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Cases

Football Player's Weight Room Injury Case Crippled by Motion to Dismiss

By Jeff Birren, Senior Writer

Shyler Drumm was severely injured by a classmate. His parents had previously complained to the football coach about the harassment Drumm was receiving from teammates. The coach told the players to stop bullying Drumm because his mother had called to complain. Afterwards, the harassment escalated and caused multiple serious injuries to Drumm.

As a result, Drumm sued in state court, alleging Civil Rights violation for failure to investigate, creating a danger, discrimination pursuant to the Americans with Disabilities Act, failure to enforce the ADA, and breach a fiduciary duty. He sued the assailant for negligence, and all of the defendants for negligent infliction of emotional distress. The School District and coach removed the case to federal court and filed

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a motion to dismiss the claims. The Magistrate recommended granting the motion, subject to leave to amend two causes of action.

The Court stated that the Civil Rights Act could not be used a remedy for violations of the ADA, that no valid ADA causes of action were pled, and that the negligence claim was barred by Pennsylvania statute. The Court recommended giving Drumm an opportunity to replead his "State Created Danger" and ADA discrimination claims. *Drumm v. Beaver Area Sch. Dist., Report and Recommendations*, ("R&R"), 2:24-CV-00438-CB-MPK, W.D. Penn. (11-14-2024). The District Court affirmed and gave Drumm until January 10, 2025, to file an amended complaint (12-27-2024).

Background

The R&R took the following allegations from the Complaint. Drumm was enrolled in the School District and a member of the football team "when he was diagnosed with Generalized Anxiety Disorder and Attention Deficit Hyperactivity Disorder." The District was "advised" of the diagnosis "and his need for accommodations." Defendant Dr. Jeffrey Beltz, PhD., educational leadership, was the football coach and school principal. After joining the team, Drumm "began to suffer hazing and bullying", including being called "Shytard." Drumm's parents made Beltz aware of this "on multiple occasions," but he "dismissed the complaints a 'kids being kids.'" After Drumm's mother called once again to complain, Beltz told the team to stop the behavior because of the call from Drumm's mother.

This "only exacerbated the problem." First, Drumm experienced a broken toe during practice. Next, a teammate hit Drumm on the head with a tennis racket in gym class, resulting in a concussion. One day in the weight room, "Defendant Nicholas Collins came up behind Drumm and put him in a headlock until he lost consciousness. Collins then dropped Drumm to the floor, hitting his head. Drumm sustained severe and permanent injuries, including a concussion, post-traumatic stress disorder, a closed head injury, and cervical and lumbar spine injuries." The family ultimately moved to a different school district.

In Court

After the Complaint arrived in federal court, Beltz and the District filed a motion to dismiss. The R&R did not go well for Drumm. The first claim was an equal protection claim for a violation of Section 1983 against Beltz as an individual and official capacity for failing to investigate the allegations of bullying and harassment. Beltz asserted that Drumm failed to state a claim. In his opposition brief, "Drumm states that he is 'not seeking a claim against Beltz under the Equal Protection Clause and stipulates to striking" that from his Complaint. The R&R recommended dismissing this claim. The District Court agreed.

Claim II: State Created Danger

The second claim was a Civil Rights claim against Beltz and the District for a "State Created Danger." The R&R stated that to prevail, defendants must create or increase the risk of harm. The plaintiff had to prove that the harm was both foreseeable and direct; that the state actor acted with a degree of culpability that shocks the conscience; that the relationship between the plaintiff and defendant existed such that the plaintiff was a foreseeable victim of the defendant's acts or a member of a discrete class that was subject to harm; and that a state actor affirmatively used his or her authority in a way that created a danger to the citizen or rendered that citizen more vulnerable to the danger than had the state not acted at all.

The essence of Drumm's argument was Beltz's response to the call from Drumm's mother gave rise to further bullying, which increased after Beltz told the team to stop harassing Drumm. Drumm attempted to distinguish *L. R. v. School District of Philadelphia*,

836 F. 3d 235, 244 (3d Cir. 2016), a case that held that there had to be a "drastic change" in the status quo. The R&R recommended that the cause of action be dismissed with leave to amend.

The District Court declined "to adopt the R&R's indication that a 'drastic change' to the status quo is required for Plaintiff to state a claim." "There is no indication" in L. R. v. School District that this "constitutes a necessary change." "Plaintiff has identified one affirmative act: Defendant Beltz 'told the students who were bullying him and harassing [him] to stop because his mother had called' to complain."

This "State Created Danger" theory "cannot be viewed as a strong one, in any event." The "harm" must be a "foreseeable and fairly direct result…of Beltz's mentioning, in his admonishment of the bullies," that Drumm's mother had called to complain. Although a "drastic change" was not required, at this point, the Court noted, the "mountains are, indeed, high" The Court has to "bear in mind the relatively lenient standards applicable at this stage." It "cannot resolve the issues on the present record." The cause of action could not proceed on the current record, but the Court did give leave to amend. The Court also informed Drumm that "he must also contend with Defendants' assertion of qualified immunity."

The Third Circuit "has acknowledged the 'inherent tension between federal qualified immunity jurisprudence and the concept of notice pleading,'" and a Rule 12(3) "motion for a more definitive statement (a vehicle invoked by defense counsel here, albeit regarding other counts. *Thomas v. Independence Twp*., 436 F. 3d 285, 299-302 (3d Cir. 2006)." Drumm "must" address the relevant standards in an amended complaint and "renewed motion practice likely to follow."

Claim III:

This claim arose solely against Collins for acting recklessly and negligently in the attack. He did not file a motion to dismiss.

Claim IV: Discrimination under the ADA

The fourth claim was against the School District. Drumm alleged that he experienced intentional discrimination prohibited by the ADA, that the District and Beltz owed him a duty to provide him with a properly supervised education and they breached this duty with deliberate indifference.

An ADA plaintiff must show that he or she has a disability; that he or she was otherwise qualified to participate in a school program; and was denied benefits of the program or was subject to discrimination because of that disability. 42 U.S.C. Section 12132, *Chambers v. Sch. Disk of Phila. Bd. of Educ*., 587 176, 189 (3d Cir. 2009). If damages are sought, a

plaintiff must also show that the discriminatory conduct was intentional. *S.H. v. Lower Merion Sch. Disk*, 729 F. 3d 248, 262 (3d Cir. 2013).

This type of claim also requires showing that the defendant(s) had knowledge of the behavior. The knowledge must be "actual," not merely that a defendant "should have known." Furthermore, the plaintiff must prove that the defendant failed to act despite that knowledge. This means "a deliberate choice, rather than negligence or bureaucratic inaction." *S.H.*, 729 F. 3d at 263. Drumm had not pled facts "that establish disability discrimination under the ADA." Beltz's actions and inactions "may indicate a callousness towards Drumm's needs," but the alleged facts do not indicate that the District or Beltz "were deliberately indifferent to Drumm's situation or knew that Drumm's ADA rights were violated. In fact, as alleged, Beltz admonished Drumm's bullies to stop their harassment." The R&R recommended that the claim be dismissed, subject to leave to amend. The District Court did just that, adding "should Plaintiff wish to attempt a cure."

Claim V: Section 1983, Enforcement of the ADA

The fifth claim was a Civil Rights action against the School District and Beltz for failure to enforce the ADA. Drumm argued that a recent Supreme Court decision "created an entirely new scheme for analyzing whether Section 1983 may be used to bring a claim." *Health & Hosp. Corp. of Marion City v. Talevski*, 599 U.S. 166 (2023). The Magistrate believed that Talevski was "merely examining and illuminating its prior precedent—not establishing a new regime." Although there may not be consensus on this point, the "statutory scheme of the ADA is clearly comprehensive" and allows various remedies. This scheme "is incompatible with individual enforcement under § 1983." The R&R commended that Count V be dismissed with prejudice. Once again, the District Court abided by that recommendation.

Claim VI: Breach of Fiduciary Duty

The sixth claim was a breach of fiduciary duty against the School District and Beltz for failing to supervise Drumm. The defendants argued that the facts as pled did not establish such a duty. In his opposition, Drumm stipulated to the dismissal of this claim. The R&R concurred, and District Court agreed.

Claim VII: Negligent Infliction of Emotional Distress

This claim was for negligent infliction of emotional distress and was asserted against the District, Beltz and Collins. The District and Beltz argued that the claim was barred by the Pennsylvania State Tort Claims Act. Drumm again stipulated to dismissal. However, Collins did not move to dismiss this claim.

Status

The Court gave Drumm the opportunity to replead Claims II and IV, and dismissed with prejudice Claims I, V, VI, and Claim VII against the District and Beltz. Amendment "is limited to the topics contemplated herein," and he had just fourteen days to do so, including New Year's Day. Drumm did not file an amended complaint, so the federal law claims against Beltz, and the District are dismissed. Presumably the claims against Collins will be returned to state court.

Editorial

Awful. That word applies to the way Drumm was treated prior to the attack. Stronger words are required to describe the consequences of the attack. Yet could any deep pockets adequately compensate Drumm for the effects of his injuries? Drumm's condition required careful legal research and thought. Filing federal law claims in state court and almost immediately stipulating to dismiss three claims is perplexing.

Beltz's conduct is startling. Every elementary school student knows what will happen when a class is told that a mother called the school to complain about the way her child is being treated by other students. The bad behavior will intensify, and that much more so with a school football team. Dr. Beltz provided no leadership for Drumm. Can there be any doubt that he would have responded differently if his star quarterback was subject to harassment? Drumm deserved better.

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Consolidated Appeal Dismisses Two Separate Title IX Complaints Filed Against University System of Georgia

By Gina McKlveen, Esq.

What do a former art professor and a prior head women's basketball coach have in common?

According to a recent decision by the United States Court of Appeals for the Eleventh Circuit, the answer is that neither have a private right of action for sex discrimination in employment under Title IX of the Education Amendments of 1972.

The text of Title IX provides that "[n]o person . . . shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance." Education Amendments of 1972, Pub. L. No. 92-318, § 901, 86 Stat. 235, 373 (June 23, 1972). In the case of **Joseph v. Bd. of Regents of the Univ. Sys. of Ga.**, involving Thomas Crowther, an art professor at Augusta University from 2006-2021, and MaChelle Joseph, the head women's basketball coach at Georgia Tech from 2003-2019, the Eleventh Circuit considered the separate factual circumstances of each plaintiff, but addressed the common question of "whether Title IX provides an implied private right of action for sex discrimination in employment." **Id**.

Before thoroughly analyzing this issue on appeal, Chief Judge William Pryor's opinion provided background on each of the two complaints. Beginning with Crowther's complaint, this action arose after several students accused him of sexual harassment, which led Augusta University to initiate an investigation that found he had "violated the University's sexual harassment policy." **Id**. As a result, the University then "suspended his employment for one semester" and later refused to "renew his contract for the 2021-2022 academic year" despite Crowther's attempt to appeal this decision. **Id**. Thereafter, Crowther sued both the Board of Regents of the University System of Georgia and several officials, alleging "sex discrimination and retaliation under Title IX and other provisions of federal law." **Id**. The Board and officials filed a motion to dismiss Crowther's complaint. The district court granted the motion to dismiss against the officials, but denied the motion to dismiss against the Board, which raised the aforementioned appeal to the Eleventh Circuit.

In regard to Joseph's complaint, this action resulted following a yearslong back-and-forth between Joseph, Georgia Tech's Athletic Department leadership, and the women's basketball team concerning Joseph's claims related to disparities in funding and resources among the women's and men's basketball teams, followed by allegations against Joseph by her players and staff that she created a toxic environment that were found credible after an independent investigation, which ultimately ended with the athletic director firing Joseph in 2019. Joseph then filed sex discrimination and retaliation claims pursuant to Title VII with the Equal Employment Opportunity Commission. *See* **id**. After obtaining a right to sue letter, Joseph launched a complaint against the Board of Regents, the Georgia Tech Athletic Association, and several individuals. *See* **id**. Joseph's complaint included "two claims of sex discrimination under Title IX," "two claims of sex discrimination under Title VII," and "one count each of retaliation under Title IX, Title VII, and the Georgia Whistleblower Act." **Id**. Like Crowther's complaint, the Board and other defendants moved to dismiss Joseph's complaint. The district court dismissed Joseph's claims of employment discrimination under Title IX as precluded by Title VII, dismissed her Title VII claims "insofar as they relied on a theory that Georgia Tech held her to a higher standard than her male colleagues," and dismissed her claim against the Georgia Tech Athletic Association under the Whistleblower Act. **Id**. The Board and Association filed a summary judgment motion that was also granted by the district court. Subsequently, Joseph made the foregoing appeal.

In reviewing the issue presented, "whether the rights and remedies under Title VII preclude claims for employment discrimination under Title IX," the Eleventh Circuit first looked at how other circuit courts have addressed this issue. **Id**. The Fifth and Seventh Circuits found plaintiffs would be precluded when seeking money damages and equitable relief under Title IX, respectively. *See Lakoski v. James,* 66 F.3d 751, 753 (5th Cir. 1995) and *Waid v. Merrill Area Pub. Sch.,* 91 F.3d 857, 862 (7th Cir. 1996). The First, Second, Third, Fourth, and Tenth Circuits have found such claims are not precluded or are viable claims to make without specifically ruling on the issue of preclusion. *See Lipsett*

v. Univ. of Puerto Rico, 864 F.2d 881, 896-97 (1st Cir. 1988); *Vengalattore v. Cornell Univ.,* 36 F.4th 87, 92 (2d Cir. 2022); Doe v. Mercy Cath. Med. Ctr., 850 F.3d 545, 560 (3d Cir. 2017); *Preston v. Virginia ex rel. New River Cmty. Coll*., 31 F.3d 203, 206 (4th Cir. 1994); *Hiatt v. Colo. Seminary,* 858 F.3d 1307, 1316-17 (10th Cir. 2017).

Nevertheless, the Eleventh Circuit supported its ruling upon landmark Supreme Court precedent, in *Alexander v. Sandoval*, 532 U.S. 275, 286, 121 S. Ct. 1511, 149 L. Ed. 2d 517 (2001),which held express or implied, "private rights of action to enforce federal law must be created by Congress." What does this mean? Well, when the legislature, in this case, Congress, enacts a federal statute, i.e. Title IX, that does not expressly provide for a right of action, then it is up to the judiciary, here a federal court, to interpret that statute as to whether Congress intended to create a private right and a private remedy. Furthermore, a court cannot, on its own, without a clear indication of congressional intent, create a private right or remedy. In fact, the Supreme Court has delivered a cautionary advisement to lower courts in subsequent cases when considering whether to imply private rights of action. *See Gonzaga Univ. v. Doe*, 536 U.S. 273, 283, 122 S. Ct. 2268, 153 L. Ed. 2d 309 (2002) and *Cummings v. Premier Rehab Keller, PLLC*, 596 U.S. 212, 142 S. Ct. 1562, 1569-70, 1576, 212 L. Ed. 2d 552 (2022). Thus, the Eleventh Circuit heeded this warning and proceeded to analyze Title IX with caution.

Looking at congressional intent, Judge Pryor observed, "Congress enacted Title IX under the Spending Clause and provided an express remedial scheme for withdrawing federal funding." **Joseph v. Bd. of Regents of the Univ. Sys. of Ga.** In fact, the express remedy provided by most Spending Clause legislation is not a private right of action, but rather an action by the federal government to terminate funds. *See Gonzaga Univ. v. Doe*, 536 U.S. 273, 280. But for implied private rights of action under the Spending Clause the calculus is slightly different. Courts must determine whether an implied remedy is informed based on the operation of Spending Clause, which is conditioning an offer of federal funding on a promise by the recipient. *See Cummings v. Premier Rehab Keller, PLLC*, 596 U.S. 212, 142 S. Ct. 1562, 1569-70, 1570. In other words, Spending Clause remedies operate based on consent, like a contractual promise. If an institution receives federal funds, then it agrees to comply with federally imposed conditions. *See id*.

With that understanding, the Supreme Court has held that Title IX provides an implied right of action for students who complain of sex discrimination by schools that receive federal funds. *See Cannon v. University of Chicago*, 441 U.S. 677, 690 n.13, 692, 99 S. Ct. 1946, 60 L. Ed. 2d 560 (1979). The Supreme Court has also held that Title IX provides a private right of action for retaliation for an employee's complaint about discrimination against students. *See Jackson v. Birmingham Board of Education,* 544 U.S. 167, 171, 125 S. Ct. 1497, 161 L. Ed. 2d 361 (2005). Moreover, the Supreme Court has found that Title IX prohibits employment discrimination. *See N. Haven Bd. of Educ. v. Bell*, 456 U.S. 512, 521, 535-36, 102 S. Ct. 1912, 72 L. Ed. 2d 299 (1982). But the Supreme Court "has never extended the implied private right of action under Title IX to claims of sex discrimination for employees of educational institutions," so neither did the Eleventh Circuit. **Joseph v. Bd. of Regents of the Univ. Sys. of Ga.**

Judge Pryor carefully interpreted the text of Title IX in reaching this conclusion stating, "nothing about that language indicates congressional intent to provide a private right of action to employees of educational institutions" and the connection to a private right of action and remedy is "less obvious" for employees than for students. Rather, Judge Pryor relied on the legislative history of the 1972 amendments, "passed only three months apart," as evidence of a clear "congressional intent to create a comprehensive antidiscrimination remedial scheme." **Id**. That scheme is as follows: "Title VII creates an administrative process that requires claimants first to file a charge of employment discrimination with the Equal Employment Opportunity Commission and then obtain a right to sue letter from the Commission before filing a complaint in a federal court." **Id**. Whereas, Title IX "empowers administrative agencies to condition federal funding on compliance with its anti-sex-discrimination mandate…[and] also provides an implied right of action for students…[but] do[es] not embrace a private right of action for employees." **Id**. Absent expressions of congressional intent to create both a right and a remedy, the Eleventh Circuit held that "Title IX does not

create an implied right of action for sex discrimination in employment." Id.

Ultimately, this decision deepens the split among the federal circuit courts with three courts now finding no private right of action and five courts in favor of the opposite. Unless the Supreme Court takes up this issue and makes a determinative ruling overturning the Eleventh Circuit's decision, both Crowther and Joseph's complaints are effectively dismissed.

Gina is a licensed attorney in Maryland, New York, and Pennsylvania. Her practice and experience ranges from handling civil and criminal domestic violence cases, involvement in personal injury and product liability lawsuits, and instruction in the areas of sports, entertainment, and art law. She is a first-generation law school graduate and alumna of The George Washington University Law School.

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TGL Golf Holdings Takes a Shot at Becoming the One and Only L.A. Golf Club

By Katelyn Kohler

Branding and trademarks are essential elements for any new company, especially when it comes to naming teams and creating unique identities. For any business looking to secure a niche in the market, securing trademark rights early is crucial to prevent future disputes. The importance of this precaution is vividly illustrated in a recent case involving Tiger Woods and Rory McIlroy's company, TGL Golf Holdings, LLC ("TGL"), and LA Golf Partners, LLC ("LAGP"). TGL, a new player in sports entertainment, has filed a declaratory judgment action against LAGP, a golf equipment company, asserting that its use of marks for its Los Angeles-based team does not infringe on LAGP's alleged trademarks.[1] TGL seeks declarations including no false designation, unfair competition, dilution, nor likelihood of confusion between the marks. TGL challenges LAGP's trademark registration on several grounds, including descriptiveness, non-use, and false representations.

Background of the Dispute and Facts

TGL announced its Los Angeles-based team, "Los Angeles Golf Club" ("LAGC"), on June 8, 2023. The team's name, abbreviated to "LA Golf Club" or "LAGC," is central to TGL's branding for its upcoming tech-infused professional golf league. The very next day, TGL began selling various clothing items featuring the LAGC Marks.[2] The team, part of an innovative new venture in professional sports, boasts high-profile owners including Alexis Ohanian, Serena Williams, Venus Williams, and limited partners like Giannis Antetokounmpo, Alex Morgan, Servando Carrasco, Michelle Wie West, and Tisha Alyn. The team's roster is filled with top talent, featuring Tommy Fleetwood, Sahith Theegala, Collin Morikawa, and Justin Rose.

Meanwhile, LAGP, a company founded in 2018, sells golf equipment and holds a registered trademark for the term "LA Golf Club."[3] LAGP describes itself as a leading manufacturer of high-end golf shafts, putters, and golf balls, with prices for its premium products reaching up to $449 for putters and $150 for shafts. The company has expanded its products range to include branded clothing and other golf-related items. Despite its established presence, LAGP filed a trademark application on June 14, 2023, based on intent to use the mark, just six days after TGL publicly announced its team.

The timeline of events reveals a complex series of interactions. On October 18, 2023, LAGP sent a letter to TGL expressing concerns about trademark infringement and proposing potential partnership or royalty arrangements. While the letter outlined concerns over TGL's use of the LAGC marks, it stopped short of making a formal objection instead looking for a financial agreement between the parties. TGL, however, rejected the offer, maintaining that there was no likelihood of confusion between the two marks. Then, on April 12, 2024, the U.S. Patent and Trademark Office (USPTO) sent an office action rejecting LAGP's "LA Golf Club" trademark application, finding that it was descriptive. On April 26, 2024, counsel for TGL and LAGP engaged in a conference call, but they failed to

1 Complaint, TGL Golf Holdings LLC v. LA Golf Partners LLC, No. 1:25-cv-00011 (D. Del. Jan. 6, 2025), ECF No. 1.

2 *See* https://shop.lagc.com/.

3 *See* https://lagolf.com/; LA GOLF CLUB, Registration No. 7,616,256, registered Dec. 17, 2024 (U.S. Patent & Trademark Office).

reach any agreement. Months later, on December 17, 2024, LAGP finally succeeded in getting its mark registered on the USPTO's Supplemental Register, not the Principal Register. On January 3, 2025, LAGP escalated matters by issuing a cease-and-desist letter, citing this registration. This letter came just days before TGL's scheduled launch of its league on January 7, 2025.

TGL, which has been using and promoting its trademarks for nearly eighteen months, argues that LAGP's sudden objection is strategically timed to disrupt its impending launch. TGL points out that it has received significant media coverage since June 2023, with no opposition from LAGP, despite filing trademark applications with the USPTO in June and November of 2023. As such, LAGP's inaction added to the tension between the parties and raised questions about their timing and motives.

TGL's Defenses

1. Descriptive Nature of LAGP's Marks

One of TGL's strongest defenses is that LAGP's "LA Golf Club" mark is descriptive and lacks inherent distinctiveness. A descriptive term is one that immediately conveys information about the characteristics, quality, or features of the goods or services it represents. Trademark law seeks to balance protecting competition from unfair restrictions while safeguarding the investments of trademark owners.[4] So, for a descriptive mark to gain protection, it must acquire *secondary meaning* so that the consuming public associates it with a specific source.[5]

In this case, TGL argues that the term "LA" is a widely recognized geographic designation, used by numerous sports teams. As Los Angeles is the second-largest city in the United States, the term "LA" is commonly understood to refer to the city itself.[6] Given that LAGP is based in Anaheim, just 30 miles away from Los Angeles, TGL claims that "LA Golf Club" remains a geographic reference rather than a distinctive brand. The addition of the words "Golf Club" does little to change this, as it simply describes the type of business (golf-related products and services) rather than serving as a unique identifier. Moreover, LAGP's founder admitted in a YouTube interview that the company intentionally chose "LA" because of their love for the city, despite being fully aware of the potential legal risks.[7]

In support of this, the USPTO initially rejected LAGP's application due its descriptiveness.[8] This prompted LAGP to amend its mark for the Supplemental Register—a secondary category for marks that lack inherent distinctiveness but may acquire it over time.[9] This USPTO Section 2(e)(2) refusal ensures that geographic names remain available for businesses in the same region.[10]

Yet, the Supplemental Register provides many benefits. While it does not grant a presumption of validity, it allows the mark holder to use the registration notice, file lawsuits in federal court, and deter others from using the mark.[11] TGL's trademark application is currently suspended due to a Section 2(d) likelihood of confusion refusal with LAGP's mark.[12] While TGL's design mark features a stylized "LA" with a golf club separating the letters, the USPTO insisted

4 15 U.S.C. §1052(e)(2); *see* TMEP §§1210, 1210.01(a).

5 15 U.S.C. §1052(f); *see* TMEP § 1212.

6 U.S. Patent & Trademark Office, Final Office Action, U.S. Trademark Application Serial No. 98043117 (Apr. 12, 2024) (describing how LA is primarily geographic for LAGP's marks).

7 U.S. Patent & Trademark Office, Final Office Action, U.S. Trademark Application Serial No. 98043117 (Apr. 12, 2024); RUHM Podcast with Tim Smith, Reed Dickens, Founder and CEO of LA Golf, From the Bayou to the White House to Entrepreneur, YouTube (Apr. 4, 2023), https://youtu.be/LeCgsbrU0PA.

8 U.S. Patent & Trademark Office, Final Office Action, U.S. Trademark Application Serial No. 98043117 (Apr. 12, 2024).

9 LA GOLF CLUB, Registration No. 7,616,256, registered Dec. 17, 2024 (U.S. Patent & Trademark Office).

10 TMEP § 1210.02(b)(i).

11 TMEP §§ 815.

12 U.S. Patent & Trademark Office, Suspension Letter, U.S. Trademark Application Serial No. 98269207 (Sept. 19, 2024).

they disclaim "LA" and "Golf Club" as descriptive and geographically descriptive terms. Therefore, TGL's application is on hold pending the outcome of LAGP's earlier filed applications, leading to the current status of seeking a declaratory judgment.

2. The Relevant Market: Golf Equipment vs. Indoor Sporting Entertainment Services

When evaluating the likelihood of confusion between two marks, the USPTO typically considers two key factors: the similarity of the marks and the relatedness of the goods and services offered under those marks.[13] TGL cannot dispute the similarity of the marks, as they are identical words absent differences in stylized design. However, TGL could challenge the relatedness of the goods. When goods and services aren't clearly related, mere concurrent use isn't enough to show consumers perceive them as originating from the same source. For example, comparing "restaurant services" with "beer" or "cooking classes" with "kitchen towels" requires more than co-use to show a common origin.[14]

TGL thus argues that the two companies operate in distinct markets. TGL offers indoor sporting entertainment services, specifically a tech-based golf league. In contrast, LAGP sells golf equipment such as clubs, shafts, and balls—products used by golfers but not directly tied to entertainment or sports leagues. TGL believes the likelihood of confusion is minimal due to this clear market separation. Golf equipment and professional sports entertainment are not typically associated with one another, and consumers do not generally expect to purchase golf-related equipment from a sports league entertainer. TGL further asserts that there is no reason to believe that consumers would confuse the two brands or assume that LAGP is involved in running a professional golf league.

3. Allegations of Trademark Application Discrepancies and Bad Faith Interference

TGL has also raised serious allegations about LAGP's trademark application, claiming that the company misrepresented the use of its "LA Golf Club" mark. Specifically, TGL claims LAGP falsely stated it had been using the mark since May 1, 2022, despite not offering golf-related services at that time. TGL points out the application's discrepancies including LAGP's claim under penalty of perjury to have used the mark with said services. However, LAGP's own January 2025 letter contradicts this revealing that the "LA Golf Club" concept has not yet launched.[15]

TGL further accuses LAGP of bad faith in its conduct. TGL notes that LAGP was aware of TGL's planned launch of its professional golf league, which had been publicly promoted for over a year. However, just days before the launch, LAGP issued a cease-and-desist letter. TGL believes this late-stage objection was a strategic attempt by LAGP to disrupt the launch, capitalize on the publicity, and gain a favorable financial outcome. TGL claims that LAGP's actions are inconsistent with genuine concerns about trademark infringement and are intended to create confusion and leverage.

Conclusion

The trademark dispute between TGL and LAGP emphasizes the importance of protecting brand identity through proper registration and timely action. TGL challenges LAGP's mark on grounds of no consumer confusion, descriptiveness, bad faith, and fraudulent conduct in its filings. TGL argues that LAGP's objections and misrepresentations aim to disrupt TGL's launch for financial gain. This case underscores the need for proactive, transparent legal action in securing and defending intellectual property, while highlighting the crucial role of branding and following expert legal advice.

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13 TMEP § 1207.01.

14 *See In re Coors Brewing Co.*, 343 F.3d 1340, 1347, 68 USPQ2d 1059, 1064 (Fed. Cir. 2003).

15 Complaint at ¶ 45, TGL Golf Holdings LLC v. LA Golf Partners LLC, No. 1:25-cv-00011 (D. Del. Jan. 6, 2025), ECF No. 1. (quoting LAGP's January 3, 2025 letter). "As you were informed in Seyfarth Shaw's October 2023 letter, LA Golf has been running events out of the Beverly Hills "LA Golf Club" since before TGL announced its existence and has always had plans and proposed partnerships to expand that concept into larger consumer-facing entertainment venues. Now those aforementioned plans are coming to fruition with the planned launch in 2025 of the 20,000-plus square foot "LA Golf Club" near Downtown Los Angeles. And LA Golf is currently putting partners into place to assist in opening additional "LA Golf Club" entertainment lounges in other locations." *Id.*

Wrestling with Justice: Examining the Legal Complexities in the Connor Calkins Cases

By Mark D. Shirian. Esq.

(Editor's Note: Shirian is the attorney representing the plaintiff in the case.)

Connor Calkins, a promising Division I wrestler at Binghamton University, entered collegiate athletics with aspirations of excelling at the highest level. Instead, he encountered a culture of physical and psychological harm, including grueling and hazardous practices such as "I Quit" matches. These sessions, which required wrestlers to continue until one could no longer compete, often resulted in injuries and emotional distress. For Calkins, the environment was not only degrading but also unsafe, culminating in an incident where his coach, Matthew Dernlan, allegedly directed another teammate to physically assault him. Ultimately, the toxicity of the program forced Calkins to transfer to a Division III school, where he lost his scholarship and the opportunity to wrestle at the highest collegiate level.

Institutional Accountability in the Court of Claims

The lawsuit against the State University of New York (SUNY) was brought in the New York State Court of Claims, which exclusively handles claims against state entities. This procedural requirement precluded suing individuals such as Dernlan in this forum, necessitating a separate action against the coach. The focus of the Court of Claims case was SUNY's alleged negligence in supervising its wrestling program and ensuring the safety of its student-athletes.

The court's denial of SUNY's motion for summary judgment on negligence marked a significant step forward. Evidence presented raised questions about whether SUNY failed to adequately oversee its employees and allowed unsafe practices, such as "I Quit" matches, to persist unchecked. These matches, while defended by some as a traditional test of toughness, were closely scrutinized for their risks to athlete safety and the potential breach of SUNY's duty of care.

Another pivotal issue was whether SUNY violated its obligations under Calkins's athletic scholarship. While the University offered to honor the scholarship after Coach Dernlan's resignation, the hostile environment had made it untenable for Calkins to remain at Binghamton. Ultimately, the court dismissed this claim, ruling that SUNY's offer fulfilled its contractual obligations, even if the toxic environment necessitated Calkins's transfer.

The Court of Claims case will now proceed to trial. Notably, trials in the Court of Claims are heard before a judge, as juries are not permitted in this forum. The outcome will hinge on the court's assessment of whether SUNY breached its duty to protect Calkins from harm.

Personal Accountability in New York Supreme Court

Parallel to the Court of Claims case, the lawsuit against Coach Matthew Dernlan in New York Supreme Court focuses on his direct actions and their impact on Calkins. This case will proceed to trial before a jury, which will evaluate whether Dernlan's conduct constituted negligence, assault, and the negligent infliction of emotional distress.

Central to this case is the November 2017 incident in which Dernlan allegedly instructed another wrestler to punch Calkins. Although the punch was never thrown, the court recognized that Dernlan's directive created a reasonable apprehension of harm, satisfying the criteria for assault. The court also allowed claims of negligence and emotional distress to move forward, citing evidence that Dernlan's coaching methods, including prolonged "I Quit" matches and fostering an abusive environment, may have breached his duty of care to Calkins.

Wrestling's Physicality and Legal Boundaries

A recurring theme in both cases is the tension between the inherent physicality of wrestling and the legal and ethical limits of coaching practices. Wrestling is a sport that demands mental toughness and physical endurance, but the courts emphasized that these attributes must not come at the expense of athlete safety. While some testimony described practices like "I Quit" matches as traditional, the courts scrutinized whether such methods exposed athletes to unnecessary risks or deviated from acceptable norms.

The evolving recognition of emotional and psychological harm as actionable injuries reflects broader

societal changes in how athlete well-being is valued. These cases serve as a reminder that institutions and coaches must adapt to modern expectations of safety and dignity, ensuring that the competitive nature of sports does not justify harmful practices.

Trials Ahead

With both cases now headed to trial, the procedural differences between the forums underscore the complexities of litigating against public institutions and their employees. The Court of Claims case will be decided by a judge, whose findings will center on the evidence of SUNY's institutional negligence. In contrast, the state case against Dernlan will be presented before a jury, where the personal impact of his actions on Calkins will likely play a central role.

These trials represent critical opportunities to set precedents in the realm of collegiate athletics. They highlight the need for clearer boundaries between rigorous coaching and abusive behavior, as well as the importance of institutional accountability in preventing harm to student-athletes.

Advocating for Systemic Change

Representing Connor Calkins in these cases has been a powerful opportunity to push for systemic reform in collegiate athletics. The legal challenges he has faced reflect the broader struggle to balance the demands of competitive sports with the fundamental rights of athletes.

As an attorney specializing in sports injury litigation, hazing, and personal injury, I am committed to fighting for fairness and accountability in sports. These cases remind us that the safety and dignity of athletes must always come first.

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Claim that Facility Was Responsible for Hockey Injury in Negligence Case Falls Short

A Connecticut state court judge has granted a facility owner's motion to dismiss the negligence claim of a plaintiff, who was participating in a hockey game when he was injured by another player, which led him to sue the facility owner.

Plaintiff Peter Maro was participating in an adult hockey league of the Southern Connecticut Hockey League LLC (League), whose games were held at the skating rink operated by Chelsea Piers ("Chelsea Piers") in Stamford, Connecticut. Maro suffered an injury when defendant Edward Cliff Merrill ("Merrill"), allegedly, "caused his body and/or hockey stick to come into violent contact with plaintiff in which was otherwise an avoidable collision and outside the rules of play."

Maro sued for negligence. In Count Three, he alleged that his injuries were caused by Chelsea Piers' negligence. Maro made what the court deemed "a vague allegation 'that Chelsea Piers failed to provide safe playing conditions.' The only allegations specifically addressed to Chelsea Piers' conduct, policies or practices are in paragraphs 49 (h) and (i):

'h. In that Chelsea Piers failed to require Defendant Southern Connecticut Hockey League to maintain adequate insurance coverage for the acts complained of herein;

'i. In that Chelsea Piers failed to ensure that the Southern Connecticut Hockey League instructed the participants to behave in a safe and sportsmanlike manner....'"

Before rendering its decision, the court reviewed "the standards for deciding a motion to strike. … (when) it challenges the legal sufficiency of a pleading and, consequently, requires no factual findings by the trial court."

The court "construes the complaint in the manner most favorable to sustaining its legal sufficiency .... Thus, if facts provable in the complaint would support a cause of action, the motion to strike must be denied .... Moreover, the court notes that what is necessarily implied in an allegation need not be expressly alleged .... It is fundamental that in determining the sufficiency of a complaint challenged by a defendant's motion to strike, all well-pleaded facts and those facts necessarily implied from the allegations are taken as admitted .... Indeed, pleadings must be construed broadly and realistically, rather than narrowly and technically." *Coppola Construction Co. v. Hoffman Enterprises Ltd. Partnership*, 309 Conn. 342, 350, 71 A.3d 480 (2013). "If any facts provable under the express and implied allegations in the plaintiff's complaint support a cause of action ... the complaint is not vulnerable to a motion to strike." *Bouchard v. People's Bank*, 219 Conn. 465, 471, 594 A.2d 1 (1991). On the other hand, "[a] motion to strike is properly granted if the complaint alleges mere conclusions of law that are unsupported by

the facts alleged." *Santorso v. Bristol Hospital*, 308 Conn. 338, 349, 63 A.3d 940 (2013).

The Complaint Fails to Allege Subordinate Facts to Support Conclusory Allegations of Negligence

The court concluded that the complaint "is devoid of any facts that allege that Chelsea Piers was involved in the operation of the League, supervision of the League's play, including the game in question, or played any role in the events that allegedly caused plaintiff's injuries.

"Perhaps recognizing the dearth of allegations against Chelsea Piers in its capacity as rink owner, plaintiff alleged that Chelsea Piers was a 'partner' in the League based on marketing statements in its website in which it said it was "proud to partner with the Southern Connecticut Hockey League (SCHL) for all adult league games. The SCHL provides multiple divisions for all ages and skill levels, ranging from novice to professional. SCHL offers players and teams real-time standings, statistics, and rosters."

This was not sufficient for the court, which described the aforementioned language as "a vague statement of some relationship between Chelsea Piers and the League entirely consistent with renting the rink for League games without any role in the operation or supervision of the League or its games and other activities. Without an allegation of subordinate facts that would tend to demonstrate some control over or involvement or participation in the League's activities alleged to have negligently caused plaintiff's injuries, Chelsea Piers cannot be held to have breached any legal duty owed to plaintiff for negligence liability to attach."

The plaintiff also cited *Dushay v. S. Conn. Hockey League, LLC*, (FBT CV 20-6096649 S), 2023 Conn. Super. LEXIS 2018 (Saadi, J.), in which Judge Saadi denied a motion for summary judgment by a rink owner to dismiss the case brought by a minor player injured in a hockey practice by a youth league team, for the proposition that the owner of a skating rink has a duty to protect participants in a league hockey game.

"In Dushay, Judge Saadi denied the summary judgment motion of the skating rink owner concluding that the rink owner had a legal duty of care to protect minors using its rink and to enforce its rule requiring adult supervision of minors engaged in hockey practice," wrote the judge. "Here, by contrast, plaintiff was injured during an adult league game and plaintiff has not alleged Chelsea Piers failed to enforce any rules, practices or procedures related to the rink use that caused his injuries. No authority has been cited that would extend the special protections afforded to ensure safety of minors engaged in youth sports and activities to adults who participate in adult sports and activities and the Court is unaware of any public policy to that effect that would apply in the alleged circumstances."

The court also noted that Judge Saadi in Dushay granted a motion for summary judgment by a youth hockey league holding that "it had no duty to prevent injury to a player during a hockey practice in which it was not involved. Judge Saadi contrasted her case with this court's decision in *Peeples V. North End Baseball League of Bridgeport, Inc.*, 2016 Conn. Super. LEXIS 2570, 2016 WL 6499072 *3-7 (Conn.Super. 2016) (Krumeich, J.), which had denied summary judgment to the city owner of a baseball field and a youth baseball league because there were material issues of fact whether the city as owner and the league, which was in possession and control of the city-owned playing field during the game, had violated legal duties, the city's duty to inspect the playing field it owned and the league's duty under league rules to inspect the playing field prior to the game at which a minor player was injured by falling into a hole on the field of play."

In conclusion, the court wrote that the plaintiff "has not alleged any specific rule, policies or practices of Chelsea Piers relating to the safety of participants in the hockey game in which plaintiff was injured, or any basis for alleging any duty to impose such a rule or follow such policies or practices, so the conclusory allegations in paragraph 49 (i) are unsupported. As to the allegations that Chelsea Piers failed to require the League to 'maintain adequate insurance coverage' in paragraph 49 (h), such allegation appears unrelated to causation of the injury alleged and lacks any factual basis for any legal duty owed to plaintiff to require the League to maintain insurance coverage for adults using its rink or that such rule, policy or practice exists.

"These allegations fail to allege claims of negligence by Chelsea Piers for want of subordinate facts sufficient to establish any legal duty that was breached which caused plaintiff's injuries."

Peter Maro v. Edward Cliff Merrill; Super. Ct. Conn., Judicial District of Stamford-Norwal; DOCKET NO: FST CV 23-60661352 S; 11/26/24

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Articles

The Future of Title IX as President Trump Returns to the White House

By Ellen J. Staurowsky, Ed.D., Senior Writer and Professor, Sports Media, Ithaca College, staurows@ithaca.edu

As U.S. President Donald J. Trump returns to the White for a second term of office, uncertainties loom large in terms of the status of existing Title IX regulations as well as the attention and resources officials in the U.S. Department of Education Office for Civil Rights (USDOE-OCR) will devote to enforcement. An argument can be made that Title IX is no less controversial today in its application to federally funded schools and their athletic programs than it was when passed in 1972 and may in fact be much more controversial in this era.

U.S. Presidential Administrations & Their Impact on Title IX

Nearly all presidential administrations have left their mark on the evolution of Title IX. President Gerald R. Ford (1974-77) wavered on the release of the regulation while President Jimmy Carter (1977-81) did the same with the "Policy Interpretation." During President Ronald Reagan's administration, delays occurred as his administration entertained the idea that Title IX should not apply at all to athletics, a consideration that paralleled the Grove City College v. Bell (1984) case. Even after the passage of the Civil Rights Restoration Act, which restored enforcement authority to apply Title IX to athletics, presidential administrations under George H. W. Bush (1989-93) and in the early years of Bill Clinton (1993-2001) remained less than aggressive about ensuring that female athletes competing in the nation's schools were protected from sex discrimination. "As a result, the public's perception of Title IX's constitutional legitimacy was seriously eroded. A statute that was out of sight was also, to the public, out of mind" (Orleans, 1996, p. 137). Secretary of Education during the George W. Bush (2001-2009) administration, Roderick Paige, tasked a blue-ribbon Commission on Opportunity in Athletics in 2002 to propose recommendations that many believed would weaken Title IX's application to athletics. After eight months of hearings and spirited public debate, and despite a majority report that urged changes that would have negatively impacted the growth of women's sports, efforts to undermine the law were abandoned due to public support for existing regulations (Litsky, 2003; U.S. Department of Education, 2003).

President Barach Obama (2009-2017) along with his then vice-president Joseph Biden were credited with reshaping Title IX enforcement generally on college campuses, most specifically in terms of sexual assault. Between 2011 and 2016, the USDOE-OCR moved to investigate 344 institutions, prompting increasing investments in Title IX offices and personnel (Title IX coordinators, Title IX investigators) (Larkin, 2016). Guidance issued by the OCR clarified that Title IX's prohibitions against sexual harassment included sexual violence. It also emphasized that schools had an obligation to respond to sexual harassment and violence when it occurred with reporting and hearing procedures in place. Heralded as an important step forward in using the law to foster safer learning environments in schools, the guidelines issued during the Obama Administration became the subject of intense scrutiny, review, and revision as the country transitioned to President Donald Trump's first term in office (2017-2021).

Title IX During the First Trump Administration (2017-2021) & Biden Administration (2021-2025)

Rescinding previous guidance, then U.S. Secretary of Education Betsy DeVos, a Trump appointee, released a new set of guidelines in 2020 that provided more protections for alleged perpetrators of sexual harassment and sexual violence with a focus on due process concerns, narrowed the definition of sexual harassment, set limits on when a complainant who believed they were subjected to sexual harassment could submit a complaint, and offered schools the chance, if they wished, to adopt a higher standard of proof the complainant would need to meet in the form of the clear and convincing standard rather than preponderance of the evidence. As the National Women's Law Center (2020) pointed out,

"Schools will be allowed—and in many cases, forced—to ignore sexual harassment victims if: (i) they were sexually harassed in the wrong place; (ii) they asked the wrong person for help; (iii) they haven't suffered enough by DeVos's standard; (iv) they are no longer participating or trying to participate in the school's program or activity; (v) their respondent is no longer at their school; or (vi) they don't submit a written complaint" (p. 1).

With the election of President Joseph Biden (2021-2025), an effort was made to restore much of the guidance that had been in place during the Obama era, while also offering a definition of sex discrimination that included protections for gender identity and clarifying the rights of pregnant students. After years of review, discussion, litigation, and rancorous public discourse, the Biden Title IX Final Rule was issued in April of 2024. The Final Rule's clarification of what the term "on the basis of sex" means, "include[ing] discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity" spawned several lawsuits filed by Republican state attorneys general resulting in injunctions blocking enforcement of the rule in 26 states (Walsh, 2024). On January 9, 2025, just as President Biden prepared to leave office, the Final Rule was vacated by a judge in the Eastern District of Kentucky in *Tennessee, et al. v. Cardona* (Civil Action No. 2: 24-072). In brief, according to the opinion, the DOE had erred in exceeding its authority when it sought to expand the definition "on the basis of sex" to include "gender identity". In the states where injunctions were already blocking the Final Rule, they had been advised to follow the 2020 DeVos Rule. With the decision in *Tennessee, et al. v. Cardona (2025)* other states were advised to do the same.

Trump's Second Term in Office Awaits

As President Trump assumes office for the second time, it is a relative certainty that he will take immediate action to ban transgender athletes from participating on teams that align with their gender identifies through an executive order. That said, there is the uncertainty as to what position his nominee for Secretary of Education, former World Wrestling Entertainment (WWE) executive, Linda McMahon will take on this and other education issues. Organizations like the National Education Association (NEA) have opposed McMahon's nomination on the basis of the fact that she is unqualified; is likely to work toward privatizing public education; and expand voucher programs to the detriment of the educational needs of the poorest children in schools (Litvinov, 2024). More broadly, there is concern that McMahon would be tasked with eliminating the Department of Education as part of Trump's expressed view that responsibility for education should be taken up at the state level (Meltzer, 2024). In terms of Title IX, given this new Trump Administration's pronounced efforts to rid government agencies of diversity, equity, and inclusion programs on Day 1, it is expected that whatever the path ahead, it will be a troubled one for Title IX.

Note: Sentences 2-8 in Paragraph 2 were excerpted from Staurowsky et al., 2022.

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Schools Should Not Dismiss The Biden Administration's Final Title IX Guidance

By Dan Cohen and Jennifer L. F. Cohen

In the waning days of the Biden administration on January 16, 2025, the Office for Civil Rights of the U.S. Department of Education (OCR) issued a Fact Sheet to "clarify" how Title IX will apply to universities' name, image and likeness (NIL) payments to their student-athletes under the proposed *House v. NCAA* settlement.

The Fact Sheet was not well received by the industry. Many people were dismissive of it because it was not a legally binding document and was subject to easy withdrawal or change by the incoming Trump administration. Other commentators chafed under an impression that the guidance would mandate equal NIL payments between male and female student-athletes, an outcome that many perceived as impractical and unjust based on revenue generation.

Schools should be careful not to disregard the Fact Sheet too quickly. The Fact Sheet was consistent with long-standing legal precedent for the most part, and the legal standards explained in the text — and in the accompanying citations in the footnotes — are likely to be applicable in future (and probably inevitable) Title IX litigation arising from *House* payments.

But first, what exactly did the Fact Sheet state?

Athletic Financial Assistance

Although some commentators were surprised, it is likely that Title IX will apply to institutional *House* payments.

Title IX applies broadly to "any education program or activity receiving Federal financial assistance."[16] It prohibits sex discrimination in almost everything that a university or its athletics department may do. Under Title IX, "athletic financial assistance includes any financial assistance and other aid provided by the school to a student-athlete that is connected to a student's athletic participation."[17] Accordingly, if a school provides any payments – any financial assistance – to a student-athlete because they are on a team (aid "that is connected to a student's athletic participation"), then it is categorized as "athletic financial assistance." This likely will cover direct, institutional *House* payments.

How will Title IX apply to *House* payments?

Since the Title IX Policy Interpretation was published in the Federal Register in 1979,[18] the standard for assessing equity in the provision of "athletic financial assistance" has been divided into two categories.

Schools are required to provide "athletic scholarships or grants-in-aid . . . for members of each sex in proportion to the number of students of each sex participating in interscholastic or intercollegiate athletics."[19] According to the 1979 Policy Interpretation, that "mean[s] that the total amount of scholarship aid made available to men and women must be substantially proportionate to their participation rates." This analysis focuses on the equitable or proportional distribution of dollars but allows for differences that can be explained by legitimate, non-discriminatory justifications.[20]

However, "[w]hen financial assistance is provided in forms other than grants, the distribution of non-grant assistance will also be compared to determine whether equivalent benefits are proportionately available to male and female athletes."[21]

It may be tempting to mingle these two different Title IX standards, but OCR ultimately set forth the correct standard for institutional *House* payments in the applicable Section 4 of the Fact Sheet: "When a school provides athletic financial assistance in forms other than scholarships or grants, including compensation for the use of a student-athlete's NIL, such assistance also must be made proportionately available to male and female athletes."[22]

This is not necessarily a dollar-for-dollar proportionality test, as it focuses on availability, not distribution.

16 20 U.S. Code § 1681.

17 Fact Sheet at 7 (emphasis added) (citing to 1979 Policy Interpretation and OCR 2015 Dear Colleague Letter, available at https://www2.ed.gov/about/offices/list/ocr/correspondence/stakeholders/20151112-cost-attendance-ath-scholarships.pdf).

18 1979 Policy Interpretation, 44 Fed. Reg. 71,413 (Dec. 11, 1979).

19 34 C.F.R. § 106.37(c)(1) (emphasis added).

20 1979 Policy Interpretation, at 71,415, at Section VII.A.3.a. (emphasis added).

21 1979 Policy Interpretation, at 71,415, at Section VII.A.3.b. (emphasis added).

22 Fact Sheet at 8 (emphasis added).

This standard has been best understood in the context of *Alston* academic incentive payments: if *Alston* awards are made proportionately available to 100 male and 100 female student-athletes, but 98 women and 93 men qualify for, and receive, the awards under the academic criteria – or even a more extreme disproportionality of who qualifies for the awards – then the awards have been made proportionately available even if the monetary amounts are not granted proportionally among the 100 male and 100 female student-athletes.

Further, legitimate, non-discriminatory justifications will remain applicable to explain differences in who qualifies for *House* payments as well as their amounts, as long as a school's *House* payment structure provides for equitable availability.

Title IX also requires equitable treatment as schools assist student-athletes with NIL opportunities

Additionally, Title IX's requirement that schools provide equivalent benefits, opportunities and treatment in their athletics programs[23] applies to NIL opportunities. OCR particularly focused on the provision of publicity and support services in the Fact Sheet.[24]

Regarding equitable publicity, OCR stated that "[a] school's obligation to provide equivalent publicity based on sex continues to apply in the context of NIL. For example, if a school is not providing equivalent coverage for women's teams and student-athletes on its website, in its social media postings, or in its publicity materials, these student-athletes may be less likely to attract and secure NIL opportunities."[25]

For support services, OCR reminded schools that "any services that schools provide to assist student-athletes in securing or managing NIL opportunities" should be provided equitably, including NIL education services. Further, "if athletics department employees assist the school's student-athletes by obtaining and negotiating NIL agreements, OCR would examine whether the school is providing this assistance [equitably] to student-athletes on men's and women's teams."[26]

Although OCR merely reiterated two long-standing Title IX equitable treatment obligations,[27] they serve as important reminders to schools not only of their legal obligations under Title IX, but also that student-athletes' experiences and perceptions are shaped by the "fairness factor," which directly relates to the equitable provision of visible reminders that they are valued by the athletic department and equitably supported in pursuing NIL opportunities.

Of course, legally speaking, a Title IX equitable treatment analysis ultimately involves an aggregated analysis across all teams and all program areas, and legitimate, non-discriminatory justifications will be available to explain differences in publicity and support services.[28]

Conclusion

The key, as always, to Title IX compliance is in the implementation – the details of how schools are implementing their *House* structures. Schools can make their *House* payments equitably available to all student-athletes, but differentiate payment amounts based on legitimate, market-based factors. And schools can augment their publicity efforts to increase the visibility of all student-athletes, so they can attract third-party NIL deals.

Of course, there are many nuances to the implementation beyond those high-level points, particularly an understanding of what may or may not constitute legitimate and non-discriminatory justifications. With a likelihood that future Title IX litigation will arise under *House*, schools should stay aware of long-standing Title IX requirements, some of which are accurately

23 1979 Policy Interpretation, at 71,414.

24 Fact Sheet at 6-7.

25 Fact Sheet at 6.

26 Fact Sheet at 7. While the Fact Sheet used the word "equally" rather than "equitably," Title IX equitable treatment requires an analysis of whether men's and women's teams' differing needs are met in the aggregate. See 34 C.F.R. § 106.41(c); 1979 Policy Interpretation, at 71,415-16; *Parker v. Franklin County [Ind.] Community School Corp*., 667 F.3d 910, 922 (7th Cir. 2012); *Portz v. St. Cloud State Univ*., 16 F.4th 577, 581 (8th Cir. Oct. 28, 2021).

27 34 C.F.R. § 106.41(c); 1979 Policy Interpretation, at 71,417. Without elaboration, OCR also reminded schools that they retain responsibility to treat their male and female student-athletes equitably, even when NIL payments are made by "affiliated" third parties like collectives. Fact Sheet at 8. Again, OCR's citations are likely more important than OCR's direct statement. For this proposition, OCR cited the Eighth Circuit's ruling on a parallel point: "a public university cannot avoid its legal obligations [to provide athletic equitable treatment] by substituting funds from private sources for funds from tax revenues." *Chalenor v. Univ. of N.D*., 291 F.3d 1042, 1048 (8th Cir. 2002).

28 E.g., 1979 Policy Interpretation, at 71,417.

restated in OCR's Fact Sheet and which should not be dismissed as a midnight-hour missive by the exiting administration.

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This publication should not be construed as legal advice or legal opinion on any specific facts or circumstances. The contents are intended for general informational purposes only, and you are urged to consult your own lawyer on any specific legal questions you may have concerning your situation.

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$1.5 Million NIL Scandal Hits Florida State Basketball

By Joseph M. Ricco IV

Six former Florida State University basketball players have filed a lawsuit against head coach Leonard Hamilton, alleging he failed to fulfill verbal promises of Name, Image, and Likeness (NIL) payments totaling $1.5 million. The players claim Hamilton promised $250,000 each, sourced from his "business partners," in exchange for their commitment to the program during the 2023-2024 season. Furthermore, the lawsuit accuses Hamilton of breach of contract, fraudulent misrepresentation, and negligence, marking a pivotal moment in the evolving NIL scene. This article explores the details of the allegations, examines their potential impact on Florida State University, and explores the implications for college sports and athlete compensation.

Allegations Against Coach Hamilton

The lawsuit filed by former Florida State University basketball players Darin Green Jr., Josh Nickelberry, Primo Spears, Cam'Ron Fletcher, De'Ante Green, and Jalen Warley alleges that head coach Leonard Hamilton promised each of them $250,000 in Name, Image, and Likeness compensation during the 2023-2024 season. According to the complaint, these verbal promises were made during recruitment meetings and reinforced throughout the season. Hamilton assured the players that the money would come from his "business partners" rather than an NIL collective or Florida State itself. The plaintiffs claim they relied on these promises when deciding to either join or remain with the team, only to find that the payments were never made.

Tensions reportedly escalated as the season progressed. By February 2024, with no payments received, the players threatened to boycott a practice and a pivotal game against Duke University. Hamilton allegedly responded by reiterating his commitment to deliver the promised funds the following week, urging the team to stay focused and continue playing. Trusting their coach's word, the players participated in the Duke game, which Florida State ultimately lost. However, the promised payments failed to materialize, leaving the athletes frustrated and financially strained.

The players' legal claims include breach of contract, promissory estoppel, fraudulent misrepresentation, and negligent misrepresentation. They argue that Hamilton's repeated assurances constituted enforceable verbal agreements under Florida law, which were relied upon to their detriment. The complaint also highlights text messages between the players, Hamilton, and Will Cowan, an executive from Florida State's NIL collective, to demonstrate the promises made and the players' growing concerns about their validity. These texts, the plaintiffs contend, corroborate their claims and provide key evidence of Hamilton's verbal commitments.

Florida State University has denied any wrongdoing and stated that it is conducting an internal investigation. The school emphasized its commitment to compliance and ethical conduct in the NIL era, noting that it has no knowledge of unfulfilled commitments by the Rising Spear collective or the university. Meanwhile, Hamilton has remained silent on the matter, leaving many questions unanswered about the allegations and the broader implications for the university and its athletic program.

Implications for the University

The lawsuit against coach Leonard Hamilton raises significant concerns for Florida State University, both legally and reputationally. While the university is not directly named as a defendant, the allegations implicate broader questions about its oversight and handling of NIL agreements within its athletic programs. If the claims are proven, it could suggest a failure to enforce compliance protocols, particularly regarding promises

made by staff members outside formal NIL collectives. This could lead to increased scrutiny from both the NCAA and public stakeholders, potentially damaging the university's credibility in recruiting and retaining top-tier athletes.

Moreover, the case threatens to cast a shadow over the Florida State basketball program, which has already struggled in recent seasons. Allegations of unfulfilled promises could become a negative recruiting tool for rival schools, impacting the program's ability to attract high-level talent in a competitive NIL landscape. The university may also face pressure to reevaluate its policies and communication practices related to NIL to create clearer boundaries between individual promises and collective agreements.

The Bigger Picture

Overall, this case highlights the growing challenges in college sports during the NIL era, where unclear promises and verbal agreements can create significant conflicts. The lawsuit reveals how close Florida State's basketball team came to what may have been the first known NIL-related game boycott, with players nearly sitting out a February 2024 matchup against Duke over unpaid compensation. While the boycott was avoided after coach Leonard Hamilton allegedly reassured the players, the situation demonstrates the increasing pressure university personnel potentially face when financial promises aren't kept.

For college sports as a whole, this near-boycott shines a light on the urgent need for more structured NIL agreements and better oversight. Without clear national regulations, schools, coaches, and athletes are left navigating an incomplete rulebook, increasing the potential for disputes. This case serves as a reminder that NIL opportunities, while beneficial, also bring new complications that institutions must address to protect both their programs and their athletes.

In closing, this lawsuit is a warning for everyone involved in college athletics. Athletes must prioritize getting agreements in writing and seek professional guidance when navigating NIL deals. At the same time, coaches and schools need to understand that verbal promises carry weight and can have serious consequences if not fulfilled. As NIL continues to reshape college sports, this case could become a turning point, influencing how universities and athletes handle compensation and accountability in the years ahead. *Joseph M. Ricco IV is a junior sport management and government double major at the University of Texas at Austin. Joseph is actively involved as a Texas Longhorns football recruiting operations intern and currently works with Pro Football Focus as a data collector. He also has experience as a training camp operations intern with the Kansas City Chiefs. Joseph aims to leverage his sports management and legal knowledge to pursue a career in football administration.*

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Key Issues for Investors to Consider from the New Football Governance Bill

By Mark Geday and Samson Brill, of Morgan Lewis

Following the successful takeover of Premier League club Everton by a US acquiror in December last year, eleven of the twenty clubs in the Premier League, the highest level of English football's league system, are now controlled or part-owned by US investors. With over a third of all clubs from the English Football League, consisting of three lower leagues and seventy-two clubs in total, also minority-owned by US stakeholders, there is no question that English football clubs have become an attractive target for US investors over the last twenty years, drawn in by the relatively low valuations compared to US sports' franchises and growing interest in the US for English football among other factors.

However, the increase in foreign interest and ownership in English football and the resulting boom in broadcasting revenues and player salaries has placed other aspects of the game's structure, or "pyramid", under strain. Threats to clubs' financial sustainability, proper fan representation and the heritage of English football for example have led to the UK Government, following a consultation period, to introduce a draft Football Governance Bill (the Bill). The core objectives of the Bill are to protect and promote the financial soundness of regulated clubs, protect and promote the financial resilience of English football, and safeguard the heritage of English football. These objectives are to be delivered through legislation and the establishment of an independent football regulator (the IFR).

The recently elected UK Labour government made several changes to the previous version of the Bill, which was introduced in March but was not passed before the general election. Whilst the Bill remains substantially the same, there are several key changes partly aimed at addressing concerns around independence from government and the treatment of parachute payments. Additionally, it aims to further formalize the role and scrutiny of fans in club decision-making. The Bill is currently well advanced through the UK Parliamentary process.

OWNERS AND DIRECTORS TEST

The previous Bill established conditions that a prospective owner or director must meet before the IFR can ascertain that they meet the necessary honesty, integrity, and financial soundness standards. However, the requirement for the IFR to have regard for the UK government's foreign and trade policy in connection with any proposed new ownership has now been removed, furthering the IFR's operational independence from the UK government.

Following warnings from the Union of European Football Associations (UEFA) to the UK government stating that there should be no government interference in the running of football, this change acts to remove any express connection between the IFR's decisions and UK government policy. UEFA has praised the fan engagement elements of the Bill but continues to voice concerns of potential "scope creep," whereby the IFR's powers allow it to potentially regulate English football beyond initial expectations.

PARACHUTE PAYMENTS AND FINANCIAL DISTRIBUTIONS

Under the previous Bill, the IFR was given powers to intervene for dispute resolution purposes if there were disagreements regarding the distribution of revenue, from broadcasting or other sources, from a specified competition between two leagues—or competition organizers. The IFR would ultimately make a distribution order following a mediation process. Parachute payments, being payments made to clubs out of the Premier League broadcasting revenue after they are relegated from the Premier League as a financial buffer against the reduced revenue of a lower league, were specifically carved out of the IFR's scope of review or distribution orders.

The previous Bill simply required the IFR to ensure a distribution order would advance the IFR's objectives and not place an undue burden on the commercial interests of either organizer. The new Bill, whilst bringing parachute payments into scope for the review, further requires a distribution order not to lower parachute payment revenue within the year following any team's relegation below the revenue such team would receive without the distribution order.

In the context of a longstanding disagreement between the Premier League and the English Football

League (EFL) regarding parachute payments, the inclusion within the IFR's scope of review could potentially bring an end to this deadlock by allowing the IFR to reduce parachute payments, as long as such reduction is consistent with the IFR's objective of financial stability. UK Culture Secretary Lisa Nandy has confirmed that parachute payments will not be abolished altogether, despite the IFR's ability to reduce them. Significantly, one of the amendments put forward in Parliament's most recent reading of the Bill was to close financial gaps between leagues.

Such powers of intervention regarding the distribution of top-flight revenue have provoked concern from the Premier League, which suggests its competitiveness and the capacity of its clubs to invest in the best talent may be negatively impacted by this change, as could the wider financial sustainability down the full pyramid given the importance of the Premier League's profitability for the lower leagues and its role as the driving force for English football's financial success. The Premier League has also expressed concern for the IFR's binary-style mediator role in the event of a revenue-related dispute, and a perceived lack of certainty or guardrails as to circumstances when the IFR's powers will enable it to step in and intervene with clubs' financial operations. The potential harms of overregulation were one of the topics addressed in the Bill's most recent reading in Parliament, as were the IFR's ability to restrict clubs' spending.

Notably, the EFL's stance on parachute payments has recently shifted towards reform, rather than abolition. Given such commentary and reception, it seems likely that the IFR will, at least initially, approach any reduction or removal of parachute payments with caution and moderation. However, the potential impact of this change to the Bill on the flow of revenue across the Premier League and the EFL could be significant.

FAN ENGAGEMENT

The previous Bill proposed to formalize fan engagement and powers by only granting clubs with an operating license if it met a fan engagement threshold, and attaching a mandatory fan consultation condition to any license granted, as well as requiring the support of fans before allowing any club to materially change its crest or home shirt colors.

The new Bill takes these engagement standards further by requiring clubs to regularly meet and consult a representative group of fans on key club matters, as well as consult supporters on ticket prices and any proposals to move home ground, such changes only becoming permitted under the legislation once a club has taken reasonable steps to secure fan support. This representative group may also now be required by the IFR to be elected by other fans to prevent any situation where the club strategically selects the representative group.

Fans' reception for the Bill has generally been positive. However certain fan groups have noted that while engagement between owners and fans in the lower leagues can be exemplary in some cases, such as Wrexham A.F.C. since Rob McElhenney and Ryan Reynolds's entry in 2021, more mandatory engagement and consultation is required particularly in the Premier League and have called for the Bill to go further in this regard.

LICENSING CONDITIONS

Under the previous Bill, club operating licenses, required by a club before it can operate a team in a specified competition, would only be granted by the IFR if multiple license threshold conditions were met. Mandatory operating conditions would then attach to any license granted to ensure clubs operated in line with the Bill's core aims. The new Bill grants the IFR increased powers and flexibility to impose non-financial discretionary license conditions, allowing the IFR to implement tailored additional conditions to struggling clubs to protect against these clubs' perceived historical shortcomings.

The IFR's powers in limiting a club's spending through discretionary licenses has, on the other hand, been reduced, meaning that a club will always retain discretion on which areas to reduce expenditure on in order to meet the financial resources threshold or condition, and the IFR will not have power to limit any particular item of expenditure.

EXPERT PANEL AND INTERNAL REVIEW

As set out in the previous Bill, the IFR is to consist of a board and an expert panel. The new Bill contains several minor revisions to the way in which the expert panel, and the IFR's internal review mechanism, will

operate with the aim of mitigating any risk of overburdening the expert panel.

The IFR may now decline a request for internal review in certain cases where an internal review is clearly not necessary, and approval of certain "reviewable decisions", i.e., decisions relating to certain specific matters listed in the Bill that may be appealed, including the sale or relocation of a stadium or the decision to appoint an administrator (all of which require the IFR's approval).

OVERALL

Ongoing political developments across the domestic and European stage and the mixed reactions of domestic and international stakeholders such as the English leagues and UEFA will continue as the Bill passes through the legislative process, and potential further amendments to the Bill in response to such developments should not be discounted. As an investor, it will remain key to include a target club's compliance history with the legislation as part of due diligence, given the potential impact of the new regulatory measures on a club's operations, as well as the potential severity of financial penalties and sanctions under the Bill.

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Bodycheck in College Hockey Contest Leads to Negligence Lawsuit

By John Wendt

On February 19, 2023, at 3:51 of the second period of the Adrian College – Michigan State American Collegiate Hockey Association (ACHA) hockey game, Sydney Crawford of MSU was assessed a major penalty and given a game misconduct for Checking from Behind.[29] The player who she hit, Kathleen Droba of Adrian lay unconscious on the ice. Now, Droba is suing Crawford claiming that she has two fractures in her spine, and has persistent headaches, suffers nausea, vertigo, loss of balance, memory loss, decreased quality of life and potential loss of income.[30]

Both Adrian College and Michigan State University offer teams that participate in the ACHA. The ACHA, founded in 1991 and with over 450 members, is the national association for Non-NCAA Collegiate Hockey. The ACHA offers a non-varsity option for college students who want to play hockey at the collegiate level.[31] Despite not being in the NCAA, the ACHA uses the rules of play laid out in the NCAA Ice Hockey Rules & Interpretations Rule Book.[32]

According to the NCAA Ice Hockey Rules Book, body checking is not permitted in any area of the ice in Women's Ice Hockey. The penalty is a minor, major and game misconduct or major and disqualification, at the discretion of the referee.[33] The NCAA felt that the issue of body checking was so important that they included it as one of their Points of Emphasis on the 2023-24 Rule Book and prepared a special video for coaches and officials to assist with this emphasis.[34]

Droba's Complaint alleges that she was positioned near the Michigan State net when Defendant Crawford began skating toward her. The Complaint continues to allege that the defendant "without warning, recklessly and/or carelessly and violently struck Plaintiff with the force of her entire body (commonly referred to as a "bodycheck"), causing Plaintiff to strike the surface of the ice with great force and lose consciousness." Importantly, the Complaint alleges that, "[t]he bodycheck by Defendant was not attributable to participation in the ongoing athletic contest, as there was no play on the puck, and such action is clearly and expressly outside the rules of play." Hence, the bodycheck was above and beyond any incidental action to hockey.

29 Michigan State University, *Game vs Adrian College on 02-19-2023 - Michigan State University Women's Ice Hockey*, (2023), https://www.msuwomensicehockey.com/games/game-vs-adrian-college-on-02192023-li1yhdpm/stats (last visited Dec 17, 2024).

30 John Agar, *College Hockey Player Sues MSU Rival after Violent Hit Left Her Unconscious on the Ice*, MLIVE (2024), https://www.mlive.com/news/grand-rapids/2024/12/college-hockey-player-sues-msu-rival-after-violent-hit-left-her-unconscious-on-the-ice.html (last visited Dec 17, 2024). The case is entitled *Droba v. Crawford*, Case 1:24-cv-01277-RJJ-SJB, ECF No. 3, PageID.19, Filed 12/10/24 (W.D. Mich). The lawsuit was initially filed in Ingham County Circuit Court then moved to federal court at the defense's request.

31 American Collegiate Hockey Association, *Who We Are*, (2024), https://www.achahockey.org/who-we-are (last visited Jan 4, 2025).

32 American Collegiate Hockey Association, *American Collegiate Hockey Association Manual (Revised July 2022)*, (2022), https://www.achahockey.org/ (last visited Jan 2, 2025).

33 National Collegiate Athletic Association, *2022-23 and 2023-24 Ice Hockey Rules Book*, (2022), NCAA.org (last visited Jan 2, 2025). Section 11 Women's Ice Hockey P.86.

34 *Id.* 2023-24 Points of Emphasis P.7.

The Complaint also alleges that Crawford was negligent. Crawford, as a co-participant in the game, owed the Plaintiff a duty to "conform to the normal bounds of the activity and refrain from misconduct." Defendant Crawford breached that duty by "failing to conform her conduct to the normal bounds of the sport of women's ice hockey and forcefully bodychecking Plaintiff causing injuries…."

Crawford's answer acknowledges that there was contact between her and Droba, which caused Plaintiff to fall to the ice. However, according to Crawford the allegations against her were inaccurate, and that "she (Crawford), along with other teammates, were skating toward their own net because that is where the puck/play was. Where exactly Plaintiff was as Defendant was doing so, she does not know because she was not focusing her attention on where the Plaintiff was." Crawford argued that she did not act beyond the normal bounds of conduct associated with women's ice hockey.35

Crawford's Answer also noted that the phrase "reckless misconduct" has been defined by Michigan appellate law. The framework for co-participant liability in Michigan was established in *Ritchie-Gamester v. City of Berkley*, 461 Mich 73, 597 NW2d 517 (1999), subsequently developed in *Bertin v. Mann*, 502 Mich. 603, 918 N.W.2d 707 (2018), and recently discussed in *Payne v. Payne*, 338 Mich.App. 265, 979 N.W.2d 706 (2021).

As noted in *Payne*, "[u]nder the common law of tort, many interpersonal interactions are governed by the ordinary-negligence standard of care. If the common law provides that a person owes a duty to another person, then that duty is usually to exercise ordinary care commensurate with the particular circumstances of the situation… But in 1999, our [Michigan] Supreme Court pivoted away from the ordinary-negligence standard in a narrow category of cases—those cases involving coparticipants who are engaged in a sport or recreational activity."36

The Court in *Payne* went on to note, "In *Ritchie-Gamester*, an ice skater collided with another skater. The plaintiff asked the Court to apply the standard of ordinary negligence to her common-law claim, while the defendant argued that a reckless-misconduct standard should apply… With this background in mind, the Court took as a basic premise that '[w]hen people engage in a recreational activity, they have voluntarily subjected themselves to certain risks inherent in that activity. When one of those risks results in injury, the participant has no ground for complaint.' …In light of this understanding, the Court joined the majority of other jurisdictions in adopting 'reckless misconduct as the minimum standard of care for coparticipants in recreational activities.'"37 Finally, the Court in Payne noted that, "The adoption of the reckless-misconduct standard did not mean, however, that ordinary negligence had no place in recreational activities. The Supreme Court made clear that the reckless-misconduct standard applied only to risks that were inherent in the recreational activity, not those risks that exceeded "the normal bounds" of the activity."38

Droba is seeking an amount in excess of $25,000 and any additional costs and interest that the court may deem appropriate. Neither Michigan State University nor the MSU Team were named as defendants.

35 Agar, *supra* note 2.

36 Payne v. Payne, 979 N.W.2d 706 (2021) at 712.

37 *Id.* at 713.

38 *Id.* For an excellent discussion of the duty of care to co-participants and the "contact sports exception" please see, Richard E. Kaye, J.D., Annotation, *Construction and Application of Contact Sports Exception to Negligence*, 75 A.L.R.6th 109 (Originally published in 2012).

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Negligence Lawsuit Filed Against Rockwall-Heath Coaches for Injuries to Students

By Charles Keller

A legal case in Rockwall County, Texas, highlights serious concerns about negligence in high school athletics. Valencia Smith, representing her minor child, G.A., has filed a lawsuit against several coaches at Rockwall-Heath High School, alleging that their actions during a January 2023 workout led to significant injuries.

The Incident

The incident occurred during a high school athletics class where student-athletes were reportedly punished with excessive physical exercise. According to the lawsuit, students were forced to complete over 300 push-ups in a single session for minor infractions like wearing the wrong attire, being late, or failing to hustle.

The intense physical exertion led to multiple cases of rhabdomyolysis, a condition caused by muscle breakdown that can release harmful proteins into the bloodstream and potentially damage the kidneys. The lawsuit claims that many students were hospitalized, and the effects of the condition could have long-term consequences.

The plaintiff alleges that the coaches, led by head coach John Harrell, ignored safety protocols, failed to monitor students for signs of distress, and denied them necessary water breaks during the session. These actions, according to the lawsuit, amounted to gross negligence.

Who is Being Sued?

In addition to head coach John Harrell, the lawsuit names several assistant coaches as defendants, including Chadrick A. President, Lucas Lucero, Joshua Rohmer, Seth McBride, Cody Monson, Chance Casey, Jake Rogers, Joseph Haag, Brody Trahan, Garrett Campfield, Alex Contreras, and Jordan Wallace.

Each coach is accused of participating in or failing to prevent the harmful workouts. The lawsuit alleges that all the defendants ignored clear instructions from the school district's athletic director, Russ Reeves, who had explicitly warned against using physical exercise as punishment.

The complaint also states that the assistant coaches contributed to the unsafe environment by either enforcing the excessive workout or failing to intervene. For instance, the lawsuit claims some assistant coaches assigned additional push-ups without regard for the students' physical condition. Others, it alleges, supported a "group punishment" approach, in which the entire class was penalized for the actions of one student.

The named defendants also allegedly engaged in a whisper campaign to shift blame for the injuries onto the students. Internal communications revealed attempts to suggest that the affected students' symptoms were caused by the use of nutritional supplements. However, an investigation found no evidence to support these claims.

Expert Witnesses in the Investigation

The investigation into the Rockwall-Heath lawsuit involved 58 interviews with student-athletes, coaches, and others connected to the incident. It also included a review of documents, photos, emails, texts, and security footage to gather important evidence.

Three expert witnesses were consulted during the investigation:

1. **Dr. Salman Bhai** is a neurologist and specialist in muscle-related disorders. He works at UT Southwestern Medical Center and Texas Health Presbyterian Hospital in Dallas. Dr. Bhai reviewed the medical records of the affected students to assess the physical impact of the injuries.
2. **Scott Anderson** is a certified athletic trainer with over 40 years of experience. He was the Head Athletic Trainer at the University of Oklahoma until his retirement in 2022. Anderson provided insight into whether the coaches followed proper safety protocols during the workout.
3. **Scott Bennett** is a strength and conditioning specialist with over 30 years of experience. He is the CEO of the Collegiate Strength and Conditioning Coaches Association. Bennett helped evaluate the safety of the strength training methods used during the workout.

These experts helped confirm that the coaches' actions were unsafe and contributed to the injuries sustained by the students.

The Lawsuit

The plaintiff argues that the coaches acted negligently in several ways:

- **Ignoring Warnings**: The district's athletic director, Russ Reeves, had warned the coaches not to use physical exercise as punishment, citing potential legal issues.
- **Lack of Oversight**: The coaches allegedly did not watch for signs of distress among students.
- **No Breaks**: Students were not given adequate water or rest during the workout.

- **Blaming the Victims**: The lawsuit claims the coaches tried to blame the students' injuries on nutritional supplements, but an investigation found no proof of this.

Legal Analysis

The lawsuit focuses on negligence, which requires proof of four elements:

- **Duty of Care**: The coaches had a legal responsibility to ensure the safety of students.
- **Breach of Duty**: The lawsuit claims the coaches breached this duty by enforcing unsafe workouts and ignoring warnings.
- **Causation**: The plaintiff alleges that the coaches' actions directly caused the injuries.
- **Damages**: G.A. suffered physical and emotional harm, with medical expenses exceeding $250,000.

Conclusion

The Rockwall-Heath lawsuit highlights serious concerns about safety in school sports, questioning whether safety rules are being followed and coaches are being held accountable. By naming multiple defendants, the complaint highlights that all coaches on the team share responsibility for protecting their athletes.

The case also draws attention to the risks of using extreme physical punishment as discipline. It emphasizes the need to reject unsafe practices and prioritizes student safety.

As the case progresses, it serves as a reminder of the importance of protecting student-athletes. The allegations suggest the coaching staff failed to meet basic safety standards. A ruling for the plaintiff could send a strong message against negligence and harmful practices in sports, encouraging schools nationwide to adopt stricter policies and improve coaching training to protect athletes' health and safety.

Charles Keller is a former Division I tennis player and a recent graduate from the University of Texas at Austin with a degree in Sport Management.

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SRLA Announces Keynote Speaker for Annual Conference, As Well As Registration and Hotel Link

The Sports and Recreation Law Association (SRLA) has announced that Chance Miller, the Vice President for Intercollegiate Athletics and University Recreation at Coastal Carolina University, will be its keynote speaker for the 38th annual SRLA Conference, being held February 26 to March 1 in Myrtle Beach, South Carolina.

The association also announced that it has finalized its Hot Topics panel: Youth Sports and Tourism – The Myrtle Beach Experience.

The panelists for the session, which will be held on February 27 at 10 a.m., are:

- **Amanda Player-Wofford:** Athletic and Sports Tourism Director, North Myrtle Beach, and Lecturer at Coastal Carolina University.
- **Tim Huber:** Sports Tourism Director, City of Myrtle Beach.
- **Matt Ensworth:** General Manager, The Ripken Experience Myrtle Beach.

In addition to the Hot Topics panel, the conference includes over 60 peer-reviewed scholarly presentations by SRLA members. Conference attendees also have the opportunity to interact with scholars and practitioners from across the country, engage in social activities, and network with industry professionals.

To register for the conference, visit **https://srla2025.exordo.com/**

The conference hotel for the event is the **Hilton Myrtle Beach**, which is offering a discounted rate of $174 a night at the aforementioned link.

"We're excited to return to Myrtle Beach for the annual SRLA conference," said SRLA President and Associate Professor (University of South Carolina) Natasha Brison. "Our conference committee has done a fantastic job of bringing together

a full schedule of provocative and relevant sports law presentations, as well as a keynote speaker who can provide insights into navigating the increasingly volatile world of collegiate athletics."

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Venable Names Desirée Moore and Ben Stockman as Co-Leaders of Growing Sports Law Team

Venable LLP has announced that partners Desirée Moore and Ben Stockman have been named co-leaders of the firm's Sports Law team. Their appointment marks "a pivotal step in formalizing Venable's deep bench of sports law attorneys, who collectively have decades of experience advising sports and sports-adjacent clients in matters spanning many areas of law," according to the firm.

"There are 15-20 attorneys who work with sports industry clients in some capacity across the firm, and many who have done so for years," Stockman told *Sports litigation Alert*. "This experience along with a groundswell of interest from our lawyers with competitive sports backgrounds fueled our motivation to take the next step of formalizing this group of lawyers into a team. Our 2025 goal is to increase Venable's presence in the sports industry, with particular areas of focus in real estate, NIL, crisis management, and labor and employment."

Venable's sports law attorneys provide legal counsel to leagues, teams, national governing bodies, franchises, universities, municipalities, athletes, agents, and licensors across professional, NCAA, and amateur sports. With "a deep understanding of the unique challenges and dynamics of the sports industry, they offer a background in the economics, venues, players, and rules that shape the game. The team's range of services includes real estate, land use, construction, and environmental matters, as well as financing, sponsorships, licensing, media relations, rights of publicity, SafeSport compliance, internal investigations, labor and employment issues, and other sports-related legal concerns."

"Desirée and Ben exemplify the forward-thinking leadership and dedication to client service that define Venable," said Stuart P. Ingis, chairman of Venable LLP. "Their combined expertise and vision will continue to elevate our Sports Law team and deliver unmatched value to our clients in this exciting and high-stakes industry."

Based in Venable's Chicago office, Moore is a strategic advisor to sports clients navigating high-stakes crises, regulatory investigations, and litigation. Clients also "routinely seek her advice and guidance in matters that involve athlete safeguarding and wellness, the U.S. Center for SafeSport, and the Olympic movement, as well as her experience in managing reputational and brand risks tied to the use of digital platforms and social media. Her portfolio extends to corporations, nonprofits, and high-profile individuals, emphasizing proactive risk mitigation and innovative problem-solving."

As a former competitive gymnast and longtime USA Gymnastics member herself, Moore brings "a unique perspective to her sports law practice, blending firsthand athletic experience with legal acumen." She joined Venable in 2023 and holds a J.D. from Loyola University Chicago School of Law and a B.A. (magna cum laude) from the University of California, San Diego.

Operating from Venable's New York office, Stockman is an advisor on labor and employment law, offering counsel to sports clients on critical issues such as restrictive covenants and executive compensation, at the intersection of NCAA athletics and labor and employment law. His experience "spans day-to-day management-side employment counseling, internal investigations, collective bargaining, executive compensation negotiation, employment litigation, and navigating the evolving employment landscape in professional and collegiate sports."

A former Division I lacrosse player at the University of Vermont, Stockman joined Venable in 2014. He has represented clients across industries, including media, entertainment, private equity, higher education, and healthcare. Sockman earned his J.D. from Brooklyn Law School and his B.A. from the University of Vermont.

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Minnesota Twins Announce Changes in General Counsel's Office

Mary Giesler

The Minnesota Twins announced the following senior leadership transition at the beginning of 2025 – Senior Vice President, General Counsel Mary Giesler transition to the role of Special Council; and Vice President, while Deputy General Counsel Mari Guttman was elevated to Vice President, General Counsel.

Giesler, who will continue serving as legal lead for the Pohlad family's exploration of selling the Twins, initially joined the club as the organization's first-ever General Counsel in March 2014, was promoted to Senior Vice President in 2016 and has built an in-house team that provides legal counsel and strategic oversight on all business-related matters, while serving as the Twins' liaison with Major League Baseball's legal department. Honored as a Notable General Counsel by Twin Cities Business in 2021 and named a 2014 Attorney of the Year by Minnesota Lawyer, Giesler has led the Twins' legal efforts for the public-private development of Target Field Station; the construction and 2017 opening of a new player-development Academy in the Dominican Republic; and significant affiliate transactions resulting from 2020's restructuring of the Major and Minor League Baseball player development model, among other achievements. Prior to joining the Twins, Giesler worked at the Minneapolis firm of Lindquist & Vennum and was a longtime partner at Minneapolis-based Kaplan, Strangis and Kaplan (KSK); while at KSK, she played a key role in the negotiation and preparation of many agreements that were integral to the approval, design, construction and 2010 opening of Target Field.

Guttman, who will assume day-to-day leadership of the Twins' legal department, joined the organization as Deputy General Counsel in August 2021 and was elevated to Vice President on January 1, 2024. She has held direct oversight for legal needs pertaining to the Twins' brand partnerships, suites, ticket offerings, licensing and in-season activations, while assisting Giesler and taking on leadership responsibilities across the organization, including as co-chair of the Twins' IDEA (Inclusion, Diversity, Equity, Action) Council. Prior to joining the Twins, Guttman was Associate Counsel for the Memphis Grizzlies of the National Basketball Association. A graduate of Grinnell College and the Stanford University Law School, Guttman began her legal career as an Associate at the law firm of Skadden, Arps, Slate, Meagher & Flom LLP.

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SEC Cracks Down on CEO of Xtreme Fighting Championships, Inc. for Fraudulent Scheme

The Securities and Exchange Commission has announced that it filed charges against Florida-based Xtreme Fighting Championships, Inc. (Xtreme Fighting) and its CEO, Steve A. Smith, Jr., for allegedly engaging in a fraudulent scheme to illegally sell large amounts of Xtreme Fighting stock to the investing public.

The complaint alleges that the stock sales were illegal because Smith and Xtreme Fighting's in-house counsel, who has since died, controlled the stock and sold it in transactions that were neither registered with the Commission nor exempt from registration. Smith and the in-house counsel allegedly hid their control of the stock to avoid legal limits on sales by insiders. Between approximately January 2020 through at least April 2022, Smith and Xtreme Fighting's scheme allegedly generated over $5 million in illegal proceeds, of which Xtreme Fighting received at least $436,000.

Smith and the in-house counsel allegedly arranged for Xtreme Fighting to issue the stock to entities purportedly unaffiliated with Xtreme Fighting but, in reality, controlled by Smith and/or the in-house counsel. The complaint alleges that this created a false appearance that the stock was exempt from registration and eligible for public resale. At the in-house counsel's direction, the entities allegedly sold the stock in the public market and sent at least some proceeds to Xtreme Fighting. The illegal stock sales allegedly took place while Xtreme Fighting was actively promoting its brand through a series of press releases, including

announcements of upcoming mixed martial arts fights and deals to broadcast fights on well-known television networks.

The complaint alleges that to further the scheme, in April 2022, Smith and Xtreme Fighting publicly filed an annual report on Commission Form 10-K falsely stating that Xtreme Fighting's financial statements were audited by an independent registered public accounting firm. Smith allegedly made the false filing because Xtreme Fighting's annual report had been delinquent, which had caused its stock to move to a more restricted portion of the over-the-counter securities market. Despite warnings from Xtreme Fighting's auditing firm that the audited financial statements were not complete or close to being complete, Smith allegedly proceeded with filing the Form 10-K with the purpose and effect of removing Xtreme Fighting stock from the more restrictive area of the market. Smith allegedly also issued two social media posts about the filing in which he falsely said that Xtreme Fighting's financial statements had been audited.

The SEC's complaint, filed in the U.S. District Court for the Southern District of Florida, charges Smith and Xtreme Fighting with violating the antifraud provisions of Sections 17(a)(1) and (a)(3) of the Securities Act of 1933 and Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 hereunder and with violating the securities registration provisions of Sections 5(a) and (c) of the Securities Act. Xtreme Fighting is also charged with violating Section 17(a)(2) of the Securities Act, and Smith is charged with aiding and abetting that violation. The complaint seeks civil penalties, disgorgement of ill-gotten gains plus prejudgment interest, as well as permanent injunctive relief, including orders barring Smith from serving as an officer or director of a public company, participating in the offering of a penny stock, and/or participating in the issuance, purchase, offer, or sale of any security, other than for his own personal accounts.

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Bowling Green Professor Sungho Cho Shares Story About His Career in Teaching Sports Law

Sungho Cho is an Associate Professor at Bowling Green State University, where he teaches sport law classes in undergraduate and graduate sport management programs at the University. Highly respected among the membership of the Sports and Recreation Law Association, we sought out Professor Cho for the following interview.

Question: How did your interest in sports law come about?

Answer: Throughout my life, I have been involved in various aspects of sports, but it wasn't until I came to the U.S. for graduate studies that I truly understood the significance of the legal system in the sports business. I recall that my first sports law class at the University of Connecticut focused primarily on risk management, contracts, and tort law. Over time, I came to realize that other areas of law, such as antitrust, labor law, and intellectual property, are intrinsically connected to the sports industry because of the unique nature of sports as a form of entertainment.

Q: How did you end up teaching in the U.S.?

A: After graduating from my alma mater in Seoul, Korea, I spent several years working in the sports merchandising industry. One day, I realized that sport is a huge global business with fascinating socioeconomic implications. Since there were no graduate sports management programs available in my home country at that time, I decided to pursue a master's degree in the U.S. Initially, I had no plans to pursue a doctoral degree, but my growing interest in sports marketing led me to complete a Ph.D. with a dissertation on brand management in sports sponsorship. While working on my doctoral dissertation, I discovered a significant conceptual gap between sports marketing/communication and trademark law jurisprudence, which inspired me

to pursue a law degree. I earned my J.D. from Arizona State University. After a brief period in legal practice, I began teaching sports law and governance classes at Bowling Green State University.

Q: What areas of sports law most interest you?

A: Sport trademarks and copyrights.

Q: What trends are you going to be following in 2025?

A: As demonstrated by the Penn State University v. Vintage Brand (2024), various disputes may arise in the realm of sports trademarks and licensing. Although a federal jury recently ruled in favor of the university, the battle may not be over yet. I will continue to monitor developments in this area of business and delve into the public policy aspects of trademarks.

Q: What's the best part of being a member of SRLA?

A: The SRLA offers numerous professional development and networking opportunities for sport management scholars and practitioners interested in sport law. I have looked up to those SRLA members who set the standard for the profession. It truly is one of the greatest academic communities in the world!

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NCAA Study Examines Changing Sports Betting Behaviors as well as Harassment of Athletes from Bettors; Expert Weighs In

A new NCAA survey of the gambling behaviors of more than 20,000 student-athletes has provided an in-depth view into how the quickly changing sports betting landscape in the U.S. is impacting those who play NCAA sports.

Even with the proliferation of legal sports betting in the United States since the repeal of the Professional and Amateur Sports Protection Act in 2018, similar percentages of NCAA student-athletes reported betting on sports for money in 2016, the last time a study was published, and 2024.

"The research findings are important, but not surprising," said Professor Gil Fried, Associate Dean of Academics and Accreditation at Lewis Bear Jr. College of Business at the University of West Florida for both surveys. "The same percentage of student-athletes are still betting on sports.

The Co-Editor of **Legal Issues in Sports Betting**, Dr. Fried added that the survey "shows that all the educational efforts are not really making a meaningful dent in the gambling behavior. At all levels the number of male student-athletes (at DI, DII, and DIII) who bet on one or more contests, knowing it violated NCAA rules, dropped from 24% in 2016 to 22% by 2024. The number of women who bet stayed at around 5%. While so much of the attention is spent on athletes at the DI level, the research has shown that student-athletes at the lower levels were also more frequently betting on games."

NCAA President Charlie Baker suggested that "we need to continue to focus on education and additional harm prevention techniques in this space. Most young people are exposed to gambling while they're in high school, and by the time they graduate college, some develop an unhealthy relationship with betting. We are focused on supporting student-athletes and providing them with resources to combat these behaviors."

'A More Nuanced and Concerning Story Emerges'

Research shows that when the number of men who bet frequently on sports is examined, "a more nuanced and concerning story emerges," according to the NCAA. Slight decreases were observed in the percentage of Division I men betting on sports once a month or more. However, such frequent bettors were more numerous in Division II and especially in Division III in 2024 as compared with 2016.

For example, in 2016, 12% of Division III men bet on sports once per month or more versus 17% in 2024. In the men's sports that have traditionally had the highest proportion of sports bettors over the last 20 years across divisions (baseball, basketball, football, golf, ice hockey, lacrosse and soccer), the percentage of Division III men who said they bet on sports once a month or more in 2024 grew substantially in aggregate relative to 2016. The percentages for those sports individually for Division III men ranged from 15% to more than 25%. The Division I range of such frequent sports betting among participants in those same seven men's sports was 2% to 8% in 2024.

While most forms of sports betting are against NCAA rules, the NCAA modernized penalties for wagering activities in 2023 in a commitment to reduce the stigma and get help to those in need as opposed to strictly punishing those student-athletes with a loss of eligibility.

"It remains essential that we continue to embrace and implement harm reduction strategies that lower risk and foster prevention of problem gambling," NCAA Chief Medical Officer Dr. Deena Casiero said. "We remain committed to research-backed methods of promoting healthy behaviors to support our student-athletes and to reduce the stigma associated with problem gambling."

Both men and women view gambling as a social activity, with 85% of men and 95% of women saying they are most likely to gamble with family, a romantic partner, teammates or friends outside of sports. One notable change since the previous survey in 2016 is that more men, who data show are most prone to problem gambling disorders, are gambling alone (6% in 2016 versus 15% in 2024). The primary concern about gambling alone is that problem gambling behaviors may remain unknown to the bettor's family, friends, teammates and coaches.

Most of the sports betting behaviors of student-athletes involve relatively low stakes. The largest self-reported one-day sports betting loss among NCAA athletes who ever bet on sports was less than $50 for two-thirds of men and 90% of women. However, there are more reported instances of large losses in the new data. For instance, 2% of men reported single-day losses of $500 or more in 2016, while 5% of men reported such losses in 2024.

The increase in sports betting opportunities in the U.S. correlates with the increases noted in NCAA athletes being asked for inside information. However, perhaps because of campus educational efforts, the percentage of Division I student-athletes reporting that they knowingly provided inside information remains lower in 2024 than seen when these surveys began in 2004.

The NCAA collaborates with EPIC Global Solutions to deliver the world's largest comprehensive and customized sports betting harm prevention education program. Since the **first full year of EPIC's collaboration with the NCAA in 2022**, EPIC has completed education sessions at over 260 schools and 70 conferences in 47 states. Over 75,000 student-athletes, coaches and administrators have been reached as part of the **NCAA's education efforts with EPIC**.

As for betting-related harassment, many high-profile men and women reported experiencing harassment from someone with a betting interest in their competition. Among the highest rates, 21% of Division I student-athletes in men's tennis reported experiencing harassment from bettors, while 17% of Division I men's basketball student-athletes reported such harassment.

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Gambling harm education remains a key focus of the NCAA. The national office and representatives from member schools continuously work together to determine best practices for addressing the sports wagering landscape. The Association will continue to enhance and expand its offering of resources and initiatives to promote student-athlete well-being and the integrity of college athletics.

"The research will hopefully direct enforcement and educational efforts across a broader swatch of the collegiate athletic landscape," added Dr. Fried. "Ultimately, the hope is that education will make a difference. Similar to how workplace educational efforts helped to reduce sexual harassment and discrimination, the hope is that educational around sports betting will not only make a difference in collegiate athletics, but also professional sports."

To read the full study, **click this link**.

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Getting Rehab Earlier Improves Concussion Outcomes, Study Suggests

People who suffer from continued symptoms of concussion should seek a referral to physical therapy as soon as possible, new research from Oregon Health & Science University suggests.

Even though most people naturally recover from concussions within four weeks, the study revealed people who delayed physical therapy had lingering deficits related to their reaction times for balance, motor function — or body movements to perform tasks — and the use of sensory information — as in sight and touch — for balance. The research **published this week** in the *Physical Therapy & Rehabilitation Journal*.

"It means they're balanced-challenged and don't react as quickly as someone with normal reaction times," said senior author Laurie King, Ph.D., PT, MCR, professor of neurology in the OHSU School of Medicine. "If you've had a concussion and you're not reacting as quickly with balance control, it's natural to avoid precarious situations."

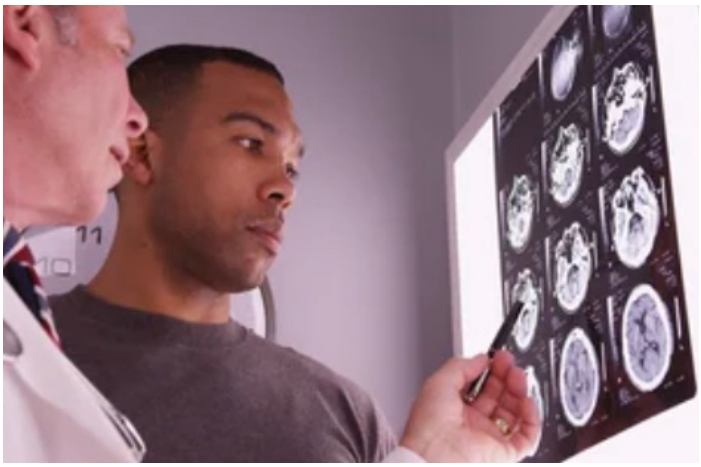
That, in turn, could lead to people avoiding beneficial physical activities, including exercise and rehabilitation.

"We have people who come in and say they're fine," King said. "Then when we challenge them to turn their head while looking at a fixed point, they're like, 'Whoa, that makes me feel sick.'"

Earlier rehab seems to enable the brain to return a more normal state of balance, she said.

In contrast, when physical therapy is delayed, the brain may adapt to the injury by compensating for poor use of sensory information. In effect, patients become overly dependent on vision rather than relying on their vestibular system, the sensory organs in the inner ear that help maintain balance. Patients had "sloppier" balance control to compensate for delayed reaction times, King said, which may explain higher rates of re-injury after a first concussion.

"There seems to be a window of opportunity within two months," King said. "After that point, the brain compensates in a way that's not good. If vision is your strategy for maintaining balance and you're in a dark room, you're not going to function very well."



The randomized control trial included 203 people divided into an intervention group that received physical therapy a week after testing into the project, and a control group that started therapy six weeks after testing. Both groups were assessed for balance control after undergoing six weeks of rehabilitation with licensed physical therapists. Participants entered the study two to 12 weeks following their injury.

Although most people recover from concussion naturally within four weeks, an estimated 30% suffer from lingering issues — and physical therapy may be most important for that group of people.

Correctly identifying that group is the challenge, King said.

Going forward, King said the research suggests two areas of improvement for health care professionals, especially in primary care settings:

- Clearer guidelines: When primary care physicians assess patients who have suffered a concussion, they should have clearer guidelines about when to refer them to physical therapy. If a patient still has symptoms four weeks after the injury, for example, she said they should get an immediate referral to a physical therapist.
- Better tests: Teasing out each patient's symptoms currently varies by practice, so developing better standards for testing is an important goal of the research that continues at OHSU.

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News Briefs

Jobe Clinic Sues Sports Medicine Group

The Kerlan-Jobe Orthopaedic Clinic, Medical Group, Inc. (Kerlan-Jobe), known for its pioneering Tommy John surgery and work with athletes, has filed a $150 million lawsuit today against Cedars-Sinai Medical Care Foundation, Santa Monica Orthopaedic and Sports Medicine Group (SMOG), and several top executives. The lawsuit, filed in Los Angeles County Superior Court (Case number: 25STCV01015), alleges that Cedars engaged in a decades-long effort all designed to appropriate Kerlan-Jobe's reputation, intellectual property, assets, and patient base without compensation. "Cedars-Sinai, hiding behind its non-profit status, has orchestrated an underhanded scheme to crush Kerlan-Jobe, steal its assets, and prioritize profits over patient care," said a spokesperson for Kerlan-Jobe. "We're fighting not just for our practice, but for the Los Angeles community, including first responders who depend on us."

Kerlan-Jobe alleges Cedars and members of its executive leadership conspired with SMOG, at times in violation of state and federal law, to:

- Prevent patients from scheduling appointments with Kerlan-Jobe doctors, all while holding itself as Kerlan-Jobe and misleading the public.
- Unlawfully reap a financial windfall for Cedars, ostensibly a "non-profit" healthcare institution, by seizing control of Kerlan-Jobe's key assets, brand and intellectual property rights, while paying nothing to Kerlan-Jobe in return.
- Drain Kerlan-Jobe of many of its key physicians and coerce them into accepting employment with SMOG in violation of non-compete and fiduciary duties owed to Kerlan-Jobe.
- Retaliate against the remaining Kerlan-Jobe physicians who stood in the way and attempt to starve their medical practices until they will have no choice but to dissolve and fold Kerlan-Jobe into SMOG.

Hogan Lovells Advises Investor Group in the Acquisition of Hellas Verona Football Club

Matthew Eisler
Hogan Lovells

Hogan Lovells, a global law firm with deep expertise in the sports industry, advised Presidio Investors, an Austin, Texas-based private equity firm, in its announced acquisition of 100% ownership of the Hellas Verona Football Club. The Hogan Lovells deal team was led by Eric Andalman (Denver), Paola Barometro (Milan), Matthew Eisler (New York and Denver), and Patrizio Messina (Rome and Milan). They were supported by partner Serena Pietrosanti (Rome), counsel Benoît Serraf (Luxembourg), senior associates Martino Filippi and Federico Urbani (both Milan), Andrew Klokiw (New York) and Fabrizio Grillo (Rome), visiting international Lawyer Harrison Gower (New York), associate Edoardo Pea (Milan), and trainee Piermaurizio Francesconi (Milan). Presidio's release is **here**.