

unfettered freedom of expression to the sports-talk audience.²³

THE FUTURE AND CONCLUSION

Sports-talk radio is entertainment that arguably adds "value" to our society. It certainly serves a marketplace that cannot seem to get enough of the sports industry, its participants and personalities. Sports-talk radio also serves as a forum for the free expression of ideas on public figures and officials. Public figures who thrust themselves into the public eye must bear the discomfort of criticisms levied upon their public actions or statements.²⁴ The law continues to evolve in this arena and there are very few cases involving sports-talk radio. Regardless, the next time you hear your favorite sports-talk radio host call a sports figure "dumb," "buffoon," "nincompoop," "a cancer," "egomaniac," "suicidal," "nuts," and "irrational," rest assured that such terms, though often harsh, provide an outlet for millions of Americans who might otherwise vent their concerns in a more violent way which, of course, might then lead to a whole slew of other sports-related torts and even crimes. . . .

²³ See also, *Hunter v. Hartman*, 545 N.W.2d 699 (Minn. App. 1996). This court held that statements made on a radio sports talk show were constitutionally protected speech, statements of opinion and clearly hyperbolic.

²⁴ *Stepien*, 528 N.E.2d at 1330.



(left to right) Interim Director Gordon Hylton, and the 1999 Tulane Mardi Gras Invitational National Sports Law Competition: Tony Burgi (L'00), Amy Worden (L'99) and Jacques Condon (L'99)

For The Record

FEBRUARY / MARCH 1999 • PAGE 4

NSLI Year in Review

by Paul M. Anderson, Editor

Since the last update in the December 1997/ January 1998 issue of **For The Record**, the National Sports Law Institute has continued to publish significant sports law scholarship, introduced several publications and hosted a number of significant conferences, as well as contributing to the sports law program at the Marquette University Law School.

MARQUETTE SPORTS LAW JOURNAL

Under the direction of Editor-in-Chief, Troy Cross (L'98), two issues of the *JOURNAL* were published during the 1997-98 academic year. As usual, articles published focused on a variety of sports law topics, including:

- On-Line Gambling
- Condemnation of Sports Franchises
- The Right of Publicity
- Sports Torts
- The ADA and Sports Facilities
- Assaults on Sports Officials
- Athletes and Drug Testing
- Liability of Little-League Coaches

The *JOURNAL* also published a symposium "Disability Issues in Sport." Articles focused on disabled access to sports facility, participation of disabled athletes, and wheelchair sports. Also, in March of 1998, Interactive Gaming News reproduced the article "On-Line Gambling: Down to the Wire?," published in Volume 8, Number 1, in Interactive Gaming News (<http://www.igamingnews.com>), and provided a synopsis of it in Rolling Good Times OnLine (<http://www.rgtonline.com>).

Under the leadership of new Editor-in-Chief, April Anderson, Volume 9, Number 1, of the *JOURNAL* has just been published with articles discussing the regulation of boxing, the Casey Martin case, and punitive damages and liability issues in sports litigation. Volume 9, Number 2, which will be published in the Spring of 1999 will include two symposiums, one containing articles presented at the "Sports Law in the 21st Century" Conference, held in November of 1998, and the other devoted to the recently passed Curt Flood Act.

In April of 1998, the NSLI hosted its fifth annual *JOURNAL* dinner at the Alumni Memorial Union on Marquette's campus. Approximately 70 alumni, faculty and supporters were in attendance. During the dinner the NSLI announced the establishment of several new awards which will be discussed below.

REVIEW / continued on page 5 . . .

FOR THE RECORD

During the past year, Volume 9 (Numbers 1-6) of FOR THE RECORD: THE OFFICIAL NEWSLETTER OF THE NATIONAL SPORTS LAW INSTITUTE appeared. The newsletter has presented articles on a wide variety of topics, including athlete travel expenses, sports facility location, Title IX, the sports facility boom, and sale of stock in sports franchises. The NSLI also has developed an index for the newsletter which can be found at <http://www.marquette.edu/law/sports/indexfr.html>.

FOR THE RECORD ONLINE

Beginning in June of 1998, the NSLI began publishing FOR THE RECORD ONLINE, a monthly online supplement to FOR THE RECORD. FOR THE RECORD ONLINE provides shorter articles based on current topics in sports law and also supplements pieces found in current issues of FOR THE RECORD. FOR THE RECORD ONLINE is available on the worldwide web at <http://www.marquette.edu/law/sports/ftronline.html>. It is indexed at <http://www.marquette.edu/law/sports/ftrindex.html>.

YOU MAKE THE CALL...

Beginning in the Summer of 1998, the NSLI also introduced a newsletter entitled YOU MAKE THE CALL... which provides synopses of recent cases in the sports law field. YOU MAKE THE CALL... is published on a quarterly basis and is available at <http://www.marquette.edu/law/sports/call.html>, and by fax from the NSLI.

CONFERENCES

On Friday, November 20, and Saturday, November 21, 1998, the NSLI co-sponsored a conference entitled "Sports Law in the 21st Century" with the American Association of Law Schools Section on Law and Sports. Held at the Marquette University Alumni Memorial Union, the conference brought together the leading scholars in the sports law field to discuss the future of the field. Panels addressed issues of gender equity, race and sports, regulation of sports, international sports law, antitrust and labor law, and intercollegiate athletics. The conference's keynote speaker was Leonard "Len" J. Elmore, former NBA star and agent. Materials for this conference are still available from the NSLI.

SEMINARS

In the Fall of 1998, the NSLI hosted a Seminar entitled "Insurance Issues in Sports Law." Participants included Marc Anderson, Partner, PricewaterhouseCoopers, LLP; John Finerty, Attorney, Kravit, Gass, Hovel & Leitner SC; James Green, Attorney, Crivello, Carlson, Mentkowski & Steeves SC; John Muth, Senior Attorney, Northwestern



Attorney Tom Rose, panelist at the "Insurance Issues in Sports Law" Seminar Mutual Life Insurance CO; and Tom Rose, Associate, Foley & Lardner (all from Milwaukee, Wisconsin). The Seminar focused on different aspects of the insurance field and how it affects sports law. Approximately 70 attorneys and other individuals were in attendance. Materials from the seminar are still available from the NSLI.

WORKSHOPS

Beginning in the Spring of 1998, the NSLI Sports law Workshops have brought in individuals from the sports law field to the Marquette University Law School campus. Speakers have included Dan Doucette, President, Milwaukee Rampage; Ellis "Skip" Prince, past Vice President, Television & Business Affairs, National Hockey League; and, Joe Sweeney, President, Sports Marketing & Management Group LLC. The NSLI continues to host two-three workshops each semester.

As announced in the last issue of FOR THE RECORD, on April 16, 1999, the NSLI will host a seminar entitled "Disability Issues in Sports Law." This Seminar will bring together experts in the field of disability rights and sports law to discuss such issues as; participation rights of the disabled, facility access, eligibility rules and the disabled, and employment law considerations for the disabled. Information regarding this seminar can be found at <http://www.marquette.edu/law/sports/disability.html> or by contacting the NSLI at (414) 288-5815.

ALUMNI CAREER PANELS

Beginning with the Spring of 1998, the NSLI has hosted "Career Panels" which feature graduates of the Marquette University Law School who discuss how their



(from left) Dr. Earl Smith listens to Professor Phoebe Weaver Williams at the "Sports Law in the 21st Century" Conference

involvement with the NSLI has helped them in their law practice. A similar panel will be held this Spring.

SPORTS LAW MOOT COURT

For the second consecutive year a team of Marquette University Law School students participated in the Tulane Mardi Gras Invitational National Sports Law Competition. The team was made up of Amy Worden (L'99), Jacques Condon (L'99), and Tony Burgi (L'00), and coached by Prof. J. Gordon Hylton.

INTERNSHIPS

Throughout the past year, the NSLI has continued to sponsor semester-long, sports law related internships. The NSLI currently offers internships with the Milwaukee Brewers, Miller Brewing Company, Conference USA, and the Milwaukee Rampage.

SPORTS LAW COMMENTARY

During the past year, NSLI Interim Director, J. Gordon Hylton and Assistant Director Paul M. Anderson, have offered substantial commentary and research to various news publications, including the *SPORTS BUSINESS JOURNAL*, *USA TODAY*, *THE CHICAGO TRIBUNE*, and *PITTSBURGH TRIBUNE REVIEW*. Paul Anderson has also appeared on Minnesota Public Radio, Wisconsin Public Radio, Talk of the City in Los Angeles, and other radio outlets.

For The Record

SPORTS LAW CURRICULUM

Under the guidance of Interim Director Hylton, the NSLI has further expanded and developed its sports law curriculum (the most extensive in the United States). The curriculum presently includes the following courses: Sports Law, Sports Industry Contracts and Negotiations, The Law of Amateur Athletics, Sports Industry Finance and Regulation, Sports, Law and Society Seminar, Selected Topics in Sports Law Seminar, and a new course entitled Advanced Research in Sports Law.

AWARDS AND SCHOLARSHIPS

The NSLI annually presents several different awards and scholarships.

In April of 1998, at the MARQUETTE SPORTS LAW JOURNAL dinner, Milwaukee attorney Charles W. Mulcahy, Whyte Hirschboeck Dudek SC, and President, Milwaukee Tennis Classic Foundation (1998), received the Joseph E. O'Neill Award which is awarded annually to an individual in the sports industry who has made a significant contribution to the field and done so while exemplifying the highest ethical standards.

Also at the JOURNAL dinner, former Editor-in-Chief (1996-97), Andrew Rhim (L'97) received the Joseph E. O'Neill Prize for Student Writing, for his Comment entitled *The Special Relationship Between Student-Athletes and Colleges: An Analysis of a Heightened Duty of Care For the Injuries of Student-Athletes*, 7 MARQ. SPORTS L.J. 329 (1996). The Prize is given annually to the JOURNAL member who is the author of the best student article published in the MARQUETTE SPORTS LAW JOURNAL.

During the fall of 1997, the NSLI also established the Martin J. Greenberg Award for excellence in the study of sports law in honor of former NSLI Director Martin J. Greenberg. The first recipient of the Greenberg Award was David P. Steffen, former Lead Articles Editor (1997-98) of the MARQUETTE SPORTS LAW JOURNAL and member of the NSLI's first National Sports Law Moot Court Competition team.

And finally, the Francis and Jane Keogh Kelly Scholarship was established in 1997 to recognize a student in the Sports Law program at Marquette for their excellence in the study of sports law and their service to the sports law program at Marquette. The 1997-98 recipient of the Scholarship was former JOURNAL Editor-in-Chief, Troy Cross. The 1998-99 recipient of the Scholarship is current Editor-in-Chief, April R. Anderson.

NSLI ALUMNI BOARD

In the Summer of 1998, under the guidance of Assistant Director Paul Anderson (L'95), the NSLI created

an Alumni Board. The Board is made up of Marquette University Law School graduates who either had exposure to the NSLI while at Marquette University Law School or have been supportive of and interested in the NSLI during their professional careers. The purpose of the Board is to provide guidance and support for the NSLI and its various projects.

SPORTS LAW SOCIETY

Under the leadership of former President Amy Worden (L'99) and current President Daniele St. Marie (L'00), the Sports Law Society continues to support the NSLI and provide a social network for students interested in sports law at Marquette University Law School. The Society sponsors most NSLI events and takes part in the planning of NSLI Workshops. The Society also has organized a tour of the Miller Park construction site and a three-on-three basketball tournament for Marquette Law School students. Currently the Society has a membership of 45 students.

NSLI Website

Created by NSLI Assistant Director Paul Anderson, and put together by Marquette University Law Librarian Robin Schard, the NSLI's website contains information pertaining to the Sports Law Program and the National Sports Law Institute. The website is the location for various NSLI publications, the NSLI calendar of events (<http://www.marquette.edu/law/sports/events.html>), a links page to other useful sites in the sports law field, indexes to the various NSLI publications, and membership and other ordering information for NSLI products (<http://www.marquette.edu/law/sports/pubs.html>).

THE FUTURE

During the coming year the NSLI will publish a work tentatively entitled Sports Law: A Desktop Handbook, which will serve as a reference book for non-lawyers and others interested in the sports law field. Also in the works is a new publication, Sports Facility Reports, which will attempt provide quarterly updates on the ever changing field of sports franchises.



"Disability Issues in Sports Law"

On Friday, April 16, 1999, the National Sports Law Institute of Marquette University Law School will host a conference entitled "Disability Issues in Sports Law." This one day conference will bring together experts in the field to discuss such topics as participation rights of the disabled, sports facility access issues for the disabled, the Casey Martin case and its affect on the rules of sport, NCAA eligibility requirements and their affects on the disabled, and the hiring of and working with, the disabled in sport.

The moderator for this seminar will be:

- ◆ **Paul M. Anderson**, Assistant Director, National Sports Law Institute; Adjunct Assistant Professor of Law, Marquette University Law School.

Speakers for the seminar include:

- ◆ **Alison Barnes**, Associate Professor of Law, Marquette University Law School.
- ◆ **Mark A. Conrad**, Associate Professor & Area Chair, Legal and Ethical Studies, Graduate School of Business Administration, Fordham University.
- ◆ **Gil B. Fried**, Coordinator & Assistant Professor, Sports & Fitness Administration, University of Houston; Adjunct Professor, University of Houston Law Center; Of Counsel Bisk & Lutz, L.L.P., Houston, Texas; Risk Management Specialist, Champion America Inc.
- ◆ **Philip Grayson**, Membership Services, National Collegiate Athletic Association.
- ◆ **Jeffrey Gewirtz**, General Counsel, Ladies' Professional Golf Association.
- ◆ **Robert N. Herman**, Senior Advocacy Attorney, Paralyzed Veterans of America.
- ◆ **Matthew J. Mitten**, Professor of Law, South Texas College of Law affiliated with Texas A&M University.
- ◆ **Daniel W. Sutherland**, Senior Trial Attorney, Disability Rights Section, Civil Rights Division, United States Department of Justice.

The cost of the conference will be \$50.00. CLE credit will be available for. For more information call the NSLI at 414-288-5815.

For The Record

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FEBRUARY / MARCH 1999 • PAGE 8

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YOU MAKE THE CALL...

YOU MAKE THE CALL... is a quarterly newsletter which provides synopsis of recent important sports law cases. Volume of **YOU MAKE THE CALL...** contained stories on the following cases:

Issue 1 (Summer 1998)

(1) Martin V. PGA Tour, Inc., (PGA Ordered To Allow Disabled Golfer Use of a Cart for Tournament Play In Accord with the ADA), (2) Smith v. NCAA, (Antitrust Claim Against NCAA Eligibility Rule Denied While Title IX Claim May Proceed), (3) Law v. NCAA, (NCAA To Pay \$67 Million in Damages for Violation Antitrust Laws), & (4) Todd v. Rush County Schools, (Mandatory Random Drug Testing Requirement for Students Participating in Extracurricular Activities Found Constitutional).

Issue 2 (Fall 1998)

(1) Bowers v. NCAA, (NCAA Found Amenable To Suit Under ADA Title III), (2) United States v. NCAA, (NCAA Enters Consent Decree with DOJ over eligibility rules), (3) Meling v. St. Francis College, (Dismissal of Assoc. Phy. Ed. Prof. Violates ADA), & (4) Faragher v. City of Boca Raton, (City Held Vicariously Liable for Sexual Harassment of Lifeguard).

You Make The Call... can be found at <http://www.marquette.edu/law/sports/call.html>.



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