

WOLVERINES

Ex-Michigan football players vow to appeal after NIL lawsuit against BTN, NCAA dismissed



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A U.S. district judge has dismissed a class-action lawsuit brought by more than 300 former [Michigan athletes](#) including Braylon Edwards, Denard Robinson and Mark Messner, against the NCAA and Big Ten Network which alleged the “wrongful” use of their name, image and likeness.

The players and lead council, Jim Acho of the Livonia-based law firm Cummings, McClorey, Davis and Acho P.L.C., have vowed they will appeal to the Sixth Circuit Court of Appeals in Cincinnati.

"I spoke to a famous (retired) federal judge who agreed to speak on the condition of anonymity," Acho told the Free Press. "He said basically he's been following this case from the jump because he's a college football fan ... he's like, 'Look, your case totally has merit. ... What you're falling victim to right now is none of these judges want to keep these cases alive, because the first one who does opens up the floodgates.'

"He said what it could do is bankrupt the NCAA and maybe the power conferences. ... and no judge wants that on their head."

[Acho filed the suit in Sept. 2024 in U.S. District Court of Eastern Michigan](#) on behalf of "persons who were NCAA student-athletes prior to June 15, 2016, whose image or likeness has been used in any video posted by or licensed by" the NCAA and Big Ten Network and other network's related affiliates. The suit involves football players who were at Michigan between 1969 and 2015 and feel they were not compensated for things like jersey sales and BTN re-broadcasting games.

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They were seeking more than \$50 million in compensation for what they believe is decades of unlawful use of NIL without their permission. The case was dismissed after the judge determined it fell outside of the statute of limitations.

Acho said the notice of appeal will be filed sometime during October.

This is not a new path for Acho, who has successfully won appeals in many realms, most famously for the NFL concussion class action, but also in police litigation and municipal law. Acho represented many NFL hall of fame players such as Gale Sayers, Pat Summerall and Lem Barney whose decisions were won on appeal.

"We did a lot of research before we filed this," Acho said. "Respectfully, the judge got it wrong."

Acho pointed to Curt Flood, who sued Major League Baseball to end the reserve clause which essentially tied players to their drafted team. That went all the way to the Supreme Court and while it lost, did ultimately serve as the springboard to free agency in the league.

"We do vow an appeal to take it to the Supreme Court if necessary," Acho said.

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