SPORTS LAW
Cases and Materials
LexisNexis Law School Publishing
Advisory Board

Paul Caron
Professor of Law
Pepperdine University School of Law

Bridgette Carr
Clinical Professor of Law
University of Michigan Law School

Steven I. Friedland
Professor of Law and Senior Scholar
Elon University School of Law

Carole Goldberg
Jonathan D. Varat Distinguished Professor of Law
UCLA School of Law

Oliver Goodenough
Professor of Law
Vermont Law School

John Sprankling
Distinguished Professor of Law
McGeorge School of Law
Preface

It has been 25 years since the publication of the first edition of Sports Law: Cases and Materials. Its publication marked the emergence of sports law as a discrete topic for legal study, and it was quickly and widely adopted for use in the classroom. In this, the Eighth Edition, the overarching organization from the original book holds but less firmly than once thought. The assault on amateurism continues apace, but as of this writing, it appears that the uniquely American system of intercollegiate “amateur” sports will survive the onslaught — “amateurism” will be redefined perhaps, but the intercollegiate sports juggernaut will likely continue to pay homage to the “student athlete,” albeit with increased emoluments. The Eighth Edition thus remains in three parts: Amateur Sports, Professional Sports, and Issues Common to Both.

From the beginning, the authors believed that a skills-oriented problem approach was the best way to approach the study of sports law. While the book is conventional in many ways, offering textual explanation, leading cases, and notes and questions, skills-based problems are featured throughout. This Eighth Edition emphasizes our shared commitment to skills-based teaching and includes a couple of new features, including “sidebars,” “capstone problems,” and case files for simulated hearings. The sidebars are designed to spur class discussion. The capstone problems and case simulations are designed to facilitate comprehensive review and experiential learning.

We are of course grateful to those of you who have chosen to use our book, and we welcome new adopters. Feel free to contact any of us with questions, comments, or suggestions.

October 2015

Ray Yasser
James R. McCurdy
C. Peter Goplerud
Maureen A. Weston
Acknowledgments

Professor Yasser would like to thank his long-suffering faculty assistant Cyndee Jones for all her help in getting the Eighth Edition ready for publication, and in particular for her invaluable assistance in keeping apace of the technological revolution that constantly threatens to pass him by.

Upon the publication of the Eighth Edition, Professor McCurdy wishes to acknowledge and express gratitude and warmth for the continual support for over 25 years provided by his spouse, Mary Ann, and son, Michael. He specifically appreciates the outstanding research efforts of Cullen McGowan, 2015 graduate of Gonzaga University School of Law, and the collaborative discussion of cases and the professional sports industry during an International Sports Law class in London and completion of a Directed Research project.

Dean Goplerud would like to thank his wife Mariette Brodeur and his daughters Zoe and Ava Goplerud for their patience with him and understanding as he spent late nights working on this new edition.

Professor Weston would like to thank her students at Pepperdine and family, Brian and Cedric Halloran, for their love of sports.

The Authors gratefully acknowledge and thank an essential player on our team, Elisabeth “Biz” Ebben, Legal Editor at Lexis, for her outstanding editorial work on the this Eighth Edition.
## Table of Contents

**Part I** AMATEUR SPORTS AND THE LAW ................. 1

**Chapter 1** LEGAL RELATIONSHIPS IN AMATEUR SPORTS ...... 3

A. INTRODUCTION TO AMATEURISM AND THE ADMINISTRATION OF AMATEUR ATHLETICS .......................... 3

B. RIGHTS ARISING FROM THE ATHLETIC SCHOLARSHIP .... 4

   Problem ....................................... 4

   Taylor v. Wake Forest University .......................... 5

   Ross v. Creighton University ............................ 8

   Notes and Comments .................................. 13

   Capstone Problem .................................... 14

C. THE ATHLETE AS EMPLOYEE ............................... 15

1. Workers’ Compensation ................................ 15

   Problem ........................................... 16

   Waldrep v. Texas Employers Insurance Association ........ 17

   Notes and Comments .................................. 23

2. Athletes’ Rights Under the Labor Laws ................. 25

   Northwestern University and College Athletes Players Association (CAPA), Petitioner .................. 25

   Notes and Comments .................................. 31

**Chapter 2** AMATEUR SPORTS ORGANIZATIONS:
CONSTITUTIONAL AND ELIGIBILITY ISSUES .......... 33

A. THRESHOLD CONSTITUTIONAL ISSUES .................. 33

   Problem ........................................... 33

   DeFrantz v. United States Olympic Committee .......... 34

   National Collegiate Athletic Association v. Tarkanian .... 38

   Brentwood Academy v. Tennessee Secondary School Athletic Association .......................... 44

   Notes and Comments .................................. 49

B. GENERAL ELIGIBILITY ISSUES ............................ 51

   Problem ........................................... 51

   Indiana High School Athletic Association, Inc. v. Avant .... 51

   Tiffany v. Arizona Interscholastic Association, Inc. ....... 57

   Notes and Comments .................................. 61

   Capstone Problem .................................... 63
Table of Contents

Chapter 3 COLLEGIATE ATHLETIC ISSUES ................. 73

A. NCAA STRUCTURE, PRINCIPLES, AND PROCEDURES .... 73
   Problem ..................................................................... 73
   Notes and Comments ............................................. 77
   1. Amateurism and the Student Athlete ...................... 78
      a. Extra Benefits .................................................. 78
         Bloom v. National Collegiate Athletic Association .... 78
      b. Agents ............................................................. 85
         Oliver v. National Collegiate Athletic Association .... 85
         Notes and Comments ........................................ 94
      c. Academics Issues ............................................ 94
      d. Enforcement .................................................... 96
         Report of the National Collegiate Athletic Association
         Division I Infractions Appeals Committee ................ 98
         Binding Consent Decree Imposed by the National Collegiate
         Athletic Association andAccepted by the Pennsylvania
         State University .................................................. 108
         Notes and Comments ........................................ 111

B. COACHING AND INSTITUTIONAL CONTRACTS .......... 112
   Problem ..................................................................... 112
   Rodgers v. Georgia Tech Athletic Association ............. 112
   O’Brien v. The Ohio State University ......................... 119
   Notes and Comments ............................................ 127
   Notes and Comments ............................................ 131
   Capstone Problem .................................................. 131

Chapter 4 GENDER EQUITY IN AMATEUR ATHLETICS ...... 133

A. INTRODUCTION .................................................... 133
B. CONSTITUTIONAL ISSUES ..................................... 134
   Hoover v. Meiklejohn .............................................. 134
   Williams v. School District of Bethlehem ................... 142
   Notes and Comments ............................................ 147
C. TITLE IX .............................................................. 148
   Problem ..................................................................... 148
   Cohen v. Brown University ....................................... 153
   Biediger v. Quinnipiac University ............................... 164
   Notes and Comments ............................................ 181
D. EMPLOYMENT DISCRIMINATION ............................ 183
   Problem ..................................................................... 183
   Stanley v. University of Southern California ............... 184
   Bowers v. Baylor University ..................................... 190
# Table of Contents

of Professional Baseball Leagues, Inc. .......................... 307

Piazza v. Major League Baseball .................................. 312

Levin v. National Basketball Association .......................... 315

Notes and Comments ........................................... 317

**G. LEAGUE DECISION MAKING — RELOCATION** ............. 326

Problem .......................................................... 327

Los Angeles Memorial Coliseum Commission v. National Football League .......................... 327

National Basketball Association v. SDC Basketball Club, Inc. .................. 335


Notes and Comments ........................................... 347

**H. LEAGUE DECISION MAKING — MERCHANDISING/BROADCASTING** .................. 351

Problem One ...................................................... 356

Problem Two ..................................................... 357

National Football League Properties, Inc. v. Dallas Cowboys Football Club, Ltd. .................. 357

American Needle, Inc. v. National Football League .......................... 363


Laumann v. NHL .................................................... 368

Notes and Comments ........................................... 372

**I. LEAGUE VS. LEAGUE — MONOPOLY** ...................... 376

Problem .......................................................... 376


Notes and Comments ........................................... 398

Capstone Problem ............................................... 403

### Chapter 7 AUTHORITY OF LEAGUE COMMISSIONERS ........ 405

Problem One ...................................................... 406

Problem Two ..................................................... 408

Problem Three ................................................... 409

Charles O. Finley & Co., Inc. v. Kuhn ................................ 409

National Football League Players Ass’n v. National Football League .......................... 417

Roger I. Abrams, Off His Rocker: Sports Discipline and Labor Arbitration ...................... 421

Notes and Comments ........................................... 423

Capstone Problem ............................................... 429
## Table of Contents

### Chapter 8  LABOR RELATIONS IN PROFESSIONAL SPORTS . . . 431

A. INTRODUCTORY COMMENTS ........................................... 431
B. COLLECTIVE BARGAINING — GENERALLY ......................... 434
C. ANTITRUST LAW, LABOR, AND THE “NONSTATUTORY EXEMPTION” .................................................. 436
D. LABOR RELATIONS ISSUES ................................................... 437
   Problem ........................................................................ 437
   Brown v. Pro Football, Inc. ................................................. 438
   Mackey v. National Football League ....................................... 445
   Robertson v. National Basketball Association ......................... 451
   In the Matter of the Arbitration Between Major League Baseball Players Association and the 28 Major League Clubs .................................................. 454
   Silverman v. Major League Baseball Player Relations Committee, Inc. ................................................ 459
   Notes and Comments ....................................................... 464
   Capstone Problem ......................................................... 475

### Chapter 9  ENFORCEMENT OF SPORTS CONTRACTS ............ 477

A. INTRODUCTORY COMMENTS ........................................... 477
B. THE LAW OF CONTRACTS .................................................... 477
   1. Generally — Player and Club ........................................... 477
   2. Threshold Question: In Personam Jurisdiction ................. 478
      Problem ........................................................................ 479
      Minnesota Muskies, Inc. v. Hudson .................................. 481
      Munchak Corp. v. Cunningham ........................................... 486
      Dallas Cowboys Football Club, Inc. v. Harris ....................... 487
      Notes and Comments ....................................................... 491
C. GRIEVANCE ARBITRATION .................................................. 495
   1. Player-Team Contract Disputes — Generally .................... 495
   2. Grievance Arbitration in Professional Sports .................... 496
      Problem ........................................................................ 496
      Major League Baseball Players Ass’n v. Garvey .................. 498
      Dryer v. Los Angeles Rams ................................................. 501
      Morris v. New York Football Giants, Inc. .......................... 506
      In re Matter of Arbitration Between Detroit Lions and M. Hoopes .................................................. 509
      In re Matter of Arbitration Between National Basketball Association (Atlanta Hawks) and NBPA (Ken Charles) .......... 509
      In re Elmer Nordstrom, Managing Partner, et al., d/b/a Seattle Seahawks and the National Football League Players .................................................. 510
Table of Contents

Association (Sam McCullum) ............................................. 510
In re Matter of Arbitration Between the American and National
Leagues of Professional Baseball Clubs (California Angels)
and the Major League Baseball Players Association
(B. Cowan) ................................................................. 510
In re Major League Players Association and the Twenty-Six
Major League Baseball Clubs, Major League Baseball
Arbitration Panel, Grievance No. 86-2 ......................... 511
Nordstrom v. National Labor Relations Board ................. 512
Notes and Comments ...................................................... 515

D. SALARY ARBITRATION ............................................. 524
1. Introductory Comments ............................................... 524
2. Baseball Salary Arbitration — Generally .................... 525
Notes and Comments ...................................................... 528
Capstone Problem ......................................................... 530

Chapter 10 REPRESENTATION OF PROFESSIONAL
ATHLETES .......................................................... 533

A. INTRODUCTORY COMMENTS ..................................... 533
1. Player Agent Functions ............................................. 533
2. Historical Overview .................................................. 534
3. Professional Sports Today .......................................... 534
4. Need for Regulation ................................................. 534

B. PLAYER AGENT: CAPACITY TO CONTRACT: ELIGIBILITY AND
REGISTRATION UNDER REGULATIONS ......................... 535
Problem ................................................................. 536
NFLPA Regulations Governing Contract Advisors .......... 537
California Miller-Ayala Athlete Agents Act ................. 538
Uniform Athlete Agents Act ......................................... 538
Collins v. National Basketball Players Association ....... 542
Total Economic Athletic Management of America, Inc. v. Pickens . 544
Speakers of Sport, Inc. v. Proserv, Inc. ......................... 550
Notes and Comments ...................................................... 553

C. PLAYER AGENT: REGULATORY LIMITATIONS ON FORMATION
OF PLAYER AGENT SERVICES CONTRACTS; RESOLUTION OF
DISPUTES BETWEEN PLAYER AND AGENT .................... 559
Problem ................................................................. 559
NFLPA Revelations Governing Contract Advisors .......... 560
Uniform Athlete Agents Act ......................................... 561
In the Matter of the Arbitration Between William (Bucky)
Woy, Grievant, and Bob Horner, Respondent ............... 564
Notes and Comments ...................................................... 569
Table of Contents

D. PLAYER AGENT: DUTIES IMPOSED BY COMMON LAW, STATUTES, AND REGULATIONS; REMEDIES 571
   Problem 572
   NFLPA Regulations Governing Contract Advisors 573
   California Miller-Ayala Athlete Agents Act 573
   Alabama Uniform Athlete Agents Act 574
   Detroit Lions, Inc. v. Argovitz 575
   Brown v. Woolf 579
   Notes and Comments 581

Chapter 11 NEGOTIATION OF SPORTS CONTRACTS 587
A. INTRODUCTORY COMMENTS 587
B. NEGOTIATION THEORY 587
   1. Structure of the Conflict 587
   2. Best Alternative to Negotiated Agreement (BATNA) 591
   3. Shadow of the Law 591
C. NEGOTIATION OF THE PLAYER-TEAM CONTRACT 591
   1. Background — The Paradigm 592
   2. Shadow of the Law 592
   3. Economic Realities 592
   4. Custom and Tradition 593
   5. Use of Analytics 593
   6. The Case 593
   7. Threshold Note — Use of Player Association Resources by Player Agent 594
   8. Salary Matters 595
   9. Bonuses 595
   10. Matrix 596
      Capstone Problem 599
      Notes to the File 599
      Notes and Comments 609
D. NEGOTIATING THE ENDORSEMENT CONTRACT 612
   Notes and Comments 613

Chapter 12 STADIUM AND ARENA ISSUES 615
A. INTRODUCTORY COMMENTS 615
B. PROLOGUE — ECONOMIC FEASIBILITY 616
C. PUBLIC FUNDING — LEGAL ISSUES 616
   Problem 616
   Brower v. State 617
   King County v. Taxpayers of King County 623

xiii
Table of Contents

Economic and Fiscal Impact of BankOne Ballpark and Arizona Diamondbacks ........................................... 629
Notes and Comments .................................................. 631

D. ASSURANCES — CONTRACTS BETWEEN CLUB AND FACILITY .................................................. 634

Problem ........................................................................ 634
City of New York v. New York Yankees ......................... 635
City of New York v. New York Jets Football Club, Inc. ........ 638
Notes and Comments .................................................. 643

Part III ISSUES COMMON TO AMATEUR AND PROFESSIONAL SPORTS ........................................ 647

Chapter 13 CRIMINAL LIABILITY OF SPORTS PARTICIPANTS ......................................................... 649

Regina v. Bradshaw ......................................................... 649
Regina v. Maki ............................................................... 651
Regina v. Green ............................................................ 654
Notes and Comments .................................................. 658
Capstone Problem ....................................................... 665
Capstone Problem ....................................................... 665

Chapter 14 TORTS AND SPORTS .............................................. 669

A. LIABILITY OF ONE PARTICIPANT TO ANOTHER ............... 669
Bourque v. Duplechin ...................................................... 673
Nabozny v. Barnhill ........................................................ 675
Hackbart v. Cincinnati Bengals, Inc. .............................. 677
Gauvin v. Clark .............................................................. 681
Notes and Comments .................................................. 682
Capstone Problem ....................................................... 692

B. SPECTATOR AS PLAINTIFF ........................................... 696
Notes and Comments .................................................. 698
Capstone Problem ....................................................... 704

C. MEDICAL MALPRACTICE IN ATHLETICS .................... 711
Rosensweig v. State ....................................................... 712
Colombo v. Sewanhaka Central High School District No. 2 .... 714
Notes and Comments .................................................. 715
Capstone Problem ....................................................... 726

D. PRODUCTS LIABILITY FOR DEFECTIVE ATHLETIC EQUIPMENT ........................................... 727
McCormick v. Lowe & Campbell Athletic Goods Co. ............. 728
Dudley Sports Co. v. Schmitt ........................................... 729
Table of Contents

Hauter v. Zogarts ........................................ 732
Nissen Trampoline Company v. Terre Haute First National Bank .... 735
Notes and Comments .................................. 738
Problem One ........................................... 742
Problem Two ............................................ 742

E. DEFAMATION AND INVASION OF PRIVACY ............ 745

1. Profile of the Tort of Defamation at Common Law: The Plaintiff’s
   Prima Facie Case — A Strict Liability Tort ...................... 745

2. The Matrix of Relevant Supreme Court Cases .................. 747
   Curtis Publishing Co. v. Butts .................................. 748
   Rosenbloom v. Metromedia, Inc. ................................. 750
   Gertz v. Robert Welch, Inc. ..................................... 751
   Time, Inc. v. Firestone ........................................... 753
   Dun & Bradstreet v. Greenmoss Builders, Inc. ................. 754
   Milkovich v. Lorain Journal Co. ................................. 755

3. Invasion of Privacy .......................................... 756
   Time, Inc. v. Johnston ......................................... 757
   Spahn v. Julian Messner, Inc. ................................... 761
   Namath v. Sports Illustrated .................................... 763
   Notes and Comments ............................................ 765
   Capstone Problem .............................................. 769
   Capstone Problem .............................................. 771

F. INTENTIONAL INTERFERENCE WITH CONTRACTUAL
   RELATIONS .................................................. 775
   World Football League v. Dallas Cowboys Football Club, Inc. .... 776
   New England Patriots Football Club, Inc. v. University of
   Colorado .......................................................... 778
   Notes and Comments ............................................ 780
   Capstone Problem .............................................. 783

Chapter 15 INTELLECTUAL PROPERTY ISSUES IN SPORTS ... 789

A. INTRODUCTION ........................................... 789
B. INTELLECTUAL PROPERTY RIGHTS OF ATHLETES —
   PUBLICITY .................................................. 791
   Problem One ................................................. 792
   Problem Two ................................................. 793
   C.B.C. Distribution and Marketing, Inc. v. Major League Baseball
   Adv. Media, L.P. .............................................. 793
   Keller v. Electronic Arts, Inc. ................................... 796
   Dryer v. NFL .................................................. 804
### Table of Contents

*Marshall v. ESPN* \hfill 811

Notes and Comments \hfill 816

**C. TRADEMARK PROTECTION IN SPORTS MERCHANDISING AND NAMING RIGHTS** \hfill 819

*Indianapolis Colts, Inc. v. Metropolitan Baltimore Football Club* \hfill 821

*ETW Corporation v. Jireh Publishing, Inc.* \hfill 826

*Pro-Football, Inc. v. Blackhorse et al.* \hfill 829

Notes and Questions \hfill 835

**D. SPORTS BROADCASTING: COPYRIGHT OWNERSHIP, PROTECTION, AND LIMITATIONS** \hfill 838

Capstone Problem \hfill 840

*Pittsburgh Athletic Co. v. KQV Broadcasting Co.* \hfill 840

Notes and Comments \hfill 843

*National Basketball Association v. Motorola, Inc.* \hfill 844

Notes and Comments \hfill 850

---

**Chapter 16 HEALTH AND DISABILITY ISSUES IN SPORTS LAW** \hfill 853

**A. INTRODUCTION** \hfill 853

**B. FEDERAL DISABILITY LEGISLATION — KEY STATUTORY DEFINITIONS AND PROVISIONS** \hfill 854

1. The Americans with Disabilities Act of 1990 \hfill 854

2. The Rehabilitation Act of 1973 \hfill 856

**C. PARTICIPATION RIGHTS AND RESPONSIBILITIES: ELIGIBILITY OF ATHLETES WITH HIGH MEDICAL RISK; PROTECTIVE ISSUES** \hfill 857

Problem \hfill 857

*Knapp v. Northwestern University* \hfill 857

Notes and Comments \hfill 864

Capstone Problem \hfill 868

**D. PARTICIPATION RIGHTS AND RESPONSIBILITIES: ELIGIBILITY STANDARDS AND RULES** \hfill 869

1. Age Limits on Athletic Participation \hfill 869

   Problem One \hfill 869

   *Sandison v. Michigan High School Athletic Association, Inc.* \hfill 869

   *Johnson v. Florida High School Activities Ass’n, Inc.* \hfill 874

   Notes and Comments \hfill 878

2. Academic Requirements for Athletic Eligibility \hfill 880

   Problem \hfill 880

   *Spivey v. National Collegiate Athletic Association* \hfill 881

   Notes and Comments \hfill 882

**E. RULES OF PLAY AND REASONABLE ACCOMMODATIONS** \hfill 885
Table of Contents

Chapter 17  DRUG TESTING ........................................... 907

Chapter 18  OLYMPIC AND INTERNATIONAL SPORTS
RULES AND PROCEDURES .............................. 945

A.  INTRODUCTION .............................................. 945
B.  THE OLYMPIC MOVEMENT: REGULATORY FRAMEWORK 947
C.  U.S. ADJUDICATION AND U.S. JUDICIAL REVIEW OF
OLYMPICS-RELATED DISPUTES .......................... 949

D.  ARBITRATION OF OLYMPIC DISPUTES .................... 966

E.  OLYMPIC TRADEMARK, INTELLECTUAL PROPERTY AND
COMMERCIALISM ISSUES .............................. 988

F.  INTERNATIONAL SPORTS AND COMPETITION LAWS .... 997
## Table of Contents

<table>
<thead>
<tr>
<th>Appendix</th>
<th>WEB DIRECTORY</th>
<th>999</th>
</tr>
</thead>
<tbody>
<tr>
<td>Table of Cases</td>
<td></td>
<td>TC-1</td>
</tr>
<tr>
<td>Index</td>
<td></td>
<td>I-1</td>
</tr>
</tbody>
</table>