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Alternative Dispute Resolution

Australian Olympic Committee (AOC) v. Fédération Internationale de Bobsleigh et de Tobogganing (FIBT), CAS ad hoc Division (O.G. Turin 06) 010, award of February 20, 2006. The Brazilian and New Zealand four-man bobsled teams qualified for the Olympic Games by finishing first and second in the North American Challenge Cup. The Australian team finished third. The Brazilian Olympic Committee (BOC) conducted an out-of-competition doping test and one of the members of the bobsled team tested positive for the prohibited substance nandrolone. The BOC announced the positive result to the press, withdrew the bobsledder's accreditation and sent him home. The AOC appealed to CAS to declare the Brazilian team ineligible, thereby allowing the Australian team to qualify. According to CAS, because the positive result was announced without confirmatory analysis, it was considered an adverse analytical finding and not a doping violation. Therefore, because there was no doping violation, the Brazilian team could not be disqualified and the AOC's appeal was denied.

Canadian Olympic Committee (COC) v. International Skating Union (ISU), CAS ad hoc Division (O.G. Turin 06) 006, award of February 17, 2006. In Olympic short track speed skating final A, the Canadian skater finished third. After the official result sheet was signed, the Canadian team leader discussed the event with members of the team and concluded that the second place athlete violated the kicking out rule. The team leader approached the head referee to protest, and was informed that the decision was not appealable. The COC did not formally protest to the ISU, but appealed to CAS. CAS rejected the appeal because if there was a right to file a protest, then it had to have been filed in writing with the ISU with the required deposit.

Cañas v. ATP Tour, CAS 2005/A/951, award of May 23, 2006. Cañas, an Argentinean tennis player, tested positive for hydrochlorothiazide after a sample was taken at an ATP tournament. The Anti-Doping Tribunal suspended him for two years, and he appealed. CAS upheld the suspension but suspended the requirement that Cañas repay any money he won. He requested

that the case be reopened due to new facts, and claimed that the new evidence would show no fault or negligence. Because he relied on the tournament doctor and did not double check what he was putting into his body, CAS held the athlete bore no significant fault or negligence. CAS required Cañas' results obtained at the Tournament to be disqualified, according to ATP Rules L.1, which included Canas returning the prize money. However, the suspension was reduced from two years to fifteen months.

Cole v. Football Association Premier League (FALP), CAS 2005/A/952, award of January 24, 2006. Cole played soccer for Arsenal Football Club, a FALP team. Cole met with representatives of another club without Arsenal Football Club's approval, which was a violation of FALP rules. The Disciplinary Committee fined Cole and he appealed to the Appeals Committee, which reduced the amount of the fine. Cole appealed to CAS. CAS requested that the parties present submissions regarding CAS's jurisdiction. CAS held that it did not have jurisdiction to arbitrate the case because there was no arbitration agreement, CAS was not recognized for appeals under FALP regulations, and FIFA regulations did not require FALP to recognize CAS's jurisdiction.

Dal Balcon v. Comitato Olimpico Nazionale Italiano (CONI) and Federazione Italiana Sport Invernali (FISI), CAS ad hoc Division (O.G. Turin 06) 008, award of February 18, 2006. Dal Balcon was an Italian snowboarder who competed for one of the four Italian Olympic snowboard slots. The trainer informed the competing athletes that the selection would be based on the World Cup results and three competitions prior to the Olympics, following the October 2005 Criteria. In January 2006, two days prior to the final competition, the trainer changed the criteria so that the selection would be based on the two best results and not what was determined in the October 2005 Criteria. Dal Balcon was notified by FISI that she did not make the team, and both FISI and CONI notified her that the selection could not be changed. Dal Balcon appealed to CAS claiming that changing the criteria was unfair and arbitrary, and asked CAS to place her on the team since she would have qualified under the October 2005 Criteria. CAS held that changing the criteria and not communicating it properly was unfair and arbitrary; therefore, CAS held that CONI had to place Dal Balcon on the Italian snowboard team.

Deutscher Skiverband (German Ski Association) and Sachenbacher - Stehle v. International Ski Federation (FIS), CAS ad hoc Division (O.G. Turin 06) 004, award of February 12, 2006. Sachenbacher - Stehle was a cross-country skier for the Olympics on the German ski team. FIS tested her blood prior to the Games, and she was found to have an elevated hemoglobin value, which was the highest her hemoglobin had been in her four-year profile. She was prohibited from competing for a four day period, which would have made her miss her first Olympic competition. She appealed to CAS so that she could compete, claiming she had a naturally high hemoglobin level. CAS held that there was no reason to grant the appeal because it accepted FIS's conclusion that the elevated level was not natural and that FIS rules allowed for the prohibition.

Hamilton v. United States Anti-Doping Agency (USADA) and Union Cycliste Internationale, CAS 2005/A/884, award of February 10, 2006. Hamilton was an American cyclist who competed in a UCI event. He underwent a blood test and tested positive for a blood transfusion. Hamilton was suspended for two years, and his competition results were disqualified. Because CAS found

the test was reliable and the sample taken from Hamilton showed there was blood doping, CAS rejected Hamilton's appeal.

International Association of Athletics Federation (IAAF) v. Hellebuyck, CAS 2005/A/831, award of May 5, 2006. Hellebuyck was a distance runner and member of USA Track and Field. He tested positive for human erythropoietin (r-EPO) in an out-of-competition testing program. According to IAAF regulations, USADA recommended a two year suspension, but Hellebuyck opted to have a hearing and was able to compete between having the sample taken and his hearing. The North American CAS (NCAS) imposed the two year suspension; however, there was some confusion as to the start date of the sanction because of the delay between taking the sample and the hearing. According to NCAS, the suspension was to start as of the taking of the sample. IAAF appealed the suspension to CAS and requested that the two year suspension begin as of the hearing. Hellebuyck claimed there was no doping offense. CAS held that the athlete committed a doping offense and overturned the NCAS ruling so that the suspension began with the hearing, following IAAF rules.

Lissarague & Fédération Français d'Equitation & Emirates International Endurance Racing, the Organising Committee of the FEI Endurance World Championship 2005 v. Fédération Equestre Internationale (FEI) & HH Sheikh Hazza Bin Sultan Bin Zayed Al Nahyan, award of CAS 2005/A/895, March 9, 2006. In the FEI Endurance World Championship, Lissarague finished second to al Nahyan. There were rumors that Al Nahyan's horse was doped. The Organizing Committee awarded Lissarague the gold, but the official results were recorded with Al Nahyan winning. The horse's A sample tested positive for a prohibited substance, and Al Nahyan requested to be present for the Sample B analysis. Because Al Nahyan was not given the opportunity to be present, FEI decided that the procedural error was enough to terminate the Judicial Committee proceedings. FEI then allowed Al Nahyan to retain his standing and determined that he should be awarded the gold medal given to Lissarague. The Appellants challenged the decision and requested that Al Nahyan be disqualified. CAS held that Al Nahyan's right of due process was not violated when he was not present for the Sample B test, and he did not have the right to be present under FEI rules. Therefore, because there was a prohibited substance found and the chain of custody to test the horse's samples was not broken, CAS found reason to disqualify Al Nahyan from the Championship. CAS did not impose a fine or suspension.

Marquette Area Public Sch. v. Marquette Area Educ. Ass'n, No. 265191, 2006 Mich. App. LEXIS 153 (Mich. Ct. App. 2006). Marquette Area Public Schools terminated James Cihak as the girls' head track coach. The Marquette Area Education Association filed a grievance on behalf of Cihak and demanded arbitration under the collective bargaining agreement. The trial court enjoined arbitration of Cihak's grievance and granted summary judgment for Marquette Area Public Schools because Cihak was not a member of the collective bargaining association. The court of appeals affirmed the trial court's decision because termination from employment in an extracurricular position was not subject to arbitration under the CBA.

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Moscow Dynam v. Ovechkin, 412 F. Supp. 2d 24 (D.D.C. 2006). The Washington Capitals

selected Ovechkin as the first overall pick in the 2004 NHL draft, but the 2004-2005 NHL season was cancelled. Ovechkin then signed a contract to play hockey for Moscow Dynamo, which is a member of Russia's Professional Hockey League (PHL). Dynamo sent Ovechkin a qualifying offer for the 2005-06 season, but Ovechkin did not respond. On June 20, 2005, Ovechkin signed a one-year PHL contract with the Avangard Omsk for the 2005-06 season. The contract contained a null and void clause in case Ovechkin signed a contract with an NHL team prior to July 20, 2005. Under PHL regulations, a team that extends a valid qualifying offer retains matching rights to a player if the player signs a contract with another team. The Avangard contract was voided when Ovechkin agreed to terms with the Capitals. Dynamo commenced arbitration claiming it had exclusive rights to Ovechkin's services. The Arbitration Committee of the Russian Ice Hockey Federation entered an award in favor of Dynamo. Dynamo filed suit to enforce the arbitration award pursuant to the Convention on the Recognition and Enforcement of Foreign Arbitrational Awards, which requires an arbitration agreement to be in writing. The court found no evidence that Ovechkin expressed his affirmative acceptance of an agreement to arbitrate; thus, there was no binding arbitration agreement.

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Patterson v. TNA Entm't, 2006 WL 587696 (E.D. Wis. 2006). Patterson alleged that he had adopted eleven names and marks that related to the World Wrestling Association and Superstar Wrestling and that TNA Entertainment infringed on his right to use those names and marks. The parties participated in mediation and agreed to settle. One month after the parties agreed to settle, the case was dismissed, TNA Entertainment filed a motion for relief from judgment, to rescind the settlement agreement, vacate the injunction, reinstate the action and for sanctions because TNA claimed that Patterson made certain factual assertions that were not true. The court dismissed the mediation judgment.

PSV N.V. Eindhoven v. Fédération Internationale de Football Association (FIFA) & Federação Portuguesa de Futebol & Bomfim, CAS 2005/A/835 & 942, award of February 3, 2006. PSV N.V. Eindhoven (PSV) is a football club and member of FIFA. Bomfim signed an employment contract with PSV for four and a half years. Bomfim contacted FIFA in the middle of the contract to claim the contract was void and requested to change teams or be a free agent. FIFA allowed the player to do so and he signed an employment contract with FC Porto. PSV challenged FIFA's decision. FIFA rendered two judgments that Bomfim could play for the club of his choice, one by a Single Judge and another by the Player Status Committee. PSV appealed both decisions, and CAS combined the appeals into one hearing. CAS held that the decisions applied the correct FIFA regulations; therefore, CAS dismissed the appeals.

Rosenhaus v. Star Sports, Inc., No. 3D06-189, 2006 Fla. App. LEXIS 5942 (Fla. Dist. Ct. App. 2006). Star Sports alleged that it entered into a marketing agreement contract with Anquan Boldin, an NFL player, and that Jason and Drew Rosenhaus interfered with the contract by soliciting Boldin to have Rosenhaus Sports Representation represent him in his marketing endeavors. Rosenhaus filed a motion to dismiss and compel arbitration because Section five of the NFL Players Association Agent Regulations required arbitration for a dispute between two contract advisors. The court ruled that the parties are bound by the agent regulations and must resolve the claims through arbitration.

Russian Badminton Federation (RBF) v. International Badminton Federation (IBF), CAS 2005/A/971, award of January 31, 2006. The Ministry of Justice of the Russian Federation declared that RBF ceased to exist as a legal entity because it did not submit the required information to the Federal Registration Office. The IBF informed the RBF that it needed the Russian Olympic Committee's (ROC) endorsement to compete under the IBF, and the ROC submitted the endorsement to the IBF. However, the IBF received a letter from the ROC withdrawing its endorsement and endorsing the National Badminton Federation of Russia. The RBF appealed for the right to be recognized. CAS ordered the IBF to recognize and reinstate the RBF because the IBF failed to follow its governing rules regarding terminating members.

Russian Olympic Committee (ROC) & Ekimov v. International Olympic Committee (IOC), United States Olympic Committee (USOC), & Hamilton, CAS 2004/A/748, award of June 27, 2006. In a cycling event at the Athens Olympic Games, Hamilton, a member of the United States team, won the gold, and Ekimov, a member of the Russian team, won the silver. Hamilton's blood test sample A showed two red blood cell types, and it appeared that there was a blood doping infraction. A letter was sent to Hamilton, who requested that his B sample be tested. Because there were not enough intact red blood cells in his B sample, the IOC chose not to sanction him. The Appellants requested that Hamilton be disqualified and that the gold go to Ekimov. CAS dismissed the appeal because the appellants had no standing according to IOC and WADA regulations.

Saqlain v. International Hockey Federation (FIH), CAS 2005/A/1991, award of April 30, 2006. Saqlain, who was on the Pakistani national field hockey team, was suspended from Pakistan's team by FIH following three matches in a world event because he allegedly lifted his stick and intentionally harmed an opponent on the Australian team. Saqlain claimed that the injuries his opponent suffered occurred when he tackled Saqlain, which did not include a mens rea of criminal intent. CAS held that Saqlain's act of raising his stick was responsible for his opponent's injuries, regardless of criminal intent, and the FIH's suspension was appropriate and unbiased. Saqlain's appeal was dismissed and FIH's sanction was upheld.

Schuler v. Swiss Olympic Association, CAS ad hoc Division (O.G. Turin 06) 002, award of February 12, 2006. Schuler was a member of the Swiss Ski Federation and competed to qualify for one of the five Swiss snowboarding slots. Six snowboarders met the criteria, and Schuler was the only athlete not chosen for the team. Schuler appealed the selection decision to CAS. Because the selection decision was not arbitrary or discriminatory, CAS dismissed the appeal.

SFX Motor Sports, Inc. v. Chris Agajanian Presents, Inc., No. H-04-0601, 2006 U.S. Dist. LEXIS 1427 (S.D. Tex. 2006). This case arose out of a contract dispute between SFX and Chris Agajanian Presents, Inc. (CAPI), which was submitted to binding arbitration. The arbitrator found that both parties breached the agreement and that neither party was entitled to damages. SFX contended it did not breach the contract, and even if it did, SFX was still allowed damages. Because the arbitrator had not decided all claims, the award was set aside and remanded to the American Arbitration Association.

Siebert v. Amateur Athletic Union, 422 F. Supp. 2d 1033 (D. Minn. 2006). Jeff Siebert and his two daughters are deaf. One of Siebert's daughters was recruited to play AAU basketball, but the AAU refused to hire a sign language interpreter. Siebert sued, claiming that the refusal to hire an interpreter was a violation of the Americans with Disabilities Act and the Minnesota Human Rights Act. The AAU moved to dismiss the complaint, claiming that Siebert was required to submit all claims to arbitration because all members of the AAU are required to bind themselves to the AAU Codebook, which contains mandatory arbitration and forum selection clauses. The court ruled that the Sieberts must resolve their claims through arbitration.

Sports at Work Entm't, v. Silber, No. 3-05-CV-2413-BD, 2006 U.S. Dist. LEXIS 12176 (N.D. Tex. 2006). Howard Silber and Steve Weinberg entered into an oral agreement to represent Washington Redskins running back Stephen Davis. Silber and Weinberg agreed to equally share all expenses and commissions. When the joint venture dissolved, Weinberg filed suit, but the parties agreed to arbitration. The arbitrator ordered Silber and Weinberg to split all fees. Silber filed a motion to confirm the arbitration award, and Weinberg filed a motion to vacate the award. A Texas state court vacated the award, but the district and appellate courts confirmed the award. Silber filed a garnishment action against Sports at Work, but Sports at Work filed a suit against Silber in Texas to preclude him from enforcing the federal judgment. Silber removed the case to federal court. Sports at Work claimed that the case should not be removed to federal court because there were no claims arising under the Constitution or laws of the United States. The court ruled that removal to federal court was correct because this was an action brought in state court to nullify a prior federal judgment.

World Anti-Doping Agency (WADA) v. United States Anti-Doping Agency (USADA) and Lund, United States Bobsled & Skeleton Federation (USBSF), & Lund, CAS ad hoc Division (O.G Turin 06) 001, award of February 10, 2006. Lund was a member of the United States Skeleton Team competing in the World Cup in November 2005 and tested positive for the prohibited substance Finasteride. The substance had become a prohibited substance in the beginning of that year, and Lund did not have a Therapeutic Use Exemption (TUE) to use it. However, it was known Lund had been using medication that included the prohibited substance for over five years, and he included it on his Doping Control Forms. USADA sanctioned Lund with a Public Warning and disqualified his performance results from the World Cup. A TUE was filed on behalf of Lund by his doctor after hearing the results from the drug test, and the United States Bobsled and Skeleton Federation (USBSF) chose Lund for the Olympic Skeleton team. WADA appealed USADA's sanction. Because Lund did not check the 2005 prohibited substance list and was responsible for the substance's presence in his sample, CAS held that a suspension would need to be included in Lund's sanction and overruled USADA's imposed sanction. However, CAS held that because Lund had no significant fault or negligence because it was known to anti-doping organizations that he was using the substance, the sanction imposed on Lund was lessened from two years to one year.

Antitrust Law

Hamilton County Bd. v. NFL, No. 1:03-CV-00355, 2006 U.S. Dist. LEXIS 8376 (S.D. Ohio 2006). The Hamilton County Board negotiated a lease with the Cincinnati Bengals beginning in

1995 because Mike Brown, owner of the Bengals, threatened to move the Bengals if a new stadium was not built. The Hamilton County Board claimed that Brown, the Bengals, and the NFL (the defendants) fraudulently concealed information about the Bengals' profits and used that to their advantage in negotiating a lease for a new building. The court found that the Hamilton County Board failed to show affirmative facts of concealment by the defendants.

In Re NCAA I-A Walk-On Football Players Litigation, No. C-04-1254C, 2006 U.S. Dist. LEXIS 28824 (W.D. Wash. 2006). NCAA bylaw 15.5.5 prohibits Division I football programs from issuing more than eighty-five scholarships per year. Several walk-on Division I players brought suit against the NCAA, claiming antitrust violations. The football players claimed that they, and the class of players they represented, would have received scholarships but for bylaw 15.5.5 and that bylaw 15.5.5 is an anticompetitive agreement between Division I-A members. The court denied the plaintiffs' motion for class certification because the representatives could not adequately represent all members of the class due to conflicting interests. If the players were able to prove that NCAA bylaw 15.5.5 was an antitrust violation, they would then have to prove who would have received the additional scholarships. This would be a conflict of interest because for each athlete to prove he would have been in that group, he would also have to prove that others were not.

Constitutional Law

Brentwood Academy v. Tenn. Secondary Sch. Athletic Ass'n, 442 F.3d 410 (6th Cir. 2006). Tennessee Secondary School Athletic Association (TSSAA) fined Brentwood Academy for violating its recruiting rule when the school sent out letters to prospective students inviting them to participate in athletic practices prior to the students being enrolled in school. The court found that TSSAA's actions violated Brentwood's First Amendment rights. The court also said that the executive director was entitled to qualified immunity and that TSSAA was not immune from antitrust claims.

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Carroll v. City of Detroit, 410 F. Supp. 2d 615 (E.D. Mich. 2006). Wayne Schreck attempted to purchase two tickets at face value to a Detroit Lions football game at Ford Field, and police cited him for violating a city ordinance preventing the sale of tickets to sporting and entertainment events in certain areas. Schreck brought a class action suit challenging the constitutionality of the ordinance because the tickets were sold at face value. The City of Detroit challenged the class action suit. The court ruled that a class action suit was proper and that the ordinance violated the First Amendment and the Equal Protection Clause.

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Cohane v. Greiner, No. 04-CV-943S, 2006 U.S. Dist. LEXIS 14009 (W.D.N.Y. 2006). Timothy Cohane was the head basketball coach at State University of New York at Buffalo (SUNY-Buffalo) from 1993 to 1999. After Cohane objected to one of his assistant coaches being fired, the athletic director planned to fire him. The athletic director wrote a letter to the Director of

Compliance of the Mid America Conference (MAC) asking for the compliance director's assistance in investigating alleged violations by the men's basketball program, but the athletic director did not inform Cohane of the investigation. The athletic director, assistant athletic director, and director of compliance for the MAC threatened SUNY basketball players with loss of their scholarships and forfeiture of their degrees if they did not testify against Cohane and sign false affidavits. As a result of the investigation, the NCAA banned Cohane from coaching for four years. Cohane claimed that SUNY-Buffalo violated his rights to due process, and the defendants moved to dismiss the claim for failure to state a claim. The court denied the motion to dismiss.

College Sports Council v. Gov't Accountability Office, 421 F. Supp. 2d 59 (D.D.C. 2006) . The College Sports Council claimed the Government Accountability Office and The United States of America made material misstatements in a 2001 report relating to the opportunities for men's and women's participation in intercollegiate athletics. The College Sports Council claimed that the misstatements violated Section 805 of the Higher Education Amendments of 1998, the United States Constitution, and federal ethical standards and professional duties. The court dismissed the complaint because the Act did not allow a private right of action.

King v. City of Independence, No. 05-2915, 2006 U.S. App. LEXIS 12028 (8th Cir. 2006). King volunteered as a coach for a Pop Warner football league. The city required King to pass a confidential background check prior to volunteering. The results indicated that King had been involved in the sexual maltreatment of a child. King alleged that his disqualification was aired publicly, and he sued Pop Warner and two members of the Pop Warner Board of Directors (BOD) for defamation. He also sued the city for violation of his civil rights. King entered into a settlement with Pop Warner and the two BOD members and signed a release that released him from all claims connected in any way with King's relationship with Pop Warner. King argued that this settlement did not prevent him from suing the city because he only settled with Pop Warner and two board members, but the appellate court affirmed summary judgment in favor of the defendant because the language in the release was unambiguous about releasing all parties related to King's relationship with Pop Warner, which included the city.

Moschenross v. St. Louis County, Mo., No. ED86135, 188 S.W.3d 13 (Mo. Ct. App. 2006). The Missouri Development Finance Board agreed to issue bonds to finance a new major league baseball facility. After the financing program was in place, an amendment to the county charter passed that required a majority of the voters to approve any assistance provided by the county for the development of professional sports facilities. The plaintiff contended that the amendment applied to the new major league baseball facility financing. The appellate court affirmed the trial court's decision that the amendment could only be applied prospectively; therefore, did not apply to the financing of the project at issue.

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Pinard v. Clatskanie Sch. Dist. 6J, 446 F.3d 964 (9th Cir. 2006). The plaintiffs were former members of the 2000-01 Clatskanie High School varsity boys' basketball team. The students claimed that the head basketball coach was verbally abusive. During a team meeting, the basketball players signed a petition requesting that the head coach resign because they no longer

felt comfortable playing for him. All but one of the players who attended the meeting signed the petition. The players turned in the petition the same day that a game was scheduled. The athletic director gave the students the choice of participating in a mediation process and boarding the bus, or adhering to their petition and not playing in the scheduled game. All but one of the players who signed the petition decided not to attend the basketball game that evening. The high school principal permanently suspended all the players who did not board the bus or play in the game. All of the players appealed their decision, but the decision was upheld by the school board. The plaintiffs alleged a violation of the First Amendment. The court held that the petition was protected speech, but failure to board the bus was not protected speech because it substantially disrupted and materially interfered with the operation of the varsity boys' basketball team.

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Ridpath v. Bd. of Governors Marshall Univ., 447 F.3d 292 (4th Cir. 2006). Ridpath was the compliance director at Marshall University. During 1999, Ridpath received information that several Marshall football players were involved in academic fraud. Ridpath informed the NCAA about the allegation. During the investigation, the NCAA learned of other rules violations, but Ridpath did not have any prior knowledge of this information. Marshall University agreed to reassign Ridpath to a different position within the university. As an inducement for the transfer, Ridpath was told that the NCAA and the public would be told that the reassignment was not a result of any wrongdoing. The final NCAA Report stated that Ridpath's reassignment was a corrective action. Ridpath refrained from commenting publicly about this statement because he was threatened by Marshall University's president. Ridpath sued Marshall University and several university officials, alleging violations of due process and his right to free speech. After filing suit, Ridpath began applying to other colleges and universities as a compliance director, but was unable to procure employment. The defendants moved to dismiss on the basis of qualified immunity. The court affirmed the decision not to grant immunity to the Board of Governors but dismissed the coach's complaint against the university on the basis of qualified immunity.

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Ross v. Pittinger, No. 06CV0018, 2006 WL 475269 (N.D. Okla. 2006). Tanya Ross' son, Antonio, slipped and fell while at high school basketball practice. Ross had given written permission for Antonio to be able to participate in practice for the freshman team, but she had not given written permission for him to compete with the varsity team. Tanya Ross sued, claiming that the defendants violated her Fourteenth Amendment right to manage and control her child. The court found that the defendants' alleged interference with parental decision-making authority did not amount to a constitutional violation.

Stewart v. Bibb County Bd. of Educ., No. 5:04 CV 365, 2006 WL 449197 (M.D. Ga. 2006). Stewart was a former football coach at Southeast High School. The athletic director was informed that one of the players on the team was ineligible to compete because he was not a legal resident of Bibb County. The allegation was reported to the Georgia High School Association (GHSA). The GHSA required Southeast to forfeit all of its games for the 2002 season. Stewart and several former players sued the school district, alleging substantive and

procedural due process violations. The court ruled that there is no constitutionally protected right in being able to participate in football games or any potential scholarship they may have received, and Stewart's alleged property interest in coaching did not give rise to due process claims.

Contract Law

In re 2005 United States Grand Prix, No. 1:05-cv-914-SEB-VSS, 2006 U.S. Dist. LEXIS 40354 (S.D. Ind. 2006). The plaintiffs were spectators at the 2005 United States Grand Prix Formula One automobile race. The plaintiffs claimed economic injury from the withdrawal of the Michelin Teams and their fourteen drivers immediately prior to the start of the race because of tire failure, leaving only three teams and six drivers to compete. The plaintiffs sought to recover their ticket costs, travel expense, food they consumed, and punitive damages. However, the tickets explicitly stated that no refunds would be allowed and the holder of the ticket assumed all risk incident to the event. The defendants moved to dismiss the claim for failure to state a claim. The court granted defendants' motion to dismiss because the defendants were not a party to a contract with the plaintiffs, and the plaintiffs assumed the risk.

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Kaczkowski v. Ohio N. Univ., 2006 Ohio 2373 (Ohio Ct. App. 2006). Kaczkowski was the head football coach at Ohio Northern University. In 2003, numerous football players began volunteer practice sessions several days prior to the official opening of Ohio Northern's football camp. Kaczkowski attended some of these volunteer sessions, which was a violation of NCAA rules. Ohio Northern conducted an internal investigation, which led to Kaczkowski being put on administrative leave. Kaczkowski received a hearing before a five-person faculty committee. The committee determined that sufficient evidence existed to find just cause to terminate Kaczkowski. Kaczkowski asked to appeal the decision to a grievance committee and was given a week to make a written grievance, but he failed to do so. Kaczkowski sued Ohio Northern, alleging breach of contract, intentional interference with contract, defamation, intentional infliction of emotional distress, and age discrimination. The district court granted summary judgment in favor of Ohio Northern and Kaczkowski appealed, claiming that the trial court granted summary judgment prior to him concluding discovery. The appellate court vacated the summary judgment because summary judgment was granted prior to the completion of requested discovery.

Logan Knitting Mills, Inc. v. Matrix Group Limited, Inc., No. 04 C 7596, 2006 WL 1344070 (N.D. Ill. 2006). Logan operated a mail-order wrestling merchandise business called Wrestlers Express. Wrestlers Express sold equipment to high school and college amateur wrestling teams. Matrix operated a mail-order business that sold equipment and apparel relating to various sports. Logan distributed a prospectus announcing the sale of its Wrestlers Express division, and Matrix expressed interest. The parties came to an agreement in which Matrix would pay Logan $362,000. An initial payment was paid to Logan, but Matrix alleged that Logan was required to deliver its physical inventory to Matrix before Matrix was required to make a second payment.

Logan alleged that Matrix was required to make the payment prior to Logan shipping the inventory. Logan filed breach of contract claims, Matrix filed counterclaims, and both parties moved for summary judgment. The court denied summary judgment for either party because the contract was ambiguous and the evidence was unclear as to which party was correct; therefore, a jury must decide which party breached the contract.

O'Brien v. Ohio State Univ., 2006 Ohio 1104 (Ohio Ct. Cl. 2006). O'Brien was the head basketball coach at The Ohio State University. O'Brien and his staff recruited a basketball player by the name of Alex Radojevic despite knowing that he had previously played professional basketball in Yugoslavia. While O'Brien continued to recruit Radojevic, he sent Radojevic's mother $6,000 for humanitarian reasons. The Ohio State University fired O'Brien because he broke NCAA rules, which was a breach of his contract. The court said the breach was not a material breach; therefore, Ohio State could not terminate O'Brien for cause. In addition, Ohio State breached the contract by not paying O'Brien the remainder of his contract.

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Tampa Bay Devil Rays v. Namely Baseball Enters., No. 8:04-CV-1330-T-17MAP, 2006 U.S. Dist. LEXIS 23278 (M.D. Fla. 2006). Matt White, a Devil Rays player, injured his rotator cuff while pitching for the U.S. Olympic Team in September 2000. Namely Baseball Enterprises had issued an insurance policy to the Devil Rays to cover him. The Devil Rays claimed that Matt White was totally disabled for a period of at least twelve months, and the Devil Rays were entitled to fifty percent of the amount of benefit. Namely Baseball Enterprises claimed that White was not completely disabled because White pitched in seven games for a minor league baseball team during the twelve month period and claimed that the Devil Rays did not give timely notice as soon as reasonably possible. Namely Baseball Enterprises moved for summary judgment, but the court denied the request because the question of whether White was in fact totally disabled and whether the Devil Rays gave notice as soon as reasonably possible should be decided by a jury.

Discrimination Law

Autry v. Nassau County Sch. Bd., No. 3:04-cv-723-J-32TEM, 2006 U.S. Dist LEXIS 27776 (M.D. Fla. 2006). Gary Autry, an African American, had been employed by the Nassau County School Board as a teacher for over twenty years. Autry had also served as assistant and head football coach at Yulee Junior High School and as assistant football coach at Fernandina Beach High School (FBHS) under four different head coaches. Autry had applied for the head football coach position at FBHS seven times, but was never selected. From 1988 to 2004, the position was filled by a white male. In 2003, Autry filed a discrimination claim against the School Board. In 2004, FBHS hired an African American as head coach. Autry claimed that the school board was retaliating against him for filing a complaint. The court granted summary judgment for the defendants on the discrimination and retaliation claims because they were able to show that the other candidates were more qualified; therefore, Autry could not show a pretext for discrimination or any facts to support his retaliation claim.

Banks v. Pocatello Sch. Dist No. 25, 2006 U.S. Dist. LEXIS 26915 (D. Idaho 2006). Banks, an African American male, applied for six head coaching positions and one assistant coaching position within the Pocatello School District, but was not hired for any of them. Banks alleged both sexual and racial discrimination as well as retaliation for filing discrimination claims. The district moved for summary judgment on all of Banks' claims. The court denied summary judgment for the defendants because the defendants stated that they had taken gender into account when they hired a female basketball coach and because almost all other applicants hired were Caucasian.

Barrett v. West Chester Univ. of Pa., No. 03-CV-4978, 2006 U.S. Dist. LEXIS 15332 (E.D. Pa. 2006). Westchester University eliminated its women's gymnastics and men's lacrosse programs, but at the same time added women's golf. Members of the women's gymnastics team sued and sought a preliminary injunction. Following a settlement between the parties, the plaintiffs requested attorney's fees pursuant to 42 USC § 1988 and 28 U.S.C. § 1821. The defendants claimed that the hours and rate for attorney's fees were excessive. The court reduced the hours and fees charged by the plaintiffs' attorneys because the plaintiff was not a private client.

Cobb v. United States Dep't of Educ. Office for Civil Rights, No. 05-2439, 2006 U.S. Dist. LEXIS 39985 (D. Minn. 2006). The Office of Civil Rights (OCR) received a complaint in 2000 that female high school hockey players were subjected to discrimination because the boys and girls were not provided with equal access to comparable facilities during the final round of the state hockey tournament. The boys played in the Xcel Center, which seated 18,000 people, while the girls played in the Minnesota State Fair Coliseum, which held only 5,200 people. In 2003, in response to an OCR investigation, the MSHSL moved the girls hockey tournament to Ridder Arena, which has a seating capacity of 3,100. Plaintiffs, parents of girls who play high school hockey, complained that this was not comparable to the boys' facility because the Xcel Center seats over 18,000 people. The OCR ruled it comparable because attendance in the past years never exceeded capacity at Ridder Arena. The plaintiffs alleged that MSHSL engaged in sexual discrimination and alleged that the OCR aided and abetted sex discrimination caused by MSHSL. The defendants moved to dismiss the claims for lack of standing and failure to state a claim. The court found no injury in fact to the plaintiffs and gave the plaintiffs thirty days to amend the complaint to explicitly state that they were pursuing the action on behalf of their minor children or to allow their daughters to intervene or join the action.

Humphreys v. Regents, No. 04-03808, 2006 WL 335275 (N.D. Cal. 2006). Humphreys was laid off from her position as Assistant Athletic Director for Student Services at UC Berkley in March 2004. Humphreys alleged that the athletic director replaced some of the positions in the athletic department without considering qualified women. During discovery, Humphreys subpoenaed documents related to recruiting for four positions in the athletic department. The documents were turned over, but the names were redacted. Humphreys sought to have the redactions removed. The court agreed and stated that the relevance of the discovery outweighed the privacy interests of those individuals named in the documents.

Jennings v. Univ. Of North Carolina, Chapel Hill, 444 F.3d 255 (4th Cir. 2006). Melissa Jennings and Debbie Keller played soccer at the University of North Carolina. At the time, Dorrance was the head soccer coach, and Palladino was the assistant soccer coach. Jennings and

Keller claimed that the coaches often made offensive remarks regarding the women's sex lives during practice and at meetings. Jennings and Keller alleged the University of North Carolina violated Title IX, Dorrance violated their privacy, Dorrance and Palladino sexually harassed them, and several university officials failed to supervise Dorrance and Paladino. The defendants moved for summary judgment and the court granted summary judgment in favor of the defendants because Jennings and Keller failed to raise a genuine issue of material fact about whether the comments were sufficiently severe or pervasive enough.

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Leuellyn v. Curators, No. 04-4003, 2006 U.S. Dist. LEXIS 1898 (W.D. Mo. 2006). Leuellyn was the head golf coach and assistant manager of the golf course at the Unviersity of Missouri-Rolla. In 2001, a white male from a different department within the university was assigned as Leuellyn's direct supervisor, contrary to the university's policy that direct promotions are only available to employees presently employed within the department. Leuellyn filed four grievances with the Affirmative Action Office at the university about not being considered for his supervisor's position. In 2003, the athletic department dropped the tennis and golf programs in order to save money. As a result, Leuellyn was fired from his coaching position and assistant manager position. Leuellyn sued the university claiming racial discrimination and retaliation when it eliminated his positions. The university moved for summary judgment on all claims, but the court only granted the motion in regards to Leuellyn's discrimination claims for being fired as head golf coach. The university claimed that Leuellyn was fired because of budget cuts and moved for summary judgment. Leuellyn argued pretext by showing that other things could have been done to reduce the golf course's operating costs, but he was unable to show pretext in regards to his head coaching position. The court ruled a reasonable jury could find both pretext and discrimination and allowed the discrimination claim regarding his assistant manager position and retaliation claims to survive summary judgment.

Richardson v. Sugg, 448 F.3d 1046 (8th Cir. 2006). Nolan Richardson, an African American, was the head basketball coach at the University of Arkansas from 1985 to 2002. During a frustrating 2002 season, Richardson made comments to the press that if the university was not happy with his performance as the head basketball coach then it could buy his contract out. The athletic director, the chancellor, and the university president, all Caucasian individuals, agreed the public comments were so damaging that they should terminate Richardson. The chancellor sent a letter to Richardson informing him that he was terminated. He appealed, but the president confirmed the decision to terminate Richardson. He sued the president, the chancellor, the athletic director, and the University of Arkansas Board of Trustees alleging racial discrimination and free speech claims. The court ruled that the discrimination claims failed because Richardson was unable to show pretext. The freedom of speech claims failed because the statement was not a matter of public concern, and it had a detrimental effect on the university.

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Walters v. Benedict Coll., No. 3:04-0952-JFA, 2006 WL 644442 (D.S.C. 2006). Kathleen Walters was an administrative specialist in the athletic department at Benedict College. Walters was an at will employee. While Walters worked in the athletic department, she observed and

participated in actions involving student-athletes that constituted academic fraud and violated NCAA regulations. After receiving thirty days notice, she was terminated and sanctioned by the NCAA. Walters claimed race and gender discrimination, retaliation, violation of the Equal Protection Clause, wrongful discharge and breach of contract. The defendant was granted summary judgment because Walters could not prove that reorganization was not the reason her contract was not renewed.

Webb v. Wilson County Bd. of Educ., No. CV-04-125-E-BLW, 2006 U.S. Dist. LEXIS 14613 (M.D. Tenn. 2006). Kim Webb, an African American woman, was a physical education teacher at a high school operated by the Wilson County Board of Education. Webb often complained that the girls' locker room and her office were not kept up to date, which caused her to miss a significant amount of work. In response to Webb's complaints, the principal of Lebanon High School made sure the locker room and office were cleaned and that a new ventilation system was installed, but Webb continued to miss a significant amount of work. Webb was then reassigned to teach health in a new wing of the school to see if this would help her health problems. Webb continued to miss a significant number of days prior to her resigning from her teaching position. Webb alleged racial and sexual discrimination. The court granted summary judgment in favor of Wilson County Board of Education because Webb was unable to show that she suffered an adverse employment action. The court stated that the change from physical education teacher to health teacher was a de minimum change alteration to her job responsibilities because there was no change in title, salary or benefits, and she was responsible for the same amount of children.

Williams v. Bd. of Regents of Univ. of Georgia, 441 F.3d 1287 (11th Cir. 2006). Tiffany Williams was invited to University of Georgia basketball player Tony Cole's room, where the two engaged in consensual sex. When Cole went to the bathroom, UGA football player Brandon Williams came out of the closet and attempted to rape Tiffany. Cole also invited a teammate, Steven Thomas, to enter the room and rape Tiffany. Tiffany filed a complaint with the UGA police and withdrew from school. Tiffany sued claiming violations of Title IX by UGA, the Board of Regents, and the University of Georgia Athletic Association. Tiffany also sued the head basketball coach, the athletic director, and the president of UGA under 42 U.S.C. § 1983, as state actors who violated federal constitutional provisions. Tiffany also sought injunctive relief to require UGA to implement policies to protect students from sexual harassment by other students. The district court dismissed all claims. The appellate court remanded the Title IX claims, but affirmed the district court in regards to all other claims.

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Zona v. Clark Univ., No. 05-40178-FDS, 2006 WL 1793627 (D. Mass. 2006). Zona was a baseball player at Clark University. The baseball coach told the baseball team that Zona suffered from bipolar disorder. Zona alleged that the disclosure of this information violated the Public Health Service Act, the Family Educational Rights and Privacy Act, and the Americans with Disabilities Act. The court granted summary judgment for the defendants because the Public Health Services Act and Family Education Rights and Privacy Act do not provide a private right of action, and the Americans with Disabilities Act only allows for injunctive relief rather than monetary damages.

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Education Law

Bassett v. NCAA, 428 F. Supp. 2d 675 (E.D. Ky. 2006) and Basset v. NCAA, No. 5:04-425-JMH, 2006 U.S. Dist. LEXIS 29498 (E.D. Ky. 2006). The University of Kentucky's athletic director, Larry Ivy, told Bassett that if he resigned from his head coaching position there would be no further inquiry into his alleged impropriety. Bassett resigned, but the day after he resigned the University of Kentucky decided to conduct an internal investigation of its football program for possible NCAA rules violations. Bassett alleged antitrust violations, fraud, civil conspiracy, and tortuous interference with prospective contractual relations against the NCAA, SEC, and the University of Kentucky Athletic Association (UKAA). The court dismissed all claims against the SEC and held that only the fraud claim against the UKAA and the tortuous interference with prospective contractual relations claim against the NCAA survived the motion to dismiss. UKAA moved for summary judgment on the remaining two claims, and Bassett moved for additional discovery. The NCAA also moved for summary judgment The court granted the summary judgment in favor of UKAA and the NCAA and denied plaintiff's motion for additional discovery.

Bennett v. Bd. of Educ., 2006 WL 1714349 (N.J. Super. App. Div. 2006). Tyler Bennett was a former high school basketball player. Bennett sued because his high school printed pictures in the yearbook of him playing basketball that revealed his genitals. The court granted summary judgment for the defendants because there was no evidence of willful misconduct or actual malice on part of the defendants.

Bd. of Sch. Comm'rs of Mobile County v. Dunn, No. 2040708, 2006 Ala. Civ. App. LEXIS 334 (Ala. Civ. App. 2006). Marion Dunn was the head basketball coach at B.C. Rain High School. Prior to the 2004-05 basketball season, Dunn allowed a circle drill to happen on eleven occasions. During the circle drills, basketball players gathered around a basketball player and the other players hit and kicked the player in the middle for fifteen to sixty seconds. Dunn was placed on administrative leave and was granted a hearing before a hearing officer. The hearing officer suspended Dunn from teaching without pay for thirty days and barred him from any coaching position for a period of four years. The school board appealed the decision, claiming it was arbitrary and capricious. The court agreed that the decision was arbitrary and capricious because the decisions regarding Dunn's actions as a basketball coach and as a teacher were inconsistent. The court reversed and remanded the decision.

Burch v. Bd. of Reg. of Univ. of Cal., No. Civ. S-04-0038 WBS GGH, 2006 U.S. Dist. LEXIS 36506 (E.D. Cal. 2006). Michael Burch was terminated as the head wrestling coach at the University of California at Davis when his contract was not renewed. The defendants claimed that Burch was terminated because he was unable to work with people within the athletic department or follow athletic department rules, made unreasonable demands for more pay, and was involved in at least two possible NCAA violations. Burch claimed that the defendants were retaliating against him because he advocated for women wrestlers to be reinstated and informed the women wrestlers that the athletic department may have committed illegal sex discrimination by eliminating their participation in the men's wrestling practices. The defendants' motion for

summary judgment was denied because there was a genuine issue of material fact as to the reason Burch's contract was not renewed.

Cassise v. Walled Lake Consol. Sch., No. 257299, 2006 Mich. App. LEXIS 497 (Mich. Ct. App. 2006). Brandon Cassise transferred to a high school in Michigan for academic reasons. The former high school's principal filed a complaint with the Michigan High School Athletic Association because he believed the transfer was for athletic reasons. The principal and the football coach told two different newspapers that they believed Cassise transferred for athletic reasons. Cassise sued the school district, the principal, the football coach and the high school's athletic director, alleging intentional infliction of emotional distress, defamation, abuse of process, and invasion of privacy. Cassise was unsuccessful in proving intentional infliction of emotional distress because he testified that he was offended and annoyed only five times, and this was not sufficient to establish the intensity or duration to sustain an intentional infliction of emotional distress claim. He was unsuccessful in proving the defamation claim because he could not prove the comment was made with actual malice. Invasion of privacy could not be proven because the information revealed to reporters was already public information, and he could not prove defendants abused the Michigan High School Athletic Association appeals process because he could not prove that it had an ulterior motive during the appeals process.

Cioffi v. Averill Park Cent. Sch. Dist. Bd. of Educ., 444 F.3d 158 (2nd Cir. 2006). Louis Cioffi was an athletic director for the Averill Park Central School District. Cioffi criticized the Averill Park Central High School football coach after a hazing incident involving sexual assaults. During a school board meeting about three months later, Cioffi's position was eliminated by the school board in order to save money. Cioffi held a press conference stating that the abolishment of his position was a reaction to his statements about the hazing incident. Cioffi claimed that the defendants fired him in retaliation for the comments about the football coach. The circuit court reversed the district court's grant of summary judgment for the school district and school board and remanded for further proceedings because the superintendent and the president of the board of education were entitled to immunity.

Davis v. Lutheran S. High Sch. Ass'n of St. Louis, No. ED86449, 2006 Mo. App. LEXIS 969 (Mo. Ct. App. 2006). Lee Michael Davis, a student at Lutheran South, was killed in a car accident while on his way to attend Lutheran South's championship softball game. The students at Lutheran South were given an excused absence for attending the game, but regularly scheduled classes were held for those not attending the game. The students had to provide their own transportation to the game. The school told the students about being able to receive an excused absence, but the parents were not told that students had the option of receiving an excused absence for attending the game. As a result, Davis' parents were unaware that he was attending the softball game. Davis' parents sued, claiming negligent supervision and/or failure to supervise. The court affirmed summary judgment in favor of the defendants because the school had no control over the students until they reached the game; therefore, owed the students no duty of care.

DelBuono v. Mass. Interscholastic Athletic Assoc., No. 93492, 2006 Mass. Super. LEXIS 209 (Mass. Super. Ct. 2006). Nicholas DelBuono and Kyle Murphy were both disqualified from the 2006 Central Massachusetts Hockey Tournament for fighting and spearing. They alleged that there was nobody at the tournament to entertain appeals. They sought a temporary restraining order to enjoin the Massachusetts Interscholastic Athletic Association from enforcing the disqualification and to overrule the disqualification penalty assessed. The court denied the motion for a restraining order because the plaintiffs could not prove irreparable harm.

Dillman v. Trustees of Ind. Univ., 848 N.E.2d 348 (Ind. Ct. App. 2006). During the summer of 2000 there had been discussion about terminating Robert M. Knight, Indiana University's head basketball coach, between Indiana University President and the Trustees. On September 9, 2000, President Brand held a meeting with four of the Trustees followed by a separate meeting with four other Trustees to avoid meeting with a quorum of Trustees. The following day Brand announced his decision to fire Coach Knight. The plaintiffs argued that the meeting should have been subject to Indiana's Open Door Law, which requires all meetings of the governing bodies of public agencies to be open at all times. The court upheld the circuit court's decision that a meeting of less than a quorum of a governing body and the President's decision to fire Coach Knight were not subject to Indiana's Open Door Law.

Drews v. Joint Sch. Dist. No. 393, NO. CV04-388-N-EJL, 2006 U.S. Dist. LEXIS 29600 (D. Idaho 2006). Casey Drews played on her high school basketball team and competed with the cheerleading squad. Drews quit the cheerleading squad because she did not want to perform a certain dance. Drews voluntarily moved from a science class to an independent study and threatened to quit the basketball team because of alleged sexual harassment. Drews ultimately remained on the basketball team and brought a Title IX claim against the school district, claiming she had been sexually harassed. The court dismissed the complaint because Drews was not able to claim that she was denied any educational benefits.

Farris v. Port Clinton City Sch. Dist, 2006 Ohio 1864 (Ohio Ct. App. 2006). John Farris was a junior high teacher and a coach at the junior high and high school in the Port Clinton City School District. Farris was the only African American teacher at the junior high. Farris claimed he was discriminated against because he was African American and that the school district was put on notice about the discrimination, but did nothing about it. Farris also claimed that he was discharged without just cause. The school district claimed that Farris' job performance was unsatisfactory and that he received several unsatisfactory evaluations. The trial court dismissed Farris' complaint. The appellate court affirmed based on a lack of evidence and inability to show that the discrimination was severe or pervasive.

Jones v. Green, No. 04-CV-912-JHP-SAJ, 2006 U.S. Dist. LEXIS 23183 (N.D. Okla. 2006). Ryan Jones' basketball team played a game against Jay High School. Green, a highway patrol officer who attended the game in street clothes, asked the on-duty security officer if he needed any help because it was an emotional game. During the game, Jones fouled a player hard, followed him to the other side of the court, and knocked him down. The on-duty security officer and Green attempted to diffuse the situation. Green reached Jones first, grabbed him, but he was able to get away. Jones then pushed the on-duty security officer and knocked Green's hat off. Jones claimed Green used excessive force. Green moved for summary judgment because he was

entitled to qualified immunity as a government official who performed a discretionary function. The court granted his motion.

Kanongata'a v. Wash. Interscholastic Activities Ass'n, No. C05-1956C, 2006 U.S. Dist. LEXIS 41152 (W.D. Wash. 2006). Plaintiff was a high school student in Washington with learning disabilities and Attention Deficit Hyperactivity Disorder. Plaintiff completed five years of high school, but still had at least one more to go. Plaintiff moved out of state for one year and was ineligible to compete in varsity athletics. The Washington Interscholastic Activities Association (WIAA) only allows students to compete in interscholastic athletics for a period of four consecutive years beginning the year they enter high school. Plaintiff was unable to apply for a hardship waiver for his fifth year because he was caught cheating three times, and his grades were too low to be able to compete. He alleged violations of equal protection, deprivation of a property right, and violation of the Americans with Disabilities Act, in not allowing him to compete in interscholastic athletics. The court dismissed the equal protection and deprivation of a property right claims because the plaintiff did not have a property interest in competing in high school athletics. The court held that WIAA's decision that the plaintiff had an opportunity to compete for four years even though he was not allowed to compete when he moved out of state was arbitrary and capricious. The court did not grant summary judgment on the ADA claims because there was an issue of material fact as to whether WIAA's hardship rules violated the ADA.

Nakashima v. Bd. of Educ., 131 P.3d 749 (Or. Ct. App. 2006). The Oregon State High School Boys' and Girls' Basketball Tournament had games scheduled Wednesday through Saturday. Students of Portland Adventist Academy sought review of the Oregon High School Activities Association (OHSAA) decision not to change the state tournament so that students would not have to play on the Sabbath. Using the de minimis test, the OHSAA decided not to make any changes to the state tournament because it would create undue hardship. Portland Adventist Academy student athletes sought judicial review of the Oregon Board of Education's (Board) decision that the OHSAA did not unlawfully discriminate. The court ruled that the Board erred in its conclusion because the OHSAA incorrectly used the de minimis test when it evaluated whether it could reasonably accommodate Portland Adventist Academy.

Ott v. Edinburgh Cmty. Sch. Corp., No. 05-4479, 2006 WL 1868519 (7th Cir. 2006). Ott was hired as a special education teacher and a coach of the boys' football and girls' basketball teams at Edinburgh High School. He disclosed his criminal record during the hiring process, and was still hired. Ott's contract as a special education teacher was not renewed, and he was terminated as the girls' basketball coach. He was allowed to remain the boys' football coach if he submitted biweekly drug tests. Ott claimed that the school board singled him out by requiring him to submit to drug tests because the athletic director was caught stealing from the school and was not required to submit to drug tests. The court ruled that Ott and the athletic director were not similarly situated because the athletic director was never convicted of a crime, while Ott had been convicted of a felony.

Parker v. Waldron, Ark. Sch. Dist., No. 03-2135, 2006 WL 663401 (W.D. Ark. 2006). Jeffery Parker's son, Jerry, was involved in an altercation during a middle school basketball game and was suspended. Parker met with the superintendent and was critical of the way the administration handled the matter. During a meeting, the school board decided to uphold Jerry's suspension. Parker wrote a letter that was published in the local newspaper criticizing the coaches and administration. Parker claimed the School District retaliated against him for engaging in constitutionally protected speech. The defendants moved for summary judgment, but the court denied the motion because Parker was able to show the existence of a genuine issue of material fact.

Romanowski v. Township of Wash., 2006 WL 1650967 (N.J. Super. App. Div. 2006). The plaintiff enrolled in a licensing program for soccer that was administered by defendant, the New Jersey State Youth Soccer Association (NJSYSA). While participating in the practical training on the Township of Washington's (Township) fields, the plaintiff slipped on wet grass and injured her knee. The plaintiff sued the Township and the NJSYSA, alleging negligence. Both the Township and the NJSYSA moved for summary judgment. The court granted summary judgment for Township of Washington because the plaintiff did not establish that the Township had actual or constructive knowledge of the dangerous condition or that its conduct in maintaining and inspecting the fields was unreasonable. The court granted summary judgment for the NJSYSA because the New Jersey Charitable Immunity Act applied. The NJSYSA was able to prove that it was formed for nonprofit reasons, it was organized exclusively for educational or charitable reasons, and the plaintiff was a beneficiary of the services because plaintiff benefited in her coaching position by receiving her license upon completing the class offered by the NJSYSA.

Taylor v. Enumclaw Sch. Dist., 133 P.3d 492 (Wash. Ct. App. 2006). Zachary Taylor, a football player on the Enumclaw High School team, was suspected of being under the influence of alcohol during a football game, and administrators found a beer box in his car. Zachary received a 10-day academic suspension for violating school policy. The Athletic Board suspended Zachary from one football game and five wrestling matches, required Zachary to forfeit his football letter, and recommended alcohol evaluation and treatment. Zachary appealed the academic and athletic sanctions. The Enumclaw School Board of Directors upheld both suspensions. Zachary's father sued on behalf of Zachary alleging denial of due process, negligence, unlawful search and seizure, negligent supervision, and defamation, libel and slander. The trial court granted summary judgment for the defendants. The court affirmed the trial court's decision because Zachary did not have a property interest in participating in high school athletics.

Tesmer v. Colo. High Sch. Activities Assoc., No. 05CA2334, 2006 Colo. App. LEXIS 534 (Colo. Ct. App. 2006). Beth Tesmer's son, Scott Orth, was diagnosed with attention deficit disorder in fourth grade, but he was not required to take special classes. During his first year of high school, Orth missed six to ten weeks of school due to a sinus infection. He was required to repeat the ninth grade, and as a result in 2005 he was in his ninth semester of high school and was not allowed to participate in sports due to the eight-semester rule. Orth applied twice for a hardship waiver, but it was denied. Tesmer and Orth sought a preliminary injunction to prevent the CHSAA from prohibiting him from competing in athletics because the application of the eight

semester rule violated the statutory protections of the Colorado Anti-Discrimination Act, but the court denied the injunction.

Intellectual Property Law

Adidas Int'l Mktg. BV and Adidas-Salomon AG v. Sonia Eguia, WIPO case number D2006-0475, June 9, 2006. Adidas-Saloman AG is a Germany business that sells fitness and sports products and owns the registered trademark ADIDAS. Adidas International Marketing BV is a Netherlands corporation that is closely connected with adidas-Saloman, and it owns the registered trademark TUNIT. Eguia registered the domain name adidastunit.com. Adidas-Saloman and adidas International have used the registered mark adidas for multiple classes of goods. They asserted that Eguia registered the name in bad faith and that the name was confusingly similar. Because the WIPO panel found that the marks were confusingly similar, there was no legitimate interest in using the domain name, and the name was registered and used in bad faith, the domain name was transferred to adidas-Saloman and adidas International.

Cent. Mfg. Co. v. Brett, No. 04 C 3049, 2006 U.S. Dist. LEXIS 10506 (N.D. Ill. 2006). Central Manufacturing, Stealth Industries, and Leo Stoller (plaintiffs) filed suit against George Brett and Brett Brothers Sports International (defendants) for trademark infringement, false designation of origin, and unfair trade practices. The plaintiffs and defendants both claimed that they were the senior users of the Stealth mark placed on baseball bats. Both parties filed for summary judgment. The court granted summary judgment in favor of the defendants. The plaintiffs appealed. The court found that the defendants used the mark two years before the plaintiffs began using the mark and affirmed the award for attorney's fees and costs.

DeLong Sportswear Inc. v. LaPorte Holdings, WIPO case number D2006-0126, March 30, 2006. LaPorte Holdings registered the domain name delongsportswear.com. DeLong Sportswear registered the trademarks DeLong and DeLong USA and had the domain name DeLong-sportswear.com. DeLong alleged that the name delongsportswear.com was confusingly similar and that LaPorte registered the name to free-ride on DeLong Sportswear. The website led browsers to other links, which sold various sports apparel. Because the WIPO panel found that the marks were confusingly similar, there was no legitimate interest in using the domain name, and the name was registered and used in bad faith. The domain name was transferred to DeLong Sportswear.

ESPN, Inc. v. IMCO Corporation Pty Ltd, WIPO case number DAU2005-0005, January 31, 2006. IMCO, an internet outsourcing corporation, registered the domain name espn.com.au. The website would redirect users to a sweepstakes promotion that lured people into subscribing to a horoscope service. ESPN claimed its mark was famous, the domain name was identical to its mark, and users would not know that ESPN was neither an affiliate nor a sponsor of the site. Because the WIPO panel found that the marks were identical, there was no legitimate interest in the domain name, and the name was registered and used in bad faith, the domain name was transferred to ESPN.

Garden City Boxing Club v. Collins, No. B-05-260, 2006 U.S. Dist. LEXIS 35046 (S.D. Tex. 2006). Garden City Boxing Club (Garden City) held the exclusive licensing rights to exhibit and sublicense a boxing match between Oscar De La Hoya and Shane Mosley. Garden City claimed that Collins intercepted the closed circuit telecast and showed the boxing match at WingStop Restaurant without paying the licensing fee to Garden City. The defendants did not answer the complaint, and a default judgment was rendered against them. Garden City asked for damages totaling $60,000, but the court awarded $8,000 in damages and $2,000 in attorney's fees because WingStop did not advertise, did not charge an admission fee, and only showed the boxing match on two TVs.

Garden City Boxing Club v. DeJesus, No. 05 CV 3898, 2006 U.S. Dist. LEXIS 26093 (E.D.N.Y. 2006). Garden City Boxing Club claimed that DeJesus and Punto Latino Restaurant violated the Communications Act of 1934 when they unlawfully intercepted and exhibited the Barerra/Morales pay-per-view boxing event on November 27, 2004. Default judgment was granted against the defendants for failure to answer or appear in court after proper service was sent. DeJesus then sent a letter on behalf of himself and Punto Latino Restaurant to inform the court that he did not answer the complaint because he could not speak or read English and he could not afford to hire an attorney. He requested that the court vacate the default judgment. The court scheduled a status conference and the plaintiff sent a letter in both English and Spanish to inform the defendant of the conference. The defendant failed to show up on time to the status conference. As a result, the court declined to vacate the default judgment.

Green v. Fornario, No. 04-1159, 2006 U.S. Dist. LEXIS 18409 (E.D. Pa. 2006). Tyler Green sued Greg Fornario and Tyler Green Sports alleging that Fornario illegally used Green's name in connection with Tyler Green Sports, a sports handicap service. After Green filed suit for violation of the Lanham Act, a consent decree was entered and Fornario agreed to stop using the name Tyler Green Sports in connection with his business. Subsequently, Green then filed a motion for attorney's fees under the Lanham Act, which requires culpable intent on the part of the losing party. The court dismissed the plaintiff's request for attorney's fees because the court could not find bad faith, fraud, malice, or knowing infringement.

Hart v. N.Y Yankees P'ship, No. 06-1050, 2006 U.S. App. LEXIS 14315 (Fed. Cir. 2006). The plaintiff filed an intent-to-use application with the United States Patent and Trademark Office to register the mark Baby Bombers for clothing and athletic wear. The New York Yankees Partnership filed an opposition on the basis of their common law mark Baby Bombers in association with their major and minor league teams. The New York Yankees had used the mark in promotional material since 1999, and Hart did not register for the mark until 2001. The court found the mark to be distinctive and found that Hart's use of the mark would have been confusingly similar to the Yankees' identical mark. The court agreed with the Trademark Trial and Appeal Board that Hart should not be granted use of the mark Baby Bombers.

Haw.-Pac. Apparel Group, Inc., v. Cleveland Browns Football Co., No. 04-7863, 418 F. Supp. 2d 501 (S.D.N.Y. 2006). Hawaii-Pacific manufactured and marketed a line of apparel using the "dawg pound" phrase as a mark. Hawaii-Pacific tried to register the "dawg pound" mark, but National Football League Properties, Inc. contested the registration because it had used the same phrase to characterize Cleveland Browns' fans even though it had never registered the mark.

Hawaii-Pacific registered the marks “top dawg” and “lil dawg pound.” Subsequently, National Football League (NFL) Properties filed an intent-to-use application for the “dawg pound” mark, but was rejected because it was too close to Hawaii-Pacific's registered “lil dawg pound” mark. Hawaii-Pacific sued NFL Properties alleging trademark infringement and unfair competition. The district court declared NFL Properties the official users of the mark “dawg pound” because the Browns and National Football League Properties used the mark “dawg pound” prior to Hawaii-Pacific.

Korpacz v. Women's Prof'l Football League, No. 04-10735, 2006 U.S. Dist. LEXIS 3154 (D. Mass. 2006). Melissa Korpacz is the owner of New England Storm, which was expelled from the Women's Professional Football League (WPFL). Korpacz alleged trademark infringement because the WPFL allegedly used certain marks owned by Korpacz without permission. Korpacz was unable to prove damages, unable to show that she was the registered owner of the WPFL logo, and had explicitly invited others to use additional marks, ceding her ownership in the marks.

Lemon v. Harlem Globetrotters Int'l, Inc., 2006 WL 1791150 (D. Ariz. 2006). The plaintiffs are former Harlem Globetrotter basketball players who claimed that their names, likenesses, and player numbers were trademarks. When Harlem Globetrotters International (HGI) licensed the marks to defendant GTFM, the plaintiffs sued alleging violations of the Lanham Act, invasion of the right to publicity, unjust enrichment, and false light invasion of privacy. HGI claimed that it had the right pursuant to the plaintiffs' contracts with HGI's predecessors. Both parties filed for summary judgment. The court granted summary judgment for the defendants in regards to the Lanham Act claim because there was only a possibility of confusion rather than a likelihood of confusion. Summary judgment was granted in regards to the unjust enrichment claim because the plaintiffs could not prove damages. Summary judgment was granted in favor of the defendants because plaintiffs did not present evidence of highly offensive conduct. The defendants were not granted summary judgment for the players' claims of invasion of privacy because there was a question as to whether the contracts entered into with GTFM were unconscionable.

Kingvision Pay-Per-View Ltd. v. DeJesus, No. 05 CV 3682, 2006 U.S. Dist. LEXIS 18682 (E.D.N.Y. 2006). Kingvision Pay-Per-View claimed Rafael DeJesus and Punto Latino Restaurant violated the Communications Act of 1934 when Punto Latino Restaurant unlawfully intercepted and exhibited the Ruiz/Golota pay-per-view boxing event. The defendants did not answer the complaint and the court granted a motion for a default judgment. DeJesus then sent a letter on behalf of himself and Punto Latino Restaurant to inform the court that he did not answer the complaint because he could not speak or read English and could not afford to hire an attorney. He requested that the court vacate the default judgment. The court scheduled a status conference and the plaintiff sent a letter in both English and Spanish to inform the defendant of the conference. The defendant failed to show up on time to the status conference. As a result, the court declined to vacate summary judgment.

Kwik Goal, Ltd. v. Youth Sports Publ'g, Inc., No. 06 Civ. 395, 2006 U.S. Dist. LEXIS 34460 (S.D.N.Y. 2006). Kwik Goal sells soccer equipment. Defendant SoccerOne is an internet retailer of soccer equipment including Kwik Goals' equipment. Kwik Goal gave SoccerOne limited

permission to use its catalog and website images in the promotion and sale of Kwik Goal merchandise. Kwik Goal alleged that the defendants copied Kwik Goal's images without permission and used them without authorization to promote and sell other products. The defendants filed a motion to transfer venue from the Southern District of New York to the Central District of California. The court granted the defendants' motion to transfer because neither plaintiff nor defendants were located in New York, most witnesses were located in California, and the location of most of the operative facts were in California.

Mont. Prof'l Sports, LLC v. Leisure Sports Mgmt., 422 F. Supp. 2d 1271 (M.D. Fla. 2006). Duane Anderson was the owner and operator of the Billings Outlaws, a professional football team that played in the National Indoor Football League (NIFL). Anderson acquired protection for the mark Billings Outlaws for use in connection with professional football games and exhibitions. The NIFL terminated Anderson's contract after a dispute, took control of the Billings Outlaws, and offered Montana Professional Sports (MPS) the opportunity to operate a team in Billings as part of its league. Anderson threatened to sue MPS if it used the Outlaws' marks; therefore, MPS used the team name Billings Mavericks during the 2005 season. Subsequently Anderson agreed to assign all rights in the Outlaws' marks to MPS. During 2005, NIFL acquired a new team and approved the adoption of the team name Osceoal Outlaws. MPS sued the NIFL and the owner of the Osceal Outlaws alleging trademark infringement and moved for summary judgment. The court granted a preliminary injunction for MPS allowing it to continue using the Outlaws marks and preventing the defendants from using the Outlaws marks.

ProBatter Sports v. Joyner Techs., No. C04-2045, 2006 WL 625874 (N.D. Iowa 2006) and ProBatter Sports, LLC v. Joyner Techs., Inc., No. C-05-2045, 2006 U.S. Dist. LEXIS 3223 (N.D. Iowa 2006). ProBatter owns patents to a unique baseball video pitching simulator. Joyner Technologies (Joyner) created a video display system called Allstar Pro 2000 and used it with Sports Tutor Inc's HomePlate programmable pitching machine. ProBatter Sports claimed that when HomePlate is used with Allstar Pro 2000, it infringes on its patents. ProBatter sued Sports Tutor alleging patent infringement, and Joyner filed a counterclaim action seeking declaratory judgment of non-infringement. Sports Tutor moved to intervene in Joyner's counterclaim against ProBatter. The court denied Sports Tutor's motion to intervene because Sports Tutor was asking the court to decide issues that were not the subject of the original action. ProBatter moved to dismiss Joyner's unfair competition and abuse of process counterclaims. The court did not dismiss the counterclaims because Joyner had sufficiently alleged that it suffered damages, and it had alleged ProBatter used the legal process in an unlawful manner.

Protrade Sports, Inc. v. Nextrade Holdings, Inc., No. 05-04039, 2006 U.S. Dist. LEXIS 6631 (N.D. Cal. 2006) and Protrade Sports, Inc. v. Nextrade Holdings, Inc., No Co5-4039 MJJ, 2006 WL 708670 (N.D. Cal. 2006). Nextrade is a Florida corporation that owns the trademark Pro-Trade. Protrade operates an online stock market dealing in virtual shares of professional athletes in the fantasy-sports industry. Protrade filed an action in California that sought a declaratory judgment of non-infringement of the Pro-Trade mark. The defendant moved to dismiss the action for lack of personal jurisdiction. The court dismissed the complaint because Protrade was not able to prove that Nextrade had sufficient business contacts within California. Protrade moved to reconsider after finding more information about Nextrade's contacts in California during a deposition in another case. However, Protrade was unable to show that the information

received from the depositions was not available prior to the dismissal for lack of jurisdiction. The court denied Protrade's motion to reconsider.

Roll v. Dimension Films, LLC, No. C-1-05-387, 2006 WL 181993 (S.D. Ohio 2006). Roll was a professional wrestler who used the trademark Shark Boy as his professional wrestling name. Roll alleged trademark infringement, unfair competition, federal dilution of his mark and violation of Ohio's Deceptive Trade Practices Act in regards to the release of the film The Adventures of Shark Boy and Lava Girl in 3-D. The court dismissed the claim based on lack of personal jurisdiction because Roll did not mention Ohio or make any allegations that connected the defendants with Ohio.

Russell Coutts v. Massimo Gallotta, WIPO case number D2006-0008, March 23, 2006. Massimo Gallotta registered the domain name russellcoutts.com. Russell Coutts, a New Zealander and a renowned medal winning yachtsman. He licensed his personal name and owned several trademarks with his name or signature. Coutts claimed that the use of his name was not considered fair use and that the respondent was attempting to use the good will associated with his name. Because the WIPO panel found that the marks were confusingly similar, there was no legitimate interest in using the domain name, and the name was registered and used in bad faith, the domain name was transferred to Russell Coutts.

Speedway Props. Co., v. Registrant, WIPO case number D2005-1260, January 31, 2006. Defendant registered the domain name lasvegasmotorspeedway.com. Speedway Properties had used the mark Las Vegas Motor Speedway for its racing facility for four years prior to defendant's registration of its website. The website's domain name was identical to the claimant's mark. Speedway Properties claimed that the domain name misdirected visitors to a motor sport ticket sales website, and that the respondent registered the domain name to create confusion as to sponsorship affiliation and/or endorsement. Because the WIPO panel found that the marks were confusingly similar, there was no legitimate interest in using the domain name, and there was bad faith registration and use of the domain name, it was transferred to Speedway Properties.

Sportvision Inc., v. SportsMEDIA Tech. Corp., No. 04-03115, 2006 WL 408634 (N.D. Cal. 2006). Sportsvision provides sports broadcasters with first down marker technology. SportsMEDIA provides real time graphics and interface services and products to the live sports television production industry. Sportsvision has historically provided the yellow virtual line first-down marker used in football game broadcasts. Sportsvision noticed SportsMEDIA was using similar technology and warned SportsMEDIA that it was infringing on its intellectual property rights, but SportsMEDIA continued to use the technology. Sportsvision sued, claiming patent infringement, but the parties disagreed on certain terms and phrases used in the patents. The court defined several of the terms and phrases used in the patents and the parties will meet in the future to develop a joint case management statement to address further proceedings in the case.

Taylor Made Golf Co., Inc. d/b/a TaylorMade adidas golf v. Kang Doeck-Ho, WIPO case number D2005-1262, February 6, 2006. Kang Doeck-Ho registered the domain name maxfligolf.com. The plaintiff, Taylor Made Golf Company (Taylor Made), owned the mark Maxfli for golf balls and golf related goods for over seventy-six years. Taylor Made claimed that

the marks were identical or confusingly similar to its marks and Doeck-Ho used the similarity to create confusion as to source, sponsorship, affiliation and/or endorsement. Because the WIPO panel found that the marks were confusingly similar, there was no legitimate interest in using the domain name, and the name was registered and used in bad faith, the domain name was transferred to Taylor Made Golf Company.

World Triathlon Corp. v. Zefal, Inc., No. 8:05-cv-659-T-24, 2006 U.S. Dist. LEXIS 20550 (M.D. Fla. 2006). World Triathlon Corporation and Zefal entered into a license agreement where they agreed that World Triathlon Corporation would grant an exclusive license to Zefal to use World Triathlon's Ironman marks on bicycle equipment on a worldwide basis. World Triathlon Corporation terminated the licensing agreement after Zefal failed to make certain payments and to comply with other obligations under the license agreement. After the termination of the licensing agreement, Zefal continued to use World Triathlon's marks and logo on its website. World Triathlon alleged breach of license agreement, trademark infringement, and false designation of origin. Zefal moved to dismiss for lack of personal jurisdiction. World Triathlon claimed it satisfied Florida's long-arm statute because Zefal committed tortuous acts, which caused injury within Florida. The court disagreed and dismissed the case based on lack of personal jurisdiction.

Property Law

Siegel v. District of Columbia, 892 A.2d 387 (D.C. 2006). The plaintiffs owned land that was within a proposed baseball stadium site in Washington D.C. The plaintiffs brought an action claiming the revaluation of their land was not correct. The trial court dismissed the claim finding that it was not ripe because the plaintiffs could have challenged the revaluation in an eminent domain proceeding, and the plaintiffs appealed. On appeal the claim was ripe because the plaintiffs had already pursued an eminent domain proceeding. The court found that the Stadium Financing Act, which was the legislation passed to finance the ballpark, did not allow for a private right of action for citizens whose property was condemned to build the stadium, and the court dismissed the complaint.

Publicity Rights

Amazon, Inc. v. Cannondale Corp., No. 99-cv-00571-EWN-PAC, 2006 U.S. Dist. LEXIS 13406 (D. Colo. 2006). Melissa Giove was a professional mountain bike racer who assigned the rights to her own name and likeness to Amazon. From 1994 to 1998 Giove was a member of the Volvo/Cannondale team. Giove's contract with Cannondale was not renewed in 1999. However, there were several pictures of Giove in Cannondale's 1999 catalog. Cannondale claimed that the catalog was created in June and July of 1998 when Giove was still under contract. Amazon sued Cannondale claiming that it violated state law unfair competition laws and right of publicity. The court dismissed both claims because Amazon could not prove damages or likelihood of confusion.

Doe v. McFarlane, No. ED85283, 2006 Mo. App. LEXIS 876 (Mo. Ct. App. 2006). The plaintiff, Tony Twist, was a former professional hockey player. The defendant created Spawn, a comic book series that had a character named Tony Twist and told fans that he named the character

after the hockey player. Twist brought a right of publicity claim, which he won. McFarlane appealed claiming that the evidence used to prove that the predominant purpose for using Twist's name was commercial, and expert testimony regarding Twist's lost profits should not have been allowed. The court found that the evidence and expert testimony used in the case was the type reasonably relied upon by experts in the field.

Schoeman v. Agon Sports, 816 N.Y.S.2d 701 (N.Y. App. Div. 2006). Roland Schoeman was a world record holder and a well recognized figure in the sport of swimming. Agon markets and solicits the sale of its custom swimwear through advertisements and catalogues. In 2003 Agon and Schoeman agreed for Schoeman to model Agon's swimwear in its 2004 catalogue, but no further use of Schoeman's image was discussed. However, Agon used Schoeman's picture in its 2005 catalogue. A cease and desist letter was sent to Agon, but it continued to use Schoeman's picture to sell its swimwear. Schoeman moved to have the 2005 catalogue recalled, but the court denied the motion because the recall of the catalogue would be nearly impossible. An injunction barring future use of Schoeman's likeness was granted.

Tort Law

Alexander v. Tullis, 2006 Ohio 1454 (Ohio Ct. App. 2006). Both Tullis and Alexander were members of a golf league that played at University Golf Club. Before Tullis hit her ball she looked ahead and thought that Alexander's group was on or approaching the fifth green. Tullis knew that the fifth green was beyond her driving range so she hit her drive. Tullis' shot hit plaintiff in the eye. Alexander sued Tullis alleging negligence and recklessness. The trial court granted summary judgment in favor of Tullis and the appellate court affirmed because when a participant is injured in a sporting event by conduct that is a foreseeable and a customary part of the sport that participant may not recover for mere negligence.

Avenoso v. Mangan, No. 054009152, 2006 Conn. Super. LEXIS 489 (Conn. Super. Ct. 2006). Avenoso played for a soccer club where Mangan was a volunteer soccer coach. Mangan told Avenoso to run around the soccer field. While Avenoso was running, Mangan ran alongside, tripped him and fell on top of him, causing injuries. Avenoso sued Mangan and the soccer club alleging negligence. The court granted summary judgment for Mangan because the claims were barred by the federal Volunteer Protection Act, but summary judgment was not granted in favor of the soccer club.

Avila v. Citrus Cmty. Coll. Dist., 131 P.3d 383 (Cal. 2006). During a game, Jose Avila was hit in the head with a baseball by a Citrus Community College District (CCCD) pitcher and suffered serious injuries. Avila claimed that the ball was thrown in retaliation for a CCCD player being hit during the previous inning. Avila claimed CCCD was negligent when it failed to provide medical care, failed to supervise and control its pitcher, and failed to provide umpires to control the game and prevent reckless retaliatory pitching. The court found that CCCD was not liable for any claims because it was protected by the assumption of risk doctrine. Being hit by a baseball was an inherent risk of the game, and failing to provide umpires did not increase the inherent risk of the game. Further, CCCD was not liable for failing to provide medical care because it was not liable for the injury, Avila was not rendered helpless, and Avila's team had its own coaches and trainers present.

Baltierra v. Coronanorco Unified Sch. Dist., E036720, 2006 Cal. App. Unpub. LEXIS 4007 (Cal. Ct. App. 2006). Mike Baltierra injured his back while attempting to perform a squat lift during a weightlifting class required for football. Baltierra sued Corona-Norco Unified School District, the high school and his teacher alleging negligence. The trial court granted the defendants' motion for summary judgment because the action was barred by the assumption of risk doctrine. The appellate court affirmed the trial court's decision to grant summary judgment because the coach had properly instructed Baltierra.

Bevolo v. Carter, 447 F.3d 979 (7th Cir. 2006). Thomas Bevolo, a martial arts student at Christian Kajukenbo Ministry, attended a martial arts banquet. Carter attended the banquet as a special guest. Bevolo assisted Carter with a demonstration during the banquet. During the demonstration, Carter hit Bevolo in the back and severely injured Bevolo. Bevolo sued Carter, claiming negligence and recklessness. The district court granted summary judgment for Carter, and Bevolo appealed. The court affirmed summary judgment based on the contact sports exception, which does not allow for co-participants to recover for injuries caused by negligence.

Blackwell v. Eskin, No. 02098, 2006 Phila. Ct. Com. Pl. LEXIS 125 (Phila. Ct. Com. Pl. 2006). Blackwell was an assistant basketball coach at Temple University. At the time there was an officer named Campbell that was assigned to watch the basketball team. Campbell noticed that Blackwell had a drug problem. Campbell told Eskin, a local sports broadcaster, about Blackwell's drug problem and said that it got so bad that Blackwell was involved in a theft in the locker room the year before. After Blackwell was suspended for violating team rules, Eskin reported on his sports talk show that Blackwell had a drug problem and was involved in a theft incident. Blackwell did not deny that he had a drug problem, but he alleged defamation, false light invasion of privacy, and tortuous interference with prospective contractual relations when Eskin made the comment about the theft. The court affirmed summary judgment for the defamation and false light invasion of privacy claims because Blackwell failed to show evidence that Eskin knew or should have known the information was false. The court also affirmed summary judgment for the tortuous interference with prospective contractual relation because Blackwell failed to show that the theft statement, rather than his cocaine addiction, frustrated his employability.

Bourne v. Marty Gilman, Inc., No. 05-3300, 2006 U.S. App. LEXIS 15083 (7th Cir. 2006). Bourne was a student at Ball State University when he rushed onto the field with a crowd of people to tear down the goal post after a football game. Bourne attempted to grab the goal post, but missed and as he was walking away the goal post fell on him and rendered him a paraplegic. Bourne and his parents sued Gilman Gear, manufacturer of the goal post, claiming the post was defective and unreasonably dangerous. The court affirmed summary judgment in favor of the defendants because the plaintiff failed to show the goalpost was defective and the mere existence of a safer product was not sufficient to establish liability.

Bradley v. Welch, No. 05-588, 2006 Ark. App. LEXIS 156 (Ark. Ct. App. 2006). Dedrick Bradley nearly drowned while he attended a pool party for his youth baseball team. His grandmother and mother claimed that the coaches, parents in attendance, Dixie Youth Baseball, Lafayette County Dixie Baseball and the Pines Swim Club, where the party was held, were negligent. The trial

court granted summary judgment for defendants and plaintiffs appealed. The court affirmed the grant of summary judgment because Dedrick's grandmother arrived with him, assumed supervision and never relinquished that supervision to anyone else.

Brisbin v. Wash. Sports & Entm't, Ltd., 422 F. Supp. 2d 9 (D.D.C. 2006). Sarah Brisbin attended a hockey game at the MCI Center, which is owned and operated by Washington Sports and Entertainment (WSE). While Brisbin was sitting in her seat, another fan who was sitting several rows above her, stood up from his seat, fell, and landed on Brisbin. Brisbin claimed that Washington Sports breached its duty to her by failing to use reasonable care. The court ruled that Brisbin was barred from claiming that WSE was negligent based on crowd control because she did not point to any specific hazardous conditions that could have caused her injury. Plaintiff was also unable to bring a negligence claim based on failure to use reasonable care because there was not a foreseeable unreasonable risk. The court granted summary judgment for Washington Sports and Entertainment.

Carver v. Niedermayer, 920 So. 2d 123 (Fla. Dist. Ct. App. 2006). Carver attended a National Hockey League game and was injured by a hockey puck. Carver sued, claiming negligence. The judge in the case only allowed Carver's counsel forty-five minutes to question nineteen potential jurors. Counsel did not think this was enough time to learn about all the jurors' perceptions about sports events, headache disorders, neck pain, mental suffering and anguish, and non-economic damages. The court of appeals ruled that the trial judge abused his discretion in limiting voir dire examination.

Dring v. Sullivan, 423 F. Supp. 2d 540 (D. Md. 2006). Dring and Sullivan were certified international referees for taekwando events. Dring planned to run as a candidate for an election to the Board of Governors for USA Taekwondo. Dring alleged that Sullivan sent an email to other referees prior to the election accusing Dring of being corrupt. Dring alleged that as a result of the email his name was not included on the list of candidates. Dring sued Sullvian claiming defamation. Dring was a resident of Maryland, but Sullivan was not. Dring alleged that at least three emails were sent to people who lived in Maryland. Sullivan moved to dismiss for lack of personal jurisdiction. The court ruled that Sullivan's contacts with Maryland did not satisfy Maryland's long arm statute because the email focused on activities at the national and international level and concerned USA Taekwondo elections, while USA Taekwondo has no connection with Maryland other than having members from Maryland.

Egerter v. Amato, 2006 WL 551571 (N.J. Super. Ct. App. Div. 2006). Nicholas Amato, a member of the Bernardsville Middle School track team, struck his coach, Egerter, with a shot put and caused her severe and life altering injuries. Egerter claimed that Amato was negligent when he struck her with the shot put. Amato moved for summary judgment. The court granted summary judgment in favor of Amato because injuries of this type are an inherent risk to the sport of track and field.

Fortson v. Colangelo, No. 04-61634, 2006 U.S. Dist. LEXIS 43982 (S.D. Fla. 2006). Danny Fortson played basketball for the Dallas Mavericks. During a game against the Phoenix Suns, Fortson pushed Suns player Zarko Cabarkapa, which resulted in Cabarkapa breaking his right wrist. Following the game, Jerry Colangelo, owner of the Phoenix Suns, commented, "He's a

thug." A few days later defendant Peter Vecsey wrote in his New York Post column that he did not think the three game suspension was enough. Fortson alleged libel against Colangelo and slander against Vecsey and the owner of the New York Post. The court dismissed the claim against all defendants because Colangelo and Vecsey had made comments in a figurative rather than a literal sense, and the court did not want to place strict restraints on sports commentary.

Funston v. Sch. Town of Munster, 849 N.E.2d 595 (Ind. 2006). Howard Funston attended a basketball game at Munster High School. Funston sat in the back row of the bleachers where there was no back rail. Funston leaned back and fell off the bleachers. Funston sued the school, claiming negligence. The court held that Funston's actions were negligent and they proximately contributed to his injuries. Therefore, contributory negligence barred his action against the school district.

Gorthy v. Clovis Unified Sch. Dist., No. 05-1052, 2006 WL 236939 (E.D. Cal. 2006). Jacob Gorthy was a fourteen year old high school football player at Clovis West High School. Jacob was late for practice one day and was told by the coaches to do bear crawls on the asphalt on a day when temperatures had exceeded ninety-five degrees. As he was doing bear crawls his palms and fingertips were burned. Following practice, his mother took him to the emergency room where he was diagnosed with second and third degree burns. Gorthy sued, claiming violations of the Fourth and Fourteenth Amendment, cruel and unusual punishment, and intentional infliction of emotional distress. The defendants moved to dismiss. The court dismissed these claims because they were not applicable to corporal punishment imposed by public school officials. However, the other claims were not dismissed because Jacob may have felt that he could not leave and excessive physical abuse by school officials may violate the Fourteenth Amendment.

Grisham v. Porter, No. B182432, 2006 Cal. App. Unpub. LEXIS 4415 (Cal. Ct. App. 2006). Devin Porter accidentally hit Kaylee Grisham in the face with a bat while Porter was taking practice batting swings in the on-deck area. Grisham had been standing in the dugout while leaning on the rail. Grisham sued Porter for negligence. The trial court granted summary judgment for the defendant because the action was barred by the doctrine of primary assumption of risk. The appellate court affirmed the trial court's decision because Porter's conduct was a risk inherent in the sport of baseball and was not reckless.

Hawkins v. United States Sports Ass'n, No. 32869, 2006 W. Va. LEXIS 49 (W. Va. 2006). Hawkins played in a softball tournament and injured his knee when he hit a plastic pipe while sliding into first base. The tournament was organized and controlled by United States Sports Association. Hawkins sued alleging that the United States Sports Association was negligent in failing to discover the pipe and confirm the field was safe before the game began. The pipe had been put in the ground by the high school girls' softball team, but United States Sports Association was not informed of the pipe. The court dismissed the claim because there was no evidence that the United States Sports Association had actual or constructive knowledge of the pipe being located in the ground.

Henney v. Shelby City Sch. Dist., 2006 Ohio 1382 (Ohio App. Ct. 2006). Donald Henney competed for the Bellevue High School Track team in a pole vault event that was held at Shelby High School and governed by the National Federation of State High School Associations (NFSHA). NFSHA rules required that a two-inch thick mat or side pad be placed on each side of the pole vault landing pad. Henney alleged that side pads were not used during the meet. During one of Henney's vaults his upper body hit the hard surface to the right of the landing pad and he suffered injuries to his forehead and wrist. Henney sued the track coach at Shelby High School and Shelby School District. The trial court granted summary judgment in favor of both defendants stating that they were immune from liability pursuant to the recreational user statute and that Henney assumed the risk that defendants would provide inadequate safety equipment for the pole vaulting event. The appellate court reversed stating that Henney was not a recreational user and the school district and track coach increased the risk by not providing side pads next to the landing pad. Further, the school district was not immune from liability because the discretion used was not used to make a public policy judgment. The track coach was immune because Henney could not prove that his actions or omissions were wanton or reckless.

Hopkins v. Conn. Sports Plex, No. CV044002547S, 2006 Conn. Super. LEXIS 1710 (Conn. Super. Ct. 2006). John Hopkins was attacked by Vincent Baker and Rev. James Baker during a softball game at the Connecticut Sports Plex. Hopkins sued Connecticut Sports Plex, claiming that it was negligent when it served alcohol to the Bakers when they were already intoxicated and that the facility failed to provide adequate security. The court ruled that the defendant did not breach the duty of care owed to the plaintiff because there had been no prior altercations, the defendants had not shown any prior rowdy behavior and there was no evidence that their drinking led to the altercation.

Joseph v. N.Y. Racing Ass'n, No. 2003-10824, 2006 N.Y. App. Div. LEXIS 1656 (N.Y. App. Div. 2006). Gobin Joseph was a professional horse exercise rider who was instructed to take the horse to the jogging barn on the New York Racing Association's (NYRA) property. There were several puddles on the ground, and Joseph determined during his first lap that the track was not safe. However, during a second lap he and the horse fell and Joseph sustained injuries. Joseph claimed that NYRA was negligent in permitting the indoor track to be kept in an unsafe manner. Applying the doctrine of primary assumption of risk, the court granted summary judgment for NYRA.

Kelly v. N. Highlands Recreation & Park Dist., No. Civ. S-05-02047 FCD KJM, 2006 U.S. Dist. LEXIS 39785 (E.D. Cal. 2006). Adam Kelly was a thirteen year old special needs child who swam on the defendant's swim team. While at practice one day, Kelly was told by a swim coach to sit on a hot metal chair as punishment. Kelly got up from the chair because it was too hot, but the coach told him to get back into the chair. Two of the defendant board members witnessed this, but did nothing about it. As a result, Kelly became seriously ill and was treated at an emergency room. The plaintiffs sued claiming assault, battery, false imprisonment, intentional infliction of emotional distress, negligence, disability and racial discrimination. The defendants moved to dismiss the negligence claims against the board. The court dismissed the negligence claims because the defendants were immune.

Manoly v. City of New York, No. 2004-11175, 2006 N.Y. App. Div. LEXIS 6301 (N.Y. App. Div. 2006). Rony Manoly was playing soccer on a field maintained by New York City when he tripped on a raised manhole cover and struck his face on a fence. Manoly claimed that the City of New York failed to maintain the manhole and failed to maintain the fence. Manoly said that he noticed the raised manhole on a previous occasion. Using the doctrine of assumption of risk, the court ruled that Manoly assumed the risk of the injuries he sustained.

Martins v. Kemper Sports Mgmt., Inc., No. 04-2502, 2006 U.S. App. LEXIS 5085 (4th Cir. 2006). Martins was injured while golfing at Holly Hills Country Club, which is owned by Kemper Sports Management. Martins claimed Kemper Sports acted negligently by not installing proper safety barriers between the tee boxes. The court of appeals affirmed summary judgment in favor of Kemper Sports Management because Martins failed to show that Kemper Sports Management failed to use reasonable and ordinary care.

Mero v. U.S. Figure Skating Ass'n, No. 05-CV-73069, 2006 WL 163529 (E.D. Mich. 2006). Mero was a figure skating coach and member of the U.S. Figure Skating Association (USFSA). Mero was suspended for five years by USFSA for failure to respond to a grievance. USFSA publicized the suspension. Mero was eventually given a hearing where he was able to explain that his attorney did not forward him the grievance. After the hearing USFSA lifted Mero's suspension. Mero alleged libel based on the email announcing his suspension, tortuous interference with prospective and existing business advantage based on the alleged libels, intentional infliction of emotional distress, and a violation of California Business and Professional Code. USFA moved to dismiss based on an absolute privilege. The court dismissed Mero's claim of violation of California Business and Professional Code claim, but all other claims were not dismissed.

Morales v. Town of Johnston, 895 A.2d 721 (R.I. 2006). Roxana Morales, a student and soccer player at Central Falls High School, suffered a severe knee injury that required two surgeries and resulted in a permanent disability while playing in a high school soccer game at Johnston High School. While Morales was chasing a ball she stumbled into a water drain located just slightly out of bounds on the Johnston High School soccer field owned by the Town of Johnston. The Central Falls coach said that he warned the players about the water drain before the game, but Morales had no recollection of the warning. Morales brought a negligence claim against Central Falls School District under a theory of respondeat superior, based on the negligence of its soccer coaches. Morales brought a negligence claim against Johnston High School and the Town of Johnston for failure to maintain the field in a safe condition and failure to warn of a dangerous condition on the field. The high school and the Town of Johnston filed third party claims against Rotondo, who was responsible for mowing the field. Morales then sued Rotondo claiming that he breached his duty of care and proximately caused her injury when he failed to mow the grass and maintain the area around the drainage grates. The trial court dismissed Rotondo's claim because there was no evidence presented that demonstrated Rotondo's negligence and it was affirmed by the Rhode Island Supreme Court. The trial court found Central Falls School District liable, but granted the Town of Johnston summary judgment based on Rhode Island's recreational use statute. The Rhode Island Supreme Court reversed both judgments because the coaches had immunity and Central Falls School District could not be held vicariously liable. The

Town of Johnston's summary judgment was reversed because the soccer field was not open to the public at the time of the injury.

Moran v. Selig, 447 F.3d 748 (9th Cir. 2006). Prior to 1947, African-American players were not allowed to play in the Major League Baseball and therefore played in the Negro Leagues. In 1993, MLB created a plan to remedy past discrimination by providing medical coverage to former Negro League players. A class action suit was brought by former MLB players, most of whom were Caucasian and played for less than four years who were denied pension and medical benefits under this policy. They claimed MLB violated Title VII by excluding them from the plans and committed battery by subjecting them to cortisone shots and giving them other drugs without their informed consent. The court found the plaintiffs failed to establish a prima facie case under Title VII because the enactment of the plan did not constitute an adverse employment action and the two groups were not similarly situated. Summary judgment was also granted in favor of the defendants on the battery claim because the plaintiffs failed to show there was a substantial risk of injury when providing the shots and drugs.

Sall v. T's, Inc., 136 P.3d 471 (Kan. 2006). Sall was struck by lightning while playing on a golf course owned by the defendant. Sall was in the process of walking back to the clubhouse when he was struck by lightning after the course had been closed due to bad weather in the area. Sall had been to the golf course before and knew that its employees would blow the air horn if inclement weather was in the area. Sall never recovered from his injuries and now requires complete care. Sall filed a negligence suit against the owner of the golf course. The district court granted summary judgment in favor of the defendant and the court of appeals affirmed because the defendant had no duty to warn or protect Sall from lightning because a lightning strike is not foreseeable and there was no evidence the air horn was not sounded early enough. The Kansas Supreme Court reversed and remanded because there was a question whether the defendant owed a duty to Sall because it had warning systems in place and Sall relied on those systems.

Smith v. IMG Worldwide, Inc., No. 03-4887, 2006 U.S. Dist. LEXIS 37173 (E.D. Pa. 2006). Plaintiff C. Lamont Smith and defendant Thomas Condon were both professional sports agents who represented professional football players. Smith alleged that while he and Condon were competing for athletes, Condon told several athletes that Smith alienated general managers because he plays the race card while negotiating contracts. This caused some players to sign with Condon and IMG rather than Smith. Plaintiff alleged defamation and interference with prospective contractual relations in regards to two athletes. One of the defamation claims was dismissed because it was barred by the statute of limitations. Summary judgment was granted for another defamation claim because the athlete did not directly hear Condon's alleged remarks. A material issue of fact existed in regards to the defamation claim with the final athlete; therefore, summary judgment was not granted. Summary judgment was granted in favor of the defendant for the interference with prospective contractual relations claims.

Stevens v. Iowa Newspapers, Inc., No. 5-732, 2006 Iowa App. LEXIS 55 (Iowa Ct. App. 2006). Todd Stevens provided the Ames Tribune with two sports-related columns per week. The sports editor, Susan Harman, wrote a column about Iowa State's former associate athletic director. Stevens wrote a column with a contrary view. Harman met with the paper's managing editor and

the two of them decided that Stevens' article would not be published because they believed the column contained numerous factual errors. Stevens resigned from the newspaper. The Ames Tribune allowed Stevens to write a farewell article, but Harman also published a response that outlined the newspaper's position, which claimed Stevens rarely attended events he wrote about in his columns and there were several factual errors and near libelous characterizations in his articles. Stevens filed a complaint claiming Iowa Newspapers and Harman defamed him. The district court granted summary judgment and dismissed Stevens' claim. The court of appeals affirmed summary judgment in regards to the numerous factual errors statement by Harman, but ruled that the district court erred in granting summary judgment about whether the rarely attended events statement was libelous.

Strock v. USA Cycling, Inc., No. 00-cv-2285-JLK, 2005 U.S. Dist. LEXIS 41840 (D. Colo. 2006). Strock and Kaiter were members of the United States' junior cycling team in 1990. Strock and Kaiter were injected with unknown substances while being supervised by Wenzel, the head coach. Wenzel told Strock it was a mixture of extract of cortisone and vitamins. In 1993, Wenzel told Strock and Kaiter about rumors that Wenzel had doped the junior national team, but neither Strock nor Kaiter had reason to believe the rumors. Strock was in med school in 1998 when he learned that there was no such thing as an extract of cortisone. Strock said this was the first time he had reason to believe he had been given steroids. In 2000, Strock did a nationally televised interview about the possibility of being administered steroids. Kaiters said that the first time he realized he may have been given steroids was while he watched Strock's interview. Strock and Kaiter then alleged that they were administered steroids by the coaching staff, and sued claiming negligence, fraud and misrepresentation, and concealment. The defendants moved for summary judgment claiming that Kaiters and Strock knew or should have known the cause of their injuries more than three years prior to filing their claims. The court would not grant the motion to dismiss because there was a genuine issue of material fact as to when both plaintiffs knew or should have known the cause of their health issues.

Summy v. City of Des Moines, Iowa, 708 N.W.2d 333 (Iowa 2006). Summy was hit by a golf ball while playing at a city-owned golf course. Summy sued the City of Des Moines claiming negligence in the way the course was designed, maintained, and operated because the golfers on the 18th hole were at an unreasonable risk of being struck by a golf ball struck by a golfer from the tee of the 1st hole. During jury selection the court excused all property owners in the City of Des Moines. At trial, the jury found Summy and the city at fault, with the city being 75% at fault. The city appealed claiming that the trial court abused its discretion in excluding property owners in the City of Des Moines from the jury trial. The Iowa Supreme Court found that the trial court abused its discretion because it did not require an individual showing of bias, but it affirmed the decision because the error did not result in prejudice.

Taylor v. Baseball Club, 130 P.3d 835 (Wash. Ct. App. 2006). Delinda Taylor was injured when a pitcher at a Seattle Mariners game accidentally threw a pitch into the stands. Taylor alleged she was not aware that her circumstances posed any risk of injury. However, Taylor was a Mariners fan, had been to a game before, knew that the ball could leave the field at any time and had watched many of her sons' baseball games for the past seven years. The trial court dismissed Taylor's negligence claim against the Mariners under the doctrine of implied primary assumption of risk. The appellate court affirmed the granting of summary judgment in favor of the Mariners.

Testerman v. Riddell, Inc., 161 Fed. Appx. 286 (4th Cir. 2006). Troy Testerman injured his shoulder in a college football game while he was wearing shoulder pads that a Riddell employee recommended. Testerman sued Riddell alleging that the company negligently fit him with pads that were too small. Testerman relied on expert testimony from his treating physician, but that physician could not determine which blow caused Testerman's injury, whether the area of impact was covered by the shoulder pad, or whether the injury would have occurred or been substantially mitigated had Testerman been wearing different pads. The district court excluded Testerman's primary expert witness because he was unreliable and granted summary judgment in favor of Riddell. The appellate court affirmed the decision of the trial court.

Warren v. United States Specialty Sports Ass'n, 2006 Ok Civ. App 78 (Okla. Civ. App. 2006). The Midwest City Outlaws, an eight-and-under baseball team, entered a tournament sponsored by United States Specialty Sports Association (USSSA). After the Outlaws won their first game, another team protested claiming that the Outlaws had violated a USSSA rule. The protest was upheld, placing the Outlaws in the losers' bracket. By the time the umpire told the coach when the Outlaws' next game would be, it was too late to inform all of the players and the Outlaws were forced to forfeit, thereby eliminating them from the tournament. While the plaintiffs, parents of two players, were in the official's office discussing the issue, the official yelled and screamed in a threatening manner. The plaintiffs sued claiming intentional infliction of emotional distress, false light invasion of privacy, and assault. The intentional infliction of distress and false light invasion of privacy claims were dismissed because the director's decision to require the team to forfeit was not extreme and outrageous, and he did not publicize the reasons for the forfeiture. The defendant was granted summary judgment on the assault charge because it did not occur while the director was acting within the scope of his employment.

Wahrer v. San Bernardino City Unified Sch. Dist., No. 036671, 2006 Cal. App. Unpub. LEXIS 1405 (Cal. Ct. App. 2006). Thane Wahrer was a high school football player who was injured while performing practice drills. Wahrer sued the school district, principal, athletic director, and three football coaches. Summary judgment was awarded to the defendants because primary assumption of risk applied.

Willett v. Chatham County Bd. of Educ., 625 S.E.2d 900 (N.C. Ct. App. 2006). Robert Willett was injured at a high school basketball game when the bleachers folded, he caught his ankle and fell. Willett sued the Chatham County Board of Education. The court granted summary judgment because the school board was immune from suit.

Yoneda v. Tom, 133 P.3d 796 (Haw. 2006). Yoneda was hit in the eye by a golf ball hti by Tom. Tom did not yell the customary fore when he hit the ball because he did not see Yoneda because he was in a golf cart on the cart path that was rounding a restroom building and could not be seen. Using the assumption of risk doctrine, the court ruled that co-participants are only liable for intentional and reckless conduct; therefore, Tom was not liable for hitting Yoneda with a golf ball.

Zemke v. Arreola, No. B182891, 2006 Cal. App. Unpub. LEXIS 4999 (Cal. App. 2006). While participating in a high school football game, Nicholas Zemke dislocated his finger. He came out of the game and had his finger taped up. The trainer asked him if anything else was wrong, but Zemke said no. The coaches asked Zemke if he was ready to return, and Zemke said his finger was fine, but he was not ready to return. Shortly thereafter, Zemke asked to return to the game. Zemke suffered a right subdural hematoma and collapsed on the field during a time-out. Zemke sued two coaches and the Los Angeles Unified School District, alleging negligence. The court affirmed summary judgment in favor of the defendants because the coaches did nothing to increase Zemke's risk of injury and were unaware that he had a head injury.

Zides v. Quinnipiac Univ., No. 020470131, 2006 Conn. Super. LEXIS 473 (Conn. Super. Ct. 2006). Andrew Zides was severely injured while he was pitching at batting practice at Quinnipiac University. A safety device called an L-screen was used to protect Zides, but the L-screen was defective at the time because it had been improperly repaired after it was damaged. Zides alleged Quinnipiac University, the head baseball coach, the assistant baseball coach, and the president of Quinnipiac University were negligent. Zides also alleged that the head baseball coach acted recklessly. Summary judgment was granted in favor of the defendants for claims against the athletic director because Zides could not prove the athletic director acted recklessly, but all other claims created a triable issue of fact and were remanded for trial.

Ziegelmeyer v. United States Olympic Comm., 813 N.Y.S.2d 817 (N.Y. App. Div. 2006). Ziegelmeyer was a two-time Olympic medal winner in speedskating. While practicing at the U.S. Olympic Training Center in Lake Placid, she fell, hit the fiberglass boards surrounding the rink, and injured her spine. Ziegelmeyer claimed that the defendants were negligent in failing to install the pads in accordance with applicable international standards. The Supreme Court of New York granted summary judgment for defendants because it found that the plaintiff had assumed the risk of her injury. Ziegelmeyer argued that the assumption of risk doctrine did not apply because damaged or dangerous safety features are not inherent risks of the sport. The court found no record of damaged or defective pads and affirmed summary judgment in favor of the defendants.

Workers' Compensation

Bezeau v. Palace Sports & Entm't, No. 258350, 2006 Mich. App. LEXIS 557 (Mich. Ct. App. 2006). Andre Bezeau was a professional hockey player who signed a contract to play for the Detroit Vipers. The contract said that if Bezeau sustained an on ice injury he would still be entitled to his contractual pay; however, if he sustained a personal injury he would not be entitled to his contractual pay. During the off season in 2000, Bezeau fell off a forty-five-foot ladder while working for a roofing company. Bezeau worked with an athletic therapist and a chiropractor and believed that he would still be able to play hockey. During the first game of the 2000-2001 season another player hit Bezeau's hip and thigh and his leg went numb. Bezeau has been unable to play professional hockey ever since that incident. Several doctors could not conclusively rule out that the fall did not have anything to do with Bezau's current injury. Bezeau claimed that he was entitled to benefits because his injury was an on ice injury. The lower court determined that Bezeau could not be successful because he was unable to prove that his injury was caused by the hit during the game. The appellate court reversed and remanded for

further proceedings because the lower court did not focus on whether the incident during the game could have aggravated or contributed to the injury, which would allow Bezeau to recover.

Hughes v. New Orleans Saints, 05-712 (La. App. 5 Cir. 02/27/06). Danan Hughes signed a contract with the New Orleans Saints in 1999. During a pre-season football game Hughes sustained a career ending spine injury. Hughes was released by the Saints prior to the beginning of the regular season. Hughes received over $30,000 in compensation and $60,000 severance pay in lieu of workers compensation. Hughes claimed that he was entitled to workers compensation benefits based on his contract, which was worth $400,000. The court ruled that Hughes could only recover if he could prove he could not make 90% of the wages he earned prior to the accident. Hughes' pre-injury wages were the $33,182 he received prior to getting cut, rather than the $400,000 promised under his contract. Hughes was not entitled to any workers compensation benefits because he was making more than the required amount as a loan officer in the years following the accident.

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