene of the SEC suing LSU, its own member institution, under First Amendment grounds.

Where Things Stand in Late 2026

Taken together, these cases show that the House settlement didn't end the litigation era in college sports — it just changed what people are fighting about.

The compensation disputes now center less on *whether* athletes can be paid and more on *who gets to control the money and the rules* -- the NCAA, individual conferences, the College Sports Commission, class counsel representing athletes, or state governments willing to intervene on a player's behalf.

Meanwhile, the wave of eligibility Temporary Restraining Orders show a parallel breakdown — a rulebook so contested that an athlete's ability to play now often turns on which courthouse they filed in, rather than any uniform national standard. With multiple cases pending before Judge Wilken's court, new suits like *Ili v. NCAA* testing the settlement's core spending cap, and the Tenth Circuit appeal over class-of-2022 eligibility still unresolved, expect the next several months to bring more rulings that reshape how — and how much — and even whether — college athletes get to play and get paid.

The game of legal football will stretch far beyond the current college season.

If you're an athlete or institution and have questions about NIL deals, please call Frost Law at **(410) 497-5947** or **schedule a confidential consultation.**

About the Author: Gilad Berkowitz, Counsel at Frost Law, has an **extensive legal background** in a number of areas, including a robust sports and entertainment practice with representative experience with Name Image and Likeness (NIL) on both the institution and player side representation. Gilad has prior experience heading an independent sports agency licensed by the National Basketball Players Association and FIBA, which he started at age 19. Now, through Gilad's legal practice, Gilad maintains representative experience representing athletes, entertainers, stadium operators, promoters, amateur and professional leagues, sponsors, goods manufacturers, live sports distributors, emerging platforms, and online gaming operators in contract negotiations, franchise sales and acquisitions, app development, biometric data synthesis, intellectual property protection, and premium content monetization.

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Footnotes

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