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Beginning with this issue, **You Make The Call. . .** will now provide analysis of the most recent cases in the sports law field on a bi-annual basis. Each issue will cover the past 6 months of cases. The current issue covers cases from January 1 to June 30, 2005. Issue 2 will cover cases from July 1 to December 31, 2005, and will be published in January of 2006. Where available we continue to include "Webfinds" that provide a pinpoint website link to copies of the cases included in the newsletter.

Agency Law

Biktasheva v. Red Square Sports, Inc., 366 F. Supp. 2d 289 (D. Md 2005).

Professional athletes, Lyudmila Biktasheva and Silviya Skvortsova were represented by Red Square Sports, Inc. When Red Square Sports paid the athletes a fraction of the amount owed under their Nike endorsement contracts, they sued for breach of contract. The court granted Red Square Sport's motion to dismiss for lack of subject matter jurisdiction because the claim did not satisfy the amount in controversy requirement for diversity jurisdiction. The athletes' claimed they were each owed $36,000, while the jurisdictional requirement is for claims valued at $75,000.

Fittipaldi USA, Inc. v. Castroneves, 905 So. 2d 182 (Fla. Dist. Ct. App. 2005).

Racecar driver, Helio Castroneves was represented by FUSA, a subsidiary of Fittipaldi USA, Inc. Castroneves terminated the representation agreement after FUSA failed to assist him in

obtaining a spot on a racing team. FUSA sued for breach of contract. The district court affirmed the lower court's jury verdict in favor of Castroneves because the trial court's error in allowing testimony from an expert witness did not prejudice the outcome of the case.

Mercantile Capital Partners v. Agenzia Sports, Inc., No. 04-0-5571, 2005 U.S. Dist. LEXIS 5609 (N.D. Ill. 2005).

Mercantile Capital Partners wanted to purchase a seventy-five percent interest in the RoughRiders minor league hockey team, which was owned by defendants. After the defendants supplied Mercantile with inaccurate information concerning encumbrances on the assets of the team, Mercantile sued, alleging wrongful termination of a security interest, negligent misrepresentation and fraudulent concealment. The defendants filed a motion to dismiss, which was denied by the district court.

Smith v. IMG Worldwide, Inc., 360 F. Supp. 2d 681 (E.D. Pa. 2005).

Smith, a sports agent, alleged that Condon defamed him and intentionally interfered with prospective contractual relations when Condon told Kenyatta Walker, Antonio Bryant and Larry Johnson, Jr. that Smith played the race card when negotiating with NFL general managers. Condon filed a motion to compel arbitration, and IMG filed a motion to stay. The court denied the motions because the defendants had waived the right to arbitration by actively engaging in litigation for sixteen months prior to filing the motions.

Steinberg, Moorad & Dunn, Inc. v. Dunn, 136 Fed.Appx. 6 (9th Cir. 2005).

Steinberg, Moorad & Dunn sued David Dunn for breach of contract when Dunn left the sports representation firm to start his own business allegedly in breach of a non-competition clause contained in Dunn's employment contract. The appellate court vacated the damages award against Dunn and remanded the case for a new trial because the lower court failed to instruct the jury that the non-competition clause was invalid under California law.

Webb v. Robert Lewis Rosen Assocs. Ltd., 128 Fed. Appx. 793 (2d Cir. 2005).

Sports broadcaster, William Webb hired the defendants to serve as his representatives. After one of the defendants sent a letter allegedly endorsing another person for a sports broadcasting job, Webb sued for unjust enrichment and breach of fiduciary duty. The appellate court affirmed the district court's judgment in favor of defendants because Webb was unable to prove that the district court's ruling was clearly erroneous.

Alternative Dispute Resolution

Bloomington Partners, LLC v. City of Bloomington, 364 F. Supp. 2d 772 (C.D. Ill. 2005).

Bloomington Partners, LLC alleged that it had entered into a contract with the City of Bloomington to serve as the management company for the Bloomington Sports and Entertainment Center. When the city terminated the contract and hired another company, Bloomington Partners sought a temporary restraining order and a preliminary injunction to force the city to arbitrate to determine who should serve as the management company. The district court denied Bloomington Partners' request because an executed copy of the contract did not exist.

Hojnowski v. Vans Skate Park, 868 A.2d 1087 (N.J. Super. App. Div. 2005).

Anastacia Hojnowski signed a release on behalf of her minor son Andrew prior to his visit to a skate park operated by Vans, Inc. Andrew was injured while skateboarding at the park, and the Hojnowskis sued, arguing that the arbitration and liability waiver provisions of the agreement were not enforceable. The court held that the arbitration provision was enforceable against Andrew because he was a third party beneficiary to the agreement, but the liability waiver provision was unenforceable because it was against public policy.

Jeffers v. D'Alessandro, No. COA04-9442005 N.C. App. LEXIS 714 (N.C. Ct. App. 2005).

Patrick Jeffers, a former player for the Carolina Panthers, underwent surgery administered by team doctor, Donald D'Alessandro, in 2000. D'Alessandro allegedly performed additional surgeries on Jeffers without his consent. Jeffers never fully recovered and no longer plays professional football. Jeffers sued the Panthers for negligent retention of D'Alessandro and sued D'Alessandro for intentional engagement in misconduct and malpractice. The appellate court denied Jeffers' appeal from the trial court's order to stay the proceedings and to compel the parties to arbitrate in accordance with the NFL's collective bargaining agreement.

MRK Techs., Ltd. v. Accelerated Sys. Integration, Inc., 2005 Ohio 30 (Ct. App. 2005).

MRK and Accelerated Systems Integration entered into a Private Suite Agreement, which detailed both parties' rights and obligations concerning tickets and a loge suite for Cleveland Browns' and Cleveland Indians' games. MRK sued ASI for violation of the settlement agreement, and ASI countered that the dispute was subject to arbitration. The appellate court affirmed the trial court's denial of ASI's motion to stay the proceedings. ASI had waived its right to arbitrate because it was involved in a previous case involving the same parties and the same tickets, which resulted in the settlement agreement.

Antitrust Law

Am. Needle, Inc. v. New Orleans La. Saints, 385 F.Supp.2d 687 (N.D. Ill. 2005).

American Needle sold headwear with NFL team logos. In 2001, its trademark license expired and was not renewed because the NFL granted Reebok an exclusive license to manufacture headwear with NFL team logos. American Needle sued claiming that the agreement violated the antitrust laws. The NFL filed a motion to dismiss for failure to identify a relevant market in which it restrained and monopolized trade. The district court denied the motion because the market could be defined as the NFL logos themselves and not the headwear.

JES Properties, Inc. v. USA Equestrian, Inc., No. 802CV1586T24MAP, 2005 WL 1126665 (M.D. Fla. 2005).

The plaintiffs attempted to organize horse shows in Florida during the winter months, but the US Equestrian Federation would not sanction the shows because they conflicted with the Mileage Rule. The Mileage Rule states that no two horse shows can occur at the same time within 250 miles of each other. The plaintiffs sued, alleging that the Mileage Rule and the USEF's refusal to waive it violated antitrust laws. The district court granted the defendants' summary judgment motions because plaintiffs could not prove that the USEF and other promoters in Florida had market power or that the defendants acted with an intent to monopolize.

Schwartz v. Dallas Cowboys Football Club, Ltd., 362 F. Supp. 2d 574 (E.D. Pa. 2005).

The plaintiff class and the NFL settled a lawsuit concerning the NFL Sunday Ticket, which the plaintiff class alleged violated antitrust laws. The parties then disagreed over how the unclaimed settlement funds should be distributed. Using the cy pres doctrine, the district court in Pennsylvania sided with the NFL. The NFL preferred to distribute the funds to the NFL Youth Education Town Centers because these organizations were located nationwide and benefited the subject of the lawsuit, namely sports.

Seneca Ins. Co. v. Kemper Ins. Co., 133 Fed. Appx. 770 (2d Cir. 2005).

Seneca Inc. insured USA Equestrian when Michael Gallagher filed an antitrust claim against the organization. Seneca agreed to defend the claim. After this time, while USA Equestrian was insured by Kemper, JES Properties made a similar claim. Kemper refused to defend the claim, arguing that it was an interrelated wrongful act and should have been covered under Seneca's policy. The appellate court affirmed the district court's motion to dismiss Seneca's claim against Kemper for the cost of defending the JES claim because the JES and Gallagher claims had a sufficient factual nexus and so both were covered under the Seneca policy.

Warnock v. NFL, 356 F. Supp. 2d 535 (W.D. Pa. 2005).

Robert Warnock, a citizen of Pittsburgh, sued the NFL for violating the antitrust laws because of its policy forcing cities to build new stadiums and then to enter into favorable leases with NFL teams. The NFL filed a motion to dismiss because Warnock lacked standing to sue. The district court granted the motion because as a municipal taxpayer, the only way Warnock could have standing was if he was suing a government entity and requesting equitable relief.

World Skating Fed'n v. Int'l Skating Union, 357 F. Supp. 2d 661 (S.D.N.Y. 2005).

After the judging scandal that occurred during the 2002 Winter Olympic Games, the World Skating Federation (WSF) formed hoping to become the International Federation for figure skating. After the International Skating Union (ISU) made it impossible for the WSF to obtain members and television rights, WSF sued for violations of the antitrust laws. The ISU filed a motion to dismiss for lack of personal jurisdiction. The district court granted the motion because the WSF is not a corporation governed under the Clayton Act and the defendants did not have sufficient contacts to constitute jurisdiction under New York's long arm statute.

Constitutional Law

Harry A. v. Duncan, 351 F. Supp. 2d 1060 (D. Mont. 2005).

Several male students videotaped female high school students in the girls' locker room at Powell County High School. The female students and their parents sued the school claiming that this violated the students' constitutional rights. The district court granted the defendants' motions for summary judgment because the facts did not show that the defendants acted with deliberate indifference in failing to protect the female students' constitutional rights.

Hickman v. Little League Baseball, Inc., No. EO35160, 2005 Cal. App. Unpub. LEXIS 2279 (Ct. App. 2005).

Adult volunteers of East Baseline Little League, Inc. molested the plaintiffs. They sued, alleging unfair business practices and false advertising because Little League Baseball disseminated materials that stated that it provided a safe environment for children. The district court dismissed the complaint. The court of appeals reversed because Little League Baseball did not show that the plaintiffs' complaint arose from its exercise of protected speech under the First Amendment.

Johansen v. La. High Sch. Athletic Ass'n, No. 2004-CA-0937, 2005 La. App. LEXIS 1740 (La. Ct. App. 2005).

The Louisiana High School Athletic Association placed Reserve Christian School on administrative probation and required the school to forfeit fifteen games because Krystin Johanson's participation on the team was in violation of the bona fide residence rule. The Johansons sued for violation of due process and the Equal Protection Clause of the Fourteenth Amendment. The court of appeals held that the Johansons had a valid equal protection claim but dismissed the due process claim because there were no liberty or property interests implicated.

MBC Realty, LLC v. Mayor & City Council of Baltimore, 351 F. Supp. 2d 420 (D. Md. 2005).

The City of Baltimore enacted an ordinance prohibiting billboards from being placed in certain business and industrial districts. The city granted exceptions to the ordinance allowing general advertising signs to be placed on 1st Mariner Arena. The plaintiffs sued for violations of their constitutional rights under the Equal Protection Clause because they were not allowed to place billboards on their property. The district court dismissed the claim because the city had many reasons for allowing the exception that were rationally related to its concern for the general health and welfare of the city.

Richard v. Perkins, 373 F. Supp. 2d 1211 (D. Kan. 2005).

Stephane Richard was a member of the University of Kansas track team and a scholarship recipient. After his freshman year, the track coach refused to renew his scholarship and removed him from the team. He sued, alleging violations of his First and Fourteenth Amendment rights. The district court granted the athletic director's motions for summary judgment because the athlete did not engage in a constitutionally protected activity and the decision to remove him from the track team did not shock the conscience.

Contract Law

Cass v. Am. Home Assurance Co., 699 N.W.2d 254 (Wis. Ct. App. 2005).

Ryan Cass was snowboarding on a hill at Granite Peak when an employee of the ski resort driving a snowmobile collided with him causing him to suffer permanent disabilities. Cass sued Granite Peak for negligence. Granite Peak alleged that the release Cass signed prior to skiing barred his negligence claim. The court of appeals determined that the release was not clear, unambiguous, or unmistakable enough to release Granite Peak from liability.

Don King Prods. v. Hopkins, No. 04-Civ.-9705, 2005 U.S. Dist. LEXIS 8132 (S.D.N.Y. 2005).

Bernard Hopkins, Jr. entered into a promotion agreement with Don King Productions, which included a number of options to extend the agreement. After the relationship between the two parties began to deteriorate, Hopkins began to talk to rival promoter Golden Boy Productions. Don King Productions sued Hopkins and Golden Boy for tortious interference with the contract and also asked the court for a declaratory judgment that the Muhammad Ali Boxing Reform Act did not invalidate the original agreement. The Muhammad Ali Boxing Reform Act states that a promoter cannot require a boxer to grant rights in future boxing matches as a requirement of competing in a match that is a mandatory bout. The court granted the defendants' motions to dismiss for lack of subject matter jurisdiction because the plaintiff's claims were based in state law and not federal law as required.

Eudy v. Universal Wrestling Corp., 611 S.E.2d 770 (Ga. Ct. App. 2005).

Sidney Eudy, a professional wrestler, was injured while performing a choreographed move during a match. His employer cut his pay and eventually terminated him in compliance with his employment contract, and Eudy sued for breach of contract. The court of appeals affirmed the lower court's grant of summary judgment in favor of Universal because the contract unambiguously stated that Universal could terminate Eudy.

Fitl v. Strek, 690 N.W.2d 605 (Neb. 2005).

In 1995, James Fitl purchased a1952 Mickey Mantle Topps baseball card from Mark Strek. After the card was appraised at zero value, Fitl sued for breach of contract. The jury found that the time Fitl waited to report the defects in the card was a reasonable amount of time. The Supreme Court of Nebraska upheld the jury verdict in favor Fitl because it was not clearly erroneous.

Hispanic Coll. Fund, Inc. v. NCAA, 826 N.E.2d 652 (Ind. Ct. App. 2005).

The Hispanic College Fund, Inc. was a member of the NCAA and sponsored a preseason football game prior to 2003. In 1999, the NCAA passed a rule requiring member institutions to choose between playing a preseason game or a twelfth regular season game. The Hispanic College Fund requested to hold an exempt preseason game during 2003 and 2004, but the request was denied. The Fund sued, alleging that the NCAA's actions were arbitrary and capricious because the Black Coaches Association was granted an exemption. The Indiana court of appeals denied the Fund's request to review the NCAA's decision because a voluntary association's interpretation and application of its rules are not reviewable by a court.

Holloway v. King, 361 F. Supp. 2d 351 (S.D.N.Y. 2005).

Rory Holloway and John Horne entered an agreement with Don King and Mike Tyson to receive portions of the proceeds Tyson earned in his boxing career. Two years into the agreement Tyson fired King, Horne and Holloway. Horne and Holloway sued King for breach of contract because they did not receive their portions of promotions agreements entered into by King. The district court granted the defendant's motion to dismiss because the contract was not in writing; therefore, the statute of frauds barred it.

Kendall v. USA Cycling, Inc., No. 8168004, 2005 Cal. App. Unpub. LEXIS 5025 (Ct. App. 2005).

Judith Kendall was injured during a bicycle race and sued for negligence. The trial court ruled that the action was barred because Kendall signed a release and awarded USA Cycling attorneys' fees in compliance with the release. The court of appeals affirmed the award of attorneys' fees because the release clearly and unambiguously provided attorneys' fees for the prevailing party in any lawsuit that occurred because of the release.

Locke v. Ozark City Bd. of Educ., No. 1030877, 2005 Ala. LEXIS 55 (Ala. 2005)

A player's parent attacked Wesley Locke, an umpire, after a game, causing him serious injuries. Locke sued the school district for breach of its contract with the state athletic association, which required it to provide police protection at games. The Supreme Court of Alabama reversed the lower court's summary judgment in favor of the school board because Locke presented evidence that he was an intended beneficiary of the contract and that the contract required the school to provide police protection.

Pacquiao v. M&M Sports, Inc., No. 05-Civ.-4200, 2005 U.S. Dist. LEXIS 12987 (S.D.N.Y. 2005).

Under the Muhammad Ali Boxing Reform Act promoters are required to disclose to a boxer the compensation that he or she will earn from each match. After the defendant failed to inform the plaintiff boxer about his compensation, he sued for violations of the Ali Act. The defendants argued that the claim was barred by the state statute of limitations. The district court dismissed the defendants' motion for partial summary judgment because the Judicial Improvements Act of 1990 installed a four-year statute of limitations on claims arising from a federal statute.

Sprint/United Mgmt. Co. v. RWT Tours, Inc., No. 04-2476-KHV, 2005 U.S. Dist. LEXIS 6794 (D. Kan. 2005).

Sprint entered into an agreement with RWT to purchase sixty ticket packages to the 2004 NCAA Men's Final Four. When RWT failed to deliver the tickets, Sprint sued for breach of contract. The defendants filed a motion to dismiss for lack of personal jurisdiction, which the district court overruled because the defendants had sufficient contacts in Kansas.

SportsChannel Assocs. v. Sterling Mets, L.P., 801 N.Y.S.2d 242 (Gen. Term 2005).

SportsChannel entered into a licensing agreement with the owner of the New York Mets' to broadcast its games. In 2004 Sterling created a joint venture with Time Warner Cable and Comcast Corporation to launch a new television network to broadcast Mets games. As a result Sterling terminated the agreement with SportsChannel. SportsChannel sued for breach of contract. The Supreme Court of New York granted the defendant's motion to dismiss because its conduct was not barred under the contract; however, it would not dismiss SportsChannel's claims related to Sterling's possible exploitation of its rights in Mets games.

T&T Sports Mktg., Ltd. v. Dream Sports Int'l, LLC, 129 Fed. Appx. 80 (5th Cir. 2005).

T&T Sports Marketing, Ltd. and Dream Sports International had a contract regarding the broadcast rights of the South American World Cup Qualifying tournament. When Dream Sports failed to pay T&T, T&T sued Dream Sports for breach of contract . Dream Sports countered that it was excused from payment when T&T terminated the contract and sold the broadcast rights to CNN. The appellate court disagreed and affirmed the jury verdict in favor of T&T.

Valentine v. Nat'l Sports Servs., No. 3:03CV153, 2005 U.S. Dist. LEXIS 9414 (D. Conn. 2005).

James Valentine called a toll free number operated by the defendant to get predictions of the outcomes of college football games. After Valentine complained about the accuracy of some of the picks, he was issued a $5,000 credit and signed a contract agreeing to not take further legal action against the defendants. However, he still sued for breach of contract. The defendants filed a motion for summary judgment, which the district court granted because Valentine signed an unambiguous contract relinquishing his rights to sue.

Disability Law

Costello v. Univ. of N.C. at Greensboro, No. 1:03CV1050, 2005 U.S. Dist. LEXIS 13034 (M.D.N.C. 2005).

Shawn Costello was dismissed from the defendant's golf team and lost his scholarship after he was diagnosed with obsessive-compulsive disorder and missed several practices. Costello sued for violation of the Rehabilitation Act and the Fourteenth Amendment. The district court dismissed Costello's Fourteenth Amendment claims but upheld his claim for violation of the Rehabilitation Act because it appeared that he was otherwise qualified for the team and was dismissed because of his disability.

Kuketz v. Petronelli, 821 N.E.2d 473 (Mass. 2005).

Stephen Kuketz, a wheelchair racquetball player, entered a footed player league at defendant's club and asked to receive two bounces before hitting the ball. The defendants refused Kuketz's request, and he sued, claiming that the decision violated the Americans with Disabilities Act (ADA). The Supreme Court of Massachusetts affirmed the lower court's grant of summary judgment for the defendant because allowing two bounces would fundamentally alter the game.

Mid-South Chapter of Paralyzed Veterans of Am. v. New Memphis Pub. Bldg. Auth., No. 04-2353, 2005 WL 948370, No. 04-2353 (W.D. Tenn. 2005).

The plaintiffs filed a motion for a declaratory judgment that the defendants were operating the FedEx Forum, a sports arena, in violation of the ADA because the building is not wheelchair accessible. The defendants filed a motion for lack of subject matter jurisdiction because the plaintiffs lacked standing. The district court denied the defendants' motion and remanded the case for further fact finding.

Drug Testing / Privacy Rights Issues

Dominic J. v. Wyo. Valley W. High Sch., 362 F. Supp. 2d 560 (M.D. Pa. 2005).

Dominic M., a high school sophomore, was removed from the swim and water polo teams, and the coach informed his parents that he would not be able to rejoin the team without taking a drug test. After submitting to a drug test, the results of which were negative, Dominic and his parents sued for violations of his First, Fourth and Fourteenth Amendment rights. The defendants filed a motion for summary judgment, which the district court granted because Dominic had no constitutional right to be a member of the athletic teams.

State v. Ohio State Racing Comm'n, 2005 Ohio 1126 (Ct. App. 2005).

Johnny Caldwell filed an application for a thoroughbred owner's license, which was denied because he tested positive for marijuana three times. Caldwell filed a petition for a writ of mandamus. The court of appeals dismissed Caldwell's petition because he did not complete an approved substance abuse program as required by law.

Education Law

Polmanteer v. Bobo, 794 N.Y.S.2d 171 (App. Div. 2005).

After voters rejected two proposed budgets, the Cato-Meridian Central School District implemented a contingency budget in conformance with state law. The contingency budget did not allocate any funds to extracurricular activities or interscholastic sports. The plaintiffs sued for violations of state education law. The Supreme Court of New York found that the decision not to fund extracurricular activities and sports was within the school board's discretion.

Employment Law

Cole v. Valley Ice Garden, LLC, 113 P.3d 275 (Mont. 2005).

David Cole served as the head coach of the Ice Dogs hockey team. After a season and a half of poor performance Cole was terminated. He sued for breach of contract, alleging that he was terminated without cause; therefore, he was owed damages. The Supreme Court of Montana reversed the lower court, finding that Valley Ice Garden had cause to terminate Cole because it had a legitimate business reason for the termination.

Johnson v. Sorenson, No. 1021945, 2005 Ala. LEXIS 72 (Ala. 2005)

Ellis Johnson, a former assistant football coach at the University of Alabama, sued the former President and Athletic Director for fraudulent suppression of the fact that the liquidated damages provision in his employment contract was unenforceable. Johnson sought payment of liquidated damages after he was terminated without cause. The Supreme Court of Alabama affirmed the trial court's ruling in favor of the defendants because there was no evidence that they knew the provision was unenforceable.

Miami Dolphins Ltd. v. Williams, 356 F. Supp. 2d 1301 (S.D. Fla. 2005)

After Ricky Williams retired from the NFL, the Miami Dolphins filed a grievance based on clauses in Williams' contract and sought repayment of over $8 million. The arbitrator ruled in favor of the Dolphins, and the team sought confirmation of the arbitration award. Williams filed a cross-motion to vacate the award, which the district court denied. Instead the court affirmed the award because it did not manifestly disregard the law and did not violate public policy.

O'Brien v. Ohio State Univ., 2005 Ohio 3335 (Ct. of Claims 2005).

Jim O'Brien was terminated from his position as head men's basketball coach at Ohio State University following the disclosure that he loaned a recruit's mother money. O'Brien sued, claiming he was terminated without cause, and both parties filed motions for summary judgment. The court of claims denied the motions because there was a factual dispute concerning what constituted a material breach under the employment contract.

Peirick v. Ind. Univ.-Purdue Univ. Indianapolis Athletics Dep't, No. 1:03 CV 1965, 2005 WL 1518663 (S.D. Ind. 2005).

Debbie Peirick was terminated after thirteen years as head women's tennis coach, allegedly for making claims that there were gender equality problems in the athletic department. She sued for violations of Title VII and the ADEA, and the university filed a motion for summary judgment. The district court granted the university's motion as to the ADEA claim, but denied it as to the Title VII claim because there was sufficient evidence that Peirick was terminated for discriminatory reasons.

Seagrave v. Dean, 2003-2272 (La.App. 1 Cir. 6/10/05).

Loren Seagrave was terminated from his position as the head women's track coach at Louisiana State University. He sued, alleging race discrimination because he was involved in an interracial marriage. A jury ruled in favor of Seagrave, but the court of appeals reversed because Seagrave did not prove that his termination was racially motivated.

Stone v. Romo, No. SA-03-CA-964-XR, 2005 U.S. Dist. LEXIS 2407 (W.D. Tex. 2005).

Laura Stone was terminated from her position as Athletic Ticket Manager at the University of Texas at San Antonio after reporting accounting violations. Stone sued, alleging that she was fired in retaliation for reporting the violations. The district court held that Stone failed to allege that her termination was in response to her speech related to the violations.

Gambling Issues

U.S. v. Tedder, 403 F.3d 836 (7th Cir. 2005).

David Tedder, a lawyer, helped his clients launder money to their sports book business in Curacao. Tedder was charged and convicted of assisting a wagering enterprise, conspiring to defraud the United States, and money laundering. Tedder appealed alleging errors in evidentiary rulings. The circuit court affirmed Tedder's conviction because the lower court judge's rulings as to character evidence were correct.

Gender Equity Law

Coll. Sports Council v. Dep't of Educ., 357 F. Supp. 2d 311 (D.D.C. 2005).

The plaintiffs alleged that Title IX rules and policies discriminated against male athletes. The district court dismissed the action because it alleged the same injuries as a previous lawsuit that had been dismissed for lack of standing. The district court stated that the plaintiffs' proper remedy would be to sue the universities directly.

Jackson v. Birmingham Bd. of Educ., 125 S. Ct. 1497 (2005).

Roderick Jackson was the girls' basketball coach at Ensley High School. After Jackson made several complaints about the unequal treatment the girls' team received, he was terminated. Jackson sued claiming that he was fired in retaliation for reporting the Title IX violations. The lower courts dismissed his claims because retaliation was not included in the private causes of action under Title IX. The Supreme Court reversed, finding that retaliation constituted intentional discrimination and that Jackson could be a victim of this type of discrimination.

Mercer v. Duke Univ., 401 F.3d 199 (4th Cir. 2005).

Heather Mercer tried out for the Duke University football team and earned a spot as a kicker. Following intense media coverage, the coach second guessed his decision and cut Mercer from the team. Mercer sued for violations of Title IX, and a jury awarded her nominal damages and

attorneys' fees. Duke appealed, arguing that attorneys' fees were not appropriate when nominal damages were awarded. The circuit court affirmed the attorneys' fees award, finding that the lower court did not abuse its discretion.

Simpson v. Univ. of Colo., 372 F.Supp.2d 1229 (D. Colo. 2005).

University of Colorado football players and recruits sexually assaulted Lisa Simpson and Anne Gilmore. The women sued for violations of Title IX, and the university filed a summary judgment motion. The district court granted the defendant's motion because the women could not prove that the university had actual knowledge of the sexual assaults or acted with deliberate indifference.

Williams v. Eau Claire Pub. Sch., 397 F.3d 441 (6th Cir. 2005).

Joyce Williams alleged that she was not hired as the assistant athletic director because of her gender and that she was denied a pay raise in her position as secretary because she filed a claim with the EEOC. The district court denied Williams's request to instruct the jury that if it found that the school's reason for denying her the position was pretext that the jury should rule in her favor, and the jury ruled in favor of the school. Williams appealed, and the circuit court affirmed the lower court's determination because Williams's jury instruction did not accurately state the law.

Intellectual Property Law

ACI Int'l, Inc. v. Adidas-Salomon AG, 359 F. Supp. 2d 918 (C.D. Cal. 2005).

The defendants sold shoes with two stripes, similar to Adidas' three stripe design. Adidas sued, alleging trademark infringement and dilution, and ACI filed a motion to dismiss. The district court denied ACI's motion to dismiss because ACI's shoe could cause a likelihood of confusion with Adidas' shoes and Adidas submitted sufficient evidence to prove dilution.

Incredible Techs., Inc. v. Virtual Techs., Inc., 400 F.3d 1007 (7th Cir. 2005).

Virtual Technologies created an arcade golf game, similar to Incredible Technologies' game, Golden Tee. Incredible Technologies sued for copyright and trade dress infringement. The circuit court affirmed the district court's denial of the plaintiff's request for a preliminary injunction because the control panel and many of the video displays were not copyrightable and the trade dress was functional.

Lawlor v. Nike, Inc., No. 02-CV-12262, 2005 U.S. Dist. LEXIS 12001 (D. Mass. 2005).

Kevin Lawlor had two patents for shock absorbing athletic shoe soles. Lawlor sued Nike, alleging that several of its shoe designs infringed on his patents, and Nike filed a motion for summary judgment. The district court granted Nike's motion finding that its products did not include the patents or an equivalent of the patents.

Major League Baseball Props., Inc. v. Cotter & Co., 385 F.SUpp.2d 256 (S.D.N.Y. 2004).

Opening Day Productions approached Major League Baseball Properties (MLBP) with a league wide marketing plan for each ball club's opening day game. MLBP did not pursue the defendant's proposal, but several years later it entered into a sponsorship relationship with True Value, which included opening day promotions. The defendants threatened to sue MLBP for trademark infringement, so MLBP filed a declaratory judgment seeking a statement that it was not infringing on defendant's trademark. The district court held that there was no trademark infringement because the defendants did not register the mark and did not show sufficient use of the mark.

March Madness Athletic Ass'n, LLC v. Netfire, Inc., 120 Fed. Appx. 540 (5th Cir. 2005).

Sports Marketing International acquired the domain name marchmadness.com and operated the site a sports news site for two years. The NCAA and Illinois High School Association sued for trademark infringement. SMI appealed the district court's finding of trademark infringement and cybersquatting. The court of appeals affirmed because there was no clear error in the district court's ruling.

NASCAR v. Scharle, 356 F. Supp. 2d 515 (D. Pa. 2005).

NASCAR enlisted the Franklin Mint to design a trophy to be awarded to the winner of the Nextel Cup Series. Matthew Scharle was an independent contractor of the Franklin Mint and worked on the NASCAR project. After Scharle threatened to enjoin NASCAR's presentation of the trophy, NASCAR sought a declaratory judgment that it was the sole owner of the copyright in the trophy. The district court ruled in favor of NASCAR because Scharle had assigned all copyright rights in the trophy when he signed an agreement with the Mint.

Property Law

City of Anaheim v. Superior Court, No. G035159, 2005 Cal. App. Unpub. LEXIS 5625 (Cal. Ct. App. 2005).

The Anaheim Angels changed its name to the Los Angeles Angels of Anaheim. The City of Anaheim sought a preliminary injunction to stop the name change, arguing that it violated a provision of the lease between the parties. The court of appeals denied the request for a preliminary injunction because by keeping Anaheim in the name, the Angels were not in breach of the lease.

City of La Crosse v. Hastad, 701 N.W.2d 652 (Wis. Ct. App. 2005).

The City of La Crosse transferred Veterans Memorial Stadium to the University of Wisconsin. The parties signed a use agreement, which stated that the stadium would remain named Veterans Memorial Stadium. After the university renamed the facility Roger Harring Veterans Memorial Stadium, the city sued for property right infringement. The court of appeals affirmed the summary judgment grant in favor of the university, finding that the use agreement was not binding on the university because it was signed after the property was transferred.

Madison Square Garden, L.P. v. N.Y. Metro. Transp. Auth., No. 104644/05, 2005 NY Slip Op 50824U (Gen. Term 2005).

The New York Metropolitan Transportation Authority (MTA) transferred development rights for the West Rail Yards section of Manhattan to the New York Jets. The Jets planned to build a stadium in the area that would also be utilized if New York received the bid for the 2012 Olympics. Several taxpayers sued, alleging that the MTA did not have authority to transfer the rights. The Supreme Court of New York determined that the MTA had authority to dispose of the real estate and that its decision was not arbitrary or capricious.

Tax Law

Boston Professional Hockey Ass'n v. Comm'r, 820 N.E.2d 792 (Mass. 2005).

The plaintiff, owner of the Boston Bruins, filed an appeal to the commissioner's determination of its net income subject to Massachusetts' corporate excise taxes. Specifically, the plaintiff objected to the inclusion of its gate receipts and licensing fees in the calculation of its Massachusetts' net income. The Supreme Judicial Court of Massachusetts affirmed the commissioner's net income calculations as to gate receipts and local licensing fees because the income producing activities primarily took place in Massachusetts.

Tort Law

Bennett v. Kissing Bridge Corp., 794 N.Y.S.2d 538 (App. Div. 2005).

Michael Bennett was injured when he hit a tree while skiing. The defendant filed a motion for summary judgment, which was denied by the trial court. The appellate court held that the defendant was entitled to summary judgment because the plaintiff failed to assert facts establishing that the defendant created a dangerous condition over and above the usual dangers inherent in the sport.

Coblentz v. Peters, 2005 Ohio 1102 (Ct. App. 2005).

Wilbur Coblentz was injured when the defendant ran into him while driving a golf cart. Coblentz sued for negligence, and the defendant filed a motion for summary judgment, which was granted. The appellate court reversed, finding that getting hit by a golf cart is not an inherent risk of golfing. Therefore, the lower court should have applied a negligence standard not a recklessness standard.

Cockrell v. Hillerich & Bradsby Co., 611 S.E.2d 505 (S.C. 2005).

Ryan Cockrell was injured while pitching when a line drive hit him in the head. He sued the manufacturer and individual who certified that the baseball bats were safe, claiming both were negligent. The defendants filed a motion to dismiss for lack of personal jurisdiction. The Supreme Court of South Carolina affirmed the grant of the motion to dismiss because the fact that the bats were sold in the state did not satisfy the minimum contacts standard.

Crews v. Seven Springs Mountain Resort, 874 A.2d 100 (Pa. 2005).

Thomas Crews was injured when a drunken high school student collided with him on the ski slope. Crews sued for negligence, and the ski resort filed a motion for summary judgment, which was granted. The appellate court reversed because colliding with a drunken skier is not an inherent risk of the sport.

DiBella v. Hopkins, 403 F.3d 102 (2d Cir. 2005).

Lou DiBella represented Bernard Hopkins in connection with the promotion of Hopkins' boxing career. Hopkins made comments to reporters that DiBella took unethical payments from Hopkins while DiBella was employed at HBO. DiBella sued for libel, and a jury returned a verdict in his favor on only one of his libel claims. DiBella appealed, arguing that he only had to prove libel by a preponderance of the evidence. The circuit court affirmed the jury verdict, finding that the jury used the correct standard of review.

Divia v. S. Hunterdon Reg'l High Sch., No. HNT-L-728-02, 2005 WL 977028 (N.J. Super. Ct. App. Div. 2005).

Matthew Divia was injured during a wrestling match. He sued the school for negligence. The court granted the school's motion for summary judgment because Divia did not show that the school's negligence caused his injury.

Egan v. Clark, No. 03-Civ77185, 2005 WL 1415720 (S.D.N.Y. 2005).

Scott Egan was injured when the defendant's bat flew out of his hands as he swung at a pitch and hit Scott in the face. Scott's parents sued for negligence. The district court denied the defendant's motion for summary judgment because there were issues of material fact concerning whether his presence in the game and the use of an aluminum bat unreasonably increased the risks inherent in the game.

Gonzalez v. Univ. Sys. of N.H., No-451217, 2005 Conn. Super. LEXIS 288 (Super. Ct. 2005).

Gonzalez fell while practicing a cheerleading stunt and was rendered a quadriplegic. She sued for negligence, and the defendant moved for summary judgment based on a release Gonzalez signed prior to participation. The court denied the motion because there was an issue of material fact concerning whether a special relationship existed between the parties, which would make the release signed by the plaintiff invalid.

Jones v. Conte, No. C045312S1, 2005 WL 1287017 (N.D. Cal. 2005).

Marion Jones sued Victor Conte for defamation and tortious interference with business relations after Conte made statements in the press about Jones and performance enhancing drugs. Conte moved for a stay of the proceedings because he was the defendant in a criminal suit based on his alleged distribution of performance enhancing drugs. The court granted the stay because Conte's Fifth Amendment rights would be implicated in the civil suit and the stay would ensure efficient use of judicial resources.

Knievel v. ESPN, 393 F.3d 1068 (9th Cir. 2005).

ESPN placed a picture of Evel Knievel, his wife and an unidentified woman on its website with the caption "Evel Knievel proves that you're never too old to be a pimp." Knievel sued for defamation. The circuit court affirmed the district court's holding that the caption was not defamatory as a matter of law because read in context the caption could not be understood as a criminal accusation.

Nelson v. Ladbroke Racing Corp., No. A106855, 2005 Cal. App. Unpub. LEXIS 3891 (Ct. App. 2005).

Kenneth Nelson was injured when the horse he was riding collided with a green shadow fence. He sued the owner of the race track for negligently erecting the fence. The defendants filed a motion for summary judgment based on the assumption of risk doctrine. The trial court granted

the motion. The appellate court affirmed because the horse's conduct caused the accident, making it an inherent risk of the sport.

Pakett v. Phillies, 871 A.2d 304 (Pa. Commw. Ct. 2005).

Neil Pakett was hit in the eye with a foul ball during a Philadelphia Phillies game. He sued for negligence, alleging that the backstop was not properly constructed, and the Phillies moved for summary judgment. The trial court granted the motion. The appellate court affirmed because getting hit by a foul ball is an inherent risk of attending a game and the plaintiff did not present evidence that the backstop was not in line with industry standards.

Phelps v. Firebird Raceway, Inc., 111 P.3d 1003 (Ariz. 2005).

Charles Phelps was injured when the racecar he was driving crashed into a wall and started on fire. He sued the racetrack, alleging that its staff was negligent in failing to rescue him quicker and failing to provide adequate medical care. The defendants filed a motion for summary judgment because Phelps signed a liability release. The lower courts granted the motion for summary judgment, and Phelps appealed, arguing that a provision of the Arizona Constitution required that a jury decide questions of the validity of a release. The Supreme Court of Arizona agreed, reversing the grant of summary judgment because the constitution required all assumption of risk defenses to be decided by a jury, including an express assumption of risk found in a release.

Range v. Abbott Sports Complex, 691 N.W.2d 525 (Neb. 2005).

Christopher Range was injured when he stepped in a hole while playing soccer. He sued for negligence, alleging that the hole was a defective condition of the field and that defendants knew or should have known of its existence. The Sports Complex moved for summary judgment. The trial court granted the motion. The Supreme Court of Nebraska reversed because there was an issue of material fact concerning whether defendants had constructive knowledge of the hole's existence.

Romanowski v. Township of Washington, No. GLO-L-1174-03, 2005 WL 1017599 (N.J. Super. 2005).

The plaintiff was injured during a soccer coaching certification class when she slipped on the wet field. She sued for negligence, alleging the wet field was a dangerous condition, and the defendants moved for summary judgment. The court granted the defendants' motion for summary judgment because the field was not a dangerous condition; therefore, the defendants were immune from liability under the New Jersey Tort Claims Act and the Charitable Immunities Doctrine.

Schweichler v. Poway Unified Sch. Dist., No. D043742, 2005 Cal. App. Unpub. LEXIS 1553 (Ct. App. 2005).

Henry Schweichler was injured during wrestling practice when his coach demonstrated a move on him. Schweichler sued for negligence, and the defendants filed a motion for summary judgment, which the trial court granted. The court of appeals affirmed, finding that the coach's behavior was not reckless because it was not outside the range of ordinary activity in coaching wrestling.

Smith v. Runnels Schs., Inc., 907 So.2d 109 (La. Ct. App. 2005).

Timothy Smith was injured during a basketball game when he collided with a bench in the gymnasium. He sued for negligence, alleging that the bench's location created an unreasonable risk of harm. The school filed a motion for summary judgment, which the trial court granted. The appellate court affirmed because the bench was located outside the distance required by National Federation of State High School Association rules; therefore, its location did not make it an unreasonable risk of harm.

Stadt v. United Ctr. Joint Venture, No. 03-C-3059, 2005 U.S. Dist. LEXIS 9580 (N.D. Ill. 2005).

Gary Stadt was injured when he slipped on spilt beer after a Chicago Blackhawks game. He sued the United Center for negligence, and the defendants moved for summary judgment. The district court denied the motion because there were issues of material fact concerning whether the defendants' policy of cleaning up spills was reasonable.

Steiner v. City Sports Ctr., Inc., No. 252461, 2005 Mich. App. LEXIS 1297 (Ct. App. 2005).

Eric Steiner was injured while coaching his son's hockey team when his leg got caught between the team bench and a gate. He sued the owner of the Sports Center for negligence, and the defendants filed a motion for summary judgment. The trial court granted the motion. The appellate court affirmed because the injury was caused by an open and obvious danger and was not the result of the defendant's negligence.

Vistad v. Bd. of Regents, No. A04-2161, 2005 Minn. App. Unpub. LEXIS 37 (Ct. App. 2005).

Vistad was injured while performing a cheerleading stunt at practice. She sued for negligence, and the school moved for summary judgment. The trial court granted the motion. The appellate court affirmed because the school did not owe Vistad a duty of care because no special relationship existed between the parties.

Wu v. Shattuck-St. Mary's Sch., No. Civ. 03-4870, 2005 U.S. Dist. LEXIS 3515 (D. Minn. 2005).

The plaintiff was hit in the temple by a golf ball during golf class at Shattuck-St. Mary's School. The plaintiff sued for negligence, and the school moved for summary judgment. The district court determined that the primary assumption of the risk doctrine did not apply because the claim

was more akin to negligent supervision of a sporting activity and that the exculpatory contract signed by the plaintiff was void because it was overly broad and ambiguous.

Workers' Compensation/Disability Benefits

Boyd v. Bell, 410 F.3d 1173 (9th Cir. 2005).

Brent Boyd, a former NFL player, filed a claim for football degenerative disability benefits under the NFL Player Retirement Plan based on an alleged head injury that occurred in 1980. When the Plan's Retirement Board denied Boyd's claim he sued for abuse of discretion. The circuit court affirmed the district court's holding that the Board did not abuse its discretion.

Certain Underwriters at Lloyd's London v. Rychel, No. 03CA1959, 2005 Colo. App. LEXIS 1009 (Ct. App. 2005)

Warren Rychel, a professional hockey player, was injured during a fight with an opposing player. His insurer, Lloyd's London, denied his claim because the injury was not caused in an accident and sought a declaratory judgment. The court of appeals affirmed the trial court's ruling that the policy did not cover Rychel's injury because engaging in a fight is not an accident.

Jani v. Bell, No. WDQ-04-1606, 2005 U.S. Dist. LEXIS 10150 (D. Md. 2005).

The estate of Michael Webster, a former professional football player, filed a claim for active football disability benefits. The NFL Player Retirement Board awarded Webster degenerative disability benefits, and his estate sued for wrongful denial of benefits under ERISA. Both parties filed a motion for summary judgment. The district court granted the estate's motion because there was substantial evidence that his permanent and total disability occurred shortly after his disability arose; therefore, he was entitled to active football disability benefits.

Swift v. Richardson Sports, Ltd., 616 S.E.2d 546 (N.C. Ct. App. 2005).

Michael Swift filed for workers' compensation benefits after he was injured while playing football for the Carolina Panthers. The North Carolina Industrial Commission awarded Swift benefits, and the Panthers appealed. The court of appeals affirmed the Commission's award because Swift sustained an injury by accident as required by the statute.

Miscellaneous Legal Issues

Immaculate Heart Acad. v. N.J. State Interscholastic Athletic Ass'n, 2005 WL 975715 (N.J. Super. Ct. Ch. Div. 2005).

Vanessa Holden was a member of the undefeated Immaculate Heart Academy girls' basketball team. Prior to the state tournament it was reported that she was ineligible because she had played on a varsity team during her eighth grade year, thus making her in violation of the eight-semester rule. The school petitioned the court for a determination of Holden's eligibility. The court determined that the rule applied to Holden even though she played her eighth grade year at an out-of-state school.

Ohio Taekwondo Ass'n v. United States Olympic Comm., No. 2:05-CV-0230, 2005 WL 1198861 (S.D. Ohio 2005).

The United States Taekwondo Union (USTU) was reorganized and restructured after financial corruption and mismanagement. The Ohio Taekwondo Association (OTA) sued the USTU and the USOC for violations of the USTU's articles of incorporation and corporate bylaws. The defendants argued that the OTA was required to exhaust its internal remedies before filing an action in court. The district court agreed and denied the OTA's request for a temporary restraining order because the Ted Stevens Olympic and Amateur Sports Act gives the USOC exclusive jurisdiction over disputes involving national governing bodies.

Terry v. State Athletic Comm'n, 873 A.2d 19 (Pa. 2005).

William Terry was knocked out in a boxing match, but he alleged that the knock out was the result of an illegal punch. Terry filed an appeal with the State Athletic Commission, which upheld the knock out decision. Terry sued, arguing that the commission's decision should be overturned because the evidence clearly showed the punch was illegal. The court upheld the commission's decision because it was based on sufficient evidence that the punch was legal.

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