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Cases

Lessons from Young Harris College v. PBAC Regarding Exit Fees in Collegiate Athletics

By Dr. Kyle Conkle

In *Young Harris College v. Peach Belt Athletic Conference, Inc.* (Ga. Ct. App. 2025), the Georgia Court of Appeals addressed whether an exit fee imposed by a collegiate athletic conference constituted a valid liquidated damages clause or an impermissible contractual penalty. The dispute arose after Young Harris College, a member institution of the Peach Belt Athletic Conference (PBAC), announced its intent to withdraw from the conference and declined to pay the exit fee

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mandated under PBAC's Constitution. When Young Harris joined PBAC in 2012, it agreed to adhere to all current and future conference governing documents. After losing several member institutions between 2016 and 2020, PBAC undertook a financial analysis to project the economic consequences of member withdrawal, including potential losses in NCAA distributions as well as reduced sponsorship and event revenues. In addition, the conference really honed in on increased costs associated with seeking replacement members. Following this analysis, PBAC decided to amend its Constitution in July 2020 where they established a flat exit fee equal to the initiation fee for schools providing at least two years' notice, and twice that amount for those offering less than two years' notice. The amendment stated that the exit fee served to "reimburse the Conference and its member institutions for anticipated costs and expenses incurred by reason of such withdrawal."

When Young Harris notified PBAC in November 2022 of its intent to depart it offered to pay $52,000 which was the fee under the previous exit-fee structure, rather than the new $240,000 requirement. The notification came less than two years before the effective withdrawal date. Subsequently, PBAC sued for breach of contract. Young Harris's response was that the fee didn't reflect actual damages but that it was more like a financial slap on the wrist for deciding to leave the conference, and therefore shouldn't be considered valid or enforceable. Therefore, the central legal issue before the Court of Appeals was whether the exit fee functioned as valid liquidated damages or as a penalty designed to inhibit member withdrawal.

Under Georgia law, liquidated damages are enforceable if three conditions are met: (1) the injury from breach is difficult to estimate accurately at the time of contract formation; (2) the parties intended the clause to provide compensation rather than punishment; and (3) the amount is a reasonable pre-estimate of the probable loss. This "tripartite test," articulated in *Aflac, Inc. v. Williams* (1994) and restated in *J.P. Carey Enterprises, Inc. v. Cuentas, Inc.* (2021), guided the court's reasoning. The court explained that although the labels matter regarding interpretation, what truly matters is the intent behind those words. That intent must first be determined by looking directly at the language of the agreement. If the contract does not clearly express what the parties meant, the court then turns to other reliable sources like witness testimony and documentation that shows how and why the agreement was created.

Applying the law, the court held that the exit fee satisfied all three prongs. First, damages like future NCAA distributions and competition scheduling costs arising from institutional withdrawal were inherently difficult to calculate at the time of the amendment. Second, the amendment clearly defined the fee as reimbursement, not punishment, and credible testimony from the Commissioner established that deterrence played no role in the fee determination. Third, because PBAC undertook a financial analysis prior to adopting the amendment and the exit fee amount closely corresponded with projected financial losses, the amount constituted a reasonable estimate of damages. As a result, the court rejected Young Harris's assertions and affirmed summary judgment in favor of PBAC. The conference then tried to get additional sanctions under state law, but the court refused to grant them.

Beyond the legal outcome, this case offers some significant takeaways for sport administrators and anyone involved in conference governance. The court's decision makes it clear that if organizations are worried about members leaving, they need to plan ahead. A well-written liquidated damages clause that's backed up by real financial projections and plain, direct language about what the fee covers has a much better chance of withstanding if litigation is pursued. In other words, it's not enough to just put a number in the contract. You have to

be able to show how you got there and why it represents actual costs.

The case also highlights the importance of fairness and transparency. When athletic conferences make policy decisions that involve financial commitments, members need to feel included in the process and confident that terms are rooted in reimbursement, not punishment. The ruling essentially tells member institutions that courts aren't going to bail them out later if they agreed to the rules and now don't like them because circumstances changed.

For administrators, it's a cue to take another look at the policies and agreements already on the books. Exit fees, penalties, or other financial requirements should be grounded in a clear, reasonable calculation of potential harm and not used as a scare tactic to keep members from leaving. This case shows that when conferences can point to financial modeling and clear contract language, courts are much more likely to enforce those provisions.

With conference realignment becoming more common across college sports, the precedent here provides a practical roadmap for protecting organizational stability. Strong documentation, transparent communication, and data-driven decisions aren't just best practice, but they are becoming essential legal safeguards. Ultimately, this ruling encourages thoughtful planning on the front end to avoid conflict and litigation later, ensuring equitable treatment for the governing body and its member schools alike.

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Court Grants Athlete's Appeal in Case Involving Transfer Penalty and the Ohio HS Athletic Association

By Holt Hackney

Many state high school athletic associations impose penalties on athletes who transfer schools during their high school careers – sometimes costing them an entire year of participation. While intended to prevent improper recruiting (e.g., poaching) and maintain competitive balance, these rules also impose a heavy burden on young athletes and their families who might be seeking better academic environments or greater safety for students who have endured coaching abuse, bullying, or hazing.

Similarly, high school athletic associations often impose high evidentiary bars on athletes and their families demanding proof of documented extenuating circumstances to grant relief from transfer penalties.

SPORTS LAW EXPERT

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Expert Attorney

Richard Giller

Expertise: *Insurance Recovery & Counseling Practice Group Chair; represented dozens of the nation's top professional athletes in connection with their disability, loss-of-value, and critical injury insurance claims, as well as with their medical malpractice claims and lawsuits; represented and counseled several professional sports teams and leagues in connection with a myriad of insurance issues and claims; and NIL collectives and agreements.*

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From a lawyers' perspective, when an association's initial review denies an athlete's petition, the athlete must then show that the denial was based on a clearly erroneous application of the rules – a high bar that makes reversal of these initial determinations on appeal before state associations exceptionally rare.

This was the situation confronted by Shumaker, Loop & Kendrick attorneys Bennett Speyer, Bart Lambergman and Robert Boland in representing Kayden Zoeller, a high school junior football player who transferred from Perrysburg (Ohio) High School, a public high school in January 2025 to St. John's Jesuit, a private Catholic collegiate prep program in neighboring Toledo, Ohio.

The Case

Zoeller had begun his freshman year at Central Catholic High School. His family, who operate several personal training and fitness facilities in the Toledo area, struggled with the transportation demands and were encouraged by Perrysburg's head football coach, also a close friend of Zoeller's father, that returning to Perrysburg would offer a supportive environment. The coach assured them that the bullying Zoeller had endured during middle school would not continue in high school.

Despite these assurances, the bullying re-emerged quickly and took a significant emotional and personal toll on Zoeller during his sophomore season. Although some of the incidents appeared modest at first, the pattern deepened. Zoeller was repeatedly ostracized, mocked and excluded by teammates. His parents sought a variety of supportive mechanisms to help him, recognizing the signs of distress.

But on October 14, 2024, during a non-contact walk-through practice, matters escalated dramatically. Zoeller was hit from the blindside, knocked to the ground by another player, who then laid on top of him and celebrated. The assaultive hit – an act outside the scope of normal contact in a football – occurred in the full view of his coaches, teammates, and his father. No corrective action was taken.

Robert Boland

The Shumaker attorneys suggested that the case of Hackbart v. Cincinnati Bengals, Inc., 601 F.2d 516, 4 Fed. R. Evid. Serv. (Callaghan) 1042 (10th Cir. Colo. June 11, 1979) as instructive. It establishes that an act on a playing field, even in a violent game, that exceeds the scope of consent, could constitute battery. Additionally, many jurisdictions recognize the possibility of criminal liability for assaultive conduct during sport, even if charges are rarely pursued.

By late fall, the cumulative stress became overwhelming. Zoeller's parents made the difficult decision to withdraw him from Perrysburg, and transfer him mid-year to St. John's Jesuit High School & Academy for his health and safety.

The OHSAA Transfer Consequence

Under OHSAA Bylaw 4-7-2, once a student transfers from one school to another the student is subject to this **Transfer Consequence** resulting in ineligibility as contained in the Bylaw.

> *"If a student transfers at any time after commencing the ninth-grade year, the student shall be ineligible for all OHSAA tournaments in those sports in which the student participated during the 12 months immediately preceding this transfer. In addition, the student shall be ineligible for all contests at all levels AFTER the first 50% of the maximum allowable varsity regular season contests have been competed in those sports in which the student participated during the 12 months immediately preceding this transfer. The transfer consequence shall remain in effect until the one-year anniversary of the date of enrollment in the school to which the student transferred, at which time the student is no longer considered a transfer student."*

OHSAA provides 12 exceptions for relief from the transfer consequence, including changes in residence, custody, school discontinuation of a sport, transfer out of a poor performing school, displacement, the death of a parent, and independent status.

Two exceptions were central to Zoeller's case, the first for a student who is suffering bullying in the prior school (Exception #7 or transfer due to documented harassment) or when a student has been subjected to the criminal action of adults at the prior school district (Exception #12).

Both exceptions impose a multi-pronged evidentiary requirement. Families must present documentation,

reports, investigations, timelines, and verification from school personnel. And when an initial reviewer denies relief, the family must meet the high burden of showing that denial was clearly erroneous.

Zoeller's initial application for relief from the transfer consequence was denied, setting up the appeal.

Reliance on Reporting – And What Went Wrong

Zoeller's father, Keith Zoeller, had a close personal relationship with the Perrysburg head coach. That trust understandably led the family to communicate concerns informally rather than through strict formal reporting channels. Their text messages with the coach documented distress, fear, and the October 14 incident, but lacked the formal complaint structure districts typically rely on to trigger investigations.

Because the family voiced their concerns cooperatively rather than adversarially, Perrysburg treated the complaints as informal and did not create documentation, open a report, or initiate an investigation. As a result, the bullying Zoeller endured – despite being real, repeated, and harmful, went unrecognized on paper.

This failure implicated both Exception 7 and 12, according to Shumaker attorney Robert Boland, who served as Athletics Integrity Officer at Penn State following Penn State's failure to report serious child abuse, which led to a toughening of national laws around child abuse and adults as mandated reporters. Boland explained during the appeal hearing that Perrysburg's failure to report the bullying under Exception 12 effectively prevented the Zoeller's from satisfying the documentary requirement of Exception 7.

The appeals board ultimately agreed, unanimously concluding that Kayden had established a documented record of bullying, even if the district failed to properly memorialize it.

A High Standard, But Empathetic Panel, And Lessons Going Forward

Boland praised the OHSAA "for the fairness of the hearing process and the concern the appeals board showed for Kayden." He suggested the panel of retired educators demonstrated great care for reaching an equitable outcome, hearing from multiple witnesses and considering all evidence.

As Boland noted, "An appeal like this is very difficult and rare to win, and we're thrilled with the result," further noting how "Kayden's case reflects how these rules can impact young athletes."

This case also highlights essential lessons:

- Document early. The transfer rules place a significant burden of proof on families to document their facts before undertaking a transfer, even an emergency one. Families should put every concern in writing – emails, reports, or formal notifications. In that regard, families should consider involving counsel early as attorneys can help illuminate the required evidence.
- Report early. Even informal conversations should be followed by written confirmation.
- Follow up. Maintain written records of efforts to ensure that the school logs the concern.
- Never rely solely on goodwill or informal assurances. Personal relationships, particularly with coaches, cannot substitute for written documentation.

Finally, and most importantly, Boland said Zoeller is now thriving academically and personally at St. John's Jesuit. He returned to football practice the day after the hearing, played in the team's final three games, and is "receiving early recruiting interest from multiple colleges."

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Federal Court Rules Denial of Parochial Student's Participation in Interscholastic Athletics Violates the Constitution

By Matthew Hoffman, of Tucker Arensberg, P.C.

A federal judge from the Middle District of Pennsylvania has ruled the denial of a parochial student's participation in interscholastic athletics violates the constitution.

The impetus of the litigation was the desire of parents of parochial school students, who resided within the State College Area School District (School District) in Pennsylvania, for their children to be permitted to engage in extracurricular and co-cocurricular activities in the School District.

The School District denied the requests, stating that to do so would go contravene a "longstanding practice

of not having private school students participate," and that "if we allow private school students to take part, we could be taking away opportunities from [State College] students."

In July 2023, the parents and the Religious Rights Foundation of Pennsylvania filed a federal suit against the School District in the United States District Court for the Middle District of Pennsylvania. The premise of the suit was that, because the School District permitted home-schooled students and charter school students to participate in extracurricular activities (as required by the Public School Code and the Charter School Law), the plaintiffs alleged that parochial students were excluded from similar participation on the basis of their religious exercise.

In December 2023, the federal court denied the School District's motion to dismiss the complaint. The court held that the School District's practice of excluding parochial students presented cognizable claims of violations of the Free Exercise Clause of the First Amendment to the U.S. Constitution and the Equal Protection Clause of the Fourteenth Amendment. Regarding the claim that State College and its Board violated the First Amendment to the U.S. Constitution, the court concluded that the complaint sufficiently alleged that the plaintiffs would have to choose between their religious beliefs and extracurricular participation. The court said: "denying access to the public benefit of participation in extracurricular activities because of a child's religiously motivated enrollment in parochial school offends the Free Exercise Clause if that denial is discriminatory." Noting that the School District permitted homeschooled and charter-schooled students' participation in activities, the court reasoned that the practice impermissibly burdened the plaintiff-parents' religious exercise. For the same reason, the court concluded that the allegations presented a violation of the 14th Amendment's Equal Protection Clause also survived the motion to dismiss for the same reasons.

In January 2025, the School District agreed to the court's entry of a Consent Order by which the School District agreed to permit parochial students, residing within the School District, to participate in extracurricular and co-curricular activities to the same extent offered to homeschooled and charter school students. The order provides that if the parochial school students have interscholastic athletic sports at their parochial schools, they will not be eligible to participate in those same sports in the school district.

On July 29, 2025, a similar suit was filed in the same federal court by the Religious Rights Foundation of Pennsylvania and several parents of parochial school students against the Pennsylvania Interscholastic Athletic Association (PIAA), presenting the same claims as were the subject of the State College Area School District suit. The complaint asserts that the PIAA does not permit students enrolled in parochial schools to participate in interscholastic athletic activities sponsored by their resident school districts, which the plaintiffs contend violates the Free Exercise Clause of the First Amendment and the Equal Protection Clause of the 14th Amendment.

Practical Advice

The federal court's pretrial decision in the State College Area School District suit concluded that the exclusion of parochial school students from participation in the school district's interscholastic sports, while permitting such participation by homeschooled and charter school students, violates the Free Exercise Clause of the First Amendment and the Equal Protection Clause of the Fourteenth Amendment. While that decision is not binding in other courts, the decision has persuasive value that could be adopted by other courts in similar challenges. Further, the reasoning of the court's decision likely will yield a similar result in the recent suit filed against the PIAA to challenge the same general rule and have a state-wide impact.

Religious Rights Foundation of PA, et al. v. Pennsylvania Interscholastic Athletic Association, Case No. 4:25-cv-01406 (M.D. Pa., July 29, 2025).

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In Granting TRO, Ohio Judge Finds Ban on NIL Compensation May Violate Constitution

A Franklin County (Ohio) judge has ruled that high school athletes in that state can be compensated for their name, image, and likeness (NIL), after a plaintiff claimed that he had suffered extensive losses in NIL deals because of an Ohio High

School Athletic Association (OHSAA) policy that banned such compensation.

The impetus for the lawsuit was the allegation of Jamier Brown, a standout wide receiver who committed to play for the Ohio State Buckeyes beginning in 2027, that he had lost more than $100,000 in NIL deals because of the policy.

Brown's attorney, Luke Fedlam, claimed the restriction violated his client's Constitutional rights as well as caused other athletes to miss out on significant financial opportunities.

"These are unique and unrecoverable harms to JB's career, his reputation, and his constitutional rights," Fedlam said during a court hearing. "When a student-athlete misses out on a six-figure opportunity, it's a direct impact to the family."

Fedlam claimed that Ohio is one of only six states that still limit NIL rights for high school athletes.

Brown, himself, elaborated in an Instagram post, writing that "I want to be able to use my name, image, and likeness to help my family financially and get the extra after-school academic help and football training that can help me maximize my potential. NIL can make that possible for me and many other student-athletes in Ohio."

In his argument, Fedlam suggested to the court that permitting NIL for high school athletes does not challenge the integrity of the game or schools.

He added that "OHSAA's rule is thus arbitrary and inconsistent."

"Also, under violation of Ohio Anti-Trust Laws, the Valentine Act, the NIL prohibition forecloses an entire market for NIL services in the State of Ohio," he said. "It's an unlawful restraint on trade under the Valentine Act. OHSAA prevents free and fair economic competition and harms both athletes and local businesses. JB faces immediate non-compensable harm. There are lost NIL opportunities that we discussed in our brief, in our complaint, and it's due to timing, visibility, and athletic season."

The arguments were well-received by the Common Pleas Judge, who granted the temporary restraining order.

"The court finds the arguments relating to violation of equal protection and due course of law very compelling," she wrote. "Other high schools, not necessarily other high school students that are not associated with the Ohio High School Athletic Association, could have the ability to participate in NIL opportunities in the State of Ohio. There are similarly situated students in 44 other states throughout this country who may participate in NIL activities. Whether or not JV is being irreparably harmed if this order is not granted, the court finds that he would be."

Further, she found that there would be potential irreparable harm to Brown's future and called the OHSAA's policy outdated.

"(The plaintiff) is still a high school amateur athlete and he should be able to participate in those opportunities provided by NIL during this time," she wrote. "The court does find that granting this will allow for expanded opportunities for high school students and youth across the state of Ohio and there are benefits in that."

The court made the comparison with non-athlete students, who are allowed to profit from their talent.

"Allowing this temporary restraining order will align this state's policies for high school students with a majority of the other states across the country," she wrote. "With that being said, the Ohio High School Athletic Association is temporarily enjoined from enforcing Section 4-10-1 of its bylaws."

In coverage of the decision, it was reported that in 2022, OHSAA member schools rejected the first NIL proposal by a margin of 538 to 254.

OHSAA Executive Director Doug Ute responded with the following statement:

"We anticipated a lawsuit would come any day and our board of directors has already approved the language of an NIL bylaw referendum for our schools to vote on. We are thankful for the 45-day

window so our schools will have time to learn more about this referendum and to vote on our proposed language for NIL."

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Court Orders Concordia University Irvine to Preserve Women's Teams While Title IX Claim Proceeds

United States District Court Judge Fred W. Slaughter issued a 29-page Order granting Plaintiffs' Motion for Preliminary Injunction this fall that bars Concordia University Irvine ("CUI") from "eliminating its women's swimming & diving team, its women's tennis team, and all other women's varsity teams at CUI for the 2025-26 academic year, and for the duration of this case or until further order of this court." The Order continues: "To the extent that those teams have already been eliminated, CUI shall immediately reinstate them, and provide the teams with funding, staffing, and all other benefits commensurate with their status as varsity intercollegiate teams."

The order was a complete and sweeping victory on the motion for the women athletes, according to the plaintiffs' attorneys.

The lawsuit, filed in the U.S. District Court for the Central District of California, charged CUI with violating Title IX by depriving women of equal opportunities to participate in intercollegiate athletics. The school announced the elimination of the women's swimming & diving and tennis teams, along with the men's teams, in May, when it was already providing women with far fewer opportunities to participate.

"The court's thorough, compelling decision confirms what we said from the start: CUI's decision to eliminate the women's swimming & diving and tennis teams was a flagrant violation of Title IX," said Arthur Bryant of Arthur Bryant Law, P.C., in Oakland, CA, lead counsel for the women. "According to the most recent publicly available information, women were 59% of CUI's undergraduates in 2024-25, but they were given only 51.2% of the opportunities to participate in varsity sports. CUI needs to add about 100 opportunities for women to reach gender equity. It should not be eliminating any women's teams."

Eric Grover and Robert Spencer of Keller Grover in San Francisco, CA, Anne Andrews and Robert Siko of Andrews & Thornton in Newport Beach, CA, and John Clune and Ashlyn Hare of Hutchinson, Black, and Cook in Boulder, CO, are co-counsel for the women athletes.

On May 20, 2025, CUI announced it had decided to eliminate its women's and men's swimming & diving and tennis teams for financial reasons. A few days later, it emailed all of the athletes on the other teams to "reassure" them their "program remains secure" because CUI is "currently in the midst of a major $17.5 million construction project that includes a new 19,000-square-foot facility featuring a state-of-the-art weight room, locker rooms, and modern training room space…In addition, the University has invested over $7 million in upgrades to our baseball, softball, and soccer/track/lacrosse facilities – including the installation of lights on each of our outdoor fields."

CUI did not send this email to the athletes on the women's (or men's) swimming & diving or tennis teams. But other athletes did.

On June 16, 2025, Bryant emailed a letter to CUI President Michael A. Thomas, PhD, explaining that the elimination of the women's teams violated Title IX and requesting a meeting to discuss preserving the teams and ensuring CUI's Title IX compliance.

As the letter noted, Title IX prohibits educational institutions receiving federal funds from eliminating women's teams for which interest, ability, and competition are available unless "intercollegiate level participation opportunities for male and female students are provided in numbers substantially proportionate to their respective enrollments." CUI fails that test.

After CUI received Bryant's June 16 letter, the lawyers for the school and the women met numerous times over a month. But, on July 17, the school refused to agree to continue the women's teams and come into compliance with Title IX. So, the women filed suit.

Now, they have won a preliminary injunction preserving their teams and all other women's teams at CUI while the case proceeds.

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Articles

A Conversation on 'Resolving International Sports Disputes: Inside the Framework of Olympic & and International Sports Arbitration'

By Claire O'Neill

Marquette University Law School's National Sports Law Institute hosted its 36th Annual Conference at Eckstein Hall on Friday, October 17, 2025. The event featured discussions and lectures focused on resolving international sports disputes and analyzing collegiate athletics post *House*. Marquette's Sports Law Program, recognized as one of the most comprehensive in the nation, offers specialized coursework, hands-on sports industry experience, and opportunities to engage in moot court and negotiation competitions. The underlying theme of this year's panel centered on one key question: What happens when an athlete believes they have not had a fair chance at being selected for a team?

Panelists Professor Maureen Arellano Weston, Professor of Law and Director of the Entertainment, Media, and Sports Law Program at Pepperdine University Caruso School of Law; Matthieu Reeb, Director General of the Court of Arbitration for Sport (CAS); and Michael Lenard, OLY, Acting President of CAS, sat down to discuss how international sports disputes are arbitrated and resolved. Each panelist has lived through these hearings in real time and shared valuable insights into the procedures and principles that define international sports arbitration.

Athlete vs. Athlete

Professor Weston opened the discussion by explaining that Olympic sports in the United States are governed by the Ted Stevens Olympic and Amateur Sports Act. The Act gives the U.S. Olympic and Paralympic Committee (USOPC) exclusive authority over U.S. participation in the Olympic Games and requires that there be fair and efficient dispute procedures for athletes.

Weston noted that these hearings move extremely fast because they usually involve imminent competition. "You could get an email asking if you're available for a hearing tomorrow or in the next three days," she said. She recalled one 13-hour hearing involving a selection dispute and explained that arbitrators are often expected to issue an operative award by the next day. This level of urgency places tremendous pressure on arbitrators to reach a fair and timely decision. The concept of time was emphasized during this discussion, as there are often long arbitrations and quick turnaround times to render a decision. Professor Weston recounted a time when she had an arbitration that lasted over fifteen hours, and there needed to be answer the very next day. Sports arbitration is intense, and time is often limited. Compared to the civil litigation process which can take years, this type of arbitration expects and indeed requires decisions within days if not hours.

Lenard emphasized how important it is for athletes to understand this process, noting that these disputes often come down to "athlete versus athlete." He explained that the process "isn't always well known among competitors, yet understanding it is crucial." He also added, "If an athlete's name isn't on the long list, they can't be added to the short list, and if they're not on either, they can't compete," he said. "If you represent athletes, you owe them to find out when the long list date is and make sure they're on it."

The panelists agreed that these disputes often arise not because of bad faith but because athletes are unaware of the strict procedural rules governing Olympic selection. Section 9 exists to ensure fairness, but it also reflects the reality that time is of the essence in the world of elite sports.

CAS Ad Hoc Division

The discussion then turned to the Court of Arbitration for Sport (CAS) Ad Hoc Division, which handles disputes that arise during the Olympic Games. Lenard explained that the Ad Hoc Division was created in 1996 to prevent athletes from having to file lawsuits in multiple countries and to provide a single, expedited avenue for resolution. "We cannot leave an athlete at the gates of the Olympic Village without some redress," he said.

A recent example discussed by Reeb was the Jordan Chiles case from the 2024 Paris Olympics. The dispute centered on whether a protest filed by Chiles's coach was submitted too late. A matter of seconds ultimately decided who was rewarded the medal. Under the gymnastics rules, coaches have one minute after scores are posted to file a protest. In this case, the timekeeper confirmed that the coach's hand was raised sixty-four seconds after the results appeared. As a result, CAS ruled the protest was not admissible, meaning "the initial mark was reinstated, and therefore, the initial medal standings were restored," with the bronze medal going to the Romanian gymnast instead of Chiles.

Shortly after the ruling, new evidence surfaced. U.S. Gymnastics and Chiles presented Netflix footage that appeared to show the protest being raised within sixty seconds, arguing that the timing had been miscounted. However, because the decision was already final, Chiles's only remaining option was to file a petition for review before the Swiss Federal Tribunal, which oversees CAS appeals. As of the panel, that appeal was still pending.

Field of Play v Procedure

Professor Weston noted that the case raises important questions about the distinction between a "procedural rule" and a "field-of-play decision." Procedural errors, such as late protests, can be reviewed by CAS, but decisions made on the field or floor, like judging or scoring calls, are rarely overturned unless there is proof of corruption or arbitrariness.

One of the most challenging situations occurs when a national federation forgets to enter the name of an athlete who truly qualified for their event. As Lenard explained, arbitrators cannot simply add a new athlete or team to the competition due to rigid scheduling and broadcast commitments. "We cannot easily just add another hockey team… There are limits… these are the most painful cases. Simple solutions are not always the best," he said.

Another challenge involves distinguishing between procedural errors and field-of-play decisions. If a protest is filed too late, it fails on procedure. If a technical committee reviews the evidence and upholds a call, CAS will not interfere.

Conclusion

All three panelists agreed that education is the most effective way to prevent disputes before they happen. As Lanard emphasized, "There are now 200 athletes' commissions out of 206 National Olympic Committees… This is excellent news." These commissions give athletes a seat at the table and ensure they're aware of their rights and responsibilities long before a dispute ever reaches arbitration.

Claire O'Neill is a first-year law student at Marquette University Law School and a former Division I athlete at Seton Hall University. She graduated Seton Hall with magna cum laude honors with a B.A. in Communication and a minor in Legal Studies in Business. She previously served as a judicial intern at the Dauphin County Court of Common Pleas in Harrisburg, Pennsylvania, and now volunteers at the Milwaukee Justice Center's Family Forms Clinic. Claire is currently a Sports Law Certificate Candidate, and a member of the Sports Law Society and Association for Women Lawyers at Marquette. Her interests include sports law and litigation, where she hopes to combine her athletic background and passion for advocacy in her future legal career.

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House and the Need to Protect Olympic and Non-revenue Sports

By Ekene Aniemeka

The regulatory landscape for non-revenue Olympic sports has undergone a dramatic transformation following the House settlement, with profound implications for athletes, institutions, and the broader collegiate athletic ecosystem. The presentation of Kristina Minor, senior counsel at Husch Blackwell, at the Marquette Law School's 36th Annual National Sports Law Institute (NSLI) conference provided a thorough examination of equity and economics in the new era, highlighting regulatory changes, challenges, and the urgent need for federal intervention to protect Olympic and non-revenue sports.

The House Settlement: Reshaping the System

The House settlement involves two key components: substantial back damages and forward institutional

obligations. Institutions will pay approximately $2.8 billion over ten years to affected classes, with an amount equal to 22 percent of the Average Shared Revenue, or $20.5 million for the 2025-26 cycle, available for direct student-athlete support at each institution's discretion. Notably, institutions can now directly enter into Name, Image, and Likeness (NIL) agreements with student-athletes and act as marketing agents to facilitate third-party NIL deals.

A central shift involves eliminating Division I scholarship limits, replacing them with sport specific roster limits. For example, football rosters will jump to 105 spots, while non-revenue sports such as wrestling and tennis see only modest increases. These changes originated from coaches' groups but have led to distinct disparities in resources available for non-revenue sports, especially when compared to high-revenue programs such as football or basketball. In practice, budget constraints make it nearly impossible for all institutions to reach the new $20.5 million threshold without significant fundraising or cost cutting, a reality that particularly impacts non-revenue Olympic sports.

Disparate Impact and Political Realities

Minor's presentation underscores the reality in which non-revenue sports face a disproportionate burden under the new roster limits. The disparity between scholarships and roster spots is most pronounced in Olympic and other non-revenue programs, often leaving institutions struggling to balance compliance with student-athlete welfare. Designated Student-Athletes who received scholarships prior to the House settlement are protected from counting against roster limits for the duration of their collegiate careers, regardless of transfer status.

Minor cautioned against using the term "revenue-sharing," observing that most schools lack sufficient revenue to meaningfully share with all teams. Instead, she emphasized the escalating need for more targeted fundraising, creative resource allocation, or painful budget cuts, especially as money "doesn't necessarily exist." Multiple commissions and think tanks, including the Knight Commission, have developed proposals ranging from federal legislation to maintaining proportional spending and regionalizing competition for cost containment.

The Knight Commission and Federal Legislation

The Knight Commission and other advisory bodies advocate for several reforms, recommending federal legislation to establish a baseline for equitable resource distribution. Proposals include incentivizing spending outside football and basketball, regionalizing non-revenue sport competition to reduce costs, and creating national funds to support Olympic sports, potentially sourced from taxed sports wagering revenue. Other suggested proposals further support eliminating football specific factors from revenue distribution formulas, tightening Title IX enforcement, and embedding opportunity incentives for providing scholarships across all sports.

Despite the abundance of proposals, Minor observed that the regulatory environment has become increasingly fragmented. The rate at which the industry has evolved leaves few universally accepted standards of conduct, forcing stakeholders to "poke holes in proposals" that can swing between excessive and insufficient regulation. The core question, she argued, remains: "Are we really about the student-athlete anymore?"

The Role of Executive Orders and Federal Policy

President Trump's Executive Order on Saving College Sports further complicated the regulatory field. The order identifies unresolved issues but fails to provide actionable solutions or timelines, reflecting the broader political volatility that has influenced college athletics. Under the previous administration, the Department of Education treated NIL funds as institutional dollars for Title IX compliance, mandating equal scholarships for men and women. Trump's subsequent revocation of those guidelines created substantial uncertainty, with institutions left in regulatory limbo and no clear federal answer forthcoming.

Legislative Proposals: SCORE and SAFE Acts

The Student Compensation and Opportunity through Rights and Endorsements (SCORE) Act aligns closely with National Collegiate Athletic Association positions, establishing national student-athlete protections and antitrust exemptions that allow pooling of media rights to maximize revenue. This model aims to generate new broadcast income to support both Olympic and women's sports, while also imposing agent regulations

and standardizing transfer protocols. The Student-Athlete Fairness and Enforcement (SAFE) Act strives for holistic protections but fails to define the scope of the term "athlete," leaving significant ambiguities regarding sport level and coverage.

Title IX Enforcement and Gender Opportunity

Recent litigation, including *Schroeder v. University of Oregon*, has thrust Title IX compliance back into the spotlight, questioning the enforcement mechanisms for ensuring opportunity and resource equity. Continued increases in women's collegiate enrollment and declining men's participation intensify the debate over who will enforce Title IX and what consequences will be faced by men's Olympic sports if equity is not maintained.

Conclusion and Policy Recommendations

Minor's presentation highlighted that the regulatory future for non-revenue Olympic sports is both critical and unsettled. Without federal legislation and coordinated policy action, institutions struggle to balance compliance, fairness, and financial viability. The influx of executive orders, the lack of cohesive standards, and economic disparities among collegiate sports all reinforce the need for a deliberate and transparent approach. Minor stressed the imperative for federal leadership, tighter Title IX enforcement, and thoughtfully constructed rules that avoid swinging between extremes. Ultimately, the future of non-revenue sports will depend on meaningful investment, consensus driven legislation, and a refocused commitment to the student-athlete experience

Ekene Aniemeka is a second-year law student at Marquette University Law School and an active member of the Sports Law Society. Originally from California, Ekene attended San Diego State University before pursuing a passion for law in Milwaukee.

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Biometric Data and Athletes: Privacy Law and Compliance Implications

By Jacqueline Klosek, Jon Ng and Jacob Lee, of Goodwin Procter

Wearables, AI-powered computer-vision tools, and analytics platforms now collect and process heart-rate variability, facial vectors, sleep metrics, and other data athletes and players rely on to optimize performance, prevent injuries, and gain competitive advantages. However, these innovations require the collection of information that can be used for identification or reveals health information, which is regarded as "sensitive" or "biometric" data. The collection and processing of such data is subject to regulation under global data protection and privacy laws. Sports organizations, clubs, leagues, and technology vendors must navigate a complex web of compliance obligations when collecting and processing this information. This article analyzes the key legal implications of biometric data processing in the sports context and outlines best practices for compliance.

What Is Biometric Data?

Biometric data refers to information derived from unique biological or behavioral characteristics that can identify individuals. In sports, this data typically includes physiological data (e.g., retina scans and fingerprints), behavioral data (e.g., reaction time or voice patterns), and health and performance metrics (e.g., heart rate or body temperature). This information is often collected through wearables, smart apparel, performance monitoring systems, and even video surveillance technologies during training and competition.

Jurisdictional Overview

The European Union's General Data Protection Regulation (GDPR) and its United Kingdom (UK) equivalent define biometric data as a special category of personal data, subject to heightened protection due to its sensitivity. Article 9(1) of the GDPR prohibits processing biometric data for uniquely identifying a person unless an exception applies, such as explicit consent, compliance with employment or social protection law, or substantial public interest based on Union or Member State law. The UK's Information Commissioner's Office has also issued guidance on biometric recognition systems, emphasizing risk assessments and the principles of necessity and proportionality. Similarly, privacy laws in countries such as Canada and Australia treat biometric data as sensitive personal information, requiring higher levels of protection and stricter processing rules.

In contrast, the US lacks a comprehensive federal biometric privacy law. However, several states, most notably Illinois, Texas, and Washington, have enacted specific biometric privacy statutes imposing strict consent and disclosure requirements. Other states, including California, Colorado, and Connecticut, have adopted comprehensive privacy or health privacy laws, such as Washington's My Health My Data Act, that classify biometric data as sensitive personal information subject to enhanced protections. And, of course, biometric data is also regulated as personal information under the numerous state comprehensive consumer privacy laws in effect.

Potential Liabilities

Sports organizations, device manufacturers, and other entities that collect or control athletes' biometric data must comply with applicable privacy frameworks and industry best practices. Noncompliance can result in significant legal and financial liability, as well as reputational harm affecting public perception, sponsor trust, and athlete relations. Under the GDPR, violations can result in fines of up to €20 million or 4% of global annual turnover. In the US, failure to comply with state biometric privacy laws may trigger substantial penalties from state attorneys general. Illinois' Biometric Information Privacy Act (BIPA) is particularly notable. Unlike similar laws in Washington and Texas, BIPA allows individuals to bring private lawsuits for actual or perceived noncompliance, in addition to providing statutory damages of $1,000 to $5,000 per violation.

Consent, Notice, Use Limitations, and Autonomy

Where consent for collection of certain categories of biometric data is required by law, organizations should obtain freely given, specific, informed, and unambiguous consent prior to collecting athletes' biometric data. Organizations should also provide clear notice describing the types of data collected, the purposes of collection, how the data will be used and stored, and with whom it will be shared. Under certain legal frameworks such as BIPA, required consents must be informed and "in writing" (though collection through a "click-through" is the most common approach).

The validity of consent in the employer-employee context, which professional sports relationships often fall under, is subject to scrutiny, due to real or perceived power imbalances inherent in the relationship between athletes and the managing sports organization. For example, the European Data Protection Board has advised employers to avoid relying solely on consent and instead consider alternative legal bases, such as performance of a contract, compliance with legal obligations, or legitimate interest.

Organizations may not use biometric data for purposes beyond the original purpose of collection without obtaining additional consent. For example, if biometric data is collected to monitor injury risk, it cannot later be repurposed for unrelated secondary purposes without further disclosure or, in some cases, consent. Under BIPA, it is also unlawful for private entities to sell, lease, trade, or otherwise profit from an athlete's biometric identifiers.

Data Security and Retention

Organizations processing biometric data must implement robust physical, technical, and organizational safeguards, including written information security policies and incident response protocols, to protect the biometric data in their possession.

Organizations must also comply with strict data retention requirements, limiting processing to only as long as necessary to fulfill the stated purpose. BIPA, for example, requires organizations to maintain written data retention schedules and destruction policies, mandating deletion once the initial purpose of collection has been satisfied or within three years of the individual's last interaction with the entity. Organizations must also inform athletes of the length of time their biometric data will be collected, stored, and used.

Third-Party Vendors and Data Sharing

The use of wearable technology platforms and analytics services introduces additional compliance challenges. Vendor due diligence should assess the provider's security posture, privacy practices, and use of subcontractors. Cross-border data transfers, such as transmitting performance data of European athletes to cloud servers in the US, require appropriate safeguards, including standard contractual clauses. Further, under the GDPR and many US state privacy laws, any vendor processing biometric data on behalf of a controller (e.g., a sports club) must be bound by data

processing agreements (DPA) and act only on documented instructions.

Youth Athletes

Organizations collecting biometric data from minors, such as for youth sports programs, must offer age-appropriate explanations, implement enhanced safeguards, and avoid profiling or commercial use of such data, which is subject to heightened scrutiny. Under the GDPR, parental consent is required for children under 16 (or lower, depending on Member State law) before processing their personal data. Similarly, in the US, the Children's Online Privacy Protection Act requires verifiable parental consent before collecting data from children under 13.

Profiling, Discrimination, and Ethical Risk

Using biometric data to evaluate player potential, resilience, or injury risk can lead to algorithmic profiling and bias. Many data protection laws restrict automated decision-making that produces legal or similarly significant effects (e.g., benching, contract renewals) unless specific conditions, such as, depending on the jurisdiction, consent and other lawful basis for processing. Even then, athletes must retain the right to contest decisions and request human review. Unregulated profiling may also violate anti-discrimination laws, particularly if models encode biases related to race, gender, or disability.

Best Practices for Compliance in Sports Organizations

To minimize legal risk and foster ethical data use, sports organizations should:

1. **Conduct impact assessment** before deploying biometric technology;
2. **Use the minimum necessary data** and adopt privacy-by-design principles;
3. **Enter into robust contracts** with vendors and processors, including DPAs that protect data;
4. **Establish and implement data retention and deletion protocols**;
5. **Ensure athletes are informed of their rights**, including to object, access, and erasure;
6. **Implement staff training** on data handling and incident response.

Biometric data offers valuable insights into athletic performance but also introduces the potential for significant legal, ethical, and reputational risks. As regulatory scrutiny intensifies and litigation proliferates, clubs, leagues, and vendors must prioritize compliance, transparency, and athlete autonomy. By embedding privacy into their biometric strategies, sports organizations can harness innovation without compromising individual rights or incurring unknown liabilities.

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Seton Symposium Looks at *House*, Commercialization of Athletics, Investment in Women's Sports, Pro Sports and Ethics

By Justin Giacobbe

Seton Hall University School of Law hosted its Sixth Annual Sports Law Symposium, *The Rules of the Game*, on October 24, 2025, assembling an impressive roster of legal practitioners, professors, and industry executives. Organized by the Entertainment and Sports Law Society and guided by Professor Bob Boland, the event featured four panels addressing the legal, business, ethical, and social transformations redefining contemporary athletics.

Over the course of the day, panelists examined topics ranging from the legal implications of *House v. NCAA* and the commercialization of college athletics to the rise of investment in women's sports, the operations of professional leagues, and the philosophical roots of sports ethics within the legal profession. The symposium highlighted Seton Hall's growing reputation as a hub for conversation at the intersection of sports, law, and policy since launching its JD concentration in Gaming, Hospitality, Entertainment, and Sports Law in 2022, drawing an overflow crowd to the law school's DeCotiis Moot Court Room for much of the day.

Panel 1: Women's Sports and Title IX: Right Now!

The symposium opened with a panel devoted to women's sports and the ongoing evolution of Title IX. The discussion featured Dean Rochelle Outlaw Edwards, Assistant Dean of Equity, Justice, and Engagement at

Seton Hall Law; Julie Sommer, Executive Director of The Drake Group; Arthur Bryant, a leading Title IX attorney with his own firm, Arthur Bryant Law; and Scott Schneider, principal of Schneider Education & Employment Law Services.

The panelists agreed that while women's sports have seen extraordinary growth in visibility, investment, and fan engagement, they also face renewed threats in the post-*House* era. The financial and legal frameworks emerging from the settlement, they noted, have in some instances prompted schools to reduce funding or cut women's teams to offset budget pressures created by expanding men's athletic expenditures.

Panelists discussed recent litigation challenging such program reductions, emphasizing that Title IX's mandate remains a critical legal safeguard against inequitable treatment. They also critiqued the prevailing method of valuing athletes based on broadcast revenue, arguing that it reinforces systemic inequities by undervaluing women's sports. Instead, they advocated for athlete valuation systems that recognize contribution, performance, and community impact rather than market exposure alone.

The conversation underscored a central theme of the symposium: the need to ensure that the financial and structural reforms sweeping through college and professional athletics do not erode the progress made under Title IX over the last half-century.

Panel 2: Inside the Leagues: Legal and Business Practices Behind the Games

The second session turned attention to the governance and economics of professional sports leagues. The panel included Frank Hawkins, former Senior Vice President for Business at the National Football League; Doug Logan, the founding commissioner of Major League Soccer; Ken Belson of *The New York Times*; and Jack Mula, former General Counsel for the New England Patriots.

Together, the speakers provided a behind-the-scenes view of how professional leagues have evolved into sophisticated commercial enterprises driven by ownership strategy, media rights, and real estate development. They credited influential owners such as Jerry Jones and Robert Kraft with recognizing the economic potential of stadium development and related commercial projects, noting that these ventures have substantially increased franchise valuations and fan engagement.

Doug Logan offered historical insight into the early structure of Major League Soccer, describing how the league's original single-entity model was designed to protect it from antitrust challenges at a time when professional soccer's financial viability was uncertain. The innovative structure, supported by legal guidance from Proskauer Rose, provided the foundation for the league's long-term stability.

The panel also traced the NFL's growth under successive commissioners, from Pete Rozelle's media partnerships to Paul Tagliabue's collective bargaining strategies and Roger Goodell's modern branding initiatives. Mula and Hawkins highlighted how the construction of Gillette Stadium exemplified the financial foresight of committed ownership and demonstrated how infrastructure investment can solidify a team's long-term value.

Overall, the panel illustrated how professional leagues have combined legal innovation, business acumen, and leadership continuity to sustain their dominance in the global sports marketplace.

Panel 3: Navigating the Present Crisis in College Athletics

The third panel brought together practitioners whose recent litigation has reshaped the boundaries of collegiate sports law. Moderated by Bart Lambergman of Shumaker, Loop & Kendrick, the panel featured attorneys Gregg Clifton of Lewis Brisbois; Kevin Marino of Marino, Tortorella & Boyle; Tom Mars of the Mars Firm; Bennett Speyer of Shumaker, Loop & Kendrick; Julie Sommer of The Drake Group; and Diana Florence of Shumaker, Loop & Kendrick who have won significant victories in court or via contract in the collegiate setting.

The panelists addressed the accelerating collapse of the NCAA's amateurism model and the resulting uncertainty facing institutions, athletes, and lawyers alike. Clifton described how recent federal injunctions and pending appellate cases reflect a judicial trend toward recognizing college sports as a commercial enterprise rather than an amateur pursuit.

Marino, a distinguished Seton Hall Law alumnus, discussed the transformation of antitrust doctrine in cases such as that of Jett Elad, a college quarterback

whose eligibility dispute centered on NIL opportunities and transfer restrictions. His analysis emphasized that modern college athletics, with its billion-dollar media contracts and player compensation structures, cannot plausibly be treated as noncommercial.

Florence highlighted how eligibility and injury-related cases, including those involving athletes like Tez Walker and Dejuan Clayton, have given rise to a new form of athlete-rights litigation. Her comments pointed to a growing recognition of the student-athlete as a rights-bearing individual entitled to legal representation and equitable treatment.

Speyer and Mars examined the contractual side of collegiate athletics, focusing on escalating coaching buyouts and tax liabilities. They discussed how a 21-percent federal excise tax on compensation exceeding one million dollars has incentivized universities to structure terminations "for cause" to minimize cost exposure, a practice that often leads to protracted disputes. Coaches and universities nationwide seek the advice and counsel of these advocates for their knowledge and expertise, especially in the 2025 college football season as top coaches are ousted with large buyouts.

Sommer concluded the discussion with a warning about the *House v. NCAA* settlement's unintended gender-equity implications, observing that valuation models tied to broadcast revenue risk sidelining women athletes in future revenue-sharing frameworks.

Collectively, the panel depicted an ecosystem in transition—one in which federal legislation remains uncertain, litigation continues to drive reform, and the NCAA's authority appears increasingly fragmented.

Panel 4: Ethics and the Rules of the Game

The final panel examined the intersection of sportsmanship, moral philosophy, and legal ethics. Featuring Professors Michael Coenen, Michael Granne, and Francesca Zaccaron, the session expanded on Professor Coenen's innovative course "Rules of the Game," which draws parallels between the moral codes of sports and the professional responsibilities of lawyers.

The inclusion of panels offering CLE credits in Diversity and Ethics, each exploring the philosophical foundations shared by both sports and law, was intentional. This structure provided attorneys with the opportunity to earn specialized credits while reinforcing the idea of sports as a powerful laboratory for examining broader societal issues.

Ultimately, the discussion emphasized the deep connections between law and sports as disciplines grounded in jurisprudential, procedural, and philosophical principles—all of which must align for either system to function effectively.

Conclusion

Seton Hall's Sixth Annual Sports Law Symposium provided a complete view of the legal and ethical dimensions shaping modern athletics. From the evolving landscape of Title IX and the corporate strategies driving professional leagues to the ongoing litigation redefining college sports and the philosophical parallels between sportsmanship and lawyering, each panel reflected the complexity and interconnectedness of the sports industry today.

As sports continue to evolve as a multibillion-dollar global enterprise, the symposium underscored that lawyers play a vital role not only in resolving disputes but also in shaping the norms, contracts, and ethical frameworks that sustain the games themselves. Seton Hall Law's commitment to advancing this dialogue reaffirms its place at the forefront of sports law education and professional thought leadership.

Justin Giacobbe is a third-year J.D. candidate at Seton Hall University School of Law, where he is an editor on the Seton Hall Law Review and a member of the Entertainment and Sports Law Society. He previously externed with Justice Wainer Apter of the New Jersey Supreme Court and is currently an extern to Judge Brian Martinotti of the United States District Court of New Jersey. He plans to pursue a career at the intersection of sports, business, and law. He will begin his legal career at Lowenstein Sandler upon graduation.

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So *House* Settled... What About Women's Sports?

By Laura Anderson

On October 17, 2025 at the National Sports Law Institute's 36th Annual Fall Conference, Professor Barbara Osborne, J.D., esteemed sports law professor

Barbara Osborne, J.D.

from the University of North Carolina, Chapel Hill, presented on the topic – So *House* Settled… What About Women's Sports? Below is a summary of her presentation.

Title IX

People may ask what Title IX has to do with the recent settlement in the *House* v National College Athletic Association (NCAA) litigation. Professor Barbara Osborne, J.D., says that Title IX has everything to do with the *House* Settlement. In the *House* case, two expert reports were submitted to the court dealing with Title IX. Judge Wilken, with the U.S. District Court for Northern District of California, did not accept either report and stated that *House* was not a Title IX case. Even though the Judge did not accept the reports, she said that schools must comply with Title IX.

From elementary schools to college and universities, every school that receives federal funding, private or public, must comply with Title IX. There were initial concerns when Title IX was enacted, in 1972, and even when it was being proposed. The concerns were about how Title IX would affect athletic programs, specifically college athletics. The lawmakers who opposed it in 1972 proposed 17 amendments. They wanted to limit the reach of the legislation and its regulations. One of the goals of the amendments was to permit revenue-generating sports to keep their earnings without being required to support or fund female student athletes. Congress rejected the amendments and affirmed that there is no exception to Title IX. Athletic programs are not allowed to make benefits or opportunities available only to teams that generate revenue. Since then, many courts have had to deal with Title IX issues. With every decision, courts have said that no matter the source of the revenue, if money is coming into the athletic department, it must be used in a way to provide equal opportunities for male and female athletes.

In 1975 the regulations of Title IX were issued to provide the core inter-collegiate compliance requirements for schools for Title IX. Three of the main areas of the requirement deal with financial assistance, equal athletic participation opportunities, and equal benefits and treatment.

Financial Assistance

Financial assistance focuses on scholarships and other financial aid that can be given to student athletes. For financial assistance, scholarship is determined by comparing the percentage of male and female student athletes to the amount of scholarship dollars spent on them. To be compliant, a school must be within 1%, but there may be nondiscriminatory reasons for disparities greater than 1%. In 1979, additional policy interpretations that address financial assistance to student athletes in forms other than grants were published. Some of the forms of other scholarship dollars could be study abroad tuition, or laptops and tablets. These different forms of payment to athletes must still comply with Title IX and be proportionate between male and female athletes, staying within that 1% limit.

The new Name, Image, and Likeness (NIL) opportunities for universities and student athletes mean more regulations and determining which payments must comply with Title IX. Student athletes can enter into sponsorship agreements with companies that permit student athletes to promote their NIL or monetize their social media. In those cases, Title IX is not related to those NIL deals because they were made with the individual athlete's NIL. Title IX only regulates the actions of the schools. Schools cannot use gender to restrict access to financial assistance from a certain source or apply different criteria for financial assistance. When the NCAA relaxed the NIL rules, it created collectives which provided financial opportunities for athletes. Now, companies, boosters and other parties can directly contribute money to the athletic department and schools use those funds to induce athletes during the recruiting process. In this case, Title IX does apply and should be proportionately distributed between male and female athletes at the school and during the recruitment process.

Equal Athletic Participation

Equal athletic participation helps ensure that schools are complying and offering equal athletic opportunities to their male and female athletes. To determine if a school is complying with equal athletic participation

there are three different tests. Schools can follow any one of the tests. First, participation can be based on an equation and whether there are equal opportunities based on the percentage of males and females in the college or university's undergraduate student body. Second, a school can show continued program expansion and show that the school is continuing to add sports for the underrepresented gender. Third, schools can prove that they are already effectively accommodating the interests and abilities of the underrepresented sex. With the *House* Settlement, roster limits were set for teams in college athletics. From the roster limits, some universities have already been cutting teams because roster limits create program reduction. Therefore, schools will have a difficult time passing the test of expanding and adding sports for the underrepresented gender. Schools will have to rely on the proportionality test to comply with equal athletic participation under Title IX.

Equal Benefits and Treatment

Universities and colleges must equally provide benefits and treatments for their male and female student athletes. For equal benefits and treatment, Title IX determines if universities or colleges are providing equal benefits for quality, quantity and accessibility for each line item for men's and women's athletics. With the *House* settlement and NIL, three-line items are specifically affected: publicity, provision of support services, and recruitment of student athletes. For publicity, under Title IX, all teams and individual athletes need to be equally promoted. So, when asking donors to give for NIL initiatives, the money must be equal between male and female student athletes. With new NIL initiatives, new roles have been created within athletic departments, such as team general managers or chief revenues officers. Under Title IX, providing the support services needs to be equal between male and female athletes, including the new services created from NIL. Finally, recruitment for student athletes needs to be equitable and equal between male and female athletes. Since the *House* settlement, recruitment has dramatically changed. But still, under Title IX, recruitment needs to be proportionate between male and female athletes. Everything from funding for recruitment, support, and recruitment staff must follow the proportionate guidelines. The school controls the recruitment and opportunities; therefore, they need to comply with Title IX.

Conclusion

Title IX is a federal legislation. Since it was enacted in 1972, Title IX has been regulated by self-enforcement. The NCAA has not enforced it because that is not their job. Complaints can be filed with the U.S. Department of Education, but with constant changes in government programs these days, that may change as well. With the *House* Settlement and new NIL regulations for athletic departments, college athletics have dramatically changed. But even though things have changed and are continuing to change, schools must be aware of how the everchanging landscape complies or does not comply with Title IX.

Laura Anderson is a 1L Student at Marquette University Law School. She graduated from Yale University in 2020, where she was a member of the Varsity Women's Ice Hockey Team for four years. Before law school, she worked in education and marketing for a large charter school network in New York City. She is originally from Minnesota.

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Baseball Agent's Suspension Is Reminder Of Agents' Multi-Layered Obligations

By Christopher R. Deubert, Senior Writer

Last week, the Major League Baseball Players Association (MLBPA) decertified long-time agent Jim Murray for at least four years for having communicated sensitive information to Major League Baseball (MLB) during the contentious labor negotiations in 2020 amid the COVID-19 pandemic. The case serves as a lesson in understanding the multiple layers of obligations that sports agents have and the punishment that can result from failing to abide by those obligations.

Unions and Agent Regulation

Murray is a prominent agent, having previously worked at WME Sports and Excel Sports Management, two major firms, and having represented Ian Happ, Adam Ottavino, Anthony Volpe and Andy Pettitte in his career.

To understand Murray's transgression, it is important to first understand the MLBPA's authority over him.

Under the National Labor Relations Act (NLRA), a union is "the exclusive representatives of all of the employees in [the employee] unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, or other conditions of employment." In other words, both employees and employers are prohibited from negotiating the terms of an employee's employment without the union's involvement or permission.

In sports, the union's exclusive authority under the NLRA means, for example, that the MLBPA has the right to negotiate all of the contracts of the approximate 800 players on MLB rosters. Such a workload is impractical. Consequently, the MLBPA and the other unions in professional sports effectively delegate some of that negotiating authority to agents pursuant to a certification process.

In their collective bargaining agreement, MLB and the MLBPA negotiate numerous parameters around player employment, including minimum salaries, the terms of the uniform player contract, dispute resolution, benefits, work schedules, and more. Nevertheless, there is still a considerable amount of room left to individual negotiation between the player and his agent and the team, notably the annual salary and length of the contract.

The union certification process varies across the unions but generally requires an extensive background check, sometimes an exam, and the agreement to abide by the union's agent regulations. The regulations are extensive and intended to ensure that agents represent players competently, zealously, and ethically. The unions' authority is further cemented as part of the collective bargaining agreements, in which the teams agree not to negotiate player contracts with agents not certified by the relevant union.

Agent Of Whom?

The common understanding of the word agent, as in a sports agent, is that an individual acts as a representative of an athlete in negotiating with a team or for endorsement deals. Indeed, this understanding is consistent with agency law, in which someone (an agent) is authorized to act for or in place of another (the principal).

Importantly, an agent has a fiduciary obligation to the principal, which means that the agent must look out for the principal's best interests and avoid conflicts of interest.

Yet, a sports agent is also an agent of the union that certified him or her. As described above, the agent's authority is derived from the union pursuant to the union's authority under the NLRA. Sports agents exist only because the unions believe them to be desirable in carrying out the union's purpose, which is to represent and protect their members' interests with regard to the terms and conditions of employment.

To this end, both the MLBPA and NFL Players Association (NFLPA) agent regulations declare that agents have fiduciary obligations on behalf of players generally, not just their clients.

Agency In Practice

Murray is not the first agent to run afoul of their broader obligations.

In 1967, hockey agent Alan Eagleson helped form the NHL Players Association (NHLPA) and served as its first Executive Director. Over approximately the next 25 years, in both official and unofficial roles, Eagleson become one of the most powerful figures in hockey, engaging in various business ventures while also representing NHL players. Eagleson maintained strong relationships with many NHL club owners and rebuffed players' insistence on free agency rights and more aggressive negotiations with the NHL. Eventually, Eagleson was forced out of the NHLPA amid increasing complaints that he was too friendly with the NHL owners and that he had violated his duties to the players in various other ways. In 1998, Eagleson was convicted of crimes related to embezzling union funds, among other misconduct, and served a short prison sentence.

In 2004, the NFLPA suspended agent Neil Cornrich for one year after he testified as an expert witness on behalf of General Motors (GM) in a wrongful death lawsuit brought by the estate of former Kansas Chiefs linebacker Derrick Thomas. Cornrich was paid $1,000 per hour to help determine the earnings potential of an NFL player if GM were found liable. The issue became moot when GM prevailed at trial, but an

arbitrator ruled that Cornrich had violated his obligations to the union and all of its members by testifying in a capacity adverse to another NFL player.

In Murray's case, according to The Athletic, he is alleged to have "revealed confidential union information to the league office and helped MLB craft proposals as the union and commissioner's office fought over" how to play the 2020 season amid the COVID-19 pandemic. Text messages disclosed show Murray in regular contact with MLB Commissioner Rob Manfred and his deputies during contentious negotiations and providing them with advice and information.

While Murray may have thought he was advancing players' interests by working toward a resolution of the labor dispute, he clearly violated his obligations to the MLBPA and the players by assisting their adversary in negotiations. Murray agreed to the four-year suspension rather than being permanently decertified and agreed to pay a $100,000 fine and a $150,000 application fee should be wish to be recertified.

While Murray's violations were less common, they are among the many that pervade the sports agency business. Indeed, the MLBPA's discipline of Murray comes about a year after it decertified agents associated with the rapper Bad Bunny and defended its authority and process in federal court. Yet, NFL agents are still waiting for discipline to be imposed on agent Todd France after multiple rounds of litigation and arbitration revealed him to have stolen a rival agent's client and then lied about it.

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Indiana Appeals Court Hears Case Over NCAA's Duty to Warn Athletes About Head Trauma

By Casey Smith

The Indiana Court of Appeals heard arguments in late October in a wrongful death case that could determine the NCAA's responsibility for former athletes who develop degenerative brain disease. The case involves the estate of Christopher Riggs, a former Texas A&M football player diagnosed with CTE, whose family alleges the NCAA failed to warn athletes of known risks from repetitive head impacts.

The estate of Christopher Riggs, a former Texas A&M football player who died in 2020 and was later diagnosed with chronic traumatic encephalopathy, or CTE, contends that the Indianapolis-based NCAA failed to warn athletes of known risks tied to repetitive head impacts.

Riggs played football for Texas A&M from 1965 to 1968.

The Marion Superior Court granted summary judgment for the NCAA in January, finding the association owed Riggs no "duty of care." His family is now asking the appellate court to overturn that ruling.

The three-judge panel — Chief Judge Melissa May, Judge Leanna Weissmann and Judge Dana Kenworthy — heard nearly 45 minutes of oral arguments Tuesday morning at DePauw University.

Attorney Tyler Zipes, arguing on behalf of Riggs' estate, told the court the NCAA was founded in 1906 "explicitly to address health and safety issues in college sports, and specifically to address brain injuries in college football."

He said President Theodore Roosevelt helped lead to the NCAA's creation when he called out college football's "alarming" high rate brain injuries and deaths.

Zipes argued that, despite decades of research, the NCAA "failed to warn somebody in an inferior position who has less knowledge about that risk," even though the organization "knew in the 1930s all it had to do was warn" about repetitive head trauma.

After Riggs' death, his family filed a wrongful death claim in 2022, alleging that the NCAA breached its duty to protect athletes from long-term neurological harm.

But the NCAA, represented Tuesday by Brian Paul of Faegre Drinker Biddle & Reath, countered that it had no such legal duty.

He argued that the organization's historical role was to issue health and safety "recommendations" — not legally binding rules — to its member institutions, placing ultimate responsibility on the schools themselves.

"The NCAA role is to support its members in carrying out their retained responsibility and legal duty … to care for their health and safety," Paul said, citing the association's long-standing principle of "institutional control," in which member institutions retained control

over the day-to-day medical care and supervision of their student-athletes.

He emphasized that in the 1960s, the NCAA had fewer than 10 employees nationally and could not practically oversee safety for thousands of student-athletes.

"You can't impose a duty on the NCAA in the 1960s … by hindsight," Paul told the court.

He pointed to U.S. Supreme Court precedent, warning that "to impose liability on these sorts of organizations would disincentivize them from issuing health and safety guidance," and maintained that in the time period at issue, "the schools … were the ones who would have been [with the athletes] day in and day out at every training session, every practice, every scrimmage, in every game."

Still, Riggs's attorneys said that interpretation ignores decades of the NCAA's own statements and conduct. In court filings, they noted that by the 1930s, the NCAA's medical committee had acknowledged links between head trauma and "punch drunk" syndrome, an early term for CTE, and recommended rules requiring injured players to be withheld from play for weeks.

Those recommendations, Zipes said, were never enforced.

"The NCAA failed to implement any such rules before or during the time Riggs played NCAA football," the appellants brief stated.

Zipes further compared the NCAA's stance to prior Indiana cases involving hazing and other campus safety issues, saying the NCAA was asking the court to read Yost v. Wabash College and Lanni v. NCAA too broadly.

"That's not what the Supreme Court intended," he said. "This is not that case. The relationship here is the only questionable factor — reasonable foreseeability."

No timeline for decision

Paul, for the NCAA, emphasized that CTE was not diagnosed in a football player until decades after Riggs's career.

"What exactly should the rule have been in the mid-1960s, when Riggs played, given the state of the scientific evidence?" the NCAA wrote in an earlier motion. "How would the NCAA have known whether that rule would have minimized the potential for a type of brain injury that would not be diagnosed until decades down the road?"

The trial court's decision — issued by Marion Superior Court Judge Timothy Oakes — created what Riggs's attorneys called a "split" with other rulings in similar cases against the NCAA where other judges found the NCAA owed a duty to warn.

At the recent hearing, the appellate judges pressed both sides about the scope of that duty and whether the question should be left for a jury. The case is one of several pending in Indiana involving the NCAA's responsibility for concussion-related injuries among former college athletes.

The court took the matter under advisement and did not indicate when it will rule.

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NFL-NFLPA Investigate, Find Giants and Other Relevant Parties 'Properly Followed' Concussion Protocols

By Holt Hackney

Late last month, the NFL and NFLPA conducted a joint review of the application of the concussion protocol involving New York Giants quarterback Jaxson Dart during the team's Week Six game against the Philadelphia Eagles on October 9.

What they found, after reviewing "the relevant reports and video and jointly interview(ing) members of the club medical staff, independent medical providers, coaches and players, was that the team medical staff and unaffiliated medical providers properly followed all of the steps required by the Collective Bargaining Agreement (CBA) and administered concussion protocol in their evaluation of Mr. Dart."

At the same time, however, the League was critical of the Giants, Head Coach Brian Daboll, and running back Cam Skattebo for Daboll and Skattebo's actions during the game. Specifically, the coach and player entered the blue injury tent, while Dart was being evaluated for a concussion. Coaches are forbidden from entering the tent during an examination, per the CBA.

"While the parties agreed that Coach Daboll's and Mr. Skattebo's actions had no actual impact on the

exam or the care that Mr. Dart received, their conduct was inconsistent with and demonstrated a disregard for the concussion protocol's requirements," the NFL and NFLPA wrote in a joint statement.

The Giants were fined $200,000, while Daboll was fined $100,000 and Skattebo $15,000 for "conduct detrimental to the league."

In a post-game press conference, Daboll, who has since been fired because of the team's performance, said: "There's a lot of emotions, and I certainly am an emotional guy. I apologized directly to our team physician. I just wanted (Dart's) ass out there if he was OK. But I wanted the process — like we were getting ready to go for it on a potential fourth down. I would have burned a timeout if he could have gone out there. So, I was asking, 'How long is it going to take?' So again, you want your guy out there — not at risk of anything else. But, you know, (Rodeo) came out, 'I think he's going to be good.' I'm like, 'Is he going to be good, or not? I'm gonna call a timeout on fourth down and go for the (first down), you know?"

In a statement, Giants owner John Mara, who is a member of the NFL's Health and Safety Committee, said on October 10: "I spoke to Coach Daboll this morning about approaching the medical tent last night. While I firmly believe, as he has stated, that he was not trying to influence the process in any way, he understands that the appearance of going to the tent is inappropriate. We have protocols in place as a league to ensure player safety, and we need to allow our medical staff to execute those protocols without interference."

In the NFL-NFLPA statement, they addressed the aforementioned prohibition against coaches entering the blue tent:

"When the protocol is triggered, all gameday concussion evaluations must take place either in the sideline blue medical tent or in the locker room, to ensure that the player receives a thorough examination without distraction. The concussion protocol states that 'only medical personnel deemed essential to the care of the athlete may be present for the tent and/or locker room evaluation. This includes the team physician best qualified to evaluate concussion, the club athletic trainer, and the sideline Unaffiliated Neurotrauma Consultant.' No other individuals are permitted in the tent or locker room during an evaluation.

"The NFL and NFLPA concluded that the Giants violated the protocol when Head Coach Brian Daboll and running back Cam Skattebo entered the medical tent and spoke with Mr. Dart before his evaluation was complete, creating the perception that they were interfering with Dart's exam. While the parties agreed that Coach Daboll's and Mr. Skattebo's actions had no actual impact on the exam or the care that Mr. Dart received, their conduct was inconsistent with and demonstrated a disregard for the concussion protocol's requirements and therefore constituted a violation. The parties also noted that the Giants undertook immediate remedial steps to prevent any similar violation in the future, including by cooperating fully with the joint review, conducting additional training with club staff and players about proper use of the medical tent and taking additional steps to ensure that only permitted individuals are able to enter the medical tent during a concussion evaluation."

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Sports Law Expert Podcast Interviews Shumaker's Sports Law Team

Hackney Publications has announced the availability of a recent interview with the highly regarded sports law team at Shumaker – Bennett Speyer, Robert Boland, and Bart Lambergman – on the Sports Law Expert Podcast.

The segment, which features a free-flowing and timely discussion about collegiate athletics as well as other topics, can be heard here.

"I've known Bob for more than a decade," said Holt Hackney, the CEO of Hackney Publications. "When he joined Bennett over at Shumaker a few years ago, I felt like the duo made this sports law group one of the best in the country. When they recently added Bart, who I have also known for a while, it put them over the top in terms of stature and capability."

About Speyer

As Co-Chair of Shumaker's Hospitality, Leisure & Sports Industry Sector, Speyer has built a practice counseling elite college and professional coaches, athletic directors, and conference commissioners, as well

as executives in the sports and entertainment industry. Working collaboratively with agents, financial advisors, and accountants, Speyer structures contracts to achieve future financial security through tax efficient compensation, including appropriately designed deferred compensation arrangements, and ensuring contracts provide well-considered protections given the uncertainties of the industry. Clients rely on Speyer for advice developing and implementing estate plans and philanthropic objectives and participating in outside business ventures.

About Boland

A nationally known sports attorney, Boland joined Shumaker in 2022, after a five-year tenure as Athletics Integrity Officer at Penn State. The Athletics Integrity Officer role, a first-of-its-kind role in the nation, was created as result of a consent decree between Penn State, the NCAA, and Big Ten, in the wake of the Sandusky scandal. Boland oversaw Penn State's now $220 million dollar in annual revenue athletic department with direct reporting lines to the president and board of trustees in its recovery from what was the greatest collegiate athletic crisis in the history of higher education. In addition to safeguarding athletic integrity post Sandusky, Boland conducted significant investigations, led education, training and monitoring efforts to support compliance with federal and state laws as well as NCAA and Big Ten policies and overall best practice. Boland in addition to his role at Shumaker is also a faculty member at Seton Hall Law School anchoring a concentration on Gaming, Entertainment, Hospitality and Sports Law.

About Lambergman

Lambergman brings the perspective of a leading policy maker and thought leader in collegiate athletics to Shumaker and his clients. Lambergman is an attorney focused on collegiate athletics law, advising NCAA Division I athletics directors and departments on complex legal and policy matters. He has served as the General Counsel and Chief Operating Officer for the Football Bowl Subdivision (FBS) Athletics Directors Association (formerly LEAD1).

For more on the group, visit https://www.shumaker.com/capabilities/industry-sectors/hospitality-leisure-and-sports/

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International Sports Lawyer Michael Lenard Recognized with Master of the Game Award at NSLI Symposium

By Claire Polizzi, J.D. Candidate at Marquette University Law School, Sports Law Certificate Candidate.

At the National Sports Law Institute's 36th Annual Conference on October 17th, 2025, Michael Lenard received the 2025 Master of the Game Award, becoming its 50th recipient. This award recognizes individuals who have made significant contributions to the sports industry and who display the highest level of professionalism in their field. The award was first presented in 1992 to legendary Marquette basketball coach Al McGuire. Other past honorees include Martin Greenberg, founder of the National Sports Law Institute, and Allan "Bud" Selig, Commissioner Emeritus of Major League Baseball.

A Wisconsin native, Lenard was honored in his home state at Marquette University Law School. He is currently the President of the International Council of Arbitration for Sport (ICAS), the governing board of the Swiss-based Court of Arbitration for Sport (CAS). A former Olympian, he competed in the 1984 Los Angeles Games as a member of the United States men's handball team and was later named the sport's 1985 Male Athlete of the Year.

Lenard's influence in sports extends beyond his time as an athlete. He has served in key leadership roles within the United States Olympic and Paralympic Committee (USOPC), including as Vice President, and as a member of the Board of Directors for the 1996 Atlanta Olympic Games Organizing Committee. His dedication to the Olympic movement earned him the Olympic Torch award in 2017, the USOPC's highest honor.

In addition to his Olympic service, Lenard built a distinguished legal career in international law and business. He has held senior positions with international

and domestic private equity firms, practiced law as a partner at a global law firm, and served on the National Sports Law Institute's Board of Advisors.

Lenard was honored with this award for his four decades of significant contributions to Olympic sports both in and outside the United States. Lenard's colleagues and friends spoke at the ceremony about his global impact and personal integrity. The award presentation was led by Professor Matthew Mitten of Marquette University Law School.

The first tribute came from Matthieu Reeb, Direct General of CAS. Reeb praised Lenard's lifelong commitment to ensuring that athletes' interests are protected. He highlighted Lenard's extensive service across numerous committees within the USPOC and his leadership as chair for multiple ad hoc CAS divisions. Reeb commended Lenard's curiosity about different traditions and cultures as he travels around the world for ICAS meetings and the Olympic games. He described Lenard's passion for sport and his desire to promote the interests of athletes at large through his work in the Olympic movement.

Randy Dean, retired Executive Director of the Pettit National Ice Center and longtime friend of Lenard spoke next. He described Lenard as a "remarkable, dedicated, highly intelligent individual, leader, athlete, teammate, and friend." Dean recounted their history of friendship, describing it as a brotherhood between the two of them and Dean's twin brother Rob that dates back to elementary school. He recalled that in their senior year of high school they were introduced to team handball together. This led to their participation on the Olympic team and inspired Lenard's decades of leadership to the integrity of Olympic and international sports.

Dean emphasized Lenard's motivation as he was not the most naturally gifted athlete, but was determined to be bigger, faster, and stronger, embodying the Olympic spirit. He noted Lenard's intelligence both on and off the field and how he was the perfect teammate who made everyone around him perform better. Dean shared personal stories demonstrating Lenard's loyalty and selflessness, including skipping his own Torch Award ceremony to attend a friend's wedding and personally arranging for an Olympic flag to be delivered to Rob Dean's funeral. Dean said he is blessed to have Lenard as a lifelong friend and teammate.

Professor Mitten then read additional tributes from two of Lenard's peers who were unable to attend the event.

Mike Plant, President and CEO of Development for the Atlanta Braves, praised Lenard's lifelong standard of excellence that has had a positive impact worldwide. Plant described his admiration for Lenard's intelligence, passion, and commitment to helping the Olympic movement thrive. He acknowledged Lenard's personal and professional sacrifices that have been made for the Olympic movement, praising Lenard for his decades of service and lifelong friendship.

Another message came from Rick Schlesinger, President of Business Operations for the Milwaukee Brewers, who first met Lenard nearly forty years ago while working as a first-year associate in Los Angeles. Schlesinger recalled Lenard's mentorship early in his legal career. He also recognized that Lenard never wavered in his love for Olympic sports. Schlesinger wrote that Lenard "embodies professionalism, compassion, integrity, and dedication that is the hallmark of past recipients of Master of the Game Award."

Professor Mitten then offered his own reflection, describing his fifteen-year friendship with Lenard. He recalled working with him on arbitration panels, including during the 2014 Sochi Winter Olympics. He praised Lenard for being the "guiding light" in ad hoc proceedings, ensuring the panel asked the right questions to reach fair outcomes. Mitten touched on Lenard's character, stating that even after losing his home in the Los Angeles wildfires, his integrity never wavered. Mitten praised Lenard for his passion and commitment to the Olympic movement, describing it as extraordinary.

Professors Paul Anderson and Mitten formally presented the Master of the Game Award to Lenard, who delivered a humble acceptance speech. He thanked the presenters and those who shared tributes, joking that he appreciated their kind words and that they chose not to roast him.

Lenard reflected on his career, acknowledging that he is proud of his athletic achievements and the hard work and dedication it took to get there. He spoke to sacrifices, both the known and unknown, that he had to make. Lenard recognized that being an Olympian is a rare and special accomplishment, and he carries an obligation to give back to the Olympic movement.

Lenard found it incomprehensible that his name is among past honorees that were his childhood heroes, such as Coach McGuire.

Lenard highlighted specific reasons why it was meaningful for him to receive this award. First, expressing special gratitude for receiving the honor from the National Sports Law Institute at Marquette University Law School, located in his hometown. Growing up in Milwaukee, Lenard was a fan of the Marquette basketball team, making it meaningful to accept the award there. Lenard then reflected on the past honorees, noting that they exemplify the highest levels of professionalism. He spoke to the award giving him reassurance and validation of his work for the Olympic movement. He concluded by calling the award an "incredible and unexpected honor" that he accepted with humility and appreciation.

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Lawsuit Seeks USC's Multi-Million Dollar Revenue-Sharing Information

By Sam Safferstein, Tulane Sports Law

On September 30, 2025, Frank Heindel, a freedom-of-information advocate, sued the University of South Carolina ("USC") in the Fifth Judicial Circuit Court in Richland County, SC to obtain records pertaining to the school's payments of more than $20,000,000 to student athletes. The lawsuit claims that the school violated the state's Freedom of Information Act (FOIA) and asks the judge to "either order USC to turn over the records in their entirety or hold a confidential hearing to determine which parts might be exempt from disclosure."

Following landmark shifts in Name Image and Likeness and collegiate revenue sharing (a result of the *House v. NCAA* settlement), USC, along with most universities in the United States, have begun to explore the uncharted waters surrounding the disbursement of funds to student-athletes. Schools that opted into the settlement are permitted to utilize $20.5 million to pay their athletes and are subject to FOIA requests for information and records. However, USC has failed to produce responsive documents to FOIA requests for invoices from USC's NIL Collective, The Garnet Trust. USC has claimed that the information being requested is not in their possession but rather in the possession of private actors and companies like the NIL Collective and Learfield – entities not beholden to the same FOIA laws as the school. On September 4, 2025, USC was sent a FOIA request from Frank Heindel, who is an open records advocate and has sued USC in the past for failing to respond to a previous FOIA request in 2019. Through his request, Heindel is seeking to obtain any "executed revenue-sharing contracts or agreements between the university and its football players." The university subsequently denied the request, claiming that the information is shielded by the Family Educational Rights and Privacy Act ("FERPA"). Heindel claims USC's position is "legally untenable" and that when a public university spends tax dollars, their usage of funds should be disclosed. The plaintiff is seeking a court order directing USC to either produce the records or hold a hearing to determine which records are exempt from disclosure.

"I'm not asking for names or grade point averages. I'm asking how a public university spends public money," said Heindel. The university's legal representative, attorney Andrew Lindemann of Lindemann Law Firm, P.A. in Columbia, South Carolina, responded, saying the university "had lawfully and accurately responded to Heindel's records request." A hearing was set for October 10, 2025. Following the hearing, Judge Daniel Coble, who is presiding over the case, ordered a review of the records, asserting that he wanted to "flesh out some of the things mentioned in the affidavit."

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NCAA Settles Litigation Involving Volunteer Coaches

The NCAA has reached a $303 million settlement in an antitrust lawsuit with volunteer college coaches, who alleged the organization engaged in illegal wage-fixing. The settlement, which was filed in the U.S. District Court for the Eastern District of California, is now awaiting judicial approval.

The lawsuit, *Ray v. NCAA*, represents approximately 7,700 volunteer coaches in Division I sports who were prohibited from being paid for more than 30 years, from 1992 to July 2023. The volunteer coach

designation was a workaround for NCAA rules that capped the number of paid assistants a team could have.

Under the proposed settlement, coaches could receive an average of about $39,200 before expenses and fees, with the final amount based on the coach's school, sport, and years of service.

The agreement marks another multimillion-dollar settlement for the NCAA amid a wave of antitrust litigation challenging its business model. It comes on the heels of the landmark *House v. NCAA* settlement, which ended the NCAA's amateurism model and paved the way for revenue sharing with athletes.

The settlement in *Ray v. NCAA* follows a history of court challenges to the NCAA's compensation rules and adds to the evolving landscape of college athletics. If approved, it would provide relief to a large group of college coaches and further signal the end of the traditional amateurism era.

The original lawsuit can be viewed here: https://fingfx.thomsonreuters.com/gfx/legaldocs/lgvdqkaodpo/Ray%20et%20al%20v%20NCAA%20settlement%2020251110.pdf

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Columbus Crew General Counsel Mary Shepro Elevated to President of Business Operations

Haslam Sports Group (HSG) has announced that Mary Shepro has been elevated to Columbus Crew President of Business Operations. Shepro – who most recently served as the Crew's Vice President & General Counsel and HSG Assistant Counsel – will lead the Club's business strategies and initiatives, overseeing fan engagement and marketing; community impact; matchday experience and facility management; ticket sales and services; corporate partnerships and revenue generation; and organizational administration.

Since joining HSG and the Crew in November 2022, Shepro has spearheaded the Club's legal and government affairs for business and soccer endeavors. She played an integral role in the Club securing major corporate partnerships and marquee events, highlighted by the 2024 MLS All-Star Game and "Summer of Soccer," which generated more than $30 million in economic impact for the region, per the Greater Columbus Sports Commission. Shepro's sporting functions encompassed matters such as the facilitation and execution of contracts for player acquisitions, led by General Manager Issa Tall. Additionally, she's provided key contributions as the Crew have ranked among the top of MLS for the past three years in revenue categories such as partnerships, ticketing and premium sales, emphasized by Columbus' enhanced in-stadium hospitality offerings and Club-record streak of 35 MLS regular season sellouts from 2023-2025.

In 2023, Shepro expanded her responsibilities to incorporate oversight of the Black & Gold's community relations efforts, which resulted in the creation of the Crew's "Soccer in Schools" program and further local expansion of the "Stay in the Game!" Attendance Network.

Shepro, who now directly reports to Haslam Sports Group President David Jenkins, has also offered pertinent guidance for HSG's most significant long-term community investment projects, including the advancement of the Browns' new enclosed Huntington Bank Field in Brook Park and the expansion of the CrossCountry Mortgage Campus in Berea. In Central Ohio, she has supported the renovation of Kilbourne Run Sports Park, in partnership with the City of Columbus, and the continued development of Astor Park, in collaboration with the Pizzuti Companies.

"Mary has been pivotal to a wide range of Crew and HSG initiatives during the past three years, and she's earned this opportunity by displaying all the leadership attributes desired to enhance our goals of engaging our fans, along with our corporate and community partners, in meaningful ways," said Jenkins. "Complementing her strategic and pragmatic approach, Mary has a keen understanding of and can execute the Crew's vision to further elevate the Club and MLS through her established knowledge of the supporters, league and City of Columbus."

"It's an incredible privilege to lead the Crew's business operations at such an exciting time for our Club and for Columbus," said Shepro. "The Crew embody the heart of this city – the passion of our fans, the strength of our community and the belief that sport is a catalyst for community and economic impact.

With our players competing on the global stage and our ownership continuing to invest strategically in the Club's growth, we're entering a new era for both the Crew and MLS. At the same time, we will continue to leverage Lower.com Field to use the game of soccer as a mechanism to shine a light on Columbus via major global soccer events, including the U.S. Men's and Women's National Teams. My priority is to build upon the strong foundation already in place and to ensure the Crew continue to set the standard for excellence, driving long-term value for our fans, partners and community while elevating Columbus and MLS together."

"Since Mary came to Columbus, she has consistently proven her ability as a leader who drives the Club's and HSG's business success and development forward. Mary is well positioned to lead the Crew based on her vast experience and relationships throughout our organization and the City of Columbus after serving as a dependable advisor to our entire executive team since 2022," said Josh Glessing.

Glessing, who directed the Crew's business functions starting in October 2023, will devote his complete attention to his role as HSG Chief of Strategy & Development, a position held since 2019.

"When Josh acquired additional responsibilities in 2023, we envisioned him ultimately returning his focus to HSG, HSG Ventures and HSG Real Estate, which continue to grow in scope," added Jenkins. "We greatly appreciate Josh's efforts to advance the Crew while leading the team over the past two years."

Prior to her time in Columbus, Shepro was an associate attorney at Jones Day in Chicago from 2015-2018 and spent five years (2018-2022) as an associate attorney with DLA Piper in Chicago focusing on sports, media and entertainment law as a counsel for multiple teams, owners and other parties in litigation, investigations, mediation and transactions related to professional and collegiate athletics. In this capacity, she worked on various sports legal matters including the launch of Nashville SC and the development of Geodis Park and SoFi Stadium, as well as on behalf of the State of Qatar surrounding preparations for the 2022 FIFA World Cup, encompassing transportation, stadium and broadcast issues, international arbitration before the Organization of Islamic Cooperation and proceedings before the United Nations. Shepro also provided counsel and representation in several investigations related to professional athletes and leagues, as well as representing Major League Soccer's exclusive broadcast partner, Apple, in class action privacy lawsuits.

Shepro graduated magna cum laude with a B.A. in Political Science from Columbia University, obtained a M.Sc. in Global Politics from the London School of Economics and Political Science and earned her J.D. cum laude from Notre Dame Law School, where she served as the Managing Senior Editor of the Notre Dame Law Review.

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Sports Lawyer Katie Medearis Named to 'Leadership Team' at College Sports Commission

The College Sports Commission (CSC) has announced the appointment of Katie Medearis as Head of Investigations and Deputy General Counsel. Medearis brings extensive leadership and investigative expertise to the CSC, drawing on over a decade of federal prosecutorial experience.

The CSC is an independent body established in 2025 to oversee and enforce compliance with rules governing student-athlete compensation in college sports, including institutional revenue sharing and third-party Name, Image, and Likeness (NIL) agreements.

Throughout her career, she has led complex, high-profile investigations and played a pivotal role in shaping enforcement policy at the highest levels. As Head of Investigations, Medearis will oversee the CSC's investigative and enforcement operations, ensuring robust oversight of compliance and enforcement of the new rules stemming from the House settlement, including revenue sharing and student-athlete NIL deals policies. She will also serve as a key member of the CSC's leadership team, working closely with conferences, schools and student-athletes to uphold fair and consistent enforcement across the college sports landscape.

"Katie's broad range of investigative experience and her track record of hiring and developing talent make her an outstanding addition to our team," said Bryan Seeley, CEO of the College Sports Commission. "Her proven ability to tackle complex challenges will be instrumental as we work to build a fair and

accountable future for college sports, underpinned by robust and consistent enforcement."

Prior to joining the CSC, Medearis served in executive roles within U.S. Attorney's Offices in Virginia and California, including, most recently as Criminal Division Chief, where she led a team of prosecutors investigating and prosecuting a broad range of federal crimes and complex criminal conspiracies. She was also selected to serve as an Associate Deputy Attorney General at the Department of Justice, where she oversaw the federal law enforcement portfolios of the FBI, DEA, ATF and U.S. Marshals Service, collaborating with agency leaders to shape policy and drive enforcement.

Over the course of her public service career, Medearis has directed hundreds of investigations and prosecutions involving a wide range of misconduct, including corruption, financial fraud, cyber-intrusions, dark-web narcotics trafficking, cyberstalking, counterintelligence and other federal criminal offenses.

Medearis holds a J.D. from the College of William & Mary and two B.A.s from the University of California, Davis.

Commenting on her new role, Medearis said: "College sports are undergoing historic change, and effective oversight is essential to safeguard the new opportunities created by the House settlement. I am honored to join the College Sports Commission at this turning point, and am confident we can deliver the integrity, fairness and transparency that student-athletes, institutions and fans expect."

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CIAA Names Naiya Dalce Coordinator for Championships, Compliance, and Governance

Naiya Dalce

The Central Intercollegiate Athletic Association (CIAA) has announced the addition of Naiya Dalce as the Coordinator for Championships, Compliance, and Governance. Dalce brings a dynamic blend of legal expertise, leadership, and a passion for collegiate athletics.

Dalce has already amassed considerable experience across various sectors of sports law and administration. Her background includes legal internships with Alcon Laboratories, Inc., Rise HBCU, and the USPTO Clinic, as well as event planning experience with the Durham Sports Commission. Additionally, she is a proud alumna of Marymount University, where she earned a B.A. in English and served as a men's basketball manager. Following her time at Marymount, she went on to earn her juris doctorate from North Carolina Central University. She also participated in the Black Sports Business Academy, a development program designed to equip students with the tools, connections, and insights needed to successfully navigate and advance within sports industry careers.

Dalce's recent participation in the NFL HBCU Experienceship Seed Kit Program where she placed second in a league-sponsored competition highlights her forward-thinking approach to addressing legal and business challenges within the sports industry.

"We are thrilled to welcome Naiya to the CIAA team," said Eddie Weatherington, Senior Associate Commissioner for Governance and Sport Administration. "She brings a wealth of legal knowledge and a deep understanding of the evolving landscape of collegiate athletics. Her experience, work ethic, and passion for the student-athlete experience will be invaluable as we continue to grow our championships and compliance efforts."

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FIA Collaborating With Leading American University to Examine the Role of AI in Tackling Online Abuse in Sport

The Fédération Internationale de l'Automobile (FIA), the global governing body for motor sport and the federation for mobility organisations worldwide, has announced a landmark research collaboration with the University of Notre Dame. Supported by the FIA Foundation, the collaboration will strengthen

the global response to online abuse in sport through joint research and innovation.

The agreement sets out a framework for collaborative research projects between the FIA and the University of Notre Dame. These will focus on the causes, impact, and prevention of online abuse in sport, including the emerging role of artificial intelligence (AI) in both the spread of harmful content and the development of potential solutions. Additionally, they will examine how online abuse intersects with identity, alongside athlete experiences, mental health, and the regulatory response of sports federations.

The University of Notre Dame and United Against Online Abuse (UAOA) are collaborating to address the growing challenge of online abuse in sports. Using AI-enabled solutions alongside surveys and policy research, the project will track harassment trends and identify risks. It also introduces digital literacy workshops and a "Digital Civility and Safety Quest" to help youth navigate online spaces safely. Together, these efforts aim to protect athletes and foster safer digital communities around sport.

The findings of this analysis will contribute to research papers, including the UAOA Barometer report, the leading annual study on online abuse in sport, helping to shape practical policy considerations for creating safer online spaces across the global sporting community.

The University of Notre Dame also signed the UAOA Charter, making it an official member of the global coalition and the eighth academic institution to endorse the UAOA campaign.

This marks a significant milestone in the growth of the FIA's UAOA campaign, representing its first academic collaboration in the United States. UAOA's expansion into the US is particularly notable given the country's deep-rooted sports culture, where major leagues such as the NFL, NBA, and MLB attract millions of fans and generate intense online engagement.

Speaking at the SEMA Show at the Las Vegas Convention Center, Mohammed Ben Sulayem, FIA President and UAOA Founder said:

"This collaboration represents an important step forward in our mission to combat online abuse across all levels of sport. I look forward to working with the University of Notre Dame, one of the world's leading research institutions, to explore innovative, AI-powered solutions and to develop evidence-based strategies to ensure a safer and more inclusive sporting environment for all. Our joint goal is to foster a safer inclusive online environment for athletes, teams, and fans worldwide."

Professor Nitesh Chawla, Director of the Data, AI, and Computing Initiative, Founding Director of the Lucy Family Institute for Data & Society, and the Frank M. Freimann Professor of Computer Science and Engineering at the University of Notre Dame said:

"*As the threat of online abuse continues to impact the sports world and beyond, this collaboration will enable us to better examine possible solutions and how we can use technology to protect our digital spaces. I'm looking forward to working with United Against Online Abuse, using rigorous interdisciplinary research to look at both the challenges and opportunities presented by AI."*

Chawla, who is also a fellow of the Association for the Advancement of Artificial Intelligence (AAAI), fellow of the Association of Computing Machinery (ACM), fellow of the American Association for the Advancement of Science (AAAS), and the Institute of Electrical and Electronics Engineers (IEEE) is the principal investigator on the project.

The collaboration reinforces both organisations' shared commitment to promoting respect and belonging in sport and beyond, and represents a strong endorsement of the FIA's UAOA campaign from a world-leading and globally respected academic institution.

The FIA's UAOA campaign is a research-led coalition supported by the FIA Foundation. Founded in 2023 the campaign has witnessed rapid growth in recent months and was recently awarded Peace and Sport's prestigious Coalition for Peace award in recognition of its world-leading efforts building a formidable campaign driving meaningful change.

To date, the UAOA coalition has welcomed endorsements from the Governments of Greece, France, Slovenia, Albania, Australia, Kenya, Costa Rica, Namibia, Rwanda, Georgia and the Republic of Paraguay, alongside organisations such as the Association of IOC Recognised International Sports Federations (ARISF) which represents one million athletes, sports federations including Fédération Internationale de Motocyclisme (FIM) that has over 50 World Championships,

the International Esports Federation, ASETEK SimSports, International Federation of American Football, Paris Basketball Foundation, International Federation for Sports Officials (IFSO), Peace and Sport Monaco, UNESCO, the Council of Europe, Clark Hill LLP, Arwen.AI, Signify and Dublin City University.

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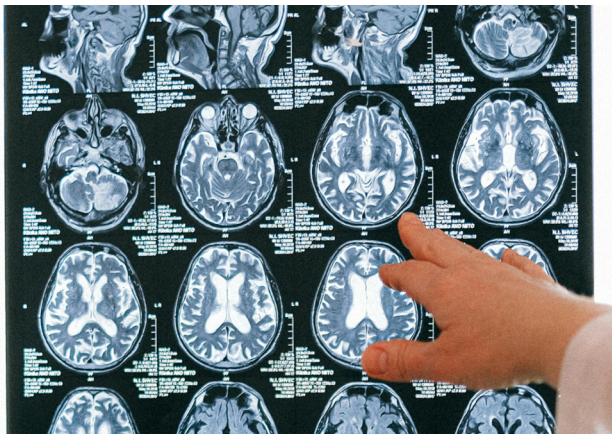
Researchers Use AI to Predict the Toll of Concussions on Student Athletes Over Time

Researchers at the University of Michigan are using artificial intelligence to predict the health consequences that sport-related concussions might have on student athletes over the course of their college athletic careers.



The study, which appears in the Annals of Biomedical Engineering, found that five different AI models outperformed a simple benchmark model when predicting the progression of possible health ramifications from concussions, and revealed multiple surprising findings about concussion management.

"To our knowledge, this is the first research that leverages AI to predict the change in key clinical outcomes for a concussed athlete after college play is over," said study first author Lauren Czerniak, who conducted the interdisciplinary research at the Michigan Concussion Center and U-M College of Engineering while earning her Ph.D. in industrial and operations engineering in 2023.

"This is an important topic as there is a growing concern about the effects of sport-related concussions after college play is over, and there is a lot of uncertainty around when the effects of sport-related concussions begin to present clinically."

The research was funded by the U.S. Department of Defense, the NCAA, the National Science Foundation Research Fellowship Program, the U-M Summer Undergraduate Research in Engineering Program and U-M's Rackham Graduate School.

For this study, Czerniak and colleagues wanted to know if AI could predict three clinical outcomes: the impact on overall quality of life (symptom burden); cognitive status; and risk of psychological distress. They also wanted to know which AI models predicted those outcomes well, and what factors—such as frequency and intensity of concussion and the sports played (sport exposure)—influenced the progression of those outcomes over an athlete's career.

The researchers used baseline and exit data from about 3,200 NCAA athletes in the Concussion, Assessment, Research, and Education Consortium, a national concussion research network of NCAA athletes and U.S. military service academy cadets across 30 different institutions. In addition to the CARE Consortium data, researchers fed the models with demographic as well as health information collected during the athlete's college career.

Key findings:

- AI helped avoid large prediction errors compared to a simple model that predicted no change.
- The easy-to-explain AI models outperformed the more complex AI models.
- An athlete's baseline evaluation—the standard testing at the beginning of an athlete's career—was the most important factor in making accurate predictions.
- Sport exposure had little to no impact on symptom progression.
- Frequency and intensity of concussions had little to no impact on an athlete's symptom progression.

The researchers were surprised by these last two findings—especially that the frequency and intensity of the number of concussions had little to no impact.

"When initially designing the study, our research team hypothesized that the frequency and intensity of concussions would play the biggest role in an athlete's progression over their collegiate career," Czerniak said. "AI allowed us to tease out the important predictors and demonstrate that our hypothesis was incorrect."

Concussion is one of the most complex injuries in sports medicine, and many high school and college athletes experience one or many concussions while playing. Among the NCAA athletes at CARE, it's estimated that around 10% have experienced one to several sport-related concussions.

Study co-author Steven Broglio, director of the Michigan Concussion Center and professor at the U-M School of Kinesiology, believes AI can play a big role in concussion diagnosis and management.

"There is a growing interest in understanding the long-term effects of concussion and head impact exposure, with a particular focus on athletes and military service members," said Broglio, who is also president of the International Concussion in Sport Group. "These analyses give us insight into those effects using sophisticated AI algorithms. These predictions will give insight into the clinical care of athletes and service members to protect their long-term health and safety."

Czerniak says future studies could entail larger and more diverse populations. Given enough data is available, there is potential to embed AI into a software application that uses an athlete's or patient's clinical record to predict areas of progression so that proactive measures or monitoring could be taken.

Czerniak was inspired to do concussion research after two concussions left her with the sense of "I do not feel right"—along with weathering the typical highs and lows of recovery.

"It really inspired me to get involved in concussion research to give back to the community that helped me recover from my first and then second concussion," she said. "The knowledge obtained through concussion management research continues to grow, and I think that intersecting concussion management research with AI/operations research will only bring more understanding to this complex field."

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News Briefs

Hogan Lovells Advises Inter Miami as Team Signs Lionel Messi to Contract Extension

Global law firm Hogan Lovells advised Major League Soccer's Inter Miami CF, as the club signed Lionel Messi to a contract extension through the end of the 2028 MLS season. Messi's arrival at Inter Miami has been transformative for soccer in the United States. He came to Major League Soccer in the summer of 2023, and since then has been key in guiding Inter Miami to its historic first two trophies by winning the 2023 Leagues Cup and the 2024 MLS Supporters' Shield titles, collecting 2023 Leagues Cup Best Player and Top Scorer awards and earning 2024 MLS Landon Donovan MVP Award honors in the process. In the 2025 MLS regular season he won the 2025 MLS Golden Boot Award presented by Audi with 29 goals to become the first Inter Miami player to win the prestigious award. He spent the first 21 years of his career playing for Barcelona in Spain, where he holds the club record for goals and assists. He also spent two years playing with Paris Saint-Germain in France. The Hogan Lovells market leading sports, media and entertainment team was led by partners Mark Kurtenbach and Chris Weigand (both Mergers & Acquisitions, Denver). Hogan Lovells has a long-standing relationship with Inter Miami having advised the club and its ownership group since the team joined Major League Soccer in 2020 and also having played a prominent role in bringing Messi to the club in 2023. More on our involvement can be found here.

ArentFox Schiff Advises Lakers and Buss Family on Sale of a Majority Ownership Interest

ArentFox Schiff represented The Los Angeles Lakers — a long-time firm client — and the Buss family in connection with the sale of a majority ownership interest in The Los Angeles Lakers, Inc. to Mark Walter. The transaction closed on October 30, 2025, following unanimous approval from the NBA Board of Governors. The ArentFox Schiff team was led by Rich Brand, co-head of the firm's Sports Industry Group and managing partner of the San Francisco office. San Francisco-based Sports group partner Zak Welsh played a leading role in the transaction, which also included a multi-disciplinary group of ArentFox Schiff attorneys, including partners Richard Gale, Steve Cohen, Jeff Tate, Samantha Overly Patel, and Mamta Shah, and associate Eric Sanchez, among others. The landmark transaction valued the Los Angeles Lakers at $10 billion, which is the highest control-sale in the history of US team sports, eclipsing the previous records for the control-sale of the Boston Celtics ($6.1 billion) earlier in 2025 and the Washington Commanders ($6.05 billion) in 2023. Following the sale, Jeanie Buss will remain Governor of the Lakers and continue to oversee day-to-day team operations for the foreseeable future. This transaction follows in the footsteps of a number of large, notable transactions for which Brand and the ArentFox Schiff team has represented the Lakers over the last two decades, including the long-term extension of the team's lease for Crypto.com Arena with Anschutz Entertainment Group, Inc., the naming rights transaction for the team's training facility with UCLA Health, the team's media rights agreement with Time Warner Cable, Inc., and the 2021 sale by Phillip Anschutz of a minority interest in the Lakers to Mark Walter and Todd Boehly.

Kishner Offers Insights on the Business of Women's Sports

Women's sports are experiencing explosive growth with record-breaking viewership, surging sponsorships and unprecedented investment opportunities. In this episode of Herrick Does That, Herrick's Executive Chair, Belinda Schwartz, and Sports Law Chair, Irwin Kishner, dive into why women's sports sponsorship is growing 50% faster than men's major leagues and delivering exceptional ROI. Discover how this meteoric rise is reshaping the market, creating new avenues for brands and investors to connect with diverse audiences. Belinda and Irwin also share how Herrick's legal team strategically supports clients entering these emerging spaces – from navigating new markets to structuring deals that maximize value. Tune in to learn why investing in women's sports isn't just smart – it's transformative. Click here to listen.