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Cases

Elad., Pavia and other NCAA-Eligibility Cases: Updated and Expanded Analysis Of Current Cases as Appellate Courts Reverse Several Preliminary Injunctions

By Jeff Birren, Senior Writer

Jett Elad played four seasons of college football during a five-year period. He spent one "red shirt" season at a junior college. NCAA Division I rules allow athletes to compete for four seasons but each year at a junior college counts as one of the four seasons. Elad's college eligibility was over. He was on the verge of attempting to play in the NFL when he learned that a player similarly situated had obtained an injunction prohibiting the NCAA from enforcing its junior college transfer rule, ("JUCO Rule"). Elad desired to play yet another season of college football and followed suit. The District Court granted Elad his requested

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preliminary injunction. He received $500,000 in name, image and likeness rights ("NIL") as a result of playing for Rutgers during the 2025 season. The NCAA appealed to the Third Circuit. Oral argument was on September 17, 2025. It reversed the order granting the preliminary injunction and remanded the case back to the District Court "for further proceedings consistent with this opinion." Elad v. NCAA, Case No. 25-1870 (3rd Cir., 11-25-2025). The opinion states that it is "PRECEDENTIAL".

BACKGROUND

The National Collegiate Athletic Association has some 1,100 members spread over three divisions. Each division makes its own by-laws, and all members of the respective divisions are bound by its by-laws. Division I allows athletes to play four seasons over a five-year span. Prior to suing the NCAA, Elad played a total of four seasons over five years, including years at Ohio University, Garden City Community College, a junior college and the University of Nevada at Las Vegas. He did not play at Garden City, a "red shirt" season. His college football career appeared to be over. Fortunately for Elad, in 2024 a Tennessee District Court granted a preliminary injunction against the NCAA from enforcing the JUCO Rule against anther football player. *Pavia v. NCAA*, 760 F. Supp. 3d 527, 534–35 n.6, 543 (M.D. Tenn., 2024). It ruled that the JUCO Rule was a restraint of trade, and Pavia showed a strong likelihood of success on the merits.

Elad's college career suddenly had life. He sought a waiver from the NCAA and entered its online transfer portal. Rutgers called. It "helped Elad secure" an advertising contract that would pay him "approximately $500,000" for the season. Rutgers sought a waiver from the JUCO Rule. That was denied, so Elad filed an antitrust lawsuit, coupled with a motion for a preliminary injunction to allow him to play during the 2025 season. The District Court held oral argument on April 16, 2025, and granted the preliminary injunction nine days later. (D.N.J., Case No. 3:25-cv-01981-ZNQ-JTQ (4-25-2025)). The front page stated that it was "NOT FOR PUBLICATION."

Third Circuit: Injunction Test

Recently, District Courts have wrestled with motions for preliminary injunctions to allow athletes to play for college athletic teams despite NCAA rules. The ability to receive compensation apparently has become part of the test to obtain a such an injunction. However, a preliminary injunction is an "'extraordinary and drastic remedy.' *Mazurek v. Armstrong*, 520 U. S. 968, 972 (1997.)" The Third Circuit reminded its District Courts that the moving party is required to make a "clear showing" that "an injunction is warranted." Courts "weigh four factors" when "considering a request for a preliminary injunction: the movant's likelihood of success on the merits"; the risk that the movant will suffer irreparable harm in the absence of a preliminary injunction; the balance of the equities'; and the public interest. *Boynes v. Limetree Bay Ventures LLC*, 110 F. 4th, 604, 609 (3rd Cir. 2024). The first two factors are most important, "and only when both are present" are the other two even considered. *Nken v. Holder, 556, U.S.*, 418, 434 (2009). The NCAA asserted that Elad failed to show a likelihood of success on the merits.

The Circuit and the Sherman Act

The Sherman Act, 15 U.S. C. §1 *et seq*, was passed to "combat the vast accumulation of wealth in a small number of hands of corporations and individuals". *Standard Oil Co. of N.J. v. United States*, 221 U.S.1, 50 (1911)). "Underlying the Sherman Act is a congressional belief' that "market forces 'yield the best allocation' of the Nation's resources." *Alston v. NCAA*, 594 U.S. 69, 73 (2021), (quoting *NCAA v. Bd. of Regents of Univ. of Okla.*, 468 U.S. 85, 104 n.27 (1984)). "To

facilitate free markets, Section 1 of the Sherman Act specifically prevents 'restraint(s) of trade' between "separate entities." *Copperweld Corp. v. Independence Tube Corp,* 468 U.S. 751, 768 (1984). But "any such restraint of 'trade' must have a commercial effect, and it must be an 'unreasonable' restraint of commerce." *Ohio v. Am. Express,* 585 U.S. 529, 540 (2018). Whether a restraint is "commercial" is thus a "threshold requirement for Sherman Act applicability."

Courts can use one of three different tests to determine if a restraint violates the law, "depending on how obviously anticompetitive the challenged conduct is. *See Alston*, 594 U.S. at 87–93." The first is a *per se* test: Find such a restraint and go to damages. The second is the "quick look" test. The Supreme Court used that test in NCAA v. Board of Regents when finding the rule at issue violated the Sherman Act. 468 U. S. 85, 109 (1984). The third test is the "Rule of Reason." It is typically employed in sports cases because some amount of cooperation between competing teams is required if the product is going to be created. The Rule of Reason seeks to determine if a restraint on competition imposes restraints on a market that are harmful to competition. That requires defining a relevant market.

A "relevant market" involves establishing both a relevant product market and a relevant geographic market, or even a relevant "submarket." In NCAA and major leagues cases, the geographic market is a national market and there is consequently little energy spent on that part of the test. Courts must engage in a "robust" market analysis. The "plaintiff bears the burden of proving the existence of a relevant market." *Queen City Pizza, Inc. v. Domino's Pizza, Inc.* 124 F. 3d 430, 436 (3d Cir. 1997). "It is "of central importance.". "It is the area of effective competition, and courts usually cannot properly apply the rule of reason without an accurate definition of the relevant market."10 *Am. Express*, 585 U.S. at 542–43 (alteration in original) (quoting *Eastman Kodak Co. v. ImageTech. Servs.*, 504 U.S. 451, 466–67 (1992)).*"*

If the plaintiff does prove a relevant market, courts use a three-step, burden-shifting analysis. Is the restraint "unreasonable"? The *Alston* class did just that. This impressed the Supreme Court. "This was no slight burden. According to one *amicus*, courts have disposed of nearly all rule of reason cases in the last 45 years on the ground that the plaintiff failed to show a substantial anti-competitive effect." *Alston,* 141 S. Ct. 2141, 2161 (2021).

If the plaintiff makes that showing, can the defendant show a "pro-competitive rationale" for the restraint? If it does, the plaintiff must then prove that the "pro-competitive efficiencies could be reasonably

achieved through less anticompetitive means." (This is often referred to as a "less restrictive alternative", or "LRA."). In *Alston* the Supreme Court reminded courts that businesses do not have to "employ the least restrictive means of achieving legitimate business objectives." *Alston, 594 U.S. at* 106.

However, these "'three steps do not represent a rote checklist' and may not be 'employed as an inflexible substitute for careful analysis.' *Alston*, 594 U.S. at 97."

The NCAA challenged "the District Court on many fronts", but the Circuit only considered two issues related to the likelihood of success on the merits. The first issue was whether the restraint related to commerce.

Commerce

The NCAA seemingly had a home court advantage. The Third Circuit previously held that NCAA eligibility rules were not "commerce." *Smith v. NCAA*, 139 F. 3d 180 (3rd Cir. 1998). Smith had challenged an NCAA rule prohibiting graduate students from competing. She also filed Title IX and breach of contract claims. The District Court dismissed the case and Smith appealed. The Circuit "'held that the NCAA eligibility rules were "not related to the NCAA's commercial or business activities' and, therefore are not subject to Sherman Act scrutiny. *Id.* at 185–86".

Smith later sought leave to amend her complaint to allege that the NCAA itself violated Title IX. The District Court denied the motion. The Circuit overruled the District Court. It stated that Smith's original complaint failed to state a valid Title IX claim, but the complaint as amended did. *Smith*, 139 F. 3d at 190. The NCAA sought review in the Supreme Court. The Court accepted review, and in a unanimous opinion written by Justice Ginsberg, held that the NCAA organization, as opposed to its members, was exempt from Title IX. *Smith v. NCAA,* 525 U.S. 459 (1999). The NCAA was represented by upwardly mobile John G. Roberts. The first *Smith* opinion was a very thin reed by 2025.

The Circuit recognized that although a "panel of this court is bound by, and lacks authority to overrule, a published decision of a prior panel . . . a panel may reevaluate precedent in light of intervening authority" and "decline to follow prior precedent if intervening circumstances compel it." *Alston* changed the NCAA's legal landscape. *Alston* stated that "'static judicial decrees in ever-evolving markets may themselves facilitate collusion or frustrate entry and competition.' *Alston*, 594 U. S. at 99." "If . . . market realities change, so may [a] legal analysis or legal precedent. *Id.*" "In light of changed market realities, and the NCAA's ability to reframe "even compensation rules as eligibility rules, we can no longer *per se* exclude all NCAA-labeled eligibility rules from Sherman Act scrutiny without first asking whether the specific rule at issue is commercial."

Therefore the "District Court did not err in holding that the JUCO Rule is commercial because it interferes with Elad's desire to compete in NCAA Division I athletics and profit from that participation." However, a footnote states that the Circuit did not find the JUCO Rule *per se* commercial, but merely that it is subject to antitrust scrutiny. The question becomes whether or not it was an "unreasonable restraint of trade." But that requires determining the relevant market and examining whether the restraint was unreasonable within that specific market.

Relevant Market

The NCAA argued that the District Court's market analysis failed both because it inadequately defined the relevant market, and because it relied on the plaintiff's expert, one Maxcy, whose definition was flawed. The "correct analysis requires a proper definition of the market, *Am. Express,* 585 U. S. at 542-43." Unfortunately, the District Court "failed to define the relevant market altogether; it never made any findings regarding the market." Instead, it simply recited Maxcy's market, "the labor market for college football athletes in general and NCAA Division I football in general."

"This failure alone constitutes a legal error because the District Court did not engage in a fact-specific analysis despite the parties' differing opinions on the topic. *FTC v. Penn State Hershey Med. Ctr.*, 838 F 3d, 327, 335-36 (3rd Cir. 2016)." Even if the Circuit assumed that the "District Court intended to rest its relevant market findings" on Maxcy, that also failed. Maxcy cited no market evidence or economic data. In fact, he admitted "that he did not conduct or consult any economic analyses to support his conclusions."

Instead, Maxcy the economist simply relied on the supposed market definition from *Alston.* But *Alston* "concerned only a specific subset of NCAA Division football and basketball players. *Alston*, 594 U.S. at

80." Furthermore, the *Alston* parties had not contested the underlying District Court's market definitions, and the Supreme Court expressly stated: "we express no views on them." *Alston*, 594 U.S. at 86-87. Post *Alston*, the economic realities in college football have dramatically changed. Relying on a prior market definition, "without inspection of current market realities is antithetical to antitrust legal principles. See *id. at 93."* Maxcy might have noticed that *Alston* stated, "that when 'market realities change, so may the legal analysis'. Id. at 93."

The Circuit was not done. The District Court "implies in its opinion that it accepted" Maxcy's definition because the NCAA's expert did not object to it, and in fact "adopted it." The NCAA disagreed, and "for good reason; it does not appear that" its expert "ever purported to opine on what the relevant market was" and, in fact, "testified" that Maxcy's "analysis was economically insufficient." Finally, even if this was correct, this "says nothing" as to whether Elad "carried his evidentiary burden to substantiate the existence and contours of the relevant market."

Elad "points to *Pavia* as also supporting his market definitions, it too relies almost exclusively on *Alston* or other case law to define the relevant market. *Pavia.* 760 F. Supp. 3d at 539. We do not read Supreme Court precedent as allowing this." Elad also argued that the NCAA was collaterally estopped from disputing his definition, but this "argument fails" because changes "in facts essential to a judgment will render collateral estoppel inapplicable." *Montana v. United States*, 440 U.S. 147, 159 (1979). A "relevant market is by its nature a non-static factual inquiry. *Alston*, 594 U.S. at 93."

In the absence of "any economic analysis or data", the District Court "erred to the extent that it relied" on Maxcy to find a likelihood of success on the merits. Consequently, the "District Court abused its discretion in granting a preliminary injunction." "On remand, it should conduct a relevant market analysis and tease out the changing market realities that it identified in its opinion." (If *House v. NCAA* and related class action settlements, now on appeal, are ultimately approved, that will further muddy the market. *In Re College Athlete NIL Litigation*, Ninth Circuit Case Nos. 25-3722, 25-3835, 25-4137, 25-4150, 25-4190, 25-4218.)

The Circuit's opinion was issued just prior to Thanksgiving. Elad played in Rutgers' final season game on November 29, 2025. The team ended the year at 5-7, so there was no wrangling about whether Elad could have played for Rutgers in in a bowl game. His season over, Elad stipulated to dismissal. After all, he won what he sought in filing his Complaint. Given the result in the Third Circuit, the District Court was undoubtedly happy to agree "that this action be and hereby is dismissed with prejudice and without attorneys' fees or costs." Order, (12-8-2025.) Elad received his NIL-based compensation. $500,000 is not a bad haul for part-time employment.

Relevant Market: Two Other Circuits Speak

Nyzier Fourqurean, Redux

Sports Litigation Alert previously covered *Fourqurean*, so the discussion here will be abbreviated. (Note: *Elad* had also been discussed in *Sports Litigation Alert*, but it was set out here in greater detail so the reader can compare and contrast how the three Circuits dealt with this issue.) Fourqurean also sued the NCAA seeking to play yet another year of college football. He did not challenge the "JUCO Rule" but insisted that his two years at a Division II school should not count towards the NCAA total. The Seventh Circuit later referred to this as the "Five Year Rule." Fourqurean obtained a preliminary injunction in February 2025. The NCAA appealed to the Seventh Circuit. The Court heard oral argument on May 28, 2025, and issued its opinion on July 16, 2025.

Like the Third Circuit in *Elad*, the Seventh Circuit reversed the grant of the injunction. That District Court had also relied on *Alston,* assuming that it defined the relevant market. That assumption required correction. "The *Alston* Court did not decide the question of market definition." The Court was "also cognizant that '[w]hether an antitrust violation exists necessarily depends on a careful analysis of market realities.'" Alston 594 U.S. at 93. 'The market realities for college sports have changed in the four years since *Alston*.'" A relevant "market definition is a deeply fact-intensive inquiry…." *Todd v. Exxon Corp.*, 275 F.3d 191,199-200 (2d Cir. 2001). *Fourqurean v. NCAA,* 143 F. 4th, 859 (7th Circuit, July 16, 2025). "We think that Fourqurean needs more than the sparse and conclusory allegations". Not surprisingly, Maxcy was his "expert."

Unlike Elad, Fourqurean did not play college football in 2025. Following the Circuit's ruling, motion practice continued in the District Court for months. Finally, Fourqurean gave up and filed a stipulation of dismissal with prejudice, and both parties were to bear their own costs and attorney's fees. *Fourqurean,* Order, .W.D. W. (Madison), Case No. 3:25-cv-00068-wme (11-21-2025).

Diego Pavia Looking Backwards and Then Forwards

Pavia successfully obtained a preliminary injunction to play during the 2025 season as previously discussed in *Sports Litigation Alert.* The NCAA then granted a blanket waiver to all similarly situated players so could Pavia play during the 2025 season. Curiously, the NCAA then appealed the grant of the preliminary injunction. The Sixth Circuit rejected the NCAA appeal as moot in a decision written by Judge Thapar. Judge Thapar also wrote an opinion concurring with his opinion. He noted the lack of evidence related to the definition of a relevant market. "But analysis of anticompetitive and procompetitive effects—the key to many antitrust cases, relies on market definition. So no matter what level of precision is required, more specificity and evidence about the relevant markets would be helpful as the case progresses." *Pavia v. NCAA*, Case: 24-6153, page 11 (6th Cir., 10-1-2025). The Panel "Recommended" the opinion for publication.

Pavia played for Vanderbilt during the 2025 football season and finished second in the voting for the Heisman Trophy. His response was short but not sweet: F-All THE VOTERS". Dave Wilson, "Diego Pavia apologizes for reaction to Heisman loss: 'It was a mistake'", ESPN, 12-14-2025. Pavia will participate in the 2026 Senior Bowl and has "declared" for the 2026 NFL Draft. Aria Gerson, "Vanderbilt's Diego Pavia Is Era Over", The Nashville Tennessean, (12-31-2025). However, Mr. Pavia is six feet tall, somewhat below the typical height for NFL quarterbacks. It is conceivable that he might not make an NFL roster and thus want to return to the less-competitive NCAA and its NIL charms. In fact, Pavia will return to the courtroom next month.

Market Analysis Summary

Elad, Pavia and Fourqurean failed to impress the Circuit Courts with their relevant market definitions. All three relied on *Alston*, but all three Circuits noted that *Alston* did not apply. "As an initial matter, Fourqurean relies entirely on *Alston* to define the relevant market. In his and the district court's view, the Supreme Court in *Alston* established that men's NCAA Division I FBS football is a relevant market. But Fourqurean overstates the scope of the Court's ruling. The *Alston* Court did not decide the question of market definition." *Fourqurean,* Id. at 15. "The absence of cold, hard date is especially glaring in a market that is rapidly changing. It is hard to perform a 'careful analysis of market realities' when the parties haven't grappled with recent changes.' *Alston,* 594 U.S. at 93." *Pavia,* Thapar, Concurring Opinion at 10-11.

Going Forward

Pavia filed a Motion For a Preliminary Injunction on December 26, 2025. Next came an Amended Complaint on January 6, 2026. The Motion for a Preliminary Injunction is currently scheduled for February 12, 2026. He won his first motion for the "extraordinary" remedy of a preliminary injunction. Now he wants a second preliminary injunction in the same case. The Court has given Pavia leave to file yet another Amended Complaint after the ruling and has given the NCAA leave to respond either after the ruling on the motion, or, if Pavia files another Amended Complaint, whichever is later. No witness will be permitted to testify at the hearing without undergoing a prior deposition.

Pavia's counsel filed another lawsuit against the NCAA in September 2025. It challenges the NCAA's Five-Year Rule. There are nineteen plaintiffs, *Langston Patterson, et al, v. NCAA,* Case 3:25-cv-00994, (M. D. Tenn (9-2-2025). The case was assigned to Chief Judge William Campbell, the presiding judge in *Pavia.* Five of the plaintiffs moved for a preliminary injunction. Oral argument was heard on December 15, 2025. Judge Campbell denied the motion on January 15, 2026, in a 20-page ruling. Memorandum Opinion of the Court, Docket # 85. Judge Campbell had closely read the Circuit's opinion in *Pavia,* as well as the two concurring opinions, and quoted from both, so much so that readers will find much of his opinion familiar. This time around he concluded that the plaintiffs had

not shown a likelihood of success on the merits. That case will continue, though this ruling does mean that the plaintiffs will not play college football in 2026.

Patterson challenges the Five-Year Rule. If a football player plays in only four games in a season, NCAA Rule Bylaw 12.6.3.1.6 (2025) allows that season to count as a "red-shirt" season and it then does not count as one of the four seasons played. The *Patterson* plaintiffs do not just want that four-game season, they want an entire season, that fifth season with its enlarged NIL income possibilities.

The NCAA argued that the "House settlement forecloses relief here." The Settlement included a release of "any and all challenges 'to the subjects addressed by the Related Injunctive Relief NCAA & Conference Rules'". *Patterson,* at 6. Although that is a legal question, the Court determined it that required a "more fulsome briefing." The "Court need not decide the applicability of the settlement release at this time." Id. at 8. This issue is going to be hotly contested in federal courts across the country. The NCAA paid handsomely for a settlement. It may be wondering what it got in return for its cash.

The Court then turned to the issue of relevant market. This time the Court spent four pages discussing the issue and concluded that "the market cannot be judged based on a few isolated examples, it requires careful analysis." Fortunately for the Court will gain the assistance of an actual economic expert in this area. Maxcy has been replaced by a well-known and very experienced college athletics economic expert, Dr. Daniel Rascher. He has testified in this role for decades, including serving as plaintiffs' expert in *O'Bannon, Alston,* and *House.*

Going Forward or Forever Sideways?

By early 2025, another plaintiff had sued the NCAA and sought a preliminary injunction. It was denied without the Court having to reach a relevant market analysis because the plaintiff failed to show a likelihood of success on the merits, in part because the Five-Year Rule was not "commercial." *Goldstein v. NCAA*, No. 3:25-CV-00027-TES, 2025 WL 662809 (M.D. Ga. Feb. 28, 2025). *Elad*, *Pavia, Fourqurean, Patterson, Goldstein* and similar cases present challenges to the NCAA. For a plaintiff, the grant of a preliminary injunction is the outcome sought by many. If the player gets that injunction, the athlete can play that season and then, like Elad, walk away from the litigation. There will always be athletes who are not high on pro league's draft lists and might prefer more secure and profitable employment playing yet another season for some college team.

The NCAA will continue to fight claims and might search for the "right" case to take to the Supreme Court. However, despite the presence of its former counsel on that Court, the *Alston* class pitched a shutout, borrowing a baseball metaphor. Will it find litigation-relief elsewhere?

Judge Thapar's concurrence in *Pavia* suggested that: "[P]erhaps Congress, the NCAA, and the players can instead work together to determine a way forward." *Pavia,* at 14. Judge Hermandorfer's concurring opinion, acknowledged that Congress might enter the arena. "Even now, federal lawmakers are considering options for a legislative path forward." *Pavia* at page 20. Another possible solution is to admit that football and basketball players are essentially employees and enter into a collective bargaining agreement. Although that would open a Pandora's Box of legal issues, it would shield the NCAA and its members from antitrust damages. The Clayton Act trebles damages and adds attorney's fees, 15 U.S.C.15(a). The NIL settlements in *House* and related class action cases place the total value at approximately $2.8B, including some $750M in attorney's fees (between 25% and 30% of the total payout). Such a payout does not go unnoticed.

For District Courts, the correct market analysis will not come quickly. Real experts in this area are hardly low-hanging fruit, merely waiting to be easily plucked by enterprising lawyers. The analysis takes a considerable amount of time and energy. For over-stretched courts, the prudent path will be to deny the injunction and let the litigation run its course rather than risk reversal. Elad got his requested injunction, played, received his cash, and discarded the litigation. If subsequent courts are not in position to reach a fulsome market analysis decision until midseason, and then grants a preliminary injunction, what happens? Does the player join the proposed team midseason? Many players will find their market value to be significantly reduced at that point. Conversely, there may be schools riddled with injuries that would be willing to pay even more money for a player to join a team midway through the

season. Either scenario pose interesting challenges for calculating damages should a plaintiff ultimately prevail on the merits, years hence.

State Court?

That may prove to be another viable option for professional athletes seeking to remain playing in the NCAA. On Friday, January 16, 2026, Mississippi quarterback Trinidad Chambliss sued the NCAA. He seeks preliminary and "permanent injunctive relief" and declaratory judgment, claiming that the NCAA has denied him a fourth year of eligibility. He has played three years of college football but has been in college for five years already. This case was filed in Mississippi State Court, foregoing the possibility of treble damages, but gaining a true home court advantage and avoiding the pesky issue of establishing a relevant market. *Trinidad Chambliss v. National Collegiate Athletic Association*, Chancery Court of Lafayette County, State of Mississippi, Case No. 26-17 (1-16-2026)). 2026 would be his sixth year in college sports, but Chambliss insists that playing in the NFL, as opposed to playing at Ole Miss, might cost him millions of dollars. The University has sought a medical-rule waiver based on his medical conditions at a prior Division II school, Ferris State. That was denied and Ole Miss appealed. When this article was submitted, no decision had been made. The lawsuit may have been filed in order to gain leverage with the NCAA concerning the sought rule-waiver.

Editorial

The Third Circuit correctly made the opinion precedential. The JUCO Rule and the Five-Year Rule have been around for decades, and in several Circuits, District Courts now have more direction going forward. So, too, does the NCAA for it cannot trot out *Smith,* insisting that it is binding precedent. That canard should be buried but not in briefs. *Alston* made it clear that the NCAA is subject to the antitrust laws, and it has no per se exemption.

Over recent years, the NCAA's litigation focus has been on NIL-compensation litigation. *Elad,* like *Fourqurean, Pavia*, and *Patterson* are cases driven by NIL compensation, but are actually NCAA-eligibility rules cases. "Although the Court has dealt with NCAA *compensation* rules, it has never analyzed NCAA *eligibility* rules, which determine who can play for college teams." *Pavia*, Judge Thapar Concurring at 10 (emphasis in the original).

No doubt the NCAA cheered when Goldstein did not get his requested injunction, but the reasoning works only for those that have swallowed their Kool Aid concoction. The notion that eligibility rules are beyond the reach of the Sherman Act is at best amusing, though at odds with recent rulings. The alternative ground was that Goldstein could not show "irreparable harm" because his eligibility was concluded. "The Court finds that because he has not had any remaining eligibility for more than eight months, that same lack of eligibility cannot now meet the irreparable harm requirement for the issuance of a preliminary injunction." *Goldstein*, FN 11, at 15. The NCAA wins, athletes lose, and we can all go home. So much for the ruling in *Alston,* not to mention what the the Third, Sixth and Seventh Circuits did in 2025.

Can the NCAA have any eligibility rules, rules that are not created by courts following interminable legal challenges? Judge Thapar acknowledged that "the mere fact of judicial review poses problems for college athletics. It is "creating a seemingly endless wave of litigation." "Consider the line-drawing problems an analysis of eligibility rules might pose. Does a five-year limit on a college athlete's career violate the Sherman Act?" *Pavia* at 14. Yes, according to Pavia's counsel. He filed an Amended Complaint on November 21, 2026, and another motion for a preliminary injunction of December 26, 2026. He also added more plaintiffs. He now seeks to allow his clients to play in the 2026 and 2027 seasons, so the litigation "wave "continues. Ironically, during oral argument before the Sixth Circuit, "Pavia's counsel maintains that antitrust challenges to other NCAA limits—like minimum-GPA and credit-hour requitements, or the five-year eligibility window—would fail." *Pavia,* Hermandorfer Concurring Opinion at page 19. No foolish consistency here.

For years the NCAA played a pat litigation hand while the sports world was constantly changing. *O'Bannon* should have placed the handwriting on the wall, or at least in counsels' hands, (*O'Bannon v. NCAA*, 802 F.3d 1049 (9th Cir. 2015)). Currently, there are colleges paying small fortunes to coaches, good and bad, hired and fired, so it is that much harder to feel sympathy for professional athletic organizations representing colleges and universities. Meanwhile,

NCAA-eligibility and NIL litigation continue, and it is not confined to college athletics, as NIL compensation is now found in high school sports. (Harriet Ryan, "How The Unruly Black Market For High-School Athletes Tore A Family Apart." Wall Street Journal, December 6, 2025.) Due to NCAA squad-limits, increasing the number of older athletes that are allowed to continue to play varsity football and basketball will decrease the opportunities for high school athletes to play in the NCAA. Will they then file antitrust cases against the NCAA, its conferences and schools? After all, the preliminary injunction in *Pavia,* and the one sought in *Patterson,* will depress the market for high school athletes and their ability to access NCAA-NIL loot.

The *Chambliss* lawsuit may have been filed in order to gain leverage with the NCAA concerning the sought rule-waiver. If it works, the NCAA may need to open an expedited processing window for waiver requests. It is also possible that Chambliss's assessment of his value within the NCAA compared to his value in the NFL may be accurate.

For some, continuing legal education is in order. Plaintiffs' counsel should use economic data and analyses rather than mere outdated legal opinions when rendering opinions to a court. Maxcy failed to discern what college fans already earned decades ago: There are significant differences between Division I college football and Division II or Division III, or from junior college football. Meanwhile, neither time, tide nor the relevant market stood still following the unanimous opinion in *Alston,* even if Maxcy thought so.

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Arizona District Court Dismisses State Law Claims in Former Suns Executive's Employment Suit

By Kate Ragusa

On September 22, 2025, United States District Judge Sharad H. Desai granted Suns Legacy Partners LLC's partial motion to dismiss several state-law claims brought by Andrea Trischan, the former Diversity, Equity, and Inclusion executive for the Phoenix Suns. The ruling came on Suns Legacy Partners' partial motion to dismiss, addressing whether Trischan's Arizona Civil Rights Act (ACRA) claims were timely and whether her negligence-based tort claims were barred by Arizona's workers' compensation statute.

Trischan was hired in 2022 after the NBA mandated that the Suns address internal diversity and inclusion deficiencies following a public investigation into the team's workplace culture. In her complaint, Trischan alleged that she raised internal concerns regarding racially insensitive conduct and the treatment of Black employees and that she had encountered resistance in carrying out her role. She further alleged that she was placed on administrative leave and ultimately terminated after being accused of acting "aggressively" and failing to foster an inclusive workplace culture. After her termination, Trischan filed administrative charges and later initiated legal action against the organization.

In her First Amended Complaint, Trischan asserted federal civil rights claims, claims under the ACRA, and Arizona tort claims for negligent infliction of emotional distress and negligent hiring, retention, and supervision. Suns Legacy moved to dismiss the ACRA claims and the negligence-based claims under Rule 12(b)(6). The motion did not seek dismissal of Trischan's federal claims, which were not addressed in the court's ruling.

The court began with the ACRA claims, which turned on timeliness. Arizona law requires that an action under the ACRA be filed no later than one year after the filing of the underlying administrative charge. In assessing whether Trischan satisfied that requirement, the court relied on the dates alleged in the complaint itself, which stated that Trischan filed her administrative charges in July and August 2023. Based on those allegations, the statutory filing period expired no later than August 2024; Trischan's lawsuit was filed in November 2024. The court emphasized that statutes of limitations under Arizona law are substantive and must be applied as written.

Trischan argued that equitable tolling should apply, asserting that she filed her administrative charges on November 13, 2023, which would have extended the limitations period to that same date the following year, one day before Trischan filed her complaint. The court rejected these arguments, first treating the filing dates alleged in the complaint as binding judicial admissions, declining to credit later assertions made in the opposing motion that conflicted with those allegations. Although Trischan's complaint alleged that she filed administrative charges in July and August 2023, she later asserted in the opposing motion that the charges were filed on November 13, 2023. The court noted that Trischan provided no explanation for the discrepancy in the filing dates and therefore treated the complaint's allegations as controlling when analyzing timeliness.

The court also found Trischan's reliance on an Equal Employment Opportunity Commission right-to-sue notice unpersuasive. According to her own briefing, Trischan received the notice after she had already attempted to file her lawsuit. As a result, the court concluded that she could not have relied on the notice in deciding when to file. It further observed that even if equitable tolling were available under the ACRA's limitation provision, Trischan failed to demonstrate diligence or extraordinary circumstances to justify tolling the several-month gap between the August deadline and the November filing. The court noted that Trischan's arguments addressed only a one-day delay and did not account for the broader lapse between the statutory deadline and the actual filing date. The ACRA claims were dismissed with leave to amend, permitting Trischan to correct the filing dates if they were pleaded in error.

The court next addressed Trischan's negligence-based claims, which it dismissed as barred by Arizona's workers' compensation statute. Under Arizona law, workers' compensation provides the exclusive remedy for work-related injuries caused by an employer's negligence. Although the statute permits civil actions where an injury results from an employer's "willful misconduct," Arizona courts construe that exception narrowly. Willful misconduct requires conduct that is undertaken knowingly and with the direct object of causing injury.

The court emphasized that negligence and intent are mutually exclusive theories of liability; conduct described as reckless, wanton, or even grossly negligent does not satisfy the statutory definition of willful misconduct. As a result, negligence-based claims arising from the employment relationship are generally precluded by the workers' compensation system. This exclusivity applies regardless of the nature of the alleged workplace injury.

Applying that framework, the district court concluded that Trischan's claims for negligent infliction of emotional distress and negligent hiring, retention, and supervision could not proceed. Although Trischan attempted to characterize Suns Legacy's conduct as intentional, the court explained that claims pleaded as negligence cannot be recharacterized to avoid the exclusivity of workers' compensation. The negligence-based claims were dismissed without leave to amend due to futility.

The court granted Suns Legacy's motion to dismiss as to all challenged claims. While Trischan was permitted to amend her ACRA claims, her negligence-based claims were foreclosed by statute. The court did not reach the merits of Trischan's federal claims, which remain pending.

Kate is a 2L at Tulane University Law School in New Orleans. She serves as the Chief Marketing Officer of the Tulane Sports Law Society Executive Board, as well as Tulane's Junior Managing Editor for the SLA Newsletter.

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Team Decision to Provide Protected Seating at Baseball Field Leads to Dismissal of Claim by Aggrieved Plaintiffs

By Carla Varriale-Barker and Rashaan Williams, of Segal McCambridge

A New York state court judge has dismissed plaintiffs' negligence lawsuit against the Long Island Ducks (the "Ducks"), a minor league baseball team, and the Atlantic League of Professional Baseball Clubs, Inc. (the "League").

The plaintiffs alleged that the defendants failed to design, maintain or configure seating access at the stadium in a reasonably safe manner and failed to provide adequate warnings or safety protocols. They also asserted a cause of action pursuant to New York General Business Law Section 349, alleging that the defendants misrepresented the safety of the stadium by highlighting its safety features while omitting or downplaying the risks associated with certain seating sections.

The Ducks and the League demonstrated that the plaintiffs occupied seats that were not located in the area behind home plate, where the requisite protective netting was provided for spectators who wished to sit there. The plaintiffs did not plead or allege that they sought seating in the area behind home plate or that the protected area behind home plate was inadequate. In fact, the Court determined that the plaintiffs voluntarily sat in an unprotected area where foul balls are a commonly appreciated hazard.

The Court granted the defendants' motion to dismiss pursuant to Civil Practice Law and Rules 3211(a)(1), finding that the plaintiffs' negligence cause of action was conclusively defeated by documentary evidence, including the plaintiffs' tickets reflecting seating in an unprotected area, photographs of the protected area located behind home plate, and warning signs posted in and around the area where the plaintiffs were seated. The Court also dismissed the negligence claim pursuant to CPLR 3211(a)(7) because the pleading failed to state

a cause of action. The Court highlighted both the limited duty of care set forth in New York's "Baseball Rule" and the doctrine of primary assumption of the risk as independent bases for dismissal of the negligence claim.

The Court confirmed that the duty of care owed to spectators at a baseball game is a limited one and held that liability arises only if a plaintiff was seated in, or sought access to, the protected area, or if the adequacy of the required behind-home-plate screening is challenged. Here, there were no such allegations, and the plaintiffs' pleading foreclosed any claim for breach of the limited duty of care.

Additionally, the Court applied the primary assumption of the risk doctrine, noting that it bars recovery where the injury arises from a commonly appreciated risk inherent in the activity, and that the doctrine applies equally to spectators who place themselves near the activity.

One key takeaway from this Order is that the Ducks provided at least the required protection behind home plate, and the pleadings and record on the motion confirmed the absence of any request by the plaintiffs for seating in the protected area. The plaintiffs were unable to establish a breach of the limited duty of care. The Court also applied the doctrine of primary assumption of the risk to dismiss the case because the plaintiffs voluntarily sat in an unprotected area where foul balls were a commonly appreciated hazard. Although the risk of injury was common and inherent, the Ducks provided multiple warnings regarding the danger posed by foul balls entering the stands. These proactive measures prevented the case from proceeding to discovery and depositions—a grand slam for the Ducks and the League.

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Parking Lot Is Still School Grounds: Iowa Court Affirms Firearm Ban at High School Football Venue

By Dr. Rachel S. Silverman

In 2017, James Mathias was placing flyers on cars in a high school parking lot during a football game when an off-duty police officer working event security noticed Mathias was carrying a firearm in his waistband. Although Mathias had a valid permit to carry the gun, Iowa law prohibits firearms on school grounds. Initially, the officer instructed Mathias to leave the premises. After consulting with the county attorney, however, the State charged Mathias with carrying a firearm on school grounds, a felony under Iowa law.

In the initial case, the Iowa Supreme Court ruled that school-owned athletic facilities, including parking lots, can qualify as "school grounds," even if they are not physically connected to classroom buildings. As a result, school-owned sports venues may be treated as school grounds under Iowa law, and firearm restrictions at school sporting events may be enforced even against individuals legally permitted to carry firearms.

Mathias later filed an application for postconviction relief, arguing his attorney provided ineffective assistance and the firearm prohibition violated his constitutional right to bear arms. The Iowa Court of Appeals, however, did not rule on whether the firearm statute itself was constitutional. Instead, the court focused on a procedural issue known as "error preservation." Error preservation requires that legal arguments be raised properly and at the appropriate time in the lower court.

Although Mathias directly challenged the constitutionality of the firearm statute in the lower court, he reframed the issue on appeal by arguing that his attorney was ineffective for failing to raise the constitutional claim earlier. Since the issue was not presented to the lower court in that manner, the Court of Appeals concluded that there was no ruling for it to review.

The Court of Appeals therefore affirmed the lower court's decision, explaining "a party cannot sing a song to us that was not first sung in trial court."

More specifically, it wrote that in Mathias's PCR trial, "he separated his gun-rights claim from his allegations of ineffective assistance of counsel. In its ruling, the district court also addressed that constitutional challenge as a freestanding claim. But in this appeal, Mathias couches the challenge as ineffective assistance of counsel. Because this is not how Mathias presented the issue at trial nor how the district court decided it, there is no ineffective-assistance ruling regarding his gun-rights claim to review."

James Lee Mathias v State of Iowa; Ct. App. Iowa; No. 24-1673; 12/3/25

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Judge Denies Temporary Restraining Order in Rose Bowl and UCLA Lawsuit

By Jake Dicker, of Tulane Sports Law

On November 12, 2025 a Judge in Los Angeles County Superior Court denied a request by the city of Pasadena and the Rose Bowl Operating Committee (RBOC) for a temporary restraining order that would have forced UCLA to maintain their home at the Rose Bowl. On October 29, 2025, the city of Pasadena and the (RBOC) sued UCLA in the Superior Court of California in Los Angeles for breach of contract and anticipatory repudiation. The plaintiffs allege that UCLA has been in discussions with SoFi stadium in regard to the location of future UCLA football home games, and is in breach of the lease contract currently keeping the football team at the Rose Bowl.

UCLA has played its football games in the Rose Bowl since 1982, and plaintiffs in their complaint emphasize the historical significance of the stadium, as well as the hundreds of millions of dollars they have invested in improvements to the stadium over recent years. In 2014, the city of Pasadena and the RBOC signed a thirty year lease with UCLA that mandated the Rose Bowl as the only venue in the Los Angeles/Orange County area that could host UCLA football games. Within that lease, it was stated that UCLA's attempt to depart from the Rose Bowl would constitute a breach of contract.

The complaint alleges that in direct contradiction with the lease, UCLA has been in exploratory talks with SoFi Stadium in Inglewood, California to move the football team's home games there as soon as the 2026 season. The city of Pasadena and the RBOC sought specific performance in the form of a court-ordered injunction requiring UCLA to continue playing its home games at the Rose Bowl through 2044, as well as monetary compensation.

"UCLA must be held to its contractual obligations with the City: to keep the Rose Bowl Stadium as the home of UCLA Football and to preserve a long-standing partnership in American sports," stated plaintiffs' lawyer, Nima Mohebbi of Sidley Austin LLP in Los Angeles. Mary Osako, Vice Chancellor of Strategic Communications for UCLA, told the media about the possibility of moving stadiums that "while we continue to evaluate the long-term arrangement for UCLA football home games, no decision has been made." UCLA is represented by Jordan McCrary of Morgan Lewis LLP in Los Angeles. Judge James C. Chalfant, presiding over the case, denied the city of Pasadena and the RBOC's request for a temporary restraining order that would force UCLA to play its games at the Rose Bowl. He reasoned that this was not an immediate threat, since the next UCLA football game in contention won't be played until the fall of 2026, however Chalfant did state that specific performance may be applicable in this case, and plaintiffs now look towards the discovery phase of litigation.

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Articles

Eisler and Hedman Leave Hogan Lovells for Latham & Watkins, Reflecting the Booming Sports Market

By Holt Hackney

Latham & Watkins has announced that Matthew Eisler and Russell Hedman, previously of Hogan Lovells, will join the firm, bringing one of the most robust deal sheets in the sports industry to the firm's sports practice.

They will join the firm as partners in the M&A and Private Equity Practice, as well as the Entertainment, Sports & Media Practice. Working out of Denver, the duo will bring "extensive experience advising on

headline-making acquisitions, investments, and complex transactions across the global sports industry and private capital sector," according to the firm.

Matthew Eisler

Russell Hedman

Eisler and Hedman "have successfully managed and executed a wide range of sophisticated transactions across leagues and geographies, including many of the highest-profile deals over the last decade in the NFL, NBA, WNBA, MLB, NWSL, and other leagues worldwide. As private equity practitioners, they will not only be powerful additions to the firm's Entertainment, Sports & Media Practice but will also bolster Latham's market-leading private equity platform."

Collectively, Eisler and Hedman focus their practice "on complex M&A and investment transactions in the sports and private capital sectors, including the purchase and sale of sports teams and stakes therein, the creation of consortiums and joint ventures across various leagues and sports, and expansion franchise transactions. They advise ultra-high net worth individuals, family offices, private capital funds, and sports teams across the spectrum of transactional and regulatory matters, including compliance with league rules."

Eisler Talks About the Move

Question: It was notable that Frank Saviano left Latham in September to join Kirkland & Ellis. The timing of this news seems apropos, no?

Answer: "With Frank Saviano, Latham had a very functional entertainment, sports and media practice based out of LA. He had become sort of the tip of the spear on the sports side (at the firm) to service their existing private equity clients. So, when Frank left, rather than taking it as a moment to just replace Frank, they said, 'We need to really create something robust here and bring in market leading talent and a team to replace Frank. We don't just want to just fill that hole. We understand how important this will be in the future.'

"From start to finish, the move took less than two months, which is incredibly fast for a firm like Latham."

Q: Was Hogan limited in the evolving sports market?

A: "Hogan is a great global regulatory firm, but it doesn't have enough of the financial services platform — private equity, leveraged finance, hybrid capital — that the modern sports market now requires. We struggled to access private equity investment work tied to sports and higher education because we didn't have the private equity platform.

"We had been getting the biggest deals in the market, but if you miss one of those deals, there isn't enough underlying deal flow without the right financial infrastructure."

Q: Share with us your thoughts on sports properties as institutional financial assets?

A: "Sports investments are no longer vanity acquisitions. They're institutional financial instruments. When teams were trading for a billion dollars, the financing structures were relatively simple. At $10 to $15 billion valuations, financing these assets becomes an institutional opportunity."

"What used to be the tip of the iceberg — the buy-sell transaction — has exploded into consortium building, private equity investment, and complex hybrid capital structures."

Q: What is the competitive advantage of a firm having real sports law expertise?

A: "There's an intricate set of league rules that makes these transactions unapproachable for firms without real sports law expertise.

"That combination of financial sophistication and sports-specific knowledge creates a meaningful barrier to entry (for your practice group)."

Q: Were you initially skeptical about the culture fit?

A: "I was. I had been at Hogan for more than 15 years. After my first interview, I told Mark Jaffe that he made the decision difficult because I expected not to like Latham. But everyone was incredible. It turned into a love affair very quickly."

Q: Can you comment on the anticipated reach of this merger, of sorts?

A: "Now we're able to pitch and serve firms like Arctos, CVC, Carlyle, HPS, and Goldman Sachs — clients that we simply couldn't fully support before.

"We're no longer just sitting at the top of the iceberg—we now have access to the entire transaction."

Q: Can you comment on the strategic meaning of the move?

A: "We saw the market moving upstream. We knew we were swimming against the current, and we needed to get on the right ship. Latham is the best ship out there."

Q: What is the plan in terms of bringing over team members, or associates, to the firm?

A: "For the most part, we're keeping teams together where associates already have deep institutional knowledge and strong client relationships. Some associates will come over, some won't. Latham is handling that process, but we expect to make preliminary offers soon.

"However, anyone who joins us will be fully integrated into Latham—they're not just going to be 'our team.'"

Next up for Hogan

The Hogan Lovells sports law practice will continue on under the able leadership of veteran sports lawyer Craig Umbaugh.

Kate Orr, spokesperson for the firm told us: "We are definitely going to really miss Matt and Russell, but everyone is optimistic about the future. Our sports practice has about 20 partners, so will definitely keep going."

What Latham is Saying

"Matt and Russell are extremely talented lawyers whose impressive track record speaks to their market reputation. We're delighted to have them join our team," said Marc Jaffe, Managing Partner of Latham's New York office. "They have been leaders in the sports sector for some time now, and their incredibly deep connections, combined with their wide-ranging experience and competitive drive, deliver exceptional results for clients. They will bring all of this and more to our team, and it's exciting to think about the synergies between their practice and ours, as well as the opportunities to build and solidify our position at the center of the global sports industry."

"Our sports practice has been one of the firm's fastest-growing areas for several years, with significant opportunities to expand further. Matt and Russell are key to our strategic growth plans in New York, across the US, and globally," said Adam Sullins, Global Co-Chair of Latham's Entertainment, Sports & Media Practice. "We are excited to have them on our team. They share our ambition to be the leading firm in sports, and their addition to our platform will help us unlock tremendous opportunities."

Paul Kukish, Global Co-Chair of Latham's M&A and Private Equity Practice, added, "Matt and Russell's depth of knowledge and prominence in the sports industry will significantly enhance our capabilities and further bolster our reputation in the industry. They are standout partners with experience few can match, and they will be outstanding additions to our team at a time when we expect this asset class to continue attracting significant private capital and institutional investment."

Eisler received his JD from Benjamin N. Cardozo School of Law and BA from Rutgers. Hedman received his JD from Harvard Law School and BA from the University of Colorado.

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Ortega v. NCAA: New Antitrust Lawsuit Challenges NCAA's Five-Year Eligibility Clock

By Anna Arkadianou

The newly filed case of *Ortega v. National Collegiate Athletic Association (NCAA)* presents a challenge to an existing NCAA eligibility rule within a college sports environment that increasingly recognizes athletes—and the tethered universities—as commercially driven participants in economic markets. Filed December 15, 2025 in the United States District Court for the Southern District of Iowa, the lawsuit

was brought by Reineri Andreu Ortega, a prospective Division I wrestler, and probes whether the NCAA's Division I "Five-Year Eligibility Clock" is consistent with federal antitrust law when applied to athletes whose post–high school education occurred outside the NCAA system. Although the rule predates recent changes in college athletics, the legal framework governing its application has evolved following *NCAA v. Alston* and subsequent developments related to athlete compensation.[1]

At issue is not whether the NCAA may impose limits on athletic eligibility, but whether the method used to calculate eligibility—specifically, starting the eligibility clock before enrollment at an NCAA institution—constitutes an unreasonable restraint of trade under Section 1 of the Sherman Act.[2] In the post–name, image, and likeness (NIL) era, eligibility rules now directly determine access to lawful compensation, increasing their economic significance and legal exposure.

Factual Background

Plaintiff Reineri Andreu Ortega is a Cuban-born wrestler who completed the equivalent of high school in Cuba in 2016.[3] From 2016 to 2019, Ortega enrolled in a post–high school academic institution in Cuba that did not sponsor intercollegiate athletics and was not a member institution of the NCAA. For purposes of applying its eligibility rules, however, the NCAA classified the institution as a "collegiate institution" within the meaning of NCAA Division I Bylaw 12.01.1, based on Ortega's full-time enrollment in postsecondary coursework.[4] During this period, Ortega did not engage in intercollegiate athletic participation. Separately, Ortega trained and competed as a member of the Cuban National Wrestling Team, an activity unrelated to and independent from his academic enrollment.[5]

According to the complaint, Ortega entered the United States as a refugee in December 2022 and enrolled at Iowa State University in the spring of 2023.[6] He joined the university's Division I wrestling program but did not compete during his first season. When Ortega later sought eligibility to compete, the NCAA determined that his five-year eligibility period had expired. Applying Division I Bylaw 12.6, the NCAA concluded that Ortega's eligibility clock began in 2016—when he first enrolled in post–high school coursework in Cuba—rather than in 2023, when he enrolled at Iowa State.[7] After exhausting internal NCAA appeals, Ortega filed suit seeking declaratory and injunctive relief.[8]

The Five-Year Eligibility Clock

Under NCAA Division I Bylaw 12.6, an athlete is permitted five calendar years in which to complete four seasons of intercollegiate competition.[9] The eligibility clock begins when the athlete first registers as a full-time student at any "collegiate institution," regardless of NCAA affiliation or athletic participation.[10] The NCAA has historically justified this rule as a means of promoting academic progress and timely graduation.[11] However, the rule operates independently of athletic participation and applies uniformly to students attending institutions without athletics programs. In Ortega's case, this framework resulted in years of non-athletic academic enrollment abroad counting against Division I eligibility, effectively exhausting his opportunity to compete before he entered the NCAA system.

Antitrust Framework

Ortega's complaint alleges that the NCAA's enforcement of the Five-Year Eligibility Clock violates Section 1 of the Sherman Act, which prohibits unreasonable restraints of trade. NCAA bylaws are characterized in the lawsuit as horizontal agreements among competing member institutions that collectively regulate access to the Division I athletic labor market.[12] The relevant market is defined as the national market for Division I athletes, where institutions compete for athletic services, and athletes compete for roster positions

1 *NCAA v. Alston*, 594 U.S. 69 (2021).

2 Sherman Act § 1, 15 U.S.C. § 1.

3 Complaint ¶ 20, *Ortega v. NCAA*, No. 4:25-cv-00496, U.S. District Court for the Southern District of Iowa (Dec. 15, 2025).

4 Id. ¶¶ 20, 40; NCAA Division I Bylaw 12.01.1.

5 Complaint ¶ 41.

6 Id. ¶¶ 20, 42.

7 Id. ¶¶ 14, 43; NCAA Division I Bylaw 12.6.

8 Id. ¶¶ 15–16.

9 NCAA Division I Manual § 12.6 (2025–26).

10 Id. § 12.6.1.

11 NCAA Division I Manual § 12.6.2 (2025–26).

12 Complaint ¶¶ 22–25.

and associated economic benefits.[13] Courts have increasingly recognized that these relationships are commercial in nature and subject to antitrust scrutiny, particularly in the post-*Alston* landscape, as reflected in recent appellate authority such as *Elad v. NCAA*.[14]

The Post-*Alston* Context

In *NCAA v. Alston*, the Supreme Court unanimously rejected the NCAA's claim to special antitrust deference and confirmed that NCAA regulations are subject to ordinary rule-of-reason analysis. The Court emphasized that the NCAA is not immune from antitrust law and that restraints affecting athlete compensation must be justified by concrete procompetitive benefits.

Following *Alston*, the NCAA lifted its restrictions on NIL compensation in July 2021, and subsequent litigation culminated in the *House v. NCAA* settlement, which permits direct revenue sharing between institutions and athletes. In this environment, eligibility rules now determine access not only to competition, but also to lawful compensation.[15] Ortega argues that starting the eligibility clock before NCAA enrollment restricts participation in this compensation market without advancing competition or consumer welfare.

Implications for Other Sports, Specifically Tennis

Although *Ortega v. NCAA* arises from wrestling, the legal questions it presents are not confined to that sport. If courts limit the NCAA's ability to start the Five-Year Eligibility Clock before enrollment at an NCAA institution, the effects could extend to other Olympic and non-revenue sports, including tennis. Tennis shares several structural characteristics with wrestling, including early specialization, international development pathways, and limited professional earning opportunities for most athletes. Many elite tennis players pursue post–high school training or education abroad before enrolling in U.S. colleges. Under current NCAA rules, time spent enrolled in academic institutions outside the NCAA, regardless of competition, may reduce NCAA eligibility, potentially compressing collegiate careers.

As NIL compensation and revenue-sharing opportunities become increasingly tied to NCAA participation, eligibility rules may carry heightened economic consequences for tennis athletes whose development pathways differ from the traditional U.S. high school–to–college model. A judicial reassessment of how the eligibility clock is triggered could expand access to NCAA competition for international and nontraditional tennis players, while also reshaping recruiting strategies and roster management across programs.

More broadly, *Ortega v. NCAA* illustrates how eligibility rules, once viewed primarily as academic or administrative measures, now function within a commercialized athletic system. Sports such as tennis, which rely heavily on global talent pipelines and offer limited post-collegiate professional alternatives, may be particularly affected by judicial evaluation of NCAA eligibility enforcement.

Conclusion

Ortega v. NCAA is the latest case to highlight the growing tension between traditional NCAA eligibility rules and modern antitrust principles governing labor markets. By focusing on how eligibility limits are applied rather than their existence, the case reflects the continued judicial reassessment of NCAA governance in a post-NIL era. As courts apply Sherman Act scrutiny to eligibility rules alongside compensation restrictions, *Ortega v. National Collegiate Athletic Association* represents a significant test of whether pre-NIL regulatory frameworks can endure in today's college sports economy.

Anna Arkadianou is a graduate student at Florida State University.

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From the Locked Medicine Cabinet to Locker Rooms: The Sports Playbook for Medication Compliance; Assessing the Risks and Realities

By Kate Hardey, Jason Gorczynski, Daniel Render, of Katten

Healthcare and medication compliance in the professional and collegiate sports industry sectors involves a myriad of federal and state requirements for physicians, clinical staff, and athletic trainers, all of whom play a crucial role in ensuring player health

13 Id. ¶¶ 48–55.

14 *Elad v. NCAA*, No. 25-1870, 14-16. (3d Cir. Nov. 25, 2025).

15 Settlement Agreement, *House v. NCAA*, No. 4:20-cv-03919-CW (N.D. Cal. July 26, 2024).

both at home and during team travel. Events such as the tragic July 2019 death of professional baseball pitcher Tyler Skaggs highlight the significant risks if medication access and medication compliance oversight break down during team travel.

The allegations in the Tyler Skaggs civil wrongful death lawsuit (the "Skaggs Case")[16] focus on how he was allegedly provided with an oxycodone pill laced with fentanyl for pain management during an away game. These allegations go to the heart of sports medicine compliance, but it's not just about the use of medication for pain; it captures longstanding compliance concerns related to who is authorized to handle player medications, how those medications are stored and tracked, and how medication access is controlled, especially on the road.

Athletic departments, team physicians, athletic trainers, and sports facility administrators face a rapidly evolving risk landscape at the intersection of healthcare delivery, compliant medication handling, and athlete privacy. Medication compliance requirements encompass federal law, a patchwork of state scope-of-practice rules, federal and state prescription drug compliance regulations, and league or institutional policies.

This article highlights key legal compliance considerations and practical steps to tighten medication compliance governance for professional and collegiate athletic programs.

Federal Compliance: Practitioner License Portability and Medication Compliance

Prescription and over-the-counter ("OTC") medication compliance applies everywhere—training rooms, buses, hotels, and at home or away venues, whether within the United States or internationally. The Sports Medicine Licensure Clarity Act[17] enables licensed team physicians, clinicians, and athletic trainers to practice under their home state license when traveling, but it does not explicitly authorize them to carry or dispense medication or controlled substances contrary to federal law, such as the Controlled Substances Act,[18] or host-state law.

The Skaggs Case asserts that a nonclinical team employee distributed oxycodone that was unknowingly laced with fentanyl in a team hotel room during an away trip. This incident exposes critical gaps in medication oversight. It underscores that the portability of medical or clinical practice licensure (including supervision of nonclinical employees) does not equate to the portability of medication administration and pharmacy compliance. All professional and collegiate teams must ensure medication compliance, including in any "travel kit," "doctor bag," or "stat kit" that travels with the team. To mitigate the risks of traveling with medications, many organizations have significant limitations or coordinate closely with host-site medical partners or local pharmacies.[19]

State Law: Scope of Practice Limitations and Home Facility Protocols

State law scope-of-practice rules tightly limit the type of licensed professional that can "administer" or "dispense" medications and under what kind of supervision or delegation.[20] Even among neighboring states, there are meaningful differences in:

16 *See Skaggs v. Angels Baseball LP,* No. 21STCV24121 (Cal. Super. Ct. L.A. Cnty. filed June 29, 2021). As of November 20, 2025, trial proceedings are ongoing.

17 *See* 15 U.S.C. § 8601. Several states have enacted similar state laws. For example, Florida laws explicitly exempt out-of-state professionals from regulations if the professional (i) holds an active license and practices in the home state and (ii) is employed or designated in that professional capacity by a sports entity visiting the state for a specific sporting event. *See* Fla. Stat. Ann. § 455.2185 (West). Texas law exempts sports team physicians from state licensure laws and allows such physicians to "engage in practice of medicine in the state" if the physician (i) is employed or designated as a team physician by a sports team visiting the state for an event, (ii) is licensed to practice medicine in the team's home state, and (iii) limits the practice of medicine in the state to "treating [members, coaches and staff of the team], during the period on the date the team arrives in the state for the event and ending on the date the team leaves [the] state." *See* Tex. Occ. Code Ann. § 151.0521 (West).

18 *See* 21 U.S.C. § 801, et. seq.

19 For example, the 2020 NFL Collective Bargaining Agreement ("NFL CBA"), which is the governing document between the National Football League and the NFL Players Association, requires each club to maintain an emergency action plan for medical emergencies, which includes coordinating with visiting teams. The plan must list the visiting team's medical liaison physician ("VTML") in the host city to help coordinate medical care and prescriptions if necessary for visiting players. *See* NFL CBA Article 30, Section 4. The NFL CBA requires club-level monitoring of prescriptions and pain management but does not mandate any travel-specific requirements. *See* NFL CBA Article 39, Section 20. The NCAA Sports Medicine Handbook similarly addresses requirements to (i) comply with federal and state laws governing prescription and over-the-counter medications, (ii) properly store and inventory medications, and (iii) ensure compliance with federal and state law when traveling with medications. *See* NCAA Sports Medicine Handbook, Guideline 1H (twenty-sixth edition).

20 In general, medication "administration" means a single dose or

- A physician's ability to delegate tasks to athletic trainers, nurse practitioners, or other clinical staff, including whether and how standing orders may authorize medication administration.
- Athletic trainer authority to administer any medications with or without supervision by other healthcare practitioners (for example, therapeutic modalities, splinting/bracing, oxygen, epinephrine, naloxone, and topical anesthetics).

Beyond the scope-of-practice rules and delegation requirements, each state also maintains specific laws governing prescribing and medication management that can significantly impact day-to-day operations at the home venue. For example, these rules may prohibit athletic trainers or other nonphysician staff from accessing or administering any medication to team players or may require specific supervision requirements, such as having a physician, physician assistant, or nurse practitioner on site to directly supervise athletic trainers who may assist with medication handling.

Further, state laws may dictate requirements for the storage of both prescription and OTC medications, including how they are labeled, logged, and secured, as well as which personnel are authorized to access them. Professional and college athletic programs should verify both home- and host-state requirements before stocking or transporting any medication inventory and reflect those requirements in written policies, access controls, and staff training.

Travel Medication: Rules for the Road

Team travel amplifies the risk of medication noncompliance because hotels, buses, and planes can quickly become de facto treatment sites. Professional and collegiate teams should review policies and procedures to ensure that: (1) any medication that travels with the team is permitted by federal law, such as the Controlled Substances Act,[21] which limits transporting these medications across state lines for administration or distribution, and state laws, which do not have the same cross-state travel restrictions as controlled substances, but may have restrictions related to prescribing and dispensing within the state;[22] (2) all medications are properly logged, and secured for transport; (3) any medication administration is provided or supervised by the appropriate clinical provider (e.g., licensed physicians, physician assistants, or nurse practitioners) and pre- and post-trip inventories are appropriately tracked and documented; and (4) athletes maintain responsibility for personal medications separate from team stock.

To ensure a comprehensive culture of compliance, teams should provide training for all providers and staff who interact with players, including physician assistants, nurse practitioners, and athletic trainers, as well as travel coordinators and coaching support staff. Training should consist of broad topic areas, such as (1) Drug Enforcement Administration ("DEA") compliance, (2) secure medication storage and transportation protocols, (3) clinical and nonclinical provider authority to access or distribute medication, (4) medication inventory tracking, (5) understanding and recognizing warning signs of potential misuse of medication, and (6) reporting procedures when a concern arises.

The risk of medication noncompliance cannot be overstated. These risks include:

- Federal scrutiny by agencies, such as the DEA, for improper storage, recordkeeping, or medication dispensing.
- Investigations by state licensing boards for practicing beyond the authorized licensure scope of practice, or unauthorized delegation, which could result in disciplinary action against the physicians, clinical providers, or athletic trainers.
- Institutional liability and significant reputational harm.

Best Practices for Home and Travel Medication Compliance

limited supply (e.g., 72 hours) at the direction, or in the presence, of a practitioner licensed to administer medication. Medication "dispensing" involves the preparing, packaging, labeling, and delivery of medication pursuant to a prescription for a specified period (e.g., a 10-day course of antibiotics).

21 The Controlled Substances Act does not recognize reciprocity for carrying controlled substances across state lines. House bill H.R. 7259—Medical Controlled Substances Transportation Act of 2022 was introduced in March 2002 by Rep. Pete Sessions (R-TX-17) to amend the Controlled Substances Act to allow practitioners to register to transport controlled substances in schedules II, III, IV and V in a state where the practitioner does not hold a DEA Registration for the purpose of administering controlled substances at locations other than principal places of business for a period of not more than 72 consecutive hours.

22 *See, e.g.*, *Supra*, FN 1, many states have adopted reciprocity laws for providers in the state for specific sporting events that may authorize time-limited prescribing during team travel.

Jason Gorczynski

Kate Hardey

Daniel Render

Ensuring medication compliance is crucial for safeguarding athlete health, minimizing legal risks, and maintaining efficiency both at home facilities and when on the road. Key best practices include:

Policies and Procedures: Formalize policies and procedures for all home facility medication practices, including compliance with all storage, labeling, counseling, and inventory requirements.

Medication Access Control: Ensure there is (1) appropriate restricted access to medication cabinets and (2) an accountable clinical provider in charge of inventory, reconciling stock on a fixed cadence, and ensuring all medication and prescribing is documented appropriately.

Implement Clear Travel Protocols: Review all medications included in all travel kits and stat bags, ensure there is a designated process for medication chain of custody and control during travel, and educate and train athletes to comply with personal medication during team travel.

The tragic circumstances alleged in the Skaggs Case highlight a core reality in sports medicine: medication compliance can significantly falter in the gaps created by challenging travel schedules, late flights, hotel rooms, and when nonclinical staff have unsupervised or uncontrolled access to player medications.

It is essential to continually review and pressure-test team medication policies against real-world scenarios in the home facility and in travel situations. Compliance reviews, such as tabletop drills and post-travel compliance bring-downs can be a helpful process to ensure teams evaluate policies and processes to maintain compliance and minimize exposure for physicians, trainers, and players. Tabletop drills involve creating discussion-based travel scenarios for physicians, trainers, and staff to walk through various hypothetical scenarios and potential compliance gaps. Post-travel compliance bring-downs involve debriefing sessions or immediate post-trip audits to assess compliance, lessons learned for future compliance and any unexpected scenarios that come up during the trip such as instances where a player develops a sudden flare-up of an ongoing chronic condition during team travel, but the player forgot to bring their personal medications for the condition.

Lessons from past tragedies underscore the critical need to skillfully navigate the diverse federal and state regulations that shape the intricacies of medication compliance in professional and collegiate sports, while cultivating a comprehensive, top-down commitment to athlete well-being and safety both at home team facilities and on the road.

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NFL Throws Hail Mary to Supreme Court on Commissioner Arbitral Authority

By Christopher R. Deubert, Senior Writer

The NFL recently filed a petition with the Supreme Court seeking review of an August 2025 decision by the Second Circuit Court of Appeals that affirmed a lower court's ruling that certain of the employment discrimination claims brought by NFL coach Brian Flores should not be subject to arbitration before NFL Commissioner Roger Goodell. But the Second Circuit went even further, holding that the NFL's arbitration process for non-player employees was fundamentally unfair and therefore not entitled to the protections of the Federal Arbitration Act (FAA). The league is asking the Supreme Court to now reinstate courts' long-standing deference to sports leagues' dispute resolution processes.

The Flores case

In February 2022, Flores, the current Minnesota Vikings defensive coordinator, filed a racial discrimination lawsuit after he was terminated as the head coach of the Miami Dolphins and was not hired for the same

position with the New York Giants, Denver Broncos, or Houston Texans. Flores seeks to represent a class of Black coaches and executives he contends were similarly discriminated against and has been joined in his action by two other Black coaches, Steve Wilks and Ray Horton. Their inclusion brought in claims against their former employers, the Arizona Cardinals and Tennessee Titans.

In March 2023, the Southern District of New York issued a decision largely granting the NFL's motion to compel the action to arbitration. The court determined that the coaches' claims related to their respective employment with the Dolphins, Cardinals, and Titans must be arbitrated pursuant to the arbitration provisions in the coaches' contracts with those clubs. The court also ruled that the arbitration agreements cover the coaches' related claims against the NFL.

The court rejected Flores' claims that the arbitration provisions in his contract were unenforceable because they provided Goodell the authority to hear the dispute pursuant to the NFL Constitution. Instead, the court reasoned, if Goodell administered the arbitration in a biased manner, then Flores could come into court and request the arbitration decision be vacated. But the court would not prejudge the fairness of the proceedings agreed to by Flores in his contract.

On the other hand, the court ruled that the arbitration provisions do not cover the claims against the Broncos, Giants, and Texans and related claims against the NFL because the coaches had no contracts with those clubs. The NFL appealed this aspect of the Court's ruling.

In its August 2025 decision, the Second Circuit generally rejected the NFL's arbitration process in its entirety as applied to Flores. Specifically, while recognizing that courts generally defer to arbitration, because Flores had to submit his claims against the NFL to Goodell while he was the NFL's principal executive, the NFL's arbitration process "fails to bear even a passing resemblance to traditional arbitral practice," "is unworthy even of the name of arbitration," and therefore is deserving of no protection under the FAA.

Commissioner authority

The Second Circuit's decision seems at odds with a century of jurisprudence in which courts were deferential to the Commissioners' role as guardians of their leagues. The genesis of the modern-day Commissioner and the role's authority was MLB's appointment of Judge Kennesaw Mountain Landis as the sport's first Commissioner in 1920 after the "Black Sox" scandal in which several members of the Chicago White Sox were accused of intentionally losing the 1919 World Series in exchange for bribes from mobsters. Landis banned eight players for life.

For many years thereafter, the broad scope of a league's Commissioner authority has been challenged on numerous occasions across the NFL, MLB, and more recently the NBA. The leagues have historically prevailed, with the courts enforcing the terms of arbitration provisions designating the Commissioner as the default adjudicator of a wide range of intra-league disputes and also respecting the unique knowledge of Commissioners in handling such disputes.

Yet, the Second Circuit's decision in *Flores* came only days after the Nevada Supreme Court reached a similar conclusion. In a case brought by former Las Vegas Raiders coach Jon Gruden against the NFL and Goodell, and after conflicting decisions along the way, the full seven-judge panel of the Nevada Supreme Court ruled by a 5-2 majority that requiring Gruden to arbitrate his claims before Goodell would be unconscionable because the process "would allow Goodell, as Commissioner, to arbitrate disputes about his own conduct."

SCOTUS to the rescue?

In a prior article, I proposed ways in which the NFL could amend its arbitration processes to try to substantially retain the historical role of the Commissioner while also adapting to the requirements many states and courts impose on arbitration processes today.

Nevertheless, the NFL has instead chosen to fight on in defense of its historical practices, not just for itself but also for the other major sports leagues. As noted in the NFL's petition, MLB, the NBA, and the NHL all have similar arbitration provisions and are all based in New York, where the Second Circuit's decision controls.

At the same time, the NFL's narrow approach may not appeal to the Supreme Court. The specific question the NFL asks the Supreme Court to address is:

> *Whether an arbitration agreement governing disputes in a professional sports league is categorically unenforceable under the Federal*

Arbitration Act because it designates the league commissioner as the default arbitrator and permits the commissioner to develop arbitral procedures.

Under the Supreme Court's Rules, when considering whether to grant a petition, the Court is primarily concerned with whether the decision being appealed from raises important questions of federal law or presents a conflict among the Circuit Courts of Appeal. The NFL argues that the Second Circuit's decision is in conflict with Eighth Circuit decisions upholding the Commissioner's arbitral authority. However, those cases concerned arbitration proceedings with players pursuant to a collective bargaining agreement. The Second Circuit in *Flores* specifically stated that its decision did not affect its prior decision in a case involving Tom Brady upholding Commissioner authority in player-related matters.

The NFL is on slightly better ground arguing that the Second Circuit decision conflicts with a 1978 Seventh Circuit decision affirming then-MLB Commissioner Bowie Kuhn's authority to disallow certain trades on the grounds that they were not in the best interests of baseball. Nevertheless, that case concerned two teams of equal bargaining power who were also parties to MLB's governing agreements – not an employee as in *Flores*.

Consequently, the NFL seeks to expand the concern about the Second Circuit's decision by arguing that it "threatens to disrupt [a] central principle of the Arbitration Act" – that courts respect the terms of the parties' agreement. In the NFL's eyes, if the Second Circuit's "decision is allowed to stand, judges will… find arbitration agreements of all kinds inapplicable based on an amorphous and standardless invocation of procedural inadequacy." Such a "novel doctrine," the NFL contends, "threatens to undermine arbitration agreements of all varieties."

While the NFL's petition may seem too industry-specific to warrant Supreme Court review, the Court has previously taken cases whose applicability was largely limited to professional sports. In 1996, in Brown v. Pro Football, Inc., the Supreme Court analyzed the elements and scope of the non-statutory labor exemption related to labor negotiations between the NFL and its players union. Then, in the 2010 case of American Needle, Inc. v. NFL, the Court examined the appropriate antitrust treatment of the NFL's joint intellectual property pursuits. The calendar perhaps seems ripe for another review of NFL practices by the highest court.

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USTA Sues the City Over Lease Provision in Contract

By Professor Robert J Romano, JD, LLM, St. John's University, Senior Writer

Metropolitan Park is a comprehensive redevelopment proposal that would replace the roughly 50-acre surface parking lot around Citi Field, land technically owned by New York City but leased in part to USTA and in part to the New York Mets, with a multi-use entertainment complex, anchored by a full-scale gambling casino. The proposal includes not only the casino, but a hotel, restaurants, and public green space as well.

In early 2025, despite the site's technical designation as parkland, the proposal cleared a major hurdle when the state Senate passed a "parkland alienation" bill, authorizing conversion of the parking lot for private commercial use if the project wins a gaming license.[23] Subsequently, the city's zoning text was amended, and the city council approved the zoning modifications by a landslide, signaling strong institutional support.[24] At the same time, New York State Gaming Commission awarded three downstate casino licenses, with *Metropolitan Park* being among one of the final candidates.[25] For many observers therefore, the *Metropolitan Park* proposal was looking like the frontrunner because it had political backing, regulatory clearance, and an ambitious vision for transforming underused parking lots into a major entertainment hub.

23 https://ny1.com/nyc/all-boroughs/news/2025/05/28/citi-field-casino-proposal-flushing-land-use-bill?utm_source=chatgpt.com

24 https://abc7ny.com/post/citi-field-casino-new-sports-entertainment-park-queens-gets-approval-york-city-council/16028433/?utm_source=chatgpt.com

25 https://news.worldcasinodirectory.com/ny-casino-board-advances-toward-final-picks-with-site-visits-and-disputes-120602?utm_source=chatgpt.com

The project hit a roadblock, however, when the United States Tennis Association (USTA) filed a lawsuit against the City of New York in the Manhattan Supreme Court in November 2025.[26] The core of the dispute is a lease provision under which USTA, which operates the adjacent tennis facilities at the USTA Billie Jean King National Tennis Center, is guaranteed first access to the Citi Field parking lot during the US Open.[27]

Per its complaint, the USTA stressed that its rights are essential to ensuring the smooth conduct of the US Open, a global sporting event that draws large crowds and relies on access to parking and associated infrastructure. The lawsuit claims that any "deed, lease or license" granting third-party rights to the land "are subject and subordinate in all respects to the rights of the USTA National Tennis Center."[28]

On **November 14, 2025**, Manhattan Supreme Court Justice **Nancy Bannon** granted a **Temporary Restraining Order (TRO)** prohibiting the City from executing any lease or agreement with *Metropolitan Park* that did not explicitly comply with the superiority clause and the USTA's rights under its existing lease.[29] The TRO was significant because it temporarily **halted the city's plan to finalize the lease agreement** with *Metropolitan Park*, potentially jeopardizing the project's timeline in the midst of the state's casino licensing process.

Despite the seriousness of the USTA's contractual claims, its lawsuit has not derailed the *Metropolitan Park* proposal because, first of all, it focused on specific lease rights, such as parking control and operational impacts during the U.S. Open, rather than seeking a declaration that any casino or entertainment complex was categorically barred on the Citi Field-area lands. As a result, following Judge Bannon's order, the city and *Metropolitan Park* reportedly revised their lease agreement to include the superiority clause demanded by the USTA.[30] Additionally, public statements from both city and *Metropolitan Park* officials claimed the updated agreement now "complies with the court order" and "reflects the USTA's rights."[31]

Secondly, despite the litigation, state casino licensing and local land-use processes have continued to advance, balancing the USTA's claims against the potential economic benefits of the proposal that included jobs, tax revenue, and infrastructure improvements. It appears as though as long as team demonstrated willingness to address the USTA's operational needs, through revised agreements, design changes, or assurances about U.S. Open priority, the project remained viable within the competitive downstate licensing field.[32] Finally, disputes involving anchor tenants and major developments often resolve through settlement rather than full trial judgment, especially when both sides can secure meaningful protections. For the USTA, preserving reliable parking, security, and access during the Open is paramount; for the developer, clarifying the rules and constraints surrounding those weeks can be an acceptable cost of doing business in exchange for a transformative, multi-billion-dollar project.

Most importantly, however, what USTA's case against the City of New York illustrates is the importance of timing and litigation strategy in complex public-private projects. A well-timed lawsuit can slow a project enough to gain leverage without necessarily ending it, while a developer's ability to keep parallel processes moving can prevent a temporary stall from becoming a de facto denial. As of now, the USTA's lawsuit had briefly stalled but not derailed Steve Cohen's ambitious Queens casino vision, leaving the ultimate fate of *Metropolitan Park* to be decided in the intertwined arenas of courtrooms, regulatory hearings, and high-stakes settlement talks.

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27 https://queenseagle.com/all/2025/11/14/judge-freezes-citys-deal-with-citi-field-casino-bidders-amid-usta-suit

28 USTA National Tennis Center Incorporated v The City of New York, Supreme Court of the State of New York, County of New York, Index No. 659682/2025

29 https://queenseagle.com/all/2025/11/14/judge-freezes-citys-deal-with-citi-field-casino-bidders-amid-usta-suit

30 https://queenseagle.com/all/2025/11/17/city-agrees-to-citi-field-casino-lease-after-legal-challenge-threatened-proposal?utm_source=chatgpt.com

31 Id.

32 Articles/2023/11/07/steve-cohen-new-york-mets-metropolitan-park-hard-rock-casino/

Ohio's High School NIL Rule Change Reflects a Broader Trend in Changes to High School Athlete Compensation

By Janine Anthony Bowen and Kyle M. Kennedy, of Baker

Key Takeaways

- Ohio joins most states in allowing high school athletes to earn NIL income, following a lawsuit and an OHSAA vote (447–121 in favor).
- High school NIL rules include strict limitations—no school association in endorsements, no pay-for-play, no school/booster involvement, and bans on certain product categories.
- Trend mirrors college NIL changes, but high school policies focus on protecting students and personal branding, while college rules aim to share revenue and compensate athletic contributions.

Ohio State High School Athletic Association Ruling

On November 24, the Ohio High School Athletic Association (OHSAA) announced a rule change allowing high school student-athletes in Ohio to make money from their name, image and likeness (NIL). This decision followed an emergency referendum in which OHSAA's 815 member schools voted 447-121 in favor of allowing NIL deals, with 247 schools abstaining. The vote marked a significant shift in Ohio's approach to amateur athletics and aligned the state with the growing national trend toward NIL rights for high school athletes.

The referendum came after legal pressure from a lawsuit brought by Jasmine Brown on behalf of her son, Jamier Brown, a top high school wide receiver prospect in Ohio, claiming that Jamier had lost more than $100,000 in potential NIL deals because of OHSAA's ban. The Browns argued the restriction unlawfully limited athletes' ability to participate in a legitimate marketplace for their NIL rights. On October 20, the Court of Common Pleas in Franklin County, Ohio, issued a temporary restraining order (TRO) enjoining OHSAA from enforcing its constitutional and bylaw provisions that prohibited NIL deals. With the TRO and a subsequent vote, Ohio now joins the majority of states in allowing some form of NIL activity for high school athletes.

Refresher on House Settlement

Debates about NIL issues for athletes continue to be a hot topic after the court approved the House settlement on June 6. The House settlement refers to the resolution of the antitrust lawsuit House v. NCAA, where plaintiffs alleged that the National College Athletic Association (NCAA) and its member schools unlawfully restricted student-athletes from profiting from their athletic performance and individual brand value. As part of the settlement, schools can begin sharing up to 22 percent of qualifying athletics revenue with student-athletes, with a cap of $20.5 million in Year 1. This revenue-sharing model represents a fundamental shift in college sports economics. In addition to revenue sharing, the settlement reaffirmed student-athletes' ability to earn compensation for NIL activities, subject to certain restrictions.

State NIL Rules

States enforce NIL rules for high school athletes through legislation, amendments to athletic association rulebooks or both. While most states now permit NIL activities, a handful – including Alabama, Hawaii, Indiana, Kansas, Michigan, Missouri and Wyoming – still enforce prohibitions. These states generally maintain strict definitions of amateurism that bar athletes from accepting NIL money. For example, Alabama prohibits "accepting remuneration" for sports activities and limits awards to $250 in value, excluding trophies, medals and championship rings. Similarly, Kansas allows payment for teaching athletic skills but does not permit NIL deals. Missouri provides a narrow exception, allowing athletes to accept merchandise worth up to $250 per month under Rule 3.6.5(d)(2), though NIL activities are otherwise prohibited.

A few states limit NIL activities to imminently graduating athletes. Mississippi permits NIL agreements for students who have signed a National Letter of Intent (NLI). Texas allows NIL deals for students age 17 or older who have exhausted their remaining high school eligibility. Arkansas provides similar allowances for students who have signed an NLI to attend an Arkansas state school.

Most states, however, have revised their definitions of amateurism so that high school athletes no longer lose their amateur status by accepting independent NIL offers. These high school athletes can earn compensation from NIL activities, with limited restrictions. NIL activities generally include commercial endorsements (e.g., on social media) by an individual high school athlete. Most states have simply revised their amateurism rules to create an exception for NIL activities. For example, in mid-2022, Minnesota approved an NIL policy for high school athletes to engage in NIL activities without losing their amateur status. These rule changes allowing NIL activities, including Minnesota's NIL policy, are subject to limitations that vary from state to state. Still, these rules all generally include the four common limitations discussed below.

Four Common Limitations in State NIL Rules

First, states typically prohibit high school athletes from being associated with their school in NIL endorsements. This means, for example, high school athletes cannot appear in team uniforms or otherwise be associated with their school or team in NIL promotions. This restriction is designed to prevent schools from compelling high school athletes to participate in NIL activities and emphasizes the separation between the brands of the school and of the student-athlete. It also protects the school's intellectual property rights. This would not prohibit a high school athlete from wearing a generic uniform with a color scheme similar to that of their school so long as the school's intellectual property rights are respected.

Second, states typically enforce a no pay-for-play policy. High school athletes cannot accept compensation conditioned on athletic performance or enrollment or continued enrollment at a particular school. This prohibits high school athletes from accepting NIL deals with a condition requiring them to stay at their current school. This safeguard is designed to protect high school athletes from coercive NIL arrangements with their schools or individual commercial sponsors. For instance, it prevents high school athletes from facing immense financial pressure during competitions because of performance-based NIL agreements.

Third, states prohibit NIL benefits provided to high school athletes by schools or their agents, including boosters. Some states phrase their rules to entirely prohibit the school or its agent from being involved in any high school athlete's NIL activities. Other states also prohibit high school athletes from engaging in NIL activities during team activities, including practice and competitions, or in school facilities. These rules prevent schools from using NIL as a recruiting tool and maintain a clear separation between a school's brand and the athlete's individual brand, like the prohibitions on school associations. And it prevents high school athletes from entering coercive deals with schools, just like the pay-for-play restrictions.

Finally, many states restrict NIL deals involving certain categories of products. For example, New Jersey prohibits NIL activities related to adult entertainment, alcohol, tobacco, cannabis, controlled substances, prescription drugs, gambling and firearms. These restrictions aim to protect student-athletes' reputations and uphold public policy by avoiding associations with highly regulated or controversial industries. These restrictions are distinct from others because of the focus on public policy rather than on separating schools from high school NIL activities.

Policy Differences Between High School and College NIL Rules

High school NIL regulations aim to safeguard high school athletes while also letting them earn money from their individual brand value. These rules prevent schools from treating high school athletes as commercial assets while enabling individual high school athletes to capitalize on their marketability. As a practical matter, high school NIL opportunities tend to benefit elite high school athletes in high-profile sports. In the future, high school athletes with significant social media followings will also likely benefit from these high school NIL rules.

College NIL rules, by contrast, seek to compensate college athletes for their athletic contributions within a multibillion-dollar industry. Under the House settlement, college athletes can receive a share of athletics revenue separate from NIL income, meaning college athletes without brand recognition can still receive payment for their athletic contributions. College athletes also earn NIL income through endorsements. NIL deals frequently influence recruiting decisions because high school athletes can receive college NIL offers before committing to a program.

Conclusion

The changes to high school NIL rules seem to be a direct response to the changes to college NIL rules, but the policy objectives behind high school and college rules remain distinct. High school frameworks prioritize student protection and personal branding, while college regulations focus on compensating athletes for their role in generating revenue.

Allowing NIL activities in high school, though restricted by the limitations discussed above, shows that public policy around high school athletes has evolved from simply maintaining their amateurism to both maintaining their amateurism and enabling their compensation. In light of the success of Jasmine Brown's lawsuit, the remaining states that prohibit high school NIL activities may likely either face similar challenges or implement similar rule changes.

The shift toward allowing high school athletes to accept NIL deals is a major change from the amateurism rules of the past but consistent with recent trends in the compensation of athletes at every level. Further developments in the NIL area will likely align with this trend, providing high school athletes more freedom to accept athletics-based compensation without sacrificing eligibility.

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Tennis Anti-Corruption: Quentin Folliot and International Tennis Integrity Agency

By John Wendt, Professor Emeritus, University of St. Thomas

Sports-betting misconduct and gambling related corruption scandals have been in the news recently. Major League Baseball Players were indicted and charged with fraud, conspiracy and bribery arising from an alleged scheme of rigging pitches.[33] Some have questions about the integrity of NBA games.[34] Turkish soccer is embroiled in a huge investigation with players, owners and even referees under investigation.[35]

Tennis has also been investigating similar activities. In 2008, in reaction to increased attention from the sports-betting community, tennis' governing bodies (ITF, ATP, WTA, the Grand Slam Board) established the Tennis Integrity Unit (TIU) to enforce their anti-corruption policies.[36] On January 1, 2021, tennis replaced the London-based TIU with the International Tennis Integrity Agency (ITIA) as an "independent body responsible for safeguarding the integrity of professional tennis".[37]

The two major prongs of the work of ITIA are anti-corruption and anti-doping. ITIA's vision is that tennis events are free from corruption and doping, and their mission is "Delivering impactful anti-doping and anti-corruption programmes to protect the integrity of our Members' events and those who participate in them. Our programmes are intelligence-led, innovative, collaborative and focus on prevention alongside detection."[38]

The heart of ITIA's first prong is the Tennis Anti-Corruption Program (TACP) designed "to maintain the integrity of our sport and protect against corruption and betting related offences".[39] TACP's purposes are to "(i) maintain the integrity of tennis, (ii) protect against any efforts to impact improperly the results of any match and (iii) establish a uniform rule and consistent scheme of enforcement and sanctions applicable to all professional tennis Events and to all Governing Bodies."[40]

To show how serious tennis is taking anti-corruption and sports betting you only need to look at the

33 Jeff Passen, *Guardians' Clase, Ortiz Indicted for Pitch Rigging*, ESPN.COM (Nov. 9, 2025), https://www.espn.com/mlb/story/_/id/46906636/guardians-emmanuel-clase-luis-ortiz-indicted-pitch-rigging.

34 Michael Sisak, *Miami Heat's Terry Rozier Asks Judge to Throw out Betting Charges*, KXAN AUSTIN (Dec. 24, 2025), https://www.kxan.com/sports-general/ap-miami-heats-terry-rozier-asks-judge-to-throw-out-betting-charges/.

35 Emma Smith, *Turkish Betting Scandal: "Big Decisions" and "Very Strict" Sanctions Needed, Says Galatasaray Assistant Boss*, BBC SPORT (Dec. 16, 2025), https://www.bbc.com/sport/football/articles/c709nyndrkwo.

36 ABC News, *Brief Explanation of the Tennis Integrity Unit*, ABC NEWS (Jan. 19, 2016), https://abcnews.go.com/Sports/explanation-tennis-integrity-unit/story?id=36375005.

37 Smith Hulsey & Busey, *Smith Hulsey & Busey Continues Work for New International Tennis Integrity Association (ITIA)*, (Feb. 17, 2021), https://www.smithhulsey.com/smith-hulsey-busey-continues-work-for-itia/.

38 The International Tennis Integrity Agency, *ITIA - About*, ITIA (Jan. 1, 2025), https://www.itia.tennis/about/.

39 The International Tennis Integrity Agency, *Tennis Anti-Corruption Program*, ITIA (Jan. 1, 2025), https://www.itia.tennis/anti-corruption/tacp/.

40 The International Tennis Integrity Agency, *ITIA - TACP*, ITIA (Jan. 1, 2025), https://www.itia.tennis/anti-corruption/tacp/.

recent case of French tennis player Quentin Folliot. Folliot is the sixth player to be sanctioned as a result of s sports betting and match-fixing investigation, following the cases of Jaimee Floyd-Angele, Paul Valsecchi, Luc Fomba, Lucas Bouquet and Enzo Rimoli.[41]

Regarding Folliot, on 20 and 21 October 20-21, 2025, a remote hearing was held before independent Anti-Corruption Hearing Officer (AHO) Amani Khalifa who found that Folliot (age 26) had breached the Tennis Anti-Corruption Program twenty-seven (27) times and was fined $70,000, ordered to repay more than $44,000 and suspended for 20 years![42] Given time served since Folliot was provisionally suspended on May 17, 2024, and provided he pays the fines and repayment obligations, Folliot's suspension will end on May 14, 2044 when he is 45 years old![43]

Folliot reached his highest world singles ranking of 488 in August 2022. He was originally charged with thirty (30) offenses relating to his conduct in professional tournaments between 2022 and 2024. Charges include manipulating the outcome of matches, disclosing inside information about matches, offering "financial inducements" to other players to influence match results, accepting payments in connection with alleged corrupt activities, conspiring with others to commit additional corrupt offenses, and failure to cooperate with ITIA's investigation.[44]

AHO Khalifa found that, "Match-fixing is a serious threat to tennis. Once admitted to or proven, match-fixing is a deliberate, intentional offense that threatens competition by eliminating the uncertainty which is the heart of professional tennis."[45] Khalifa found that, "In this matter, the AHO has found Mr. Folliot to have committed twenty-seven (27) separate breaches of the TACP between 2022 and 2024. The sheer volume and gravity of these offenses, which include contriving matches, corrupting fellow players, and obstructing the subsequent investigation, represent a profound assault on the integrity of the sport."[46] Khalifa noted that there were aggravating factors including Folliot's obstruction and interference of ITIA's investigation.[47]

Khalifa went on to find that Folliot's actions had a *"Significant, material impact on the reputation and/or integrity of the sport"*. Notably, "His wrongdoing was not confined to his own matches, he acted as a vector for a wider criminal syndicate, actively recruiting other players and attempting to embed corruption more deeply into the professional tours. This systemic nature of his offending causes damage that is far more significant than that of a player who only fixes their own matches. In this respect, Mr. Folliot's conduct established him as a key figure for contriving matches and corrupting other players at this level of the sport, representing a grave threat to its integrity."[48]

During his twenty-year period of ineligibility, Folliot is prohibited from competing, coaching or attending any tennis event authorized by the members of the ITIA. This includes any and all events sanctioned by ATP, ITF, WTA, Tennis Australia, Fédération Française de Tennis, Wimbledon and USTA or any national association.[49] That is a steep price to pay.

The ITIA in their Strategy statement states that prevention is at the heart of their work and that education and engagement are just as important as investigations and sanctions.[50] As they state in the Forward to their Strategy ITIA, "We believe that the vast majority of tennis matches played across member events, and the players we all watch and enjoy, are true and honest. This does not mean we are naïve to the threats posed by those who may seek to manipulate matches, or gain advantage through breaching the antidoping rules."[51]

ITIA Director of Intelligence Nick Iffe stressed that the ITIA wants to make sure that young athletes

41 Le Monde, *French tennis player Quentin Folliot receives 20-year ban for match-fixing*, Le Monde, Dec. 12, 2025, https://www.lemonde.fr/en/sports/article/2025/12/12/french-tennis-player-quentin-folliot-receives-20-year-ban-for-match-fixing_6748413_9.html.

42 The International Tennis Integrity Agency, *French Tennis Player Quentin Folliot Suspended for 20 Years*, ITIA (Dec. 11, 2025), https://www.itia.tennis/news/sanctions/french-tennis-player-quentin-folliot-suspended-for-20-years/.

43 Amani Khalifa, *Decision: In the Matter of a Notice of Offense of Alleged Corruption Offenses under The Tennis Anti-Corruption Program, Quentin Folliot and International Tennis Integrity Agency*, (Dec. 3, 2025), https://www.itia.tennis/media/1r4kcbhc/20251210-quentin-folliot-decision_marked_redacted-1.pdf.

44 *Id.* ¶4.

45 *Id.* ¶257

46 *Id.* ¶262

47 Le Monde, *supra* note 9.

48 Khalifa, *supra* note 11.¶267

49 The International Tennis Integrity Agency, *supra* note 10.

50 The International Tennis Integrity Agency, *supra* note 6.

51 *Id.*

understand the risks and obligations around betting and corruption. Iffe stated, "In the last few years, we have prioritised delivering education sessions – group and individual, face-to-face and online – to players at the beginning of their journey in the sport. We also talk to coaches, medical staff and agents to ensure that they all know we are there to support them…We also work with the ITF, ATP and WTA on their development programmes so that players making their way through the levels of the sport are given support to help them make the best decisions."[52]

One cannot be naïve, but one can be hopeful. There is a threat, a constant threat of corruption in sport and sport policy makers have to integrate preventative anti-corruption strategies. The twenty-year sanction given to Quentin Folliot shows the seriousness that tennis is taking toward match-fixing, betting and corruption. Early education efforts by ITIA is another strategy. Time will tell if they are successful.

John Wendt

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University of Utah Approves Private Equity Partnership for Athletics Programs

By Andrew P. Rocks and James Dlugos, of Morgan Lewis

On December 9, the Board of Trustees of the University of Utah (Utah) unanimously approved a transformative partnership with New York-based private equity firm Otro Capital (Otro) expected to generate upwards of $500 million in capital for the university (consisting of the committed infusion from Otro and committed capital from donors).

The agreement marks the first time a major university athletic department will partner with a private equity investor as a minority stakeholder in a newly formed corporate entity—Utah Brands & Entertainment LLC—dedicated to managing revenue-generating athletic operations. The move could result in a major shift in the organization of collegiate athletics and could serve as a blueprint for other institutions seeking innovative financial solutions for their sports programs—a key priority across the industry in the post-House settlement era.

THE CURRENT INVESTMENT LANDSCAPE IN COLLEGE SPORTS

Private equity firms have been eyeing college sports for several years, seeking entry points to invest in an industry facing mounting financial stressors driven by revenue-sharing requirements and the rising costs associated with maintaining competitive athletic programs. However, actual equity investments in collegiate athletics have largely failed to materialize, even as interest has grown on both sides, due to the regulatory complexities that come with investing in nonprofit and public institutions.

To date, private credit agreements (such as Elevate's $500 million initiative backed by private-equity firm Velocity Capital Management and the Texas Permanent School Fund that made headlines earlier this year) have been the primary vehicle for universities to infuse cash into their operations. These agreements more closely resemble highly customized loans, with terms based on the specific needs and characteristics of the schools, that provide cash but offer clear operational parameters for all parties. As schools and investors seek higher upside in potential win-win transactions, many have pointed to equity investments as a logical progression. For a broader look at investment approaches and regulatory considerations, please see our July 11, 2025 Insight examining private equity's evolving role in the college sports landscape.

UTAH'S INNOVATIVE PARTNERSHIP

The Utah-Otro partnership will be facilitated by the creation of Utah Brands & Entertainment LLC, a new corporate entity formed for the purpose of managing the university's revenue-generating athletic operations. While the specific details of the partnership have not

52 Kieran O'Connor, *French Tennis Player given 20-year Ban for Match-fixing*, (Dec. 11, 2025), https://insidersport.com/2025/12/11/quentin-folliot-banned-tennis-scandal/.

been announced, the terms that have been shared thus far align with the traditional framework of private equity investments in the sports industry. The university will maintain majority ownership and decision-making authority of the new entity, while Otro will receive a significant minority stake in exchange for both funding and operational and industry expertise. Otro's expertise will supplement Utah's existing capabilities within the athletic department, aiming to optimize all aspects of athletic revenue streams across ticketing, concessions, sponsorships, and licensing deals. The parties have also contemplated a potential future exit for Otro, and the university will retain the right to repurchase the private equity firm's ownership stake should it decide to sell.

The governance structure is intended to preserve the university's educational mission, with Utah Athletic Director Mark Harlan serving as chair of the board of directors of the new entity, which will include upward of seven director seats—the athletic director and three other members appointed by the university's foundation would be joined by two members from Otro and another university supporter/investor. Utah will reportedly remain in control of major decisions like hiring and firing coaches and scheduling. Although the new corporate entity will distribute name, image, and likeness (NIL) payments to athletes, the university itself will control the amounts allocable to athletes. The company will be required to submit audits to Utah's trustees.

The concept of a for-profit affiliate entity—the corporate structure Utah Brands & Entertainment LLC will adopt—has been implemented previously as a solution to some of the structural and regulatory challenges that have limited equity investments so far. Several universities (including University of Kentucky, Clemson University, Michigan State University, and Texas Tech University) have established holding companies to manage athletic operations, but none have involved direct private equity investment until now.

The Utah-Otro partnership could be a potential catalyst for broader industry change with the opportunity to pave the way for similar investments across the country. Given the extent to which private equity firms have recently emphasized their interest in college sports, industry insiders anticipate more deals will follow a similar structure in the months to come (subject to understanding the specifics of the Utah-Otro deal not yet disclosed).

IMPLICATIONS FOR ATHLETIC DEPARTMENTS AND UNIVERSITIES

While the potential for private equity investment in collegiate athletics offers many advantages, there are a few key considerations that university administrators and investors will need to keep in mind as they structure these deals moving forward.

First, while the affiliate entity structure alleviates some compliance challenges, athletic departments must still follow National Collegiate Athletic Association (NCAA) rules and regulations. For example, all decision-making authority within these new entities must remain with the university. Utah and Otro took specific efforts to ensure compliance, including clearing the partnership with NCAA officials prior to final approval.

In addition to compliance-related challenges, parties on both sides of potential deals will need to navigate the nascent stages of these partnerships with appropriate levels of diligence. Parties should discuss key terms including control rights, economic provisions, investor protections, and restrictions to develop a robust understanding for how the partnership will operate as it develops. Similarly, investors will want to review all relevant university agreements, including leases, concessions, sponsorships, official provider and media rights agreements, as well as the university's IP portfolio, to evaluate existing cash flows, confirm ownership, and identify potential opportunities. Ensuring alignment across strategic, operational, and financial priorities will help to inform the governance structures established to guide these new entities.

KEY TAKEAWAYS

The University of Utah's partnership with Otro Capital represents an important moment for collegiate athletics, introducing the first test case for partnerships with private equity as a viable solution to longstanding financial challenges. As financial pressures mount and the need for sustainable revenue streams continues to grow, other institutions are likely to consider similar partnerships, potentially reshaping the landscape of college sports for years to come and generating sizeable returns for universities and investors. It will be

essential for parties on both sides of these transactions to balance strategic, compliance, and financial priorities to help these investments recognize their full potential.

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Lawsuit After The International Turmoil: Gaimin Gladiators Sues Former Dota 2 Roster for CA$7.5 Million

By Jeffrey Levine, JD, PhD – Associate Clinical Professor, Department of Sport Business Esport Business Program Lead, Drexel University

Introduction and Why This Esports Lawsuit Matters

Gaimin Gladiators filed a CA$7.5 million (US$5.4 million) lawsuit against four members of its former championship Dota 2 roster (Lewis, 2025). The suit, filed in early October 2025 in an Ontario court, may serve as an industry test case for how far esports organizations can go to enforce player contracts and protect its interests. Beyond the courtroom, the case raises pressing questions about player rights, contract enforcement, and the fragile trust between teams and players in professional gaming.

From The International Invite to Courtroom Battle

The dispute traces back to The International 2025 (TI), Dota 2's most prestigious tournament. Gaimin Gladiators had earned a coveted direct invite after a strong season, positioning them as a title contender. But just two weeks before the event, on August 23, the organization abruptly withdrew its team. Valve, TI's organizer, announced the withdrawal and, after speaking with the players, stated that "they were unable to come to an agreement with their organization that would allow them to participate (Fudge, 2025, para. 3). In other words, an internal contract dispute had sidelined one of Dota's top squads.

Public statements from both sides painted conflicting stories. Gaimin Gladiators' president, Nick Cuccovillo, initially cited unspecified "internal matters" for the sudden exit (Zulkiflee, 2025a). However, star midlaner Quinn "Quinn" Callahan quickly contradicted that account, saying the players were fully willing to attend TI under the org's banner and that management alone chose to pull out. Cuccovillo then claimed the players wanted to attend TI independently, without the org, after failing to settle contract terms (Lewis, 2025). With blame volleyed back and forth, fans and industry insiders were left guessing what really happened (Viz, 2025). Valve replaced Gaimin Gladiators with another team, and a reigning powerhouse lost its shot at Dota 2's biggest prize.

Missing TI had immediate consequences for all involved. The players lost the opportunity to compete for the Aegis of Champions trophy awarded to TI's winner and a multi-million dollar prize pool, while Gaimin Gladiators sacrificed enormous exposure and potential prize winnings. The withdrawal was shocking and unprecedented (Zulkiflee, 2025b): A top-seeded team walking away from esports' biggest tournament. The sudden implosion hinted at deeper internal conflicts, ones that would later surface in court.

Breach of Contract Allegations: Sponsorship Duties and a "Trash Country" Controversy

On October 4, veteran esports journalist Richard Lewis (2025) reported that Gaimin Gladiators had filed suit against four players from the departed roster: Quinn Callahan, Erik "tOfu" Engel, Marcus "Ace" Hoelgaard, and Alimzhan "watson" Islambekov. The lawsuit seeks CA$7.5 million in damages, citing multiple alleged breaches of the player contracts. At the heart of the claim are allegations that the players failed to fulfill their sponsorship and social media obligations, undermining the team's business deals (Lewis, 2025; Zulkiflee, 2025a).

Media reports published a statement from the Gaimin Gladiators claiming the players failed to complete dozens of required deliverables (e.g., promotional posts, livestreams, and other sponsor-facing content) over an 18-month period (Lewis, 2025; Zulkiflee, 2025a). These deliverables are vital to team operations: Esports contracts often hinge on promises to sponsors for visibility and direct engagement with players. Gaimin alleges that neglecting these obligations cost them a major sponsorship worth approximately $3 million (Lewis, 2025).

The most inflammatory element of the lawsuit seems to involve a remark made by Quinn Callahan

during an October 2024 personal livestream. Speaking to a Russian player, he said: "I guess you're just Russian. It's not your fault you're born in a trash country" (Lewis, 2025, para. 4). The clip went viral and triggered immediate backlash in the Dota community. Although Callahan later apologized and Gaimin's management issued a public statement distancing itself from the comment, the damage was done. The team's principal sponsor, Winline – a Russian betting company – reportedly declined to renew its partnership, costing the org a seven-figure deal. Although the complaint is not public, Gaimin is likely framing this incident as a breach of Callahan's conduct clause and a direct source of financial loss.

In a broader public statement, Gaimin Gladiators alleged a pattern of misconduct and non-compliance from the players. It reiterated the failure to fulfill sponsorship obligations citing months of missed deliverables and described repeated internal warnings that went unheeded. Tensions reportedly escalated in late summer 2025: The players canceled a pre-TI bootcamp on short notice, at significant cost to the org. and in early August, they allegedly warned that they "may not perform" at TI if disputes weren't resolved.

On August 7, roughly one month before TI, the players communicated their desire to exit their contracts and compete independently at the event. They had also secured legal counsel, which further signaled the breakdown of the relationship. Gaimin viewed the partnership as beyond repair. With players allegedly shirking obligations and even threatening legal action, the org pulled the plug on its TI campaign. The lawsuit now seeks to recover those losses in court.

Legal Implications: Contract Enforcement and Player Conduct in the Spotlight

This case places esports contract enforcement under legal scrutiny and could serve as persuasive authority for subsequent cases to follow in the United States. At the center of Gaimin Gladiators' claims is the argument that the players committed material breaches of contract: Serious violations that destroy the fundamental purpose of the agreement. In esports, a player's role extends beyond competition. It includes brand-building, sponsor engagement, and maintaining professionalism in public. Failing to promote sponsors or maintain conduct standards can go to the heart of the bargain. If the court agrees these breaches were material, Gaimin could be justified in terminating the contracts and seeking damages.

Another key theory is anticipatory repudiation: the allegation that the players signaled in advance they would not fulfill their obligations. Here the conduct in question is the players' collective threat not to perform at The International and attempting to exit their contracts. Under contract law, such evidence of clear intent to abandon one's duties may allow a party to treat the contract as breached and seek relief even before the breach fully occurs. Gaimin's public statement that the players "wished to exit their agreement" and threatened non-participation (Lewis, 2025, para. 10) could support this claim.

Where the case gets more novel is in Gaimin's attempt to tie a player's on-stream comment to tangible economic harm. The organization claims that Quinn Callahan's livestream remark about Russia led Winline, a major sponsor, to not renew its sponsorship once it expired. This cost Gaimin millions. Linking a comment to a lost renewal deal may require showing direct causation, foreseeability, or tortious intent. While the full complaint may reveal more detail, pursuing reputational or sponsorship damages pushes the boundaries of conventional breach claims.

Gaimin may also be relying on the moral traditional approach of a liquidated damages clause. Its public statements reference a "modest assessment of damages" proposed earlier in negotiations (Lewis, 2025, para. 9). This language suggests a pre-set damages formula in the player contracts. Courts will enforce such clauses only if they represent a reasonable forecast of actual harm, not if they function as penalties. The enforceability of such provisions, particularly in emerging industries like esports, will likely face judicial scrutiny.

The lawsuit may also test the role of morality clauses in esports. These provisions, common in traditional sports and entertainment contracts, require talent to avoid behavior that brings disrepute to the brand. Callahan's comment may evaluate how far these clauses can extend into a player's personal speech, especially during off-duty livestreams. While this is not a First Amendment issue (as private employers are not government actors), a court may still weigh whether

contractual limits on expression were clear, reasonable, and enforceable.

Finally, this case underscores the growing need for clearly drafted esports contracts. If Gaimin's agreements did not specify exact promotional deliverables, such as the number of sponsor streams or social posts, it may be harder to prove breach. Going forward, teams will likely push for more granular terms and clearer remedies, while players and agents will resist overly rigid or punitive terms. The case may also spur increased use of arbitration or mediation clauses, allowing disputes to be resolved privately without spiraling into public litigation.

Conclusion

Given the stakes, the Gaimin Gladiators lawsuit may influence how organizations respond when contract disputes emerge with players or talent. The lawsuit involves multiple hot button issues and cultural touchstones: incidents while streaming, contractual responsibilities shirked, allegations of misconduct The outcome will likely test the enforceability of contracts in the esports ecosystem, may shape future contracts, influence how teams handle internal disputes, and signal to players that professionalism off the server is as critical as performance on it. Whether this case settles quietly or proceeds to trial, it has already brought attention to issues such as accountability, leverage, and the maturing legal framework of a billion-dollar industry.

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Karcher Talks NCAA Governance, Being a FAR, and What Advice He Would Offer an NCAA Compliance Professional

A frequent critic of those in charge of collegiate athletics, Richard Karcher is no shrinking violet when it comes to offering his opinion.

That, and his insightful analysis, are the main reasons we reached out to the Eastern Michigan University sports law professor, attorney and FAR (at EMU), for the following interview.

Question: Tell us about your history as an athlete?

Answer: I played football, basketball and baseball in high school and then continued on playing baseball. Freshman year I was redshirted at Indiana University, transferred to a JUCO, and then played in the Atlanta Braves system for three seasons. Then I decided to hang up the cleats at the end of spring training when I was told that they were sending me back to A ball, which was the Durham Bulls back then. So, I came back home to Michigan and quickly got my bachelor's and law degrees.

Q: What led to your start in higher ed?

A: As a law student, I actually began to enjoy scholarly research and writing and participated on law review as a managing editor. When I was a corporate/transactional lawyer at Honigman in Detroit, I started representing athletes and also co-taught a sports law course as an adjunct at Michigan State. The exceptional lawyers at Honigman trained me to be an excellent writer and I liked the teaching experience so much that I decided to pursue it as a career after I made partner. We packed up the family and moved to Jacksonville, Florida so I could teach torts and corporate taxation as a visiting law professor at Florida Coastal. That's where I met two fabulous sports law colleagues, Peter Goplerud and Nancy Hogshead. I was then offered a full professor position there and regularly taught sports law courses as well as torts and business organizations. A sports law curriculum was obviously a natural fit for us, so we developed a sports law center, and I took over as director of the program. But my family needed to get back to Michigan so, in 2014, I accepted a tenure-track position at EMU where I would be able

to teach a variety of graduate and undergraduate sport management courses: sport governance and regulation, sport ethics, NCAA compliance, sport management research, and international sport.

Q: Has there always been an interest in NCAA governance, or is that a more recent phenomenon?

A: I once represented a D-I college football player who was listed on the school's roster and in the school's football media publications as having junior eligibility for the entire football season and then the following spring he was informed by his coach that he actually had senior eligibility and was all done playing college football. So, his school thought he had another year of eligibility, but he actually didn't, and he was a really good player and an NFL prospect. We sued the school and settled but the question is, how is this possible? When I entered academia my first law journal article highlighted all of the problems associated with the NCAA's "no agent" rule in baseball, including its arbitrary enforcement within an industry where every high school and college MLB draft prospect has an agent cloaked as an "advisor" in order to appease the NCAA.

A couple years later I get a call from a lawyer who was representing a top MLB draft prospect suspended by his university because NCAA enforcement staff was informed by someone that he had an agent back when he was drafted out of high school (the "someone" was actually that former agent). That lawsuit, known to all sports lawyers as the Andy Oliver case, ended with a substantial monetary settlement with the NCAA being able to keep its "no agent" rule. Now, that case got a lot of attention and what happens with lawsuits against the NCAA is the public discourse primarily revolves around the unfairness or unreasonableness of the amateur or eligibility rules and how the rules should be changed, eliminated, struck down, etc., but at its core any lawsuit is *really* about NCAA governance principles.

Using the Oliver case as an example, the only reason there was even a lawsuit to begin with is that the university has an obligation under NCAA bylaws to investigate, report violations, and withhold an ineligible athlete from competition, and then it can seek reinstatement of his eligibility. In individual athlete lawsuits this "obligation of institutional control" under NCAA bylaws pits the university and the NCAA against each other because, at the preliminary injunction hearing, the judge is listening to the hometown university's lawyer saying the school is obligated to sit the player and to the NCAA's lawyer saying the member universities create the rules including that obligation. That's all about governance, not the underlying eligibility rule, so if the judge thinks the athlete's challenge to the eligibility rule is likely to succeed and grants the preliminary injunction, that order doesn't make the school put the athlete back on the field/court and it also doesn't strike down or invalidate either the eligibility rule or the university's institutional control obligation.

In other words, the order essentially gives the university a choice to make – it can allow the athlete to play, or it can comply with its institutional control obligation. Schools used to make the latter choice and continue to sit the athlete, but today schools are allowing the athlete to play. However, nobody thinks about or discusses any judge's order in this manner, not even most people who work in NCAA compliance. I guess all of that was a long-winded answer to your original question that my interest in NCAA governance is not a recent phenomenon.

Q: You have been critical of the NCAA in the past? Has the performance of the association gotten better or worse through the years?

A: I don't view it as either better or worse. What we're witnessing today is an evolving membership apathy with NCAA governance and, in particular, D-I governance principles. In my view, it really took a turn starting five years ago in the fall of 2020 when the membership was considering changes to the "no endorsement" rule in the manner the legislative process as set forth in the D-I Manual contemplates and requires. In other words, the way revisions to NCAA eligibility rules had always been made. A 20-plus page document was circulated to the D-I membership showing all the proposed changes and additions to the "no endorsement" rule, including the rationale for the suggested revisions, and the D-I membership would then vote on that proposal at the NCAA Convention (along with any other proposals for changes to other bylaws). And then right before the Convention, the NCAA president suddenly announces that the membership would not be voting on that proposal due to "uncertainty" surrounding the

pending Alston case, which is not only irrelevant to the legislative process, but the case also wasn't even challenging the "no endorsement" rule. So, you had a situation here where the NCAA president actually had no legal authority to withdraw the proposal from a membership vote and the D-I membership taking the view, who cares? And then six months later, right after the Supreme Court ruling, the D-I Board announced revisions to the no endorsement rule and, again, the D-I membership takes the view, who cares?

That's where we are today with NCAA governance. Some person, committee, or board wants to do something and very few people question their authority to do it. And if you think about it, the governance process right now doesn't even make *logical sense*. The enforcement of the House Settlement requires all D-I members to agree to the enforcement rules by signing a contract, but the House Settlement itself didn't require that agreement or even a member vote. Who decided the enforcement process now requires some signed contract and where does *that* authority exist? And a so called "rescission" of changes made to sports betting rules requires a member vote, but the changes themselves didn't require a member vote? This ending of membership creation of the rules has given new impetus for schools to question, and even not comply with, their institutional control obligation.

Q: What do you like most about being the FAR?

A: I have a great relationship with our president and he's retiring at the end of this academic year. I like that he has an "open door policy" with me. And the same goes for our AD. They both always respond to my inquiries within minutes, and I think that's vital to the FAR role. I always thought the role would be a natural fit with my background and experience as well as my involvement as a sport management professor working with student-athletes and grad assistants working in athletics at EMU. I enjoy working with the other FARs in the MAC and developing policy at the conference level. We meet as a group in Cleveland once each semester and they'll listen to my diatribes about the problems with NCAA governance.

Q: What is the nature of your relationship with compliance professionals at the school?

A: Our compliance director is a lawyer and so we're able to talk about "sports law" stuff. As the FAR, I have to review and sign all of our waiver requests and any self-reporting of violations. Given that I have a sufficient understanding of NCAA rules and our compliance director is on top of everything, I don't have questions or concerns very often but he's very responsive whenever I do. I have gotten involved in a couple of matters since I became FAR four years ago.

Q: What advice would you give compliance professionals in these difficult times?

A: I don't know, they're hired to make sure their coaches, student-athletes, and athletic department staff follow the rules. Their job isn't to be complaining and making waves about NCAA governance. Having said that, I do think they need to be somewhat concerned about the larger question of "institutional control" and to what extent that obligation actually has any teeth. I mean, there are schools right now that are cooperating with, and even helping to fund, their own student-athletes' lawsuits against the NCAA.

Ironically, if you're working in compliance today you can't help but to be asking yourself, why should I report this to the NCAA and what do I gain by doing that? And what happens right now if I don't? Now, these are natural questions for them to be asking given the "higher ups" who are showing they are less concerned with the institutional control obligation.

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Mountain West Board of Directors Extends Contract of Sports Lawyer Gloria Nevarez

The Mountain West Board of Directors has announced that Commissioner Gloria Nevarez's contract has been extended for an additional four years, securing her leadership through December 31, 2030. The Mountain West Board of Directors praised Nevarez's vision and leadership, citing her commitment to advancing the Conference's strategic priorities and elevating its national profile.

"Commissioner Nevarez has demonstrated exceptional leadership during a period of rapid change across intercollegiate athletics," said University of Wyoming President and MW Board of Directors Chair Ed Seidel. "Her vision, collaborative approach, and

steadfast commitment to student-athlete success have strengthened the Mountain West and positioned us for long-term stability. The Board of Directors is pleased to renew her contract, and we look forward to continuing our work together to advance the conference."

Commissioner Nevarez expressed gratitude for the opportunity to continue serving the Conference, stating, "I am deeply grateful to the Board for their trust and support. It is an honor to continue serving the Mountain West Conference and its student-athletes. Over the past three years, we have embraced change and positioned the Conference for sustained success. Together with our member institutions, we will build on this momentum by driving innovation, elevating the student-athlete experience, and achieving competitive excellence. The Mountain West is poised for an exciting future, and I look forward to leading us boldly into this next chapter."

Since 2018, Nevarez has served as the Commissioner of the West Coast Conference (WCC).

Nevarez previously worked at the Pac-12 Conference, the University of Oklahoma, the University of California Berkeley, San José State University and in an aforementioned prior stint with the WCC. She serves on the NCAA's Division I Transformation Committee, the NIT Men's Basketball selection committee and the NCAA Division 1 Men's Basketball Oversight Committee, as well as on the Board of Directors of USA Basketball, Women Leaders in College Athletics and is a member of the Knight Commission.

Prior to her start in collegiate athletics, Nevarez received her Juris Doctorate from the University of California a quarter-century ago. While a student, she served on the *La Raza Law Journal* and was a co-founder of the Boalt Hall Sport and Entertainment Law Society.

Upon graduation, she put that legal background to work as an NCAA compliance professional at various colleges and universities before embarking on greater and greater leadership roles.

A graduate of the NCAA Fellows Program and the NACWAA Executive Institute, Nevarez completed five years as an adjunct faculty member at the University of San Francisco's Sport Management Master's program, teaching sports law.

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News Briefs

Variety Names Proskauer's Rob Freeman to 2025 Dealmakers Impact Report

Proskauer has announced that partner Rob Freeman has been recognized in Variety's 2025 Dealmakers Impact Report, which profiles the top financiers, attorneys, executives, entrepreneurs and more who forged major deals that have changed the media landscape. Freeman is co-head of Proskauer's Technology, Media & Telecommunications Group and a member of the Sports Group. For over 30 years, he has structured and negotiated transactions that have shaped the way consumers view and access content. Freeman leads a cross-functional team advising media, entertainment and sports clients on a broad array of corporate transactions, including industry-specific mergers and acquisitions; minority and control investments; the negotiation of complex media and sports rights and content distribution agreements; and the creation of joint ventures, strategic alliances and complex commercial licensing arrangements.

Sulpizio Elevated to Member at Ricci Tyrrell Johnson & Grey

Nicholas Sulpizio has been named a Member of Ricci Tyrrell Johnson & Grey. His practice focuses on products liability, premises liability, and sports and event liability and risk management. He also serves as Solicitor for the Borough of Fieldsboro, New Jersey, advising on a broad range of municipal matters. An active leader in the Claims and Litigation Management Alliance, Sulpizio is President of the Southern New Jersey Chapter and serves on the Young Professionals Advisory Board.