

SPORTS LITIGATION ALERT

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Cases

Eighth Circuit Decides Whether ‘Would-Be’ Student-Athletes Can Sue Under Title IX

By Gary Chester, Senior Writer

Are students who allege that a university violated Title IX for eliminating a sports program required to attend the school in order to have standing to sue, or is their intention to enroll sufficient? In closing the

door to the penalty box for two women hockey players and opening it for two others, the U.S. Court of Appeals for the Eighth District settled this issue in *Becker v. The North Dakota University System*, 2024 U.S. App. LEXIS 20433 (August 14, 2024).

The Trial Court Dismisses the Case

Plaintiffs Emily Becker, Calli Forsberg, Morgan Stenseth, and Maya Tellmann are hockey players who wished

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to play for the University of North Dakota (UND) Fighting Hawks women's ice hockey team. That was not possible, however, because the school eliminated the team after the 2016-17 season. The four plaintiffs sought to compel UND to bring back women's hockey. They joined a federal lawsuit alleging that the school violated Title IX, even though none of them were enrolled at UND at the time.

On January 9, 2023, the trial court dismissed the complaint as to all four players. UND argued that the plaintiffs lacked Article III standing to sue because they did not attend the University. The players argued that "would-be students" have standing to bring Title IX claims against universities they do not attend. The court concluded that the alleged injury was "conjectural or hypothetical" and therefore, insufficient to confer subject matter jurisdiction. [*Becker v. N.D. Univ. Sys.*, 2023 U.S. Dist. LEXIS 3625 (D.N.D., January 9, 2023)].

The court considered two precedential cases and observed that students who are enrolled at a certain college or university and are "ready and able" to compete for a position on a reinstated team are more likely to have standing. On the other hand, students who are "deterred" from enrolling because of the alleged sex discrimination in athletics are less likely to have standing.

Facts Matter, and They Were Different for Each Plaintiff

It was the end of the 2015-16 season and the UND women's hockey team had just completed their sixth consecutive winning year. It was an attractive program

for high school players throughout the state. However, a year later the university eliminated women's hockey, along with men's and women's swimming and diving, as part of a \$1.3 million reduction in the athletics department budget. Becker, Forsberg, Stenseth, and Tellmann were among those high school student-athletes who were disappointed by the decision.

The appellate court discussed each plaintiff separately, starting with Forsberg, a two-time state champion whom UND recruited from high school to play on the women's hockey team in 2016. After the University eliminated the team in 2017, Forsberg decided to attend Bemidji State University in Minnesota. (She played hockey there for four seasons and made the Western Collegiate Hockey Association All-Academic team three times.) Forsberg had three years of NCAA eligibility remaining.

Tellmann was a two-time state hockey champion whom UND accepted as a student, but she had no chance to play or try out because, by then, there was no team to join. Tellmann had four years of eligibility remaining when the trial court dismissed her claim. Tellmann alleged that she would attend UND if the team was reinstated. Tellmann and Forsberg asserted that their injury was the continuing denial of an opportunity to compete for the team of their choice.

Becker played on her high school ice hockey team for four years. She alleged that she would enroll at UND and play on the hockey team if the University offered that opportunity. Her complaint did not indicate if UND accepted her, or if she met the minimum standards for admission, or whether she was skilled enough to qualify for a spot on the team.

Stenseth competed throughout high school and on club teams. According to the trial judge, she was accepted at UND and attended the school; however, the Eighth Circuit stated that they did not know why Stenseth did not attend the University, and the complaint did not indicate any "general expression of intent" to attend UND in the future. The discrepancy may relate to a defect in the pleadings.

On Further Review...

The Eighth Circuit noted that standing to sue under Article III "is the threshold question in every federal case [because it] determine[s] the power of the court to entertain the suit." It requires (1) an actual injury, (2)

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causation between the injury and the challenged conduct, and (3) a likelihood that a favorable decision will redress the injury.

In determining “actual injury,” the court placed Forsberg and Tellmann in the same category. The former was recruited to play on the UND women’s hockey team, and the latter was accepted into the university as a student, but could not try out for the team because there was no longer a team. “As injuries go,” the court stated, “this one is ‘concrete’ enough to provide standing, in part because both Forsberg and Tellmann allege a definite intent to attend if they can play hockey.”

Forsberg, the court noted, alleged that she would return to UND if the hockey program was reinstated. Since the school recruited her to play hockey, the court inferred that she had the skills to compete. The court found that Tellmann, who alleged that she “would attend” UND if women’s hockey returns, was in a similar position. Tellmann was accepted to the university, and her allegations provided some evidence that she was “able and ready” to compete based on her success in high school and club hockey.

Having decided that Forsberg and Tellmann had alleged sufficient harm, the court next considered causation and redressability. The plaintiffs clearly lost the chance to play hockey at UND due to the decision to eliminate the program; to remedy their ongoing injury, they sought a declaratory judgment and an injunction, either of which could lead the university to reinstate the program. The court distinguished a case involving a women’s soccer player at the University of Minnesota, *Grandson v. University of Minnesota*, 272 F.3d 568 (8th Cir. 2001) from the instant case on the basis that the plaintiff no longer had NCAA eligibility, meaning “she could not play regardless of what happened with the lawsuit, at least without a rule change.”

The two remaining plaintiffs, Becker and Stenseth, did not allege all the necessary facts. Becker claimed that she would enroll at UND if it offered women’s hockey, but she did not allege that the university had accepted her, that she met the minimum standards for admission, and that she was skilled enough to compete for a place on the team. Therefore, the court denied Becker’s appeal because it was possible that her alleged injury was not due to the elimination of the women’s hockey team, but the result of her own credentials or the academic and/or athletic standards set by UND.

Stenseth alleged that she was accepted at UND, but did not explain why she never enrolled there. Nor did Stenseth claim she would attend UND if the hockey team was reinstated. “She does not even allege an injury-in-fact,” the court stated, “much less one that a decision about the future of women’s hockey at the University of North Dakota could remedy.”

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In reversing the judgment against two players and affirming as to the remaining two, the court did not address the issue of whether the lawsuit was moot. Thus, the effort to reinstate the once-respected women's hockey program at UND continues.

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Juggling Multiple Jurisdictional Issues in a California Court, Former Coach's Claims Dismissed Against Defendants

By Daniel Hare

Civil Procedure is a foundational course within the first-year curriculum of most U.S. law schools. The case of former Arizona assistant football coach Theron Aych raises several key issues a law student could find on their final exam and experienced litigators regularly address including personal jurisdiction, subject matter jurisdiction, sovereign immunity, timely serving defendants, timely filing motions and responses, and more.

The case arose when the University of Arizona (U of A) fired head football coach Kevin Sumlin on December 12, 2020 following a 9-20 record over three seasons (the 2020 season was shortened to just five games due to the COVID-19 pandemic).

Eleven days later, Arizona hired longtime NFL assistant Jedd Fisch to be its new head coach. Included among the coaching staff Fisch hired was former UCLA assistant coach James "Jimmie" Dougherty.

According to Theron Aych, an assistant coach under Sumlin who was also let go by Arizona, Dougherty was improperly in possession of a thumb drive which contained the Sumlin playbook and several other key Arizona documents. Aych sued the university, its board of regents, the athletic director, the Pac-12, UCLA, the NCAA and others on the grounds that they deliberately sent the files to opposing schools during the Sumlin era in order to sabotage the team, causing them to lose, and provide grounds to fire the coaching staff. The numerous claims ran from federal racketeering and antitrust violations to state-based defamation and fraud.

Though most of the defendants were located in Arizona, as this was the origination of the alleged conspiracy, Aych filed the lawsuit in federal district court in California. The defendants timely filed a motion to dismiss under

12(b)(1) (lack of subject matter jurisdiction / sovereign immunity), 12(b)(2) (lack of personal jurisdiction), and 12(b)(6) (failure to state a claim).

In his order and opinion, Judge Otis Wright of the United States District Court for the Central District of California noted several strategic and procedural issues with the plaintiff's approach:

1. not amending their pleading in response to the 12(b) motion as permitted by Rule 15(a)(1)(B) of the Federal Rules of Civil Procedure;
2. improperly embedding a motion for leave to amend within the opposition to the 12(b) motion;
3. filing the opposition to the 12(b) motion four days after the deadline to do so; and
4. failing to serve UCLA or the Pac-12 within ninety days according to Rule 4(m). *See Aych v. Univ. of Ariz.*, 2024 BL 229763, at 4 (C.D. Cal. July 5, 2024).

Specifically, after the Court had given the plaintiff an opportunity to amend the complaint rather than oppose the motion to dismiss, the Court stated, "Aych elected not to amend as permitted by Rule 15, instead filing an opposition that does not address many of the moving arguments four days after his deadline to oppose. Based on untimeliness alone, the Court could decline to consider Aych's opposition altogether and grant the Motion." (*Id.*)

The Court dismissed UCLA and the Pac-12 without prejudice based upon the plaintiff's failure to serve them. (*Id.* at 3.) And though the Court could have granted the remaining defendants' motion to dismiss based on the untimeliness of the plaintiff's opposition, it chose to address the substance of the motion instead. (*Id.* at 4.)

In finding that the University of Arizona and the Arizona Board of Regents are immune from suit under the Eleventh Amendment of the United States Constitution and dismissing them from the suit with prejudice, the Court wrote, "Public universities are entitled to sovereign immunity under the Eleventh Amendment as are their employees in official capacities." (*Id.* citing *Rounds v. Or. State Br. of Higher Educ.*, 166 F.3d 1032, 1035 (9th Cir. 1999)).

The Court went on: "However, the Eleventh Amendment does not bar suits seeking damages against public university employees in their individual capacities. *Aych*, BL 229763 at 5 citing *Stoner v. Santa Clara Cnty. Off. of*

Educ., 502 F.3d 1116, 1125 (9th Cir. 2007) citing *Hafer v. Melo*, 502 U.S. 21, 30-31, 112 S. Ct. 358, 116 L. Ed. 2d 301 (1991). Aych sues Individual Defendants in their individual capacities, a fact which Defendants neglect to acknowledge, (Mot. 14–15 (arguing state employees are immune from suit while omitting that sovereign immunity applies only to suits in a state employee’s official capacity).) Therefore, Individual Defendants may not invoke sovereign immunity from Aych’s suit.” (*Id.* at 5.)

The Court then turned to the Individual Defendants (Fisch, Dougherty, and U of A’s athletic director at the time Dave Heeke) acting in their individual capacity. Regarding personal jurisdiction, the Court found it could not assert general personal jurisdiction since none of the defendants lived or had “continuous and systematic” affiliations with California. (*Id.* at 6.)

It further found that specific personal jurisdiction didn’t exist since the alleged tortious activity (disseminating the playbook) was not “expressly aimed at the forum state,” but rather at “one or more of the NCAA and Pac-12’ member institutions.” (*Id.* at 7.)

Finally, the Court addressed the plaintiff’s attempt to obtain personal jurisdiction via the Racketeer Influenced and Corrupt Organizations (RICO) statute, which in certain circumstances can permit jurisdiction anywhere in the United States. Before § 1965(a) authorizes personal jurisdiction over the conspiracy defendants, “the court must have personal jurisdiction over at least one of the participants,” and “the plaintiff must show that there is no other district in which a court will have personal jurisdiction over all of the alleged co-conspirators.” (*Id.* at 7 citing *Butcher’s Union Local No. 498 v. SDC Inv., Inc.*, 788 F.2d 535, 539 (9th Cir. 1986)). Here, the Court determined that it lacked personal jurisdiction over any of the individual defendants, and that an Arizona court would have jurisdiction over all of them. So the Court could not use the RICO statute to exercise personal jurisdiction. (*Id.* at 7.)

Since the Court was unable to exercise either general or specific personal jurisdiction over the Individual Defendants, it dismissed them without prejudice. (*Id.* at 8.)

Only the NCAA, which is headquartered in Indiana, but has relationships with member institutions in all fifty states, remained as a defendant following the Court’s July 5th, 2024 order dismissing the other defendants. In what amounts to a companion order and opinion that was filed

ten days later, on July 15th, the Court granted the NCAA’s Motion to Dismiss for lack of personal jurisdiction.

To arrive at its conclusion, the Court applied the Ninth Circuit Court of Appeals’ three-prong test to analyze specific personal jurisdiction: 1) purposeful availment and direction, 2) relation to forum, and 3) reasonableness. *Aych v. Univ. of Ariz.*, 2024 BL 240495, at 3 (C.D. Cal. July 15, 2024) citing *Schwarzenegger v. Fred Martin Motor Co.*, 374 F.3d 797, 802 (9th Cir. 2004).

Regarding the purposeful availment and direction prong, the Court said, “The NCAA may certainly have continuing relationships with its California member institutions. However, the NCAA does not reach out of Indiana simply because it has the authority to punish, deter, and regulate those institutions...the NCAA legislates and regulates in Indiana, and thus any decision to exercise its authority over its various member institutions would also have taken place in Indiana.” *Aych* BL 240495 at 4. And, “...a finding of personal jurisdiction based on its ability to regulate would mean that the NCAA could be haled into court in any state, which is plainly unreasonable.” (*Id.*)

The Court then looked at the second prong, “whether the plaintiff’s claim arises out of or is related to the defendant’s contact with the forum.” (*Id.*) It needed to see there was “an affiliation between the forum and the underlying controversy...that takes place in the forum state and is therefore subject to the state’s regulation.” (*Id.* citing *Bristol-Myers Squibb Co. v. Superior Ct. of California, San Francisco Cnty.*, 582 U.S. 255, 262).

One problem with this assertion was that the Court had already found that any harm to Aych based on the NCAA’s alleged failure to regulate its member institutions arose in Indiana and not California. Further, any harm Aych alleged occurred in Arizona and not California. (*Id.*) So the Court found no claims related to the forum state. Given that Aych failed on both prongs one and two, the NCAA did not have the burden to establish unreasonableness under the third prong. (*Id.* at 5.)

The Court dismissed the claims against the NCAA, the lone remaining defendant in the case, without prejudice for lack of personal jurisdiction. (*Id.*)

Aych has appealed the Court’s decisions to the Ninth Circuit Court of Appeals, and a briefing schedule takes place over September and October 2024. (*Aych v. University of Arizona, et al.*, Docket No. 24-4710 (9th Cir. Aug 01, 2024)). Perhaps the Fall 2025 entering law school

class will have a Ninth Circuit opinion to consider on their Civil Procedure final exam.

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Men Athletes Notified of Proposed Settlement in *Navarro v. Florida Institute of Technology*

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On July 9, 2024, Florida Institute of Technology (Florida Tech) notified all current and prospective men athletes who are or are expected to participate in intercollegiate that they may be part of a class of plaintiffs who have rights under a proposed settlement in *Joshua Navarro et al. v. Florida Institute of Technology*. Comments or objections to the settlement must be received no later than Thursday, September 26, 2024 by the Clerk of the Court for the U.S. District Court for the Middle District of Florida Orlando Division with a copy also delivered to Plaintiffs' attorneys.

Background

In late June of 2022, administrators at Florida Tech announced plans to cut five varsity sports from its athletic program including cross country/distance track (men's and women's); golf (men's); and rowing (men's and women's) while transitioning those sports to club

status. The decision would have resulted in a reduction in varsity sport offerings from 17 teams to 11 teams.

As explained by athletic director Jaime Jesse (Affidavit in *Navarro v. Florida Institute of Technology*, 2023) the decision to reduce the number of varsity athletic teams in the department was not a cost-cutting measure per se, but rather a strategic decision to reinvest limited resources in a smaller number of sports programs to ensure their long-term competitive success within the NCAA Division II Sunshine State Conference. At the time the cuts were announced scholarship athletes on the affected teams were assured that their scholarships would be honored through their graduations.

Within a week of the announcement some of the athletes most affected by the decision mobilized and sought reinstatement of their programs. They challenged the rationale that the decision reflected a priority on offering competitive athletic opportunities for athletes when a decision to demote existing varsity programs to club sports was a direct contradiction of that goal. Athletes negatively affected by the cuts also pointed out that the timing of the announcement, which happened after the NCAA Division II transfer portal had closed, placed those athletes and incoming athletes at a significant disadvantage to pursue playing opportunities elsewhere, even with an extension on the transfer portal date.

Unable to persuade Florida Tech to reverse course, Plaintiffs led by Joshua Navarro (at the time a junior rower) joined with six other men athletes to file a lawsuit in October of 2022, alleging that the institution's decision to cut men's sports violated their rights under Title IX of the Education Amendments, 20 U.S.C. § 1681 *et. Seq.* (Title IX). The Plaintiffs claimed that they had been denied access to equal participation opportunities; equal treatment; and equal scholarship opportunities when compared to women athletes and they sought preliminary injunctive relief.

Based on information from annual reports filed with the U.S. Department of Education under the Equity in Athletics Disclosure Act, Florida Tech appears to have been depriving men athletes of their fair share of athletic opportunities for a number of years. The complaint and an expert's report documented that the athletic department had been offering disproportionately fewer athletic opportunities to men athletes compared

to their enrollment for many years, as early as the 2003-2004 academic year (Lopiano, 2022). By terminating the football team entirely in 2019 during the COVID-19 pandemic and then cutting three men's sports in 2022, Florida Tech faced an uphill battle in meeting the requirements of Title IX's three-part test of athletic participation. Under the three-part test, schools can comply by offering athletic participation opportunities to men and women proportional to enrollment. Failing that, a school can demonstrate a history and continuing practice of program expansion for the underrepresented sex or demonstrate that the menu of varsity sport offerings is responsive to the existing interests and abilities of athletes at the school.

The history of Florida Tech's failure to comply with Title IX's requirements under the three-part test of athletic participation was compounded with the decision to demote the three men's programs in 2022. Because the program already favored women athletes by offering them a disproportionately higher number of athletic participation opportunities and more in athletic financial assistance beyond their proportional representation, Florida Tech was shortchanging men athletes by more than \$450,000 in athletic scholarship assistance in 2020-2021, with accumulated shortfalls over the years in excess of \$10.7 million (*Navarro v. Florida Institute of Technology* Complaint, 2022; Lopiano, 2023).

The Provisions of the Proposed Settlement

There are several conditions specified in the Proposed Settlement that protect the interests of the men's rowing and cross-country teams by assuring those teams will be designated as varsity sports for at least the next five years with full funding, staff, and access to benefits afforded to other varsity teams. The Proposed Settlement further requires Florida Tech to cease counting online students when calculating athletic participation opportunities, a practice that was mixing full-time undergraduate student enrollment where students took between 4-7 courses per semester with an exclusive online program enrollment where students were barred from taking more than two courses during an 8-week period of time. Further, Florida Tech was barred from counting participants in their E-sport program as athletes because the activity itself did not meet the requirements to be recognized as a varsity sport under Title IX.

To ensure that Florida Tech is meeting the conditions of the Proposed Settlement, a neutral party (referred to in the settlement agreement as "the Neutral") as agreed to by both the Plaintiffs and Florida Tech will be appointed. Compensation for work done by the designated "Neutral" will be paid by the university and tasked to do the following:

- Review Florida Tech's current Title IX Athletics compliance plan and distribution of athletic financial assistance;
- Assess Florida Tech's current level of compliance with Title IX's Athletics Requirements;
- Prepare an annual report to be submitted to the Court reviewing the status of Florida Tech's adherence to Title IX's Athletics Requirements; and
- Provide an opportunity for the parties to comment on the draft report prepared by the "Neutral".

It is expected that the "Neutral" will accept Florida Tech's report regarding Title IX athletics compliance unless the "Neutral" can demonstrate through the Annual Report to the Court why Florida Tech's plan does not put the institution on course to be compliant. The "Neutral" is accorded the opportunity to offer alternative recommendations to those of Florida Tech in the Annual Report as well as commentary.

Finally, under the Proposed Settlement, Class Counsel may seek up to \$350,000 in attorney fees and costs associated with litigation.

Concluding Thoughts

As much as the Proposed Settlement addresses the players concerns regarding the demotion of the sports of men's rowing and cross country and revives those teams to varsity status for a time period of at least five years, the Proposed Settlement is noticeably silent on reimbursing the Plaintiffs for the athletic scholarship shortfalls that were, according to the complaint and Lopiano's (2023) expert witness report substantial. The stipulation that men athletes agreeing to the Proposed Settlement waive their right to sue or to continue to sue on issues that were or could have been brought in the amended complaint places the onus on the "Neutral" to ensure that the interests of men's athletes are being served by Florida Tech in its adherence to Title IX Athletics Requirements.

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Court Dismisses High School Athlete's Claim that Due Process Right Were Violated After She Was Kicked Off Team

A federal judge from the Eastern District of Tennessee has dismissed the claim of a high school athlete, who claimed her due process rights were violated when her high school basketball coach kicked her off the team “without a hearing,” which she alleged caused a college to rescind an offer for a full athletic scholarship.

The plaintiff in the case was Sable Winfree, a student at Warren County High School and, at the time, a member of the women's basketball team.

The incident occurred on November 15, 2023, when Mendy Stotts, the women's basketball coach and an individual defendant in the case, pulled the plaintiff out of practice to speak with her in the hallway. Stotts, allegedly, “yelled” at the plaintiff, “saying she was tired of the plaintiff's disrespect towards her” and then accused the plaintiff of calling her the “f-word” during practice. She went on to tell her that she “no longer wanted her as part of the basketball team.” That same night, the plaintiff emailed Phillip King, one of the school's athletic directors, to request a meeting.

At the time of the incident, Winfree had been offered a full scholarship to play basketball at Trevecca Nazarene University.

The following day, the plaintiff and her mother met with King and Assistant Principal Anna Geesling to discuss the incident. The plaintiff's mother explained that she had never heard about any disciplinary proceedings prior to the plaintiff being kicked off the team, according to the complaint. Another meeting was held the next day, this time with King, Principal Chris Hobbs (also a co-defendant), Stotts, the plaintiff, her parents, her grandparents, and a family friend. At the meeting, Stotts said she had evidence that the plaintiff said “the f-word,” while the plaintiff stated that there were witnesses who would testify that she did not say the “f-word,” according to the complaint. However, the plaintiff was not allowed to present those witnesses. At the end of meeting, Stotts dismissed her from the basketball team. Hobbs upheld Stotts' decision. Two weeks after the plaintiff was dismissed from

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the team, Trevecca Nazarene rescinded the scholarship offer. The plaintiff alleged she also “had anticipated” scholarship offers from Middle Tennessee State University and Tennessee Tech University, but these offers never came.

On April 4, 2024, the plaintiff sued, alleging that the defendants violated her due process rights by dismissing her from the team without a hearing and defamed her by falsely stating that she had said “the f-word.” The defendants subsequently moved for judgment on the pleadings, pursuant to Rule 8 of the Federal Rules of Civil Procedure, which requires that a complaint contain “a short and plain statement of the claim showing that the pleader is entitled to relief.”

In its analysis, the court considered whether students have a property interest in playing on a school sports team “when they are faced with suspension or removal from their respective teams, and that removal results in the student-athlete losing one or more athletic scholarships to colleges or universities.”

The court noted that in order to establish a due process claim, the plaintiff must show that she has “been deprived of a life, liberty, or property interest.” *Tomaszczuk v. Whitaker*, 909 F.3d 159, 164 (6th Cir. 2018) (quoting *Ashki v. INS*, 233 F.3d 913, 921 (6th Cir. 2000)).

The instant plaintiff pointed to a handful of “non-binding cases where courts have found a property interest in participation in school sports,” according to the court. “This is hardly a deep bench of cases, and, regardless, the plaintiff’s argument runs afoul of binding precedent. While the court recognizes the practical impact that a scholarship offer often has on the ability of a student to obtain a higher education, it does not have the discretion to ignore the weight of binding precedent.” Ultimately, the court ruled that since the plaintiff “does not have a due process interest in continued participation in school sports, her due process claim must be dismissed.”

The court next turned to the plaintiff’s state-law defamation claim, in which she argued that the defendants defamed her by falsely alleging that she said the “f-word.”

“Because the claim over which the court has original jurisdiction has been dismissed, the basis for the court’s original jurisdiction is extinguished,” the court noted. “The court finds that the interests of judicial

economy and abstaining from needlessly deciding state-law issues weigh in favor of declining to exercise supplemental jurisdiction over the remaining state-law defamation claim.”

Sable Winfree v. Warren County School District, et al.; E.D. Tenn.; Case No. 4:24-cv-35; 7/29/24

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Federal Court Sides with School District and Its Decision to Ban Parent from Games

A federal judge from the Eastern District of Kentucky has granted a school district’s motion to dismiss a claim brought by a parent, who claimed his Constitutional rights to free speech and due process were violated when the school district banned him from sporting events.

Plaintiff Jerry Spurlock was banned from the facilities owned and operated by Ashland Independent Schools (District). He filed this lawsuit against the District, its Superintendent Sean Howard, Principal of Paul Blazer High School Jamie Campbell, and Athletic Director of Paul Blazer High School James Conoway, alleging that the ban violates his Constitutional rights to free speech and due process.

“This case arises from the often-intense culture of high school sports,” noted the judge in the opinion.

Spurlock is the freshman high school basketball coach at Boyd County High School. His son is a student at that school and is a member of the high school basketball team. Spurlock alleges that during his son’s eighth grade year, the then-basketball coach at Paul Blazer High School, Jason Mays, attempted to recruit his son to transfer to the District and play for Paul Blazer. Spurlock, “presumably surreptitiously, recorded that conversation and ultimately, it was released on social media in September of 2022.” Both the District and Boyd County High School reported the recording to the Kentucky High School Athletic Association (KHSAA). The KHSAA investigated and found that Coach Mays had violated its rules pertaining to impermissible recruiting. Thereafter, in November of 2022, the District fired Coach Mays.

Spurlock described Mays as “having unprecedented success” as the coach for the Paul Blazer team. He

further claimed that following Mays' dismissal, he and his son were subject to retaliation. He alleged that the defendants permitted and even encouraged its staff, students, and basketball fans to harass them. He added that there were antagonizing comments, chanted obscenities and lewd gestures aimed at him and his son during four basketball games in late 2022 and early 2023. He further claimed that the Principal of Paul Blazer High School Jamie Campbell's wife "ambushed him" after the February 3, 2023, matchup between Paul Blazer and Boyd County. He alleged that she stared him down and stood where he was intending to walk. He claimed that she berated him, "why the fuck are you speaking to me, why are you saying anything to me?"

He further alleged that, "upon information and belief," Defendant Campbell directed his wife to initiate the interaction with him. He claimed that Defendant Campbell then attempted to follow him into the parking lot to confront him.

On March 7, 2023, Boyd County played Paul Blazer in the Regional Championship at Morehead State University. Spurlock stated that during the game obscenities and lewd gestures were again aimed at him from Paul Blazer's student section. He alleged that Campbell mouthed "fuck you" toward him. Spurlock claimed that after the game, he attempted to "make a complaint" to the Paul Blazer staff, but that its students, staff and administrators threatened him and that he was ultimately escorted out of the gym by police "for his own safety." He alleged that "at no point during this interaction did [he] make threatening remarks toward the defendants, staff or students."

In their previous filings with the court, the defendants stated that at the March 7 game, Spurlock behaved aggressively toward Paul Blazer's staff and even challenged Campbell to "meet him outside." The defendants submitted a video of this incident, which was reviewed by the Court. "Consistent with the plaintiff's allegations, there were chants and lewd gestures from the student section as the spectators began to approach the gym floor and exit," wrote the court. "However, the video depicts the plaintiff taunting Campbell before being escorted out of the gym by police."

Three weeks later, by letter dated March 28, 2023, the District, through counsel, informed Spurlock that he would "not be permitted to enter or remain upon the premises of any Ashland Independent School District

property or any District event." In support of what the parties refer to as the "No Trespass Order," the letter cited Board Policy 10.21, which charges the Board with the "responsibility to maintain safe, harassment-free schools, school activities, and workplaces for student and staff to minimize disruptions to the District's programs." The letter stated that on March 7, 2023, the plaintiff "made threatening or harassing communications toward District employees and/or their family members relating to the District's basketball program and students on the team."

About six weeks later, Spurlock sent a letter to Howard, recounting the instances of the alleged harassment against him and his son. The plaintiff also asked for proof as to "why he had been banned from the Districts' premises."

On August 15, 2023, Howard emailed Spurlock and advised him that he had reviewed the plaintiff's complaint as well as the documentation and video clips submitted by him and that he had found no support for the plaintiff's allegations of intimidation or harassment.

He also reiterated that the March 2023 letter restricting the plaintiff's attendance from Ashland events was based on "legitimate concerns about the plaintiff's communications about District employees and his conduct at sporting events." Howard advised Spurlock that the "restrictions would remain in place through June 30, 2024, at which time the circumstance would be reviewed to determine if the restrictions could be modified or ended."

On December 27, 2023, Spurlock sued the aforementioned defendants, seeking declaratory and injunctive relief, as well as attorney's fees and costs. Specifically, the plaintiff alleged that banning him from any of the facilities owned or operated by Ashland Independent Schools was part of an ongoing campaign of retaliation against him for his exercise of his constitutional right to free speech. Spurlock claimed that in instituting the ban, the defendants also deprived him of his constitutional right to due process.

The plaintiff "alleges that the defendants violated his First Amendment rights to freedom of speech 'by retaliating against [his] speech to Boyd County High School, to the KHSAA, on social media, and directly to Defendants and by banning him' from the District's facilities," wrote the judge.

“To establish a claim for First Amendment retaliation, the plaintiff must show that (1) he engaged in protected conduct; (2) there was an adverse action taken against him ‘that would deter a person of ordinary firmness from continuing to engage in the conduct;’ and (3) ‘there is a causal connection between elements one and two—that is, the adverse action was motivated at least in part by the plaintiff’s protected conduct.’ *Thaddeus-X v. Blatter*, 175 F.3d 378, 394 (6th Cir.1999).

“As this court previously found, the plaintiff’s claim fails at the first step of the inquiry. He has not plausibly alleged that he engaged in ‘protected conduct.’ At the March 7 basketball game, the plaintiff appeared to threaten Campbell and challenged him to ‘meet him outside.’ He dared one of the defendants to nothing short of a fist fight before escorted off the premises by local law enforcement. ‘Fighting words’ fall well outside of the First Amendment’s bounds. Indeed, “an

invitation to exchange fisticuffs” is the very epitome of fighting words. *Texas v. Johnson*, 491 U.S. 397, 409, 109 S. Ct. 2533, 105 L. Ed. 2d 342 (1989).”

The court continued: “To the extent that the plaintiff continues to contend that something other than his conduct on March 7 resulted in the ban, the timeline of events belies this claim. The restriction or ‘ban’ was put in place only after, and in response to, his conduct on March 7.”

The plaintiff “has not plausibly alleged that he engaged in constitutionally protected speech, much less that the District’s decision to prohibit him from being on school property pursuant to Board policy and Kentucky law violated his constitutional rights. As such, his claim for retaliation must be dismissed.”

Spurlock v. Ashland Indep. Sch. Bd. of Educ.; E.D. Ky; CIVIL ACTION NO. 23-124-DLB-EBA; 7/31/24

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Articles

Hamby Pregnancy Lawsuit Against WNBA, Aces Presents Legal Issues

By Christopher R. Deubert, Senior Writer

On August 12, 2024, Los Angeles Sparks forward Dearica Hamby filed a lawsuit in a Nevada federal court against the Women’s National Basketball Association (WNBA) and the two-time defending champion Las Vegas Aces alleging that they unlawfully discriminated and retaliated against her when she was pregnant in 2022. Hamby’s allegations appear to have at least some merit since the WNBA previously disciplined the Aces and head coach Becky Hammon after an investigation into Hamby’s allegations. At the same time, Hamby’s damages are very uncertain.

Hamby’s Allegations

Hamby is a leading veteran in the league. Since entering the WNBA in 2015, she has twice won Sixth Woman of the Year, been named an All-Star on three occasions and won a WNBA Championship. She also received a bronze medal in the recently completed

Olympics as part of the women’s three-on-three team. Hamby entered the 2022 season, her eighth with the Aces (formerly the San Antonio Stars), as a pending free agent. However, on June 28, 2022, about six weeks into the season, Hamby and the Aces signed a two-year contract extension through the 2024 season.

Hamby alleges that the Aces committed to providing two benefits not included in the contract. First, she claims the Aces agreed to pay the cost of private school tuition for Hamby’s daughter in the form of a “donation” to the school. Second, Hamby says the team permitted her to occupy team-provided housing to permit Hamby’s family to assist with childcare.

According to Hamby, a few weeks later on July 18, 2022, she discovered for the first time that she was pregnant with her second child. Hamby confirmed the pregnancy at an August 8, 2022 doctor’s appointment. She alleges that at some unspecified date thereafter that she informed Natalie Williams, the Aces’ General Manager, of the pregnancy.

Hamby continued playing and helped the Aces to the 2022 title. On September 20, 2022, during the

Aces' victory parade, Hamby publicly announced her pregnancy.

After that announcement, Hamby claims that the team's attitude toward her took a negative turn. In the fall of 2022, Hamby claims that the Aces failed to pay the promised tuition for her daughter and also requested that she vacate the team housing.

Then, what is likely to be most at issue during the litigation, is a January 15, 2023 call between Hamby and Hammon. Hamby claims that Hammon chastised her for not taking precautions against getting pregnant, questioned her commitment to the team and her work ethic and accused Hamby of signing her contract extension knowing that she was pregnant. Hamby denied Hammon's claims and insisted that she would be ready for the next season after giving birth in the offseason.

Six days later, on January 21, 2023, the Aces traded Hamby to the Los Angeles Sparks.

The Fallout

On the day her trade was announced, Hamby made her allegations public in a social media post. Two days later, the Women's National Basketball Players Association (WNBPA), the players union, requested the WNBA to investigate Hamby's claims, which it did.

On May 16, 2023, the WNBA announced the results – but not the details – of its investigation. The league rescinded the Aces' 2025 first round Draft pick “for violating league rules regarding impermissible benefits” and suspended Hammon two games “for violating league and team Respect in the Workplace policies.” The WNBA said its investigation included “interviews with 33 people and a review of numerous texts, emails and other documents.”

The Aces at that time issued a statement expressing that they were “deeply disappointed by the outcome of the WNBA investigation” and supporting Hammon. In response to an email about this lawsuit, the Aces reiterated their prior statement.

Hamby alleges that the WNBA did not interview any other Aces players and otherwise failed to sufficiently address the wrongful conduct.

Hamby gave birth to a son on March 6, 2023 and timely reported to training camp for the Sparks on

April 28, 2023. She then played all 40 games in the 2023 season, averaging 8.9 points per game.

Hamby's Legal Claims

Hamby's lawsuit alleges the Aces discriminated against her in violation of Title VII of the 1964 Civil Rights Act. That law prohibits discrimination in the workplace on the basis of race, religion, national origin, color, and sex, including pregnancy. In December 2022, Congress amended the law via the Pregnant Workers Fairness Act to require employers to make reasonable accommodations for pregnant employees or those with pregnancy-related conditions. However, that law did not take effect until June 2023, after the relevant dates in Hamby's lawsuit and thus is not applicable to her case.

Hamby also alleges that the Aces retaliated against her by telling Aces players and staff not to communicate with her, claiming Hamby knew she was pregnant when she signed her contract extension, attempting to obtain her medical records, refusing to invite her to a White House celebration, and prohibiting the Aces' video staff from showing Hamby's daughter on the video screen at a game, something that they had previously done.

Hamby also claims that the WNBA retaliated against her by conducting an inadequate investigation and failing to extend a league marketing contract with her. Hamby's claims against the WNBA rely on the legal claim that the WNBA is her joint employer. While Hamby's contract is only with the Aces, it is possible that the WNBA exercises sufficient control over the terms and conditions of her employment such that it could be considered a joint employer. Indeed, players in Major League Soccer have made traction on such arguments against that league.

Implications of the Collective Bargaining Agreement

Further to the joint employer issue, Hamby's lawsuit raises the question as to how the collective bargaining agreement (CBA) between the WNBA and WNBPA addresses pregnancy. Article V, Section 14(j) prohibits a player from entering into a contract while knowing she is pregnant without prior written disclosure to the team. While the Aces may believe

that Hamby violated this provision, that would not excuse the team's alleged discrimination. Instead, the Aces would have had the right to seek damages, if any, against Hamby pursuant to the arbitration provisions in the CBA.

The CBA also provides that players are to receive 100% of their base salary while unable to play because of pregnancy. There does not appear to be any dispute that Hamby was paid all of the amounts owed under her contract.

While not at issue in the instant litigation, Hamby's lawsuit publicly reveals the reasons why the Aces were docked a Draft pick. The CBA includes a salary cap and related provisions which tightly control and track the amount of compensation paid by clubs to players. The CBA also contains a robust provision prohibiting any efforts to circumvent the salary cap. Yet the Aces did exactly that by allegedly providing benefits to Hamby which were not called for in her contract and thus would not have been counted against the Aces' salary cap.

At the same time, Hamby's admission that she received or was set to receive these off-the-books benefits could raise questions as to whether she (and perhaps other players) paid taxes on all of the income and benefits received from the Aces.

Finally, Hamby's lawsuit looks like it should be able to avoid the arbitration provision of the CBA. That provision only requires arbitration of disputes involving the "interpretation of, application of, or compliance with the provisions of" the CBA. Hamby's action arises out of federal law and generally does not allege violations of her contract or the CBA.

Has Hamby Been Harmed?

Generally speaking, a party can only pursue a lawsuit if they have been harmed by the defendant's conduct. It is not immediately apparent that Hamby has in fact been harmed. She continues to play in the WNBA pursuant to the contract extension she signed in 2022 and has seemingly never not received the benefits of that contract.

She alleges that she was harmed by lost endorsement opportunities, because California imposes higher taxes than Nevada, and because she could not participate on the Aces' 2023 championship team. More specifically, Hamby alleges that she had better

marketing potential in Las Vegas compared to Los Angeles because the latter is a "far more saturated endorsement market."

Nevertheless, Hamby does not identify any prospective endorsement deals that she lost as a result of being traded. Consequently, at this point, her damages appear speculative but could later be borne out by expert testimony.

Even if Hamby cannot prove specific damages, she could still recover emotional distress damages. A jury could also consider the Aces' conduct sufficiently problematic so as to warrant punitive damages.

Additionally, Hamby's case is helped by a recent Supreme Court decision. In *Muldrow v. City of St. Louis*, the Court held that a female officer sufficiently alleged sex discrimination under Title VII after she was transferred from one job to another, even though her pay and rank were unchanged. The Court held while an employee must show "some harm" to state a claim, the harm need not be significant. A change in the officer's responsibilities, perks, and schedule were sufficient. Under this lessened standard, Hamby's trade to a new team – which undoubtedly necessitated various life changes – seems likely to state a claim against the Aces even if her pay was not affected.

Ultimately both parties should be incentivized to settle the matter. The WNBA is experiencing a popularity and revenue boom. It certainly does not want to cloud that good news with allegations that it is insufficiently supporting its players in one of the most important aspects of their lives. Similarly, the Aces have become one of the league's leading teams, led by Hammon who has previously garnered interest as a potential NBA head coach.

From Hamby's perspective, her damages are highly questionable. Proving emotional distress damages would, in and of itself, be emotionally exhausting as it would open her up to invasive questioning. Hamby is also in the middle of her best season yet and litigation could become a distraction. The ball is in the WNBA and Aces' court.

Deubert is Senior Counsel at Constangy, Brooks, Smith & Prophete LLP

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How Ja'Marr Chase's Contract Stand Could Rewrite NFL Rules

By Joseph M. Ricco IV

Cincinnati Bengals wide receiver Ja'Marr Chase is making headlines with his unconventional approach to contract negotiations. Despite having two years left on his rookie deal, Chase is holding in—showing up to team activities but not fully participating. It's a strategic move that keeps him involved, avoids injury, and puts pressure on the Bengals to meet his demands. While Chase's focus is securing a big payday, his approach is setting a new precedent that could impact future negotiations in the National Football League. By exploiting a loophole in the current Collective Bargaining Agreement (CBA), which doesn't fine players who attend camp, Chase is quietly changing how elite players can use their leverage. Whether or not Chase gets his deal soon, his hold-in could reshape how teams and players handle rookie contracts. This article will explore what makes Chase's hold-in different, why it matters, and how it could influence the future of NFL contracts.

The Bengals' Game-Changer

Ja'Marr Chase has been a game-changer for the Cincinnati Bengals since entering the league as the fifth overall pick in the 2021 NFL Draft. In just three seasons, Chase has cemented himself as one of the top wide receivers in the league, earning Offensive Rookie of the Year honors and three Pro Bowl selections. His chemistry with quarterback Joe Burrow, a connection that dates back to their college days at LSU, has been electric, helping the Bengals reach the Super Bowl in 2022. With over 3,700 receiving yards and 29 touchdowns already to his name, Chase isn't just a key piece of the Bengals' offense—he's a cornerstone of their future. His performance has made it clear that he's one of the best in the business, and now he's looking to be paid like it.

Chase is currently on his rookie contract, which runs through 2025 after the Bengals exercised his fifth-year option. In 2024, he's set to make just over \$1 million in base salary, with a significant jump to nearly \$22 million in 2025. However, Chase is eyeing a deal that would put him at the very top of the wide receiver market. Reports suggest he's seeking a four-year extension

worth just one penny more than Justin Jefferson's recent \$140 million deal, aiming to become the highest-paid receiver in NFL history. Chase's demand is putting the Bengals in a tight spot, especially with Joe Burrow's recent \$275 million contract weighing heavily on the team's salary cap. But Chase's value on the field makes him nearly impossible to replace, and his current hold-in has ramped up the pressure on the Bengals to find a way to keep their superstar content.

Ja'Marr's Hold-In

Chase's hold-in is part of a growing trend among NFL players looking to renegotiate their contracts without dealing with the hefty fines that come with traditional holdouts. Under the current NFL Collective Bargaining Agreement, players who hold out and skip mandatory team activities can be fined up to \$50,000 per day for veterans and \$40,000 per day for those on rookie deals like Chase. Missing preseason games can also cost them a week's salary, making holdouts a pricey gamble. That's why guys like CeeDee Lamb and Brandon Aiyuk, who recently held out, ended up at a temporary disadvantage when they chose to stay away from camp. Chase, on the other hand, is taking a different route by holding in—showing up but not fully participating. It's a smart move that lets him avoid fines while still keeping the heat on the Bengals, reflecting a new way top players are finding leverage without losing money.

What makes Chase's hold-in even more eye-catching is the timing. Most players wait to make a stand until the year before their contract is up, looking to lock in a new deal before their current one runs out. But Chase is flipping the script by making his move two years before his rookie deal expires—a bold and rare decision that shows the unique leverage he holds. He's not just any player; Chase has been a game-changer for the Bengals, and his impact on the field gives him an edge that most players don't have this early in their careers. His early stand shows how much power he holds and how confident he is in forcing the team's hand.

As the offseason moves along, Chase's hold-in keeps everyone guessing about when—or if—he'll suit up without a new contract. For Chase, this is all about securing his future, but whether or not he gets his deal soon, he's already making waves. If this stand-off lingers, it risks straining his relationship with the

Bengals and could turn into a mess if things drag into the season. The longer it goes, the more it shows just how much leverage players like Chase can have and hints at a bigger shift in how these negotiations might go down in the future.

CBA Changes and Future Implications

The current NFL Collective Bargaining Agreement is set to expire in March 2031, and while that might feel far off, the league and team owners are already considering how to address emerging challenges like the hold-in loophole. This strategy is still a relatively new phenomenon, and clubs are struggling with players who show up but don't fully participate, putting them in a tough spot. As more players adopt this approach, it's likely that the NFL will push for changes in the next CBA to impose stricter rules or financial penalties on hold-ins, aiming to prevent this tactic from becoming the norm. The league has always been quick to safeguard its interests, and if hold-ins continue to gain traction, addressing this issue will be high on their agenda to maintain control over player participation and contract compliance.

As players continue to test these boundaries, it's hard to predict just how far this trend could go. If Chase's hold-in proves successful, it could open the door for more players to start pushing the limits, holding out with two years—or even more—left on their deals. This could create a slippery slope where honoring contractual obligations becomes more negotiable, leading to a rise in players opting out of full participation well before their contracts near expiration. The NFL and legal experts may have to step in to set clearer boundaries if this escalates, as the line between strategic leverage and outright contract breaches becomes increasingly blurred. The actions of star players like Chase could set a precedent that shifts the landscape of how contracts are viewed and honored—or not—in the league, and the ripple effects of these decisions could redefine the dynamics between players and teams in the years to come.

The Road Ahead for Contract Negotiations

Ja'Marr's situation serves as a test case for what might come next in the NFL. Whether his hold-in strategy inspires other players or pushes the league to tighten rules around participation, the outcome will be closely

followed. Legal and contractual questions could become more common, forcing teams and the NFL to rethink how they handle early disputes. Chase's actions might be the start of a bigger conversation about player power, contract expectations, and the future of negotiations in football. Keep an eye on how this plays out—it could reshape how contracts are honored in the years to come.

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Dr. Disrespect's Twitch Ban Shines Light on Legal Concerns Involving Online Streaming

By Ethan Chalet, 2L, Villanova University - Charles Widger School of Law

In late June 2020, popular Twitch streamer Dr. Disrespect, known for his provocative persona and armed with lucrative exclusive two-year contract, mysteriously disappeared from the platform.¹ Dr. Disrespect, whose real name is Guy Beahm IV, was one of Twitch's top content creators. Dr. Disrespect's streams consistently attracted an average of over 21,000 viewers, and he remained loyal to the platform even as many of his peers migrated to other streaming services.² Many fans pointed to Beahm's controversial history, which included being banned for streaming in a men's bathroom and performing racist caricatures while streaming.³ Yet, the truth is much more problematic than these speculations – the root of Dr. Disrespect's suspension was the “inappropriate” messages that he sent to a minor in 2017.⁴

Fast forward to 2024. A Twitch employee, who worked for the company for eight years, explained that Beahm was caught using Twitch's private chat feature to sext a minor.⁵ He even planned on meeting up with her at Twitchcon.⁶ To mitigate public backlash, Dr. Disrespect argued that the interactions were not illegal and that he had never met the individual.⁷ Twitch contended that Dr. Disrespect had violated the site's community guidelines or terms and services, emphasizing the need to hold him accountable despite his

status and prominence on the platform.⁸ After Twitch released its statement, several of Dr. Disrespect's partners and sponsors began pulling their endorsements. For instance, Midnight Society, a gaming studio that Beahm co-founded, has officially cut all ties with the streamer.⁹ Even non-gaming entities, such as the San Francisco 49ers, ended their partnership with Beahm, who had most recently announced the team's third-round pick in the 2022 draft.¹⁰ Other streamers and friends of Dr. Disrespect condemned his actions, stating that he needed to “re-evaluate” his life.¹¹

Dr. Disrespect's scandal is emblematic of some of the challenges Twitch has faced in safeguarding its platform against exploitation since its inception in 2011. As streaming continues to grow as a common commercial activity, companies may be unprepared to address the complex risks that accompany this medium. Numerous accounts on the platform have been accused of predatory behavior towards minors.¹² Child predators are attracted to Twitch's messaging feature, Whispers, which makes it possible for users to message each other across the site privately.¹³ To address these concerns, Twitch has partnered with the National Center for Missing and Exploited Children, which works with global law enforcement agencies to limit content that promotes, encourages, or admits participation in the sexual exploitation or sexualization of youth.¹⁴ This partnership is certainly a step in the right direction.

Twitch's Challenges

In 2022, Bloomberg published a report stating that over 1,900 child predators were using Twitch to systematically find and follow young users, encouraging them to perform suggestive dances and explicit sexual acts.¹⁵ In response, Twitch created phone verification

1 See Jacob Kastrenakes, *Twitch Reckons with Sexual Assault as it Begins Permanently Suspending Streamers*, The Verge (June 25, 2020), <https://www.theverge.com/2020/6/25/21303185/twitch-sexual-harassment-assault-permanent-bans-streamers>

2 See Patrick Shanley, *Streamer Dr. Disrespect Signs Multiyear Deal to Stay on Twitch*, The Hollywood Reporter (March 12, 2020), <https://www.hollywoodreporter.com/news/general-news/dr-disrespect-signs-multi-year-deal-stay-twitch-1283878/>

3 See Jacob Kastrenakes, *Supra Note 1*

4 See Conor Murray, *Dr. Disrespect Controversy: Youtube Reportedly Suspends Monetization After Streamer Admits Sending 'Inappropriate' Messages to Minor*, Forbes (June 28, 2024), <https://www.hollywoodreporter.com/news/general-news/dr-disrespect-signs-multi-year-deal-stay-twitch-1283878/>

5 *Id.*

6 *Id.*

7 *Id.*

8 See Jacob Kastrenakes, *Supra Note 1*

9 See Conor Murray, *Supra Note 4*

10 *Id.*

11 *Id.*

12 See Jacob Kastrenakes, *Supra Note 1*

13 *Id.*

14 See *Our Ongoing Work to Combat Online Grooming*, Twitch, (November 22, 2022), https://safety.twitch.tv/s/article/Our-Work-to-Combat-Online-Grooming?language=en_US

15 See Cecilia D'Anastascio, *Child Predators Use Twitch to Systematically Track Kids Livestreaming*, Bloomberg (September 21, 2022), <https://www.bloomberg.com/graphics/2022-twitch-problem-with-child-predators/?sref=P6Q0mxvj&embedded-checkout=true#headline-start>

requirements and would delete accounts made by users under the age of 13.¹⁶ Yet, child predators are exploring new ways to circumvent these barriers by using Twitch “clips.” These 20-second snippets of a live stream are being proliferated online, and often depict young children involved in graphic activity after viewer encouragement.¹⁷ Despite being played over 7,000 times, these clips remain the least moderated portion of the platform.¹⁸

To its credit, Twitch relies on its moderators to create and manage the online community. Moderators are tasked with identifying potential troublemakers and prevent them from spreading hateful or harmful content.¹⁹ However, most of these moderators are unpaid and unprepared for the emotional toll that accompanies the position. Studies have shown that moderators lack the cognitive and emotional capabilities to handle the situations that arise from interactions on Twitch.²⁰ Thus, moderators may struggle when it comes to handling difficult content such as the sexual exploitation of children.

Potential Liability

In 2020, Wired investigated the average age of Twitch users. While Twitch’s terms of service state that one must be 13 or older to stream on the platform, dozens of accounts were seemingly operated by children under that age.²¹ Many of these accounts were contacted by child predators who forced them to answer inappropriate comments, questions, or demands.²²

The magazine went on to suggest that Twitch could employ a better approach that would better protect the safety of its users. The Wired’s investigation described the specific precautions that Twitch’s competitors, YouTube and Facebook, were taking to protect their child users. For instance, YouTube had restrictions in place to prevent live streaming from mobile devices and Facebook carefully monitored channel discovery.²³ On the other hand, Twitch expected its users to use the site’s reporting tools or contact law enforcement when something criminal occurred.²⁴

Additionally, platforms can be held accountable under both federal and state laws if they neglect to implement sufficient protections for minors. While Section 230 of the Communications Decency Act (CDA) offers certain protections to online platforms, it is not absolute.²⁵ For instance, in *T.V. v. Grindr, LLC* (2024), the court recognized that §230 does not exempt platforms from all potential liabilities, particularly when state laws mandate proactive measures to safeguard children from harmful activities.²⁶ Furthermore, various statutes impose harsh penalties on platforms that fail to prevent the sexual exploitation of minors.²⁷ Beyond legal consequences, neglecting the safety of minors can result in substantial reputational damage and financial losses for these platforms.²⁸

Some observers believe Twitch may face liability for failing to take “appropriate” action. In *United States v. Williams*, the Supreme Court criminalized the pandering or solicitation of child pornography.²⁹ Since Twitch is arguably aware of the predatory activity that takes place on its platform, it could potentially be held liable as a distributor.³⁰ Twitch could avoid liability by actively going out of its way to prevent the aforementioned nefarious activities.

16 See Levi Winslow, *Report: Predators Are Using Twitch ‘Clips’ To Spread Child Abuse*, Kotaku (January 5, 2024), <https://kotaku.com/twitch-clips-feature-predators-child-abuse-tiktok-1851144631>

17 *Id.*

18 See Jacob Knutson, *Report: Twitch Feature is Used to Record and Share Child Abuse*, Axios (January 5, 2024), <https://www.axios.com/2024/01/05/report-twitch-feature-record-and-share-child-abuse>

19 See Nicole Carpenter, *Moderators are the Unpaid Backbone of Twitch*, Polygon (October 20, 2023), <https://www.polygon.com/23922227/twitch-moderators-unpaid-labor-twitchcon-2023>

20 See Donghee Yvette Wohn, *Volunteer Moderators in Twitch Micro Communities: How They Get Involved, the Roles They Play, and the Emotional Labor They Experience*, CHI ‘19: Proceedings of the 2019 CHI Conference on Human Factors in Computing Systems (2019)

21 See Cecilia D’Anastacio, *Children Stream on Twitch- Where Potential Predators Find Them*, Wired (July 30, 2020), <https://www.wired.com/story/children-stream-twitch-potential-predators-exploitation/>

22 *Id.*

23 See Brendan Sinclair, *Twitch Staff call the Company out on Sexual Assault, Racism, more*, GamesIndustry.biz (October 8, 2020), <https://www.gamesindustry.biz/twitch-staff-call-the-company-out-on-sexual-assault-racism-more>

24 *Id.*

25 *The Communications Decency Act*, 47 USCS § 230 (LexisNexis, 2024)

26 *T.V. v. Grindr, LLC*, 2024 U.S. Dist. LEXIS 143777

27 *Sexual exploitation of children*, 18 USC § 2251 (2008)

28 See *Eisner v. Meta Platforms, Inc.*, 2024 U.S. Dist. LEXIS 114725

29 See *United States v. Williams*, 553 U.S. 285 (2008).

30 Jean Fang, *The Legal Liabilities of Twitch, Amazon’s Livestreaming Subsidiary*, 17 J. Bus. Entrepreneurship and L. 154 (2024).

Currently, Twitch users do not need to have an account to upload content, subscribe to channels, or interact with other accounts.³¹ In other words, all users, regardless of age, can use all of the platform's features without signing up.³² Predators are taking full advantage of this policy, using as little as twelve seconds to find someone who appears to be a minor streaming on the platform.³³ Underaged streamers, incentivized by the prospect of donations, frequently provide their name and location to these predatory viewers.³⁴

To Twitch's Credit

While there is no single fix-all measure that Twitch can take to completely eradicate the child predation problem, there are precautions the platform is embracing or contemplating to mitigate the possibility of children encountering potentially harmful users. For instance, the company recently announced that they are updating the privacy settings on their messaging platform, Whispers. The setting "block Whispers from strangers" will now be turned on by default.³⁵ Moreover, Twitch has also modified its "off-service policy" giving them the right to remove users from the platform based on suspicious behavior.³⁶ Twitch hopes these changes will deter potential predators while shielding its users from the dark side of online gaming.

Conclusion

As the esports and streaming industries continue to evolve, the challenges of safeguarding platforms like Twitch against predatory behavior remain pressing. The industry will likely continue to grapple with the specific issues surrounding Dr. Disrespect, who recently hinted at a return to streaming through a social media

post.³⁷ Additionally, Beahm deleted a previous statement admitting to inappropriate behavior with a minor. With Dr. Disrespect's impending return, coupled with reports of a lucrative contract offer from rival streaming service Kick, the focus on critical concerns like the safety of minors is unlikely to diminish anytime soon.³⁸

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College Athletic Director Sues, Claiming He Was Wrongfully Terminated After Following Orders

By Austin Spears

Brian Barrio, Athletic Director of the University of Maryland, Baltimore County from 2020-2024, is [suing the university](#) in U.S. district court in Maryland, claiming he was fired unlawfully and was wrongfully blamed for a [U.S. Department of Justice Investigation](#) into Title IX claims and the sexual misconduct of the school's former swim coach.

Barrio claims that he identified and reported the abuse by former swim coach Chad Cradock, and he was unfairly blamed and fired after the Justice Department investigation.

Barrio joined UMBC in January 2020 and says he asked about UMBC's Title IX compliance as well as analyzed UMBC's athletic program during interviews. Barrio asked about recent Title IX investigations against UMBC baseball players accused of rape, who then sued the university after the investigation was completed. Barrio was assured that the case was handled, and the "Retriever Courage Project had been launched with the intent of teaming students, faculty, and administrators together to improve and enhance all Title IX processes." The lawsuit states that a vice president at the university at the time, Lynne Schaeffer, told Barrio during the hiring process that the university was leading a "new focus on Title IX issues." Other high-ranking UMBC officials, Senior Associate Athletic

³¹ See *How video-sharing platforms (VSPs) protect children from encountering harmful videos*, Ofcom (December 14, 2023), <https://www.ofcom.org.uk/siteassets/resources/documents/online-safety/information-for-industry/vsp/reports/2023/child-safety/how-video-sharing-platforms-protect-children-from-encountering-harmful-videos/?v=330584>

³² *Id.*

³³ See Rebecca Ruiz, *A 'predator' can Easily Target teen Streamers on Twitch, say Researchers*, Mashable (October 20, 2023), <https://mashable.com/article/twitch-child-safety>

³⁴ *Id.*

³⁵ See Emma Roth, *Twitch says it's Getting better at Detecting and Blocking Young Users*, The Verge (November 23, 2022), <https://www.theverge.com/2022/11/23/23474958/twitch-detecting-blocking-young-users-child-safety>

³⁶ *Id.*

³⁷ Paul Tassi, *Dr. Disrespect Threatens A Return, Raising Questions Like How And Why*, Forbes (August 15, 2024) <https://www.forbes.com/sites/paultassi/2024/08/15/dr-disrespect-threatens-a-return-raising-questions-like-how-and-why/>

³⁸ Olivia Richman, *Is Dr Disrespect Going to Stream on Kick? Esports Illustrated* (August 9, 2024) <https://www.si.com/esports/news/is-dr-disrespect-kick>

Director Gary Wohlstetter, Associate Vice President Valerie Thomas, and the university's general counsel staff attorneys, also confirmed their proper handling of Title IX to Barrio.

Barrio also specifically asked about Coach Cradock during his interviews and was told he was "an important and respected leader on campus." In reality, the Justice Department's findings found that UMBC officials failed to respond to allegations against Cradock dating back to 2015, including allegations of filming students when showering and inappropriately touching male swimmers. Cradock also failed to report violence by male swimmers against female swimmers spanning from 2016 to 2020. Barrio's lawyers said in the court filings, "Had UMBC been even remotely truthful regarding Cradock and the allegations that had been made (and covered up) about him, Brian would not have even considered UMBC."

Cradock died by suicide in 2021, months after resigning in disgrace during the investigation into his conduct.

Barrio's lawyers claim the investigation into Cradock would've never occurred without the aid from Barrio saying, "Brian was responsible for 'blowing the whistle' on Coach Cradock and bringing an end to the abuse he had forced on countless UMBC student-athletes that were entrusted to his care and oversight... if not for the actions of Brian, the abuse and assaults would have continued unabated." Barrio suspended Cradock for COVID-19 violations early into his Athletic Director tenure, which he attests inspired athletes to speak up to Barrio about Cradock's other violations.

The [Baltimore Sun](#) made contact with a former swimmer, identified as K, under Coach Cradock. K told the Sun that he felt it was "perplexing" that Barrio was being pushed out because of the Justice Department finding, stating further, "It feels like they're just doing it to save face... I don't know if they're getting rid of the right administration. I think there were probably people who knew more and were more responsible."

The complaint also states that Barrio rejected an opportunity at "a prestigious institution with a better-founded athletic program" in February on the promise that university president Valerie Sheares would extend his contract.

However, just weeks later, in March, when the Justice Department report was released, UMBC fired

Barrio in the fallout, despite Barrio saying the report cleared him of any wrongdoing. Barrio requested that UMBC put out a statement exonerating Barrio or separating him from the report, but the university rejected it.

The overall premise of Barrio's lawsuit is the university retaliated against him for Coach Cradock's misconduct and kept him from accepting another job offer with false promises. Barrio seeks monetary damages in the suit for "past and future wages and benefits," compensatory mental anguish, and emotional distress damages, but no specific amount was listed. Barrio's lawyers said in the complaint, "There is little Brian will be able to do to get his career back on track at all, let alone back to where he would have been without these actions by UMBC... Scapegoated by UMBC and connected to the Cradock/UMBC debacle, Brian is unemployed, effectively unhirable and his reputation, job prospects, and future opportunities have been forever impaired and tarnished."

In April, UMBC and the Justice Department entered into a settlement worth a total of \$4.1 million dollars, paying former swimmers sexually assaulted by Cradock or affected by dating violence that failed to be reported \$180,000 each. Swimmers who experienced sexual discrimination are entitled to \$60,000 each. Six former swimmers rejected the settlement and have chosen to take the case to court separately.

Spears is a junior Sport Management major at UT Austin. He is currently an analytics intern with the Texas Longhorns baseball team and plans to pursue a career in sports law.

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The 25 Best Sports Law Programs in America

By **Conner Poulin**

In the dynamic world of sports, where legal issues intersect with athletic pursuits and entertainment, a solid education in sports law is increasingly essential for aspiring professionals. As the sports industry continues to grow and evolve, law schools across the United States are rising to the challenge, offering specialized programs designed to prepare students for careers at the forefront of this exciting field.

From the bustling sports hubs of New York City and Los Angeles to the academic bastions of Boston and Washington, D.C., a diverse array of institutions are providing cutting-edge sports law education. These programs cover everything from contract negotiation and intellectual property to compliance and dispute resolution, equipping students with the skills needed to navigate the complex legal landscape of sports.

In this article, we explore the top 25 sports law programs in the United States, highlighting their unique offerings, distinguished faculty, and innovative approaches. Whether you are drawn to a school known for its strong industry connections, its comprehensive curriculum, or its vibrant extracurricular opportunities, this guide will help you identify the best programs to propel your career in sports law.

1. Brooklyn Law School

Brooklyn Law School's sports law program stands out due to its strategic location in New York City, offering students unparalleled access to major sports teams, leagues, and sports representation agencies. Under the leadership of Professor Jodi Balsam—an esteemed expert in the field and co-author of a leading sports law casebook—the program provides significant opportunities for internships and networking. As the Director of Externship Programs, Balsam enhances these opportunities, enabling students to gain practical experience and forge valuable industry connections.

Brooklyn Law's active student organization and the Brooklyn Sports & Entertainment Law Blog further strengthen the program. Additionally, the school hosts an annual sports law symposium. Balsam's full-time presence on campus is highly beneficial, as she offers accessible mentoring and guidance on various aspects of sports law, including job placements and academic projects. This combination of prime location, expert faculty, and robust extracurricular activities makes Brooklyn Law a compelling choice for students aspiring to careers in sports law.

2. College of Law at Florida State University

The College of Law at Florida State University offers a distinctive sports law program through its joint J.D./M.S. in Sport Management pathway. This innovative program enables students to earn both a law degree and a Master of Science in Sport Management concurrently,

blending legal education with specialized expertise in sports management. Students complete 24 credit hours in sport management courses, such as Marketing Sport, Sport and the Media, and Issues in Sport Law, culminating in a thesis. This interdisciplinary approach provides a thorough understanding of both legal and managerial facets of the sports industry. Situated in Tallahassee, Florida, the program focuses on practical skills, including contract negotiation, player/agent dynamics, and fostering competitive conditions for player services.

3. Duke University School of Law

Duke University School of Law offers a prestigious sports law program, bolstered by its Center for Sports Law and Policy, co-directed by Professors Paul Haagen and Doriane Coleman. This center significantly enhances Duke's standing in the field by concentrating on the regulation, business, and social impact of sports across professional, Olympic, and educational levels. The Center's initiatives, such as the "Future of College Sports" series, have featured influential speakers like Senator Cory Booker, addressing critical issues such as Name, Image, and Likeness legislation.

Located strategically near major sports hubs including Washington D.C., Charlotte, Atlanta, and Nashville, Duke provides students with valuable networking opportunities and professional connections. The program's strong focus on practical and policy-oriented education, combined with its esteemed faculty, makes Duke Law a top choice for students aiming to advance in sports law.

4. Fordham University School of Law

Fordham University School of Law offers a dynamic sports law program that takes full advantage of its prime location in New York City, a global center for sports and entertainment. The program leverages the city's vibrant sports scene, providing students with unparalleled opportunities to immerse themselves in the industry. Central to the program's offerings is the active Sports Law Society, which engages students through various events and activities that enhance their understanding of the field.

One of the program's signature features is the National Basketball Negotiation Competition, a highly regarded annual event that draws participants and

attention from across the sports law community. Held in conjunction with Fordham's sports law symposium, this competition is a key component of the curriculum, showcasing students' practical negotiation skills. The symposium, typically held in March, serves as a major forum for legal discussions and networking within the sports industry.

The sports law curriculum at Fordham is led by Professor Marc Edelman, a respected authority in the field, with additional contributions from attorney Dan Lust. This expert faculty ensures that students receive rigorous and up-to-date instruction, preparing them for successful careers in the fast-paced world of sports law.

5. Harvard Law School

Harvard Law School's sports law program, led by Professor Peter Carfagna, stands out for its comprehensive curriculum and hands-on learning opportunities. The program features a unique Sports Law Clinic that offers students real-world experience through placements with major sports organizations, leagues, and agencies. Specialized courses in legal frameworks of sports leagues, advanced contract drafting, and athlete representation are complemented by tailored externships, equipping students with practical skills essential for a career in sports law.

Additionally, the program benefits from the Harvard Journal of Sports and Entertainment Law, an active student organization, and an annual sports law symposium that showcases prominent speakers. Harvard's strong alumni network and prestigious reputation further enhance graduates' prospects in securing roles within top law firms or the sports industry, making it a premier choice for those pursuing a career in sports law.

6. Marquette University Law School

Marquette University Law School's Sports Law program, directed by Professor Paul Anderson, is renowned for its extensive and immersive approach to the field. The program offers 17 specialized courses and allows students to earn a Sports Law Certificate through the National Sports Law Institute (NSLI). Its strong focus on practical experience is highlighted by 35 internship opportunities each semester with major organizations such as the NCAA, Major League Baseball, and Nike.

Students can also contribute to the Marquette Sports Law Review, engage in national competitions, and participate in various student organizations dedicated to sports law. The program's annual summer seminar and fall conference keep students connected to current industry trends and networking opportunities. By combining rigorous academic study with hands-on skills in contract negotiation, dispute resolution, and business planning, Marquette prepares its graduates for successful careers in the sports industry and prominent law firms. The program's robust alumni network and active involvement in national events further bolster career prospects for its students.

7. New York School of Law

New York Law School (NYLS) has rapidly established itself as a leading institution in sports law, thanks to its strategic location in New York City and its innovative program under the guidance of adjunct professor Dan Lust. The program offers distinctive features such as the NIL Pro Bono Project, which provides education and legal support on Name, Image, and Likeness issues; the NYLS Soccer Negotiation Competition; and an annual sports law symposium held in March or April. The curriculum is further enhanced by the addition of the "Advanced Sports Law" course, offering students a comprehensive and up-to-date education in the field. With these unique offerings, NYLS is a compelling choice for students aiming to build a career in sports law.

8. Pepperdine Caruso School of Law

Pepperdine Caruso School of Law offers a vibrant sports law program under the leadership of Professor Maureen Weston, located in Malibu, California, close to the major sports and entertainment hub of Los Angeles. The program features both a Certificate in Entertainment, Media, and Sports Law (EMS) and an LL.M. in EMS, providing students with specialized knowledge in this dynamic field.

The curriculum is enriched by extensive experiential learning opportunities, including externships, personalized mentoring, and international study tours. These tours, conducted by Professor Weston and Court of Arbitration for Sport Arbitrator Jeff Benz, allow students to gain firsthand experience in global sports law.

practices in destinations such as London, Switzerland, and Paris.

Pepperdine's program also emphasizes international sports law, offering courses that explore both U.S. and global perspectives on sports dispute resolution. The school hosts a variety of conferences on current topics like Esports, Olympic sports, and sports gambling, showcasing its commitment to leading-edge sports law education. Additionally, the active student Sports & Entertainment Law Society and collaborations with the Straus Institute for Dispute Resolution further enrich the learning experience. With its comprehensive curriculum and strategic location, Pepperdine Caruso School of Law is an outstanding choice for students aspiring to excel in sports law.

9. Santa Clara University School of Law

Santa Clara University School of Law is launching a new certificate in sports law this fall to address the growing demand for legal expertise in the \$100 billion sports industry. This unique certificate, the only one offered by Bay Area law schools and among a select few in California, is designed to provide specialized education in sports law, including business, contract, labor, antitrust, intellectual property, and athlete representation. Leonard Lun, J.D./MBA '00, an adjunct professor with extensive experience in sports and entertainment law, will oversee the program.

The certificate program will benefit from Santa Clara Law's strong connections in the sports industry and its established curriculum in high-tech law. Students will gain practical experience and professional networking opportunities through the Sports & Entertainment Law Society, which has over 100 members. The program, set to run as a pilot for three years, aims to enhance students' marketability and readiness for careers in sports law by offering a comprehensive understanding of relevant legal issues and access to industry professionals.

Associate Dean Laura Norris highlighted that the program embodies Santa Clara Law's commitment to blending academic rigor with real-world applications in a sports-centric region. The certificate is designed to prepare students for various roles within the sports industry, including legal and J.D. Advantage positions, and is expected to significantly improve their

employment prospects and career development in this dynamic field.

10. Seattle University School of Law

Seattle University School of Law offers a unique Sports Law program led by Kelli Rodriguez, focusing on the intersection of sports, law, and ethics. Designed for those pursuing careers in the expanding sports industry, the program emphasizes compliance, risk management, and the legal complexities of both professional and amateur sports. The Master of Legal Studies (MLS) in Sports Law and Sports Law Compliance equips students to address issues such as Name, Image, and Likeness (NIL), intellectual property, and labor law, while emphasizing ethical decision-making.

Situated in a vibrant sports market, Seattle U Law provides practical experience through internships and externships with local professional teams and the athletics departments of the University of Washington and Seattle University. The program also benefits from strong industry connections, with an advisory board featuring top legal professionals from the Seattle Seahawks, Mariners, Kraken, and other major sports organizations. This comprehensive approach, combined with the school's commitment to social justice, establishes Seattle U Law as a leading institution in sports law education.

11. Seton Hall Law School

Seton Hall Law School offers an extensive Gaming, Hospitality, Entertainment & Sports Law (GHAMES) program, recently approved as a certificate program. Under the leadership of Associate Dean Devon Corneal and Professor Robert Boland, the program takes advantage of New Jersey's pioneering role in sports betting and its proximity to New York City, providing students with exceptional opportunities in sports law, gaming law, and entertainment law. The curriculum features specialized courses such as Sports Negotiations and Collegiate Sports Law, complemented by practical experiences including monthly Sports Law Dialogues and an annual Sports Law Symposium.

The program's dedication to sports law is further supported by the Interdisciplinary Center for the Study of Sports, which collaborates with the Business School and Center for Sports Journalism at Seton Hall. This interdisciplinary approach ensures a well-rounded

education and broad networking opportunities for students. Additionally, the student-run Entertainment and Sports Law Society (ESLS) enriches the program by organizing events, managing a blog, and supporting students in negotiation competitions. These features make Seton Hall a compelling choice for those aiming to build a career in sports law.

12. Sandra Day O'Connor College of Law – Arizona State University

The Sandra Day O'Connor College of Law at Arizona State University (ASU) distinguishes itself as a premier institution for aspiring sports law professionals by seamlessly blending legal education with business acumen. Under the leadership of Professor Glenn Wong, the program is uniquely positioned at the intersection of sports, law, and business, thanks to its collaboration with the Arizona State athletic department and the W.P. Carey School of Business. ASU offers a Master of Sports Law and Business (MSLB) degree, as well as a concurrent J.D./MSLB program, making it the only school in the U.S. to offer such an integrated curriculum. This interdisciplinary approach ensures that students receive a comprehensive education tailored to the demands of the modern sports industry.

Located in the sports-centric city of Phoenix, ASU provides unparalleled access to professional opportunities. Phoenix is a hub for major sporting events like the Super Bowl, NCAA Final Four, and the Waste Management Phoenix Open, offering students valuable internship and networking opportunities. The school's strong connections with local sports organizations, including the Arizona Diamondbacks, Phoenix Suns, and NASCAR events, further enhance these experiences, allowing students to gain practical skills in a dynamic sports market.

ASU's program also boasts a distinguished faculty, including industry veterans such as Aaron Hernandez, former NCAA Associate Director of Football, and Stephanie Jarvis, former General Counsel of the Fiesta Bowl. The program, named after former MLB Commissioner Bud Selig, who serves as a Distinguished Professor, brings real-world experience directly into the classroom. Additionally, students can contribute to the Arizona State Sports and Entertainment Law Journal, one of the nation's longest-running sports law journals, engaging in scholarly discourse and legal writing.

In summary, the Sandra Day O'Connor College of Law's sports law program is an exceptional choice for students aiming to enter the sports industry. Its integration of legal and business education, combined with strategic location and strong industry connections, equips students with the skills and opportunities necessary to thrive in a competitive field.

13. Tulane University School of Law

Tulane University School of Law offers one of the nation's leading sports law programs, directed by Professor Gabe Feldman. Known for its innovative approach, Tulane was the first U.S. law school to offer a sports law certificate for J.D. students. The program is distinguished by a strong alumni network and extensive opportunities for students to engage in practical experiences and industry connections.

A key feature of the program is its Sports Law Mentorship Program, which pairs current students with alumni working in the sports industry. In 2022, over 160 sports executives, many of whom are Tulane graduates, participated in this program and other signature events like the Sports Law Society Speaker Series and the Women in Sports Law Symposium. Students also have the chance to contribute to the *Sports Law Journal*, produce *The Sports Lawyer* newsletter, and participate in high-profile negotiation competitions.

Tulane's Sports Law Program integrates rigorous academics with hands-on experiences, preparing students for successful careers in sports law and beyond. By offering access to events like the Sports Lawyers Association conference and emphasizing the broader applicability of sports law, the program equips students with skills that are valuable across various legal fields.

14. UCLA School of Law

UCLA School of Law is a premier choice for students pursuing sports law, distinguished by its strong academic reputation and its prime location in Los Angeles, a key center for the entertainment and sports industries. The Ziffren Institute for Media, Entertainment, Technology, and Sports Law offers specialized courses such as the Sports Law Simulation and the Talent & Brand Partnerships/Name, Image, and Likeness (NIL) Clinic. These courses emphasize experiential learning, providing students with hands-on experience through

projects like collaborating with the General Counsel of the Los Angeles Dodgers.

The program is further enriched by events like the Global Sports Forum, hosted annually in the fall in partnership with the business school. This forum, along with other industry-focused events, offers students valuable opportunities to connect with leaders from major entertainment and sports organizations. Coupled with access to internships and externships at top talent agencies and sports teams, UCLA School of Law ensures its students are well-positioned at the cutting edge of the sports law field.

15. University of California, Berkley, School of Law

The University of California, Berkeley, School of Law is a premier institution that integrates sports law with its prestigious Center for Law & Technology. Located near Silicon Valley, Berkeley is an ideal choice for those interested in the intersection of sports, technology, and digital media. Under the leadership of Executive Director Wayne Stacy, the program offers a diverse curriculum, including courses such as Drafting and Negotiating Sports Law Contracts and Video Game Law, reflecting the evolving nature of sports law in the digital era.

Starting in the spring, UC Berkeley's sports law program will introduce an NIL Clinic, where students will offer legal advice to student-athletes across California, particularly those from universities without their own law schools. This initiative highlights Berkeley's commitment to increasing access to legal resources in the burgeoning field of Name, Image, and Likeness (NIL). Additionally, the law school hosts an annual conference each April, providing further opportunities for academic and professional development.

With its strong focus on intellectual property and technology regulation, UC Berkeley School of Law offers a distinctive environment for exploring the legal challenges and opportunities in modern media, entertainment, and sports. The collaboration between the Media, Entertainment & Sports Law Center and other specialized centers ensures that students are well-equipped to navigate and shape the future of these industries.

16. University of Florida Levin College of Law

The University of Florida Levin College of Law has rapidly emerged as a key player in the sports law industry, especially within the Florida legal market. The program offers a comprehensive Entertainment & Sports Law Roadmap, guiding students through a well-structured series of courses designed to equip them with essential knowledge and skills for a career in sports law. A standout feature is the sports law course taught by Darren Heitner, a nationally recognized sports lawyer and UF alumnus known for his significant contributions to the Name, Image, and Likeness (NIL) space. Heitner's course is particularly dynamic, featuring a "live syllabus" that adapts annually to reflect current events and real-world issues, ensuring the content remains highly relevant and practical.

Beyond its strong academic foundation, UF Levin College of Law provides students with ample opportunities to engage directly with the sports industry. The school hosts an annual sports law symposium in the spring, attracting industry leaders to discuss emerging trends and challenges. Students also have the chance to contribute to the *Florida Entertainment and Sports Law Review*, a student-run publication that delves into legal issues within the sports and entertainment sectors. While Gainesville may not be a major sports and legal hub, the university's connections to Florida's vibrant sports market—including professional teams like the Miami Dolphins, Tampa Bay Buccaneers, and organizations such as the PGA TOUR—offer students valuable externship opportunities, including placements with the LPGA and the Women's Sports Foundation.

Overall, the University of Florida Levin College of Law's sports law program is distinguished by its rigorous academic offerings, practical learning experiences, and strong ties to the broader sports industry. These elements make it an excellent choice for students eager to enter the competitive field of sports law, particularly in a state as rich in sports opportunities as Florida.

17. University of Georgia Law School

The University of Georgia School of Law offers a distinctive joint MS/J.D. program in Sport Management, which can be completed in just four years. Students can choose to start with either the MS or JD degree and use their final year to fulfill requirements for both programs. The MS component offers both thesis and

non-thesis options, providing flexibility based on students' career goals.

UGA Law's sports law curriculum delivers a thorough education in areas such as contract negotiation and sports law fundamentals. Courses are taught by experts like John Cooper, and students gain practical insights from guest speakers such as Jonathan Smith of the Atlanta Braves. The program's strong connections with sports organizations and law firms provide valuable networking and hands-on experience opportunities.

The Sport and Entertainment Law Society at UGA Law further enriches the program by organizing events like conferences and mock negotiations. Additionally, students have access to externships with the UGA Athletic Department and connections with industry professionals. Located in Athens, Georgia, UGA Law is celebrated for its academic excellence and supportive community, making it an excellent choice for those pursuing a career in sports law.

18. University of Miami School of Law

The University of Miami School of Law boasts a vibrant Sports Law program, leveraging its prime South Florida location—a major hub for the entertainment and sports industries. Under the leadership of Dean Greg Levy, the program offers a comprehensive and practice-oriented education that integrates sports, entertainment, and arts law.

Miami Law is unique in offering a joint J.D./LL.M. degree in Entertainment, Arts, and Sports Law, allowing students to earn both degrees in under four years. This accelerated program provides a deep dive into these interconnected fields with a forward-looking curriculum featuring innovative courses like "Chat ENT: AI's Impact on Entertainment and Sports" and "Blank Spaces: IP Law Through the Lens of Taylor Swift and Others."

Experiential learning is a cornerstone of the program, with students gaining hands-on experience through site visits to local sports teams, entertainment companies, and art institutions. Opportunities for practical skill-building include the Litigation Skills Program, International Moot Court, and various legal clinics. The Sports Law Society and an annual spring symposium further enrich the student experience by connecting students with industry professionals. Miami

Law's strategic location also provides unique opportunities to engage with the diverse sports landscape of South Florida and explore international law, especially relevant to those interested in Latin American markets.

19. University of Minnesota School of Law

The University of Minnesota School of Law has quickly emerged as a prominent force in sports law, particularly with its pioneering focus on Name, Image, and Likeness (NIL) issues. Notably, Minnesota was among the first law schools to establish a clinic dedicated to providing pro bono NIL legal services, offering students invaluable hands-on experience that sets it apart from other programs. This clinic, coupled with the law school's strong reputation in the Midwest, highlights Minnesota's growing influence in the sports law arena.

As part of a top 20 law school and a major Power 5 university, Minnesota Law benefits from its location in a dynamic Midwestern city known for its innovative spirit. The program's offerings are further enriched by the introduction of a sports law moot court competition in 2023, and a symposium this past spring. These new initiatives demonstrate the program's commitment to enhancing its educational and practical resources for students aspiring to careers in sports law.

20. University of Mississippi Law Center

The University of Mississippi Law Center, known as Ole Miss, offers a comprehensive sports law program under the leadership of Professor William Berry. Located within the SEC, Ole Miss benefits from a deep connection to college athletics. The program features a concentration in sports and entertainment law, allowing students to develop expertise through courses in amateur and professional sports law, entertainment law, and intellectual property.

What sets Ole Miss apart is its strong affiliation with the SEC, exemplified by Professor Ron Rychlak's role as Faculty Athletic Representative and board member of the SEC. These connections create unique internship opportunities for students within the university's compliance department and general counsel's office. Additionally, Ole Miss hosts an annual sports law symposium and publishes the Mississippi Sports Law Review, providing students with valuable platforms for professional growth.

For students aiming to pursue careers in college athletics or within the Southeastern United States, Ole Miss offers a competitive and well-established program with a robust emphasis on intercollegiate sports law.

21. University of New Hampshire Franklin Pierce School of Law

The University of New Hampshire Franklin Pierce School of Law offers a highly esteemed Sports and Entertainment Law program, led by Professor Michael McCann, a renowned sports law expert and regular contributor to *Sportico*. The program is particularly notable for its strong emphasis on intellectual property (IP) law, consistently ranked among the top 10 IP law schools in the nation by *U.S. News & World Report*. This focus on IP is seamlessly woven into the sports law curriculum, with innovative offerings like one of the country's first courses on Name, Image, and Likeness (NIL) rights, introduced in 2020.

The Sports and Entertainment Law Institute (SELI) at UNH provides students with a robust education that extends beyond traditional classroom learning. The program offers a sports law certificate, specialized training in sports betting law, and hands-on experiences through the UNH Sports Law Review and two annual symposia. These events feature influential figures such as Congresswoman Lori Trahan, a key advocate for college sports reform, and cover high-profile legal disputes like the ongoing battle between the PGA TOUR and LIV Golf. Students also gain practical experience through legal residencies and externships with leading organizations, including Sony Music, Under Armour, and the Dallas Cowboys.

Collaboration with the Franklin Pierce Center for Intellectual Property enhances the program, allowing students to explore the intersection of sports, entertainment, and IP law. This integration provides access to a wide array of IP courses and expert faculty, further enriching their legal education. With its strong academic foundation and comprehensive practical training, UNH positions its graduates for success in the rapidly evolving sports and entertainment law fields.

22. University of Oregon School of Law

The University of Oregon School of Law boasts a distinctive sports law program, bolstered by its strong affiliation with Nike and its prime location in the Pacific

Northwest. A standout feature of the program is the Summer Sports Law Institute (SSLI), a five-week course that has been attracting students and experts from around the globe for over a decade. The SSLI offers an immersive experience covering diverse topics such as antitrust law, labor law, intellectual property, NCAA compliance, and international sports arbitration. This program is also open to students from other institutions.

Oregon Law further enhances its sports law curriculum with specialized courses like Amateur and Professional Sports Law and International Sports Law. The latter includes an annual study trip to London or Lausanne, offering students valuable international exposure and networking opportunities. Additionally, the curriculum is enriched through practical experiences such as internships and clinics, with students benefiting from the expertise of prominent faculty members, including Professor Robert Illig and former Nike attorney Paul Loving.

Students also have access to extracurricular activities through the Sports and Entertainment Law Forum and the Oregon Sports and Entertainment Conference. The program's connections to major sports entities, such as Nike and Adidas, as well as local teams like the Portland Trail Blazers, offer significant networking and career advancement opportunities. Overall, the University of Oregon School of Law is a premier destination for aspiring sports law professionals, offering a comprehensive and industry-connected education.

23. University of Texas at Austin School of Law

The University of Texas at Austin School of Law offers a strong foundation for students interested in sports law, especially those aiming to enter the growing Texas legal market. With its robust athletics department and close connections to the state's expansive sports industry, UT Austin provides a blend of academic excellence and sports-focused opportunities. Notably, the law school features an online, self-paced Sports Law Specialist Certificate program, allowing students to acquire specialized knowledge in sports law on their own schedule.

While the law school's sports law journal is currently inactive, UT Austin remains a significant force in shaping future sports lawyers. The program benefits from the expertise of Professor Ariel Dulitzky, whose research delves into the intersection of sports and human rights. Dulitzky also chairs the university's Student Athletes and Activities Committee, enhancing the

school's involvement with sports law issues. Despite having fewer offerings compared to some other leading sports law programs, UT Austin's strategic location and academic rigor make it a vital institution for those pursuing a career in sports law in Texas and beyond.

24. University of Virginia School of Law

The University of Virginia (UVA) School of Law is an exceptional choice for students pursuing a career in sports law, thanks to its esteemed reputation, strategic proximity to Washington, D.C., and a robust sports law curriculum. The program benefits from the expertise of faculty members like Professor Sarah Hartley, who focuses on the structural, governance, and commercial aspects of sports at all levels, from amateur to professional.

UVA offers two specialized sports law courses and provides students with the opportunity to contribute to the Virginia Sports and Entertainment Law Journal. The program is further enriched by winter and spring symposia that address current issues and trends in sports law. Additionally, annual courses led by Professor Mark S. Levinstein and Professor Donald L. Dell add depth to the curriculum. With a strong network of alumni in the sports law sector, UVA offers a comprehensive education and valuable connections in the field.

25. Villanova University Charles Widger School of Law

Villanova University Charles Widger School of Law's sports law program is a leading choice for students aiming to build careers in sports law. Situated near Philadelphia and within reach of New York City, the program is spearheaded by Professor Andrew Brandt, a former sports agent and Green Bay Packers executive. Under Brandt's leadership, Villanova has established a comprehensive sports law curriculum, offering students ample opportunities for practical experience and professional networking. Central to the program is The Jeffrey S. Moorad Center for the Study of Sports Law, one of the few institutes in the country exclusively dedicated to this field.

Students in the program engage with the sports law community through a variety of avenues, including an active sports law society, a speaker series featuring industry leaders, and the prestigious Moorad Symposium, held annually. Additionally, students contribute to the *Jeffrey S. Moorad Sports Law Journal* and a dedicated

sports law blog, with first-year students having the chance to publish on current issues. Practical experience is further enhanced through externships with top-tier organizations like the NFL, the Philadelphia Eagles, and Wasserman Media Group, equipping students with the skills needed for successful careers in both amateur and professional sports.

Villanova's sports law program combines academic rigor with real-world experience, ensuring that its graduates are well-prepared to excel in the competitive sports law landscape. The program's specialized coursework, hands-on learning opportunities, and the mentorship of industry experts like Brandt make it a formidable contender in the legal education arena.

Conner is a recent graduate of the University of New Hampshire Franklin Pierce School of Law. Conner has spent his legal career working on complex contracts, intellectual property matters, and writing for Hackney Publications and UNH's Sports Law Review. Conner is looking forward to continuing to write and hopes to break into the Sports world soon.

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Sports Law Attorney Helen Maher Launches Maher Legal Group

Helen Maher, a general commercial litigator with a focus on antitrust and sports law, has launched her own firm - **Maher Legal Group**.

In her 25 years as an attorney, more than two decades of it coming at Boies Schiller Flexner, Maher has built a reputation for assisting some of the world's leading sports organizations as they strategize about business transactions and navigating complex litigation.

Among the clients she has represented are:

- NASCAR
- YES Network
- Dallas Cowboys
- Ladies Professional Golf Association
- Motor Racing Network
- International Speedway Corporation

Those clients have a healthy respect for her potential to excel with her own firm.

“Helen is one of the most impressive lawyers I have ever worked with,” said Jason Cohen, General Counsel of the Dallas Cowboys. “She understands the legal and business issues / considerations in the sports context. Helen is very strategic, measured and all-in!”

“Helen has been a trusted advisor to NASCAR for two decades,” said Amanda Oliver, Executive Vice President and Chief Legal Officer of NASCAR Enterprises, LLC. “She’s an experienced litigator who continues to assist us with a variety of matters given her great knowledge of our business and the sport.”

Maher noted that her decision to start her own firm was “a natural evolution of my practice.

“I had developed my own client base and was able to offer high-quality services typically associated with larger law firms, but in a more personalized setting. The traditional legal landscape often presents challenges that clients find difficult to navigate, including the ever-rising attorney rates. Having worked with some of my clients for over 20 years, they count on me to be super responsive and to provide tailored and effective solutions. By establishing my own law firm, I created an environment that prioritizes the needs of both my needs and those of my clients.”

As a small firm, Maher is taking a prudent approach to growth.

“Right now, I am working with local firms on litigation where I have access to resources and do not need to add associates,” she said. “However, I expect by mid-2025 to start building internally with additional hires.”

But one thing is certain. Maher embraces the practice are of sports law.

“I enjoy working with sports clients because I appreciate people that are at the top of their game,” she said. “I have an immense respect for individuals willing to hone their skills and focus their energies to be the very best in their league. Similarly, I respect those willing to foster an environment in which the best of the best can compete. Any person that is driven to succeed at the highest level of their sport is always motivated, determined, and usually comes with a power-packed personality which is the sort of client I love to represent.”

Excel Sports Management Sues Former Media Talent Agent Employees

By [Darren Heitner](#)

Excel Sports Management has [filed a lawsuit](#) against media talent agents Gideon Cohen, William Petok, and Katherine Cutler. The case was initiated on August 20, 2024, and is pending in New York state court.

The Complaint alleges that Cohen, Petok, and Cutler, who were employed by Excel, breached their employment contracts when they left Excel to join competitor Athletes First and called Excel’s clients intending to solicit them on behalf of their new employer. At the time of filing, two clients (Lisa Byington and Kevin Kugler) had allegedly already terminated their relationships with Excel and Excel was under the impression that at least four other clients had been solicited by the defendants to make a change of representation.

In the Complaint, it is revealed that Cohen, who built Excel’s Media Talent Division, was paid a base salary and discretionary bonus of at least \$100,000 annually. His employment agreement included certain restrictive covenants as shown below:

For a period of six (6) months following the termination (voluntary or otherwise) of Executive’s employment relationship with the Company, Executive shall not directly or indirectly, or by action in concert with others, either for Executive’s own benefit or for the benefit of any other person or entity, solicit, encourage or induce any Applicable Client (as defined below) to sever, terminate, reduce, limit or otherwise diminish such Applicable Client’s relationship with the Company or any of its Affiliates. “**Applicable Client**” means any person or entity that (i) was a client of the Company within the six (6) month period preceding the termination of Executive’s employment with the Company with whom Executive, or other employees of the Company reporting to or working with Executive, had dealings while Executive was employed with the Company, or (ii) was a prospective client of the Company who was actively solicited by the Company within the six (6) month period preceding the termination of Executive’s employment with the Company where the Executive participated in such solicitation. This provision shall not apply to clients of the Company who were represented by Executive prior to the Effective Date.

Petok and Cutler separately agreed to the following:

For a period of twelve (12) months following the end of Employee’s employment with Company (voluntary or otherwise), Employee shall not directly or indirectly solicit or represent as a client, on Employee’s own behalf or that of another, or be employed by, any person or organization which (i) was a client of Company within the twelve (12) months next preceding the termination of Employee’s employment with Company and, further, was a client with whom Employee had dealings while Employee was employed with Company or was a client with whom Company employees reporting to or working with Employee had dealings while Employee was employed with Company, or (ii) was a prospective client of Company who was actively solicited as such within the twelve (12) months next preceding the end of Employee’s employment with Company and, further, Employee, or Company employees reporting to or working with Employee, participated in such solicitation.

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If this litigation progresses, the main question is whether Cohen, Petok, and Cutler solicited, encouraged, or induced any client or prospective client to end their relationship with Excel or not sign with Excel. Alternatively, it could be argued that there was no solicitation or encouragement and that the clients departed on their own volition.

Separately, there will likely be a legal dispute surrounding the enforceability of such a restrictive covenant and whether it is supported by a legitimate business interest. Excel claims that the restrictive covenants were “crafted narrowly to protect Excel from the specific harms it believed the Former Employees could inflict on its legitimate business interests by virtue of their positions at the company.”

Additionally, the Complaint notes that Cohen’s employment agreement expired in April 2024. It also states that all the defendants were at-will employees. However, the restrictive covenants were intended to survive the expiration of the employment agreements, and that solicitation occurred within the timeframe that the prohibition remained in place.

Heitner created Sports Agent Blog as a New Year’s Resolution on December 31, 2005. Originally titled, “I Want To Be A Sports Agent,” the website was founded with the intention of causing Heitner to learn more about the profession that he wanted to join, meet reputable individuals in the space and force himself to stay on top of the latest news and trends. Heitner now runs Heitner Legal, P.L.L.C., which is a law firm with many practice areas, including sports law and contract law. Heitner has represented numerous athletes and sports agents as legal counsel. He has also served as an Adjunct Professor at Indiana University Bloomington from 2011-2014, where he created and taught a course titled, Sport Agency Management, which included subjects ranging from NCAA regulations to athlete agent certification and the rules governing the profession. Heitner serves as an Adjunct Professor at the University of Florida Levin College of Law, where he teaches a Sports Law class that includes case law surrounding athlete agents and the NCAA rules.

USI Insurances Services’ Shalom Suniula Converts Passion as a Professional Athlete to a Successful Career Serving the Sports Industry

Support is in Shalom Suniula’s blood. That was evident from an early age when he became a Rugby phenom in New Zealand and ultimately a member of the US National Team, representing the US in the 2015 World Cup.

So, when the opportunity came in 2020 to join USI Insurances Services and lead its efforts in the sports industry, Suniula pounced on the opportunity and hasn’t stopped running. Much like the success he has on the field, Suniula has capitalized on the opportunity, recently being promoted to Vice President, Property and Casualty. We wanted to learn more about his path and his innovative approach to delivering services to the sports industry. The interview follows.

Question: How did you get into the business?

A: I was a former international athlete for over 10 years playing rugby, I had the opportunity to represent USA at both Rugby World Cups and Olympic Games. That opportunity led to me becoming the athlete representative on USA Rugby’s board. This is where I learned some of the nuances of the sport business, especially the importance of risk management and how that impacts premiums which can be very expensive for sports organizations. As I learned more, my curiosity on the impact insurance had on other sports increased, slowly realizing that the cost of insurance has a huge impact on sports.

This has become even more true in recent years, looking no further than our widely publicized cases such as USA Gymnastics class action Sexual Abuse lawsuits. As a result, the marketplace for sports (Amateur & Professional) has decreased substantially, this means organizations at times, are at the mercy of high premiums, these increases flow down to membership impacting registration costs.

So as my career was coming to an end, I wanted to give back to sport in a meaningful way, especially since sport has given me so much! I knew that as a broker, I could bring the same level of advocacy, passion, commitment, and ultimately creativity to organizations, and subsequently the overall sports industry.

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Q: What's the most satisfying part of the job?

A: Accessibility to sport presents enough challenges as we speak, technology, costs, organized sports vs unstructured and more. When you think about it holistically, we can help solve a very important issue around cost. Insurance can easily be the top 3-4 expense line items for an organization. It's very fulfilling if we can help organizations keep those costs down, providing more resources back to their mission. That's our goal.

Q: How would you describe the services that USI provides to sporting clients

A: Our role is to be fully integrated with our clients and ultimately become an extension of their staff, a lot of the time given the current climate it's to improve or meet their risk management needs, claims, as well as day-to-day services from a proactive basis.

Q: On one hand, you're protecting them. But you're also incentivizing them to do better?

A: And organizations are getting better from a risk management perspective, but we're still a long way away collectively. They've come a long way since the 1990s and early 2000s. They're keeping up with the times in terms of technology. But the challenge with a lot of these amateur organizations is that often times they are nonprofits, and like most nonprofits, they're wearing 100 different hats.

Q: What is the process for onboarding a new association?

A: In a perfect world we're involved before they've become an organization. Usually there's a due diligence process we walk them through, so they're prepared from an insurance perspective. Basic starting questions like what is the core of your operations? what are the potential risks? Total cost of risk? What does best in class risk management look like? And help map out a plan in stages, especially the financial implications.

Our goal is always to promote stabilization, and insurance plays a huge role in that.

Q: How does USI support what you do in the sports industry?

A: There's a whole risk management department at USI, which thinks about things like abuse, concussion, assault & battery, vendor contracts, and other sports related risks.

And then there are emerging risks such as transgender and mental health to name a few. It's about

understanding where they are today from a claim's perspective and working proactively with our clients to support their risk management frameworks to minimize future claims if any.

We also have a risk management center which can help bridge any technology efficiency gaps, like to support training for coaches, staff, and employees. How often do they have to complete? How do you track that? What is automation like? Underwriters' biggest concern is oversight, especially for large national organizations this can be very critical.

We also have a dedicated claims department, who are former attorneys and/or adjusters. They are experts at managing each of those claims to either have lower reserves or actively making progress to settle. The impact on renewal year over year can be significant if not managed.

Q: How does USI intersect with professional teams and leagues?

A: On the professional side, worker's comp can be a potentially challenging area if not managed correctly, especially when teams/leagues are in the early start-up phase. Everything from coverage placement (depending on the sport), navigating statutory requirements for every state, compliance, education, training, medical provider relationships and more. We have dedicated team that works to support these areas.

Q: What are some of the trends in risk management that you are tracking?

A: Concussion management. What does the training look like? Everyone has a baseline test, right? What is your customized return to play protocol? In the event that something happens, how is that managed, documented, and streamlined? Who are the vendors out there and what kind of technology do they possess?

Then there are things like transgender, contract or agreement risk transfer strategies, and equipment/facility safety.

The scariest part of it all is the unknown. And so how do we make this known? Tough spot to be in not knowing it. Better to say, "Here's what we do know today and here are the steps we can put in place for now as things unfold, and then adapt and evolve."

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Sports Lawyer Amy Hass Named Deputy Athletic Director at UF

University of Florida General Counsel and Vice President Amy Hass has been named Deputy Athletic Director/Senior Women's Administrator at the University of Florida, UF Athletics Director Scott Stricklin announced.

Hass joins the Gator staff after the departure of long-time administrator Lynda Tealer, who left Gainesville for a senior management position with the NCAA in May.

"We are excited to welcome Amy to the Gators Athletics leadership team," Stricklin said. "Amy brings a unique professional background combined with experience as a collegiate student athlete. Her legal expertise, along with her understanding of government and campus relations are just a few of her skills that will be invaluable as college athletics continues to evolve. She will champion our athletes, staff, coaches and fans in a way that will continue to position our program to be among the nation's best."

Hass will have oversight of Human Resources, Legal Affairs, Title IX Compliance, Student Health, Student Academic Services and the softball program.

"It is a dream come true to join the Gator Athletic Department," said Hass. "Having grown up cheering on the Gators and working alongside UF athletics over the last 18 years, I've always had a special place in my heart for this program. I'm grateful to Scott for believing in my capabilities and honored that I will get to work every day with coaches, staff and student athletes in the premier athletic department in the country.

"I also extend my deepest gratitude to our President and UF Board of Trustees for their unwavering support and confidence throughout my tenure as General Counsel and for their selfless dedication to this university. And, to my colleagues in the cabinet and on our legal team, your support, wisdom, and camaraderie have been invaluable to me, both professionally and personally. It is a privilege to work with each of you."



The former collegiate soccer player from Furman, Hass has served as Vice President and General Counsel for the University of Florida since 2017 and has been a member of the General Counsel's office since 2006.

During those early years, Hass Told Sports Litigation Alert that Lynda Tealer, who was previously at UF and now serves as Senior Vice President for Championships at the NCAA, was an important mentor.

Tealer believes Hass will do well in her new role.

"Something I have said often is she's the exact the right person at the exact right time at Florida," she said. "She has great knowledge, an amazing ability to problem solve and just deeply trustworthy. Nothing makes me happier than knowing she is part of the leadership of a program I care so much about."

In addition to the hiring of Hass, Stricklin has also announced that Deputy Athletic Director Chip Howard has been named Chief Operating Officer of the department. Howard, a 35 year-veteran of the UAA, will work closely with Stricklin with oversight of all internal units.

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Examining NIL issues in Esport

By Rshan E. Isaac, Ph.D. Candidate- University of New Mexico (Sport Administration)

Since its inception in 1906, the National Collegiate Athletic Association (initially known as the Intercollegiate Athletic Association) has long served as the governing body for collegiate athletics. Generating roughly \$1 billion annually [1], the fiscal success of NCAA (stemming from tv marketing rights/fees, championships and NIT tournaments, investment income, sales/services, and private contributions) has long been criticized due to questions arising over the distribution of funds for student athletes. O' Bannon V. NCAA [2] is noted at the forefront of NIL legislation in collegiate athletics and served as the catalyst in enabling collegiate athletes to receive compensation for use of their name, image, and likeness. The avenue created for current (and former) collegiate athletes to be compensated has extended into the multi-million-dollar industry that is esport. As esport is well established as a competitive and social phenomenon rivaling that of traditional sport NIL issues have extended

into the esports ecosystem due to the amount of revenue generated by the industry.

Arrival of NIL in Esports

Tracing the history of esports provides a roadmap for the rise of NIL throughout the industry. The first noted compensation for esports players occurred during a competition held on October 9, 1982; where students competed against each other in the title *Spacewar!* at Stanford University's Artificial Intelligence Library. The winnings (a year's *Rolling Stone Magazine* subscription) pale in comparison to those of esports athlete Kyle "Bugha" Geirsdorf: earning \$3 million in winnings from the *2019 Fortnite World Cup*. With this year's *Fortnite World Cup* set to feature a prize pool of \$7,675,000 a single question arises: with the inception of NIL at the collegiate level, how will this policy impact esports?

The collegiate athletic arms race: a catalyst for NIL in Esports

Adaptation of the current NIL policy [3] by the NCAA opened the door for NIL in collegiate esports. Preceding this movement, the collegiate athletic arms race served as a catalyst for the rise of NIL in esports. Similar to traditional sport, the recruitment of elite collegiate esports athletes may result in lucrative financial opportunities stemming from the success of a program. As the revenue generating potential of esports is now understood by colleges and universities, the last decade has seen engagement in an inevitable arms war to provide the best experience for prospective athletes; a precedent set in 2018 by Full Sail University's \$6 million, 11,200 square foot esports facility built in collaboration with multiple industry stakeholders. Following a similar blueprint, Illinois State University funded its expansion at the national level through partnership with PIVOT Industry in which CEO Ben Shapiro expressed excitement about the opportunity to "be at the forefront of the role gaming can play for student well-being" and "the opportunity to leverage experience in both esports and naming rights to secure the right brand partnership for a state-of-the-art facility" [4]. College's engagement in the athletic arms race to fund esports programs has created two crucial circumstances for the state of NIL in esports currently: the inclusion of current issues and framework for recent successful deals.

NIL issues in Esport

Legal issues related to Esport NIL deals largely fall into three major categories including:

1) Player Representation and Agency

Moist Esports lawsuit v. U.S. Department of Immigration [5]

- Contest of denial for multiple team-member's visas

2) Contractual and Financial Challenges

Tenney v. Faze Clan [6]

- Complaints over breach in contract for financial agreements (i.e. tournament income, merchandise revenue, brand payouts)

3) Legal and Ethical Concerns

NCAA esports policy

NCAA's stance as a "hands off" approach and policy in regard to esports governance

A lack of consensus governing body for collegiate esports has set the stage for rampant Title IX issues currently existing within the industry.

Future of NIL in Esport

Despite the challenges stemming from recent NIL legislation, NIL serves as a lucrative option in the esports ecosystem. A recent trend includes leveraging the popularity of collegiate athletes by major players in the video game industry; with Activision paying former UCLA quarterback Dorian Thompson-Robinson to promote the title *Crash Bandicoot 4: It's About Time* [7]. This is a trend that has been featured heavily in the successful launch of the title *College Football 25*, in which multiple student athletes (including cover athletes Travis Hunter- University of Colorado, Quinn Ewers- University of Texas at Austin, and Donovan Edwards- University of Michigan) have leveraged the use of social media to promote the game.

The success of NIL in esports is not only seen at the Division 1 level in collegiate athletics, as Taylor Thimmesh of Johnston Community College set a new standard for the industry: being the first esports player to sign with R3V Sports. Despite a Grand Champion II ranking, Thimmesh stated the greatest part of his success is "Pioneering...for other NJCAA athletes in basketball, football, or whatever sport" [8]. The intermingling of NIL success in esports, and its overlapping

of opportunities with traditional sport, provide a range of opportunities for future opportunities in esports.

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Paris Smith LLP Teams Up with Southampton FC as Legal Partner

Paris Smith LLP has announced its new role as the Official Legal Partner of Southampton Football Club. The partnership marks "a significant milestone for both organisations, uniting two pillars of the Southampton community through a shared commitment to excellence and innovation," according to the firm.

As part of this two-year partnership deal, Paris Smith will offer "comprehensive" legal support to Southampton FC, "leveraging its extensive expertise to assist the club in navigating the complex legal landscape of professional sports. This collaboration underscores Paris Smith's dedication to supporting local institutions and contributing to the vibrant culture of Southampton."

Huw Miles, Managing Partner at Paris Smith LLP, expressed his enthusiasm for the partnership: "We are incredibly proud to become the Legal Partner of Southampton Football Club. This partnership reflects our ongoing commitment to the community. Sport and especially football plays a huge part in the lives of those living in our region. We look forward to working closely with the club and contributing to its continued success."

Clive Dobbin, Head of the new Sports Law team at Paris Smith, added: "As the head of our Sports Law team, I'm excited about the opportunity this partnership presents. Our work with Southampton FC will allow us

to showcase our deep understanding of the unique legal challenges in professional football. We're committed to providing tailored, innovative, legal solutions that will support the club's ambitions both on and off the pitch. This collaboration is a natural fit, showing our specialist expertise in sports law, supporting all levels of the football pyramid from grassroots to teams in the Premier League, the best football league in the world."

Tim Greenwell, Chief Operating Officer at Southampton FC, commented: "We are excited to welcome Paris Smith as our Official Legal Partner. Their expertise and support will be invaluable, and this partnership is a testament to our shared vision of excellence and community engagement."

This collaboration is set to "enhance the club's legal capabilities while fostering a stronger connection between Paris Smith LLP and the local community, bringing together legal expertise and sporting excellence in the heart of Southampton."

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Timberwolves GC Suzanne Spellacy Recognized for Achievements

Spellacy negotiated the organization's first-of-its-kind media partnership with iHeart Media

Twin Cities Business has announced Suzanne Spellacy has been named a 2024 "TCB Notable General Counsel" honoree. Spellacy "is being recognized for her guidance in negotiating a first-of-its-kind partnership between the Timberwolves, Lynx and iHeart Media, in addition to the signing of major retail partner, Fanatics."

"I truly appreciate this recognition and am thankful for the opportunity to work with the amazing leadership team at the Timberwolves and Lynx," said Spellacy.

"Suzanne has been an invaluable asset to our organization, bringing not only her deep legal expertise but also her unparalleled institutional knowledge," said Timberwolves and Lynx CEO Ethan Casson. "We are fortunate to have her guiding us through the many facets of our operations, and her contributions have been critical to our continued success."

As the first internal General Counsel for the Timberwolves and Lynx, Spellacy joined the organization's Executive Team in 2021 with more than two decades of

experience. In her role, Spellacy oversees all legal matters, including contract negotiations, corporate transactions, intellectual property, dispute resolution, employment law and league rules and regulations.

Over the past 18 months, Spellacy led all negotiations of two new significant partnerships for the organization, including the innovative and first-of-its-kind partnership between the Timberwolves, Lynx and iHeart Media. The multi-year agreement, named KFAN (KFAN FM 100.3) the organization's flagship radio station for select Timberwolves games and a majority of Lynx games. The Timberwolves also became the first NBA team with an exclusive streaming channel on the iHeartMedia platform.

Spellacy led negotiations for the franchises' new retail partner, Fanatics. The new merchandising agreement resulted "in incredible Timberwolves retail growth at a 270% YOY increase, and significant in-arena and e-commerce sales growth."

Spellacy has "deep knowledge of the emerging legal issues for NBA teams and the sports industry, including novel intellectual property rights, changing regulations

impacting social media, evolution in sports property investments and the intersection of performance analytics and privacy. Spellacy's leadership, preparedness and ability to provide clear and direct guidance have contributed to the organization's recent growth and success."

Beyond serving as Timberwolves and Lynx General Counsel, Spellacy "works to support and uplift the legal community, often dedicating her time and expertise to various causes. Most recently, Spellacy served on the planning committee and as a presenter at the inaugural conference for NBA Team Counsel in September 2023, and regularly organizes networking events for legal colleagues within Minnesota's professional sports teams and among members of the broader Minnesota legal community."

Prior to joining the organization, Spellacy served as legal counsel for the Taylor Corporation, was a shareholder with Twin Cities law firm Winthrop & Weinstine, P.A. and most recently, served as General Counsel and Corporate Secretary for Jack Link's.

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News Briefs

FIFA President Lends Guidance and Advice to Sports Law Students

The University of Miami School of Law recently welcomed FIFA President Gianni Infantino as a special guest in the [Entertainment, Arts, and Sports Law Program](#). His visit was part of the school's new course on soccer law, co-taught by Emilio Garcia Silvero, FIFA's chief legal and compliance officer, and Enric Ripoll, founder of ER Sports Law. Infantino shared insights on the impact and importance of his legal training and the role FIFA plays in governing and developing soccer worldwide and answered student questions. FIFA's recent relocation of its Legal and Compliance division to Miami further reflects its global philosophy. "We welcome FIFA as our new neighbors in Coral Gables and look forward to future collaborations," said [Greg Levy](#), program director. "Much gratitude to President Gianni Infantino, Emilio Garcia Silvero, and Enric Ripoll for their time and dedication to shaping the next generation of soccer industry leaders."

Attorney Chris Greeley Appointed Head of Esports for League of Legends

Chris Greeley, previously a partner at Herrick, Feinstein LLP, has taken over for Naz Aletaha and will be Head of Esports at Riot Games' League of Legends. Aletaha resigned her post last month at Riot Games, creating the opening for Greeley. Greeley will oversee "creating a comprehensive, long-term plan that puts the financial success of the participating professional teams ahead of the sport's expansion," according to India Today Gaming. Greeley previously was Head of Esports for North America and Oceania at Riot Games, where he was responsible for the vision and strategy for the competitive and business operations of all of Riot's competitive esports (League of Legends, VALORANT, Wild Rift, Teamfight Tactics and Legends of Runeterra) in the US, Canada and all of Oceania. Greeley was also one of the primary architects of the Legends Championship Series (LCS) franchise model and led the 2017 application process for participation in the LCS.