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AMERICAN ARBITRATION ASSOCIATION DECISIONS

United States Anti-Doping Agency (USADA) v. LaShawn Merritt, AAA No. 771900029310 (Oct., 2010). Merritt tested positive for the prohibited substance DHEA and pregnenolone three separate times. Merritt claims that he ingested the substance by accident, but he does admit that he tested positive as a result of ingesting ExtenZe, a product used for enhanced sexual performance. USADA agreed that the positive results were caused by ExtenZe, and as such represent an accidental ingestion. The panel found that Merritt was not significantly negligent and reduced the required two-year ineligibility status to twenty-one months, starting October 28, 2009 and ending July 27, 2011. He is also prohibited from participating in and accessing the U.S. Olympic Training Facilities during this period.

United States Anti-Doping Agency (USADA) v. Kirk O'Bee, AAA No. 771900051509JENF (Oct., 2010). Cyclist O'Bee committed his second anti-doping violation when he tested positive for recombinant human erythropoietin (rhEPO), eight years after testing positive for testosterone. USADA was also able to prove that O'Bee either used or possessed HGH as early as September 2005, and used testosterone after his first suspension. The panel imposed a lifetime suspension and disqualified his cycling results from October 3, 2005 through July 29, 2009, the date of his suspension from the sport.

ANTITRUST LAW

Race Tires Am., Inc. v. Hoosier Racing Tire Corp., 614 F.3d 57 (3d Cir. 2010). Plaintiff, a specialty tire manufacturer filed a complaint, naming Hoosier (a competitor tire manufacturer) and DMS (a motorsports sanctioning body) as Defendants. The complaint alleged monopolization in violation of Section 2 of the Sherman Act, conspiracy to restrain trade in violation of Section 1 of the Sherman Act, attempted monopolization in violation of Section 2 of the Sherman Act, and conspiracy to monopolize based on the "single tire rule" requiring use of Hoosier tires in all DMS races. Plaintiff also sought a declaratory judgment. Defendants filed motions for summary judgment after Plaintiff filed several amended complaints, and Plaintiff moved for partial summary judgment as to the defenses of unclean hands and in pari delicto. The District Court granted Defendants' motions and denied Plaintiff's. The court found no antitrust violation as a matter of law, and found Plaintiff did not suffer an antitrust injury, and therefore, did not have standing. The appellate court did a complete rule of reason analysis and affirmed the decision of the district court. It also found that Plaintiff had no standing because they only showed harm from competition, not from anti-competitive behavior.

Gulf Coast Hotel-Motel Ass'n v. Miss. Gulf Coast Golf Course Ass'n, No. 1:08CV1430-HSO-JMR, 2010 WL 3168032 (S.D. Miss. Aug. 10, 2010). Plaintiff filed suit against Defendants under § 1 and 2 of the Sherman Act, § 2 of the Clayton Act, and state law claims for tortious interference with business relations and contract. Plaintiff alleges that Defendants engaged in anti-competitive conduct by purportedly agreeing that the Golf Association's member golf courses will provide higher rate quotes for per round golf play to Plaintiff's voucher program than to the Golf Association's. The court granted Defendants' motions to dismiss, finding either no subject matter jurisdiction, or that the claims were insufficiently pled. The state claims were dismissed without prejudice so Plaintiff could refile in state court.

BANKRUPTCY LAW

In re Tex. Rangers Baseball Ptnrs, 431 B.R. 707 (Bankr. N.D. Tex. 2010). The Texas Rangers (Debtor) filed chapter 11 bankruptcy. The Debtor and Express entered into an asset purchase agreement, in which Express agreed to purchase assets from debtor, including the Texas Rangers. Debtor filed a plan for reorganizing when it filed chapter 11. Rangers Equity Owners made contact with potential bidders interested in obtaining the Rangers and negotiated with Express to agree on bidding procedures. The express then filed an adversarial action, during which the court announced that it would adopt the procedures with certain modifications. The lenders filed a motion because they felt that the court adopted procedures without the benefit of an evidentiary record. They argue that the time allowed other bidders was inadequate for competing bidders and that the stalking horse protections afforded to Express are overly generous.

The United States Bankruptcy Court for the Northern District of Texas granted the motion to a limited extent. On the issue of timing, the court found that the small number of potential bidders and common knowledge that the Rangers are for sale offsets the short timeframe between the action and the approved procedures. The court concluded that the Approved Procedures may not be the optimal way to solve it and stated that if no bidder comes forward to compete with Express at the auction that Debtor and Express have the burden of showing that the Approved Procedures provided an effective market test of the APA. The court noted that if even one bidder appeared to compete, then the court would conclude that the market-test was fair.

NHL v. Moyes, 2010 U.S. Dist. LEXIS 102600 (D. Ariz. Sept. 15, 2010). The Phoenix Coyotes, an NHL team, filed Chapter 11 bankruptcy, which was pending prior to this action. Plaintiff filed a civil action in the Supreme Court of the United States while Defendants removed the action to the Southern District of New York. The Southern District of New York then transferred the case to the District of Arizona because it was a more convenient forum. The District Court of Arizona referred the proceeding to the Bankruptcy Court because the Bankruptcy Court has jurisdiction to decide any current or pending matters. The Court specifically said that having the Bankruptcy look at the pending motions and other matters would avoid unnecessary delays and costs to the parties because the Bankruptcy Court had preexisting familiarly with the law, the facts, and the parties. Thus the matter was referred to the Bankruptcy Court for the district.

In re Tex. Rangers Baseball Partners, 2010 Bankr. LEXIS 2958 (Bankr. N.D. Tex. Aug. 23, 2010). The court confirmed the Texas Rangers Baseball, the debtor, Plan of Reorganization of Texas Rangers Baseball Under Chapter 11 on August 5, 2010. In the latest proceeding, the court entered its Findings of Fact and Conclusions of law in reference to the order confirming the plan. The court reaffirmed that the plan satisfied the requirements of §1129 of the Bankruptcy Code.

In re Team Toledo Hockey, LLC, 2010 Bankr. LEXIS 4280 (Bankr. N.D. Ohio Aug. 17, 2010). Toledo Hockey, t h e debtor, brought forth an amended Chapter 11 plan for the court. In total, the court received three objections to the plan. The court discussed the findings of fact and conclusions of law and in the end, determined that the Toledo's Chapter 11 plan was approved under §1129 of the Bankruptcy Code.

CIVIL RIGHTS LAW

Joyce v. Town of Dennis, 736 F. Supp. 2d 321 (D. Mass. 2010). Plaintiff is a female golfer who applied to participate in a men's golf tournament at a town owned golf course, but was barred from participating. Subsequently, the course's advisory committee reviewed their policies and determined that there would be a men's and women's field in the future, and thus would allow women to compete in the men's field. Plaintiff still filed suit alleging discrimination in violation of § 1983, as well as violations of the Massachusetts anti-discrimination statutes, and Massachusetts Consumer Protection Act. The court issued an order finding Defendants liable on six of eleven counts, and the case was awaiting determination of damages. After the order was issued, there was some media attention and Defendant's council disclosed a settlement demand from Plaintiff and made other inappropriate or misleading comments. Plaintiff moved for emergency sanctions, but the court denied the motion because Plaintiff did not show the statements had a reasonable or substantial likelihood of materially prejudicing or interfering with a fair trial.

Duncan v. Tangipahoa Parish Council, 2010 U.S. Dist. LEXIS 68351 (E.D. La. July 9, 2010). Plaintiff youth baseball director alleged that Defendant violated or conspired to violate his civil rights by spreading defamatory information about him. Plaintiff and Defendant filed cross motions for summary judgment. The court found Plaintiff's motion was not supported by evidence and thus denied Plaintiff's motion for summary judgment. However, the court found Defendant's motion to have merit and thus granted Defendant's motion for summary judgment.

CONSTITUTIONAL LAW

Enclave Arlington Assoc Ltd. P'ship v. City of Arlington, No. 09-11202, 2010 WL 4608816 (5th Cir. Nov. 15, 2010). Defendant entered into an agreement with the Dallas Cowboys to become the owners of a new stadium that the Cowboys would lease. Plaintiff is an apartment complex next to the stadium, which was adversely affected by the traffic management plan submitted by the Cowboys. Plaintiff alleged a substantive due process violation, an unreasonable search and seizure in violation of the fourth amendment, and a private nuisance claim. The trial court denied Plaintiff's motion for a preliminary injunction and granted summary judgment for Defendants. The appellate court affirmed the decision in all regards.

Mansourian v. Bd. of Regents of the Univ. of California at Davis, No. CIV. S 03-2591 FCD EFB, 2010 WL 5114918 (E.D. Cal. Dec. 8, 2010). Plaintiffs were women wrestlers at the defendant university, and as wrestlers were listed as varsity athletes. They did not compete against men, or in NCAA tournaments, but they did compete. At a certain point, Plaintiffs were told that due to roster limits they could practice, but could not compete or be listed on the varsity roster any longer. At practice, one plaintiff was injured and was told she could not practice anymore because she was not listed on the varsity roster and therefore were not covered under the insurance policy. After complaining to the university and Office of Civil Rights (OCR), Plaintiffs were reinstated but with competition restrictions, while the coach was fired for supporting women's wrestling. Plaintiffs filed suit and Defendants moved for summary judgment. The court granted Defendants motion regarding the removal of the wrestling program because the statute of limitations expired. However, the court found that the plaintiffs presented triable issues of fact in regard to their claims that Defendant violated the Equal Protection Clause by maintaining an athletics program that discriminates based on gender.

Doe v. Silsbee Indep. Sch. Dist., 2010 U.S. App. LEXIS 19368 (5th Cir. Tex. Sept. 16, 2010). Plaintiffs brought this action after their daughter was removed from her high school cheering squad for not cheering for two boys she accused of sexual assault. Plaintiffs brought a claim for a violation of their daughter's first amendment right and a violation of equal protection. The District Court granted Defendants motion to dismiss because of Plaintiff's failure to state a claim. The Court of Appeals for the 5th Circuit affirmed the district court's ruling. The court found that the complaint did not assert constitutional violations for which the appellants could recover.

Doe v. Banos, 2010 U.S. App. LEXIS 24497 (3d Cir. N.J. Nov. 30, 2010). Haddonfield Board of Education introduced a 24/7 Drug and Alcohol Policy that required students involved in extracurricular activities to sign an agreement to abstain from drugs and alcohol at all times. Plaintiff wanted to play lacrosse and Plaintiff's father modified the student activities permission form by crossing out language pertaining to the 24/7 policy. The school board informed Plaintiff that the form as modified would not be accepted. Plaintiff then submitted the form unmodified, but said he did so under duress. The Board determined that Plaintiff would not be permitted to play unless Plaintiff's father signed the form and rescinded the "under duress" note. Plaintiff's father would not sign under these options and the Board did not allow Plaintiff to participate in lacrosse. Plaintiffs brought a claim alleging First Amendment violation of compelled and censored speech. The District Court denied Plaintiff's preliminary injunction to enjoin the Board from excluding a student from participating in extracurricular activities. The Court of Appeals affirmed the decision, finding that requiring a parent to sign such a form does not violate First Amendment rights.

Sandholm v. Dixon Pub. Sch. Dist. No. 170, 2010 U.S. Dist. LEXIS 101081 (N.D. Ill. Sept. 24, 2010). Plaintiff brought this lawsuit claiming that he was removed as Head Basketball Coach and Athletic & Activities Director because of his age. He also believes that his due process rights were violated. Plaintiff seeks to obtain the recordings of executive school meetings on September 5 and September 17, 2008 (later amended to only include September 17). The court granted Plaintiff's motion in part. The court found that that Defendant must produce audio

recordings from the September 17, 2008 board meeting because Plaintiff is entitled to the information. However, the court would not reveal certain portions of the meeting related to the Illinois Open Meetings Act, deliberative process, and attorney-client privilege.

Heike v. Guevara, 2010 U.S. Dist. LEXIS 103435 (E.D. Mich. Sept. 30, 2010). Plaintiff filed a complaint arising from her removal from the Central Michigan University(CMU) women's basketball program and her loss of an athletic scholarship. Plaintiff brought claims against Defendant that alleged violations of procedural and substantive due process, violations of Equal Protection, breach of contract, defamation, tortuous interference with a contract, interfering with Plaintiff's relationship with CMU, intentional infliction of emotional distress, violations of provisions of the Michigan Elliot-Larsen Civil Rights Act, and negligent supervising and hiring of Coach Guevera and Athletic Director Heeke. After the court dismissed all of Plaintiff's claims against CMU on the basis of sovereign immunity, Plaintiff amended the complaint. Defendants then sought sanctions against the plaintiff's attorney and her law firm because the claims made by Plaintiff were not warranted by existing lawt. The court found that the Defendant was entitled to limited sanctions regarding claims against CMU and individuals in their official capacity because Plaintiffs arguments regarding Eleventh Amendment immunity were not persuasive. The defendants were not entitled to sanctions in relation to Plaintiff's equal protection and due process claims against the individual defendants, however, because the claims had facial merit.

Roe v. Fischer, 2010 U.S. Dist. LEXIS 113872 (E.D. Cal. Oct. 25, 2010). While at a football camp, Plaintiff was allegedly hazed and assaulted by upperclassmen teammates. Plaintiff brought claims against multiple parties, which he later dismissed, leaving only the school as Defendant. Gustine High School football coaches received summary judgment. The only claims remaining were cross claims by the Fishers and the Simmons. The Court held that because Plaintiff's claims had all been dismissed or summary judgment had been granted, the remaining cross-claims were moot and therefore dismissed.

McAllister v. Gunja, 2010 U.S. Dist. LEXIS 69707 (E.D. Cal. July 12, 2010).
Plaintiff, a state prisoner, was hit by a softball and suffered permanent blindness as a result. He brought a claim against defendants alleging that they were deliberately indifferent to an excessive threat to plaintiff's safety and brought claims for retaliation against plaintiff's exercise of his right to file grievances against the government. Defendants moved for summary judgment on the grounds that plaintiff bears the burden of proof at trial and there was a complete failure of proof concerning essential elements of Plaintiff's case. The court found that Defendants' motion for summary judgment was premature because plaintiff had not had sufficient opportunity to conduct discovery to present facts essential to justify his opposition. Defendants' motion for summary judgment was denied.

Robinson v. Owens, 2010 U.S. Dist. LEXIS 129649 (S.D. Tex. Dec. 8, 2010). Plaintiff's parents brought a claim for violation of a constitutional right to bodily integrity against Defendant coach after the coach made him deadlift 290 pounds even though he knew the plaintiff had back problems. Defendant filed a motion for summary judgment. The magistrate judge wrote a memorandum and recommendation finding that Defendant's actions did not rise to the requisite

level to be unconstitutional. The court adopted the memorandum and recommendation in its entirety and granted Defendant's Summary Judgment motion.

Toplisek v. Canon McMillan Sch. Dist., 2010 U.S. Dist. LEXIS 110425 (W.D. Pa. Oct. 18, 2010). Plaintiff student-athlete filed a First Amendment retaliation claim against Defendant school agents and employees for actions, words, and conduct following Plaintiff's complaint about a former coach. Defendants filed a Motion to Dismiss. Defendant's Motion to Dismiss was granted in part, as to the immunity for official acts and punitive damages, and denied in part, as to the § 1983 claims against the defendants as individuals for damages and putative damages.

CONTRACT LAW

Pathman v. Grey Flannel Auctions, Inc., No. 10-21167-CIV-KING, 2010 WL 3853284 (S.D. Fla. Oct. 1, 2010). In a 2002 auction, Plaintiff purchased from Defendant what he believed to be an authentic 1947 Joe DiMaggio road jersey. In 2009, a sports memorabilia authenticator told Plaintiff that the jersey was not authentic. Subsequently, Plaintiff sent letters to Defendant asking them to remedy the situation, and when they did not, he filed suit, alleging fraud in the inducement and negligent misrepresentation. Defendant filed a motion for dismiss for lack of personal jurisdiction. The court denied Defendant's motion, stating that Defendant's internet business established sufficient minimum contacts with Florida, thus the exercise of jurisdiction did not violate Fourteenth Amendment due process.

Earth Tech., Inc. v. KBE Bldg. Corp., No. HHBCV106005912S, 2010 WL 5064453 (Conn. Super. Ct. Nov. 17, 2010). Plaintiff brought this action because Defendant did not pay for services provided. Plaintiff, a subcontractor hired to construct a high school baseball field, alleges its work was rejected by Defendant contractor, KBE, and the town of New Haven because of water that pooled on the field. Plaintiff claimed the pooling water was caused by Defendants choice of fill and defective specifications. Three of nine counts are against the town, which filed a motion to strike, arguing it is immune from all three counts. The court granted two of the town's motions but denied the third, finding immunity did not apply.

Maswoswe v. Nelson, 327 S.W.3d 889 (Tex. App. 2010). Plaintiff Nelson obtained a 30% interest in a professional basketball team, while Defendant Maswoswe held the remaining 70% interest. Plaintiff filed a breach of contract suit alleging that Defendant agreed to sell his remaining interest to Plaintiff and now refuses to do so. Plaintiff sought specific performance, actual damages, and an injunction to stop Defendant from taking any action regarding the team. Defendant retained and subsequently lost counsel. Plaintiffs served a request for admissions to Defendant, who did not reply. Plaintiff then moved for summary judgment based on deemed admissions. The motion was granted when the Defendant did not respond. Defendant moved for a new trial and to withdraw the admissions. Defendant's motions were denied, so he filed for reconsideration and then appealed. The court found that the plaintiff's motions for summary judgment were granted on issues not in the original petition and were based on insufficient evidence provided by the moving party. Therefore, the appellate court reversed and remanded the case back to the trial court.

FSP Stallion 1, LLC v. Luce, No. 2:08-cv-01155-PMP-PAL, 2010 WL 3895914 (D. Nev. Sept. 30, 2010). Plaintiffs were a number of limited liability companies that invested in Defendants' golf course entity under an undivided tenancy in common arrangement. Plaintiffs were told the course would generate sufficient revenue to pay for the large amount of debt that it held. The course did not earn sufficient revenue, thus Defendants' company defaulted on the loan, leaving the investors to keep paying until their entire investment was lost. Plaintiffs filed suit alleging various fraud, contract, fiduciary duty, and negligence claims. The plaintiffs filed a motion to compel document production and the defendants filed a countermotion to exclude documents. The court granted the Plaintiff's motion to compel production of documents that were between Defendants and their attorneys regarding the Plaintiff's deal. The court found that there was no need for attorney-client privilege because it was in relation to a business deal between the parties, thus not all of the Defendants viewed the documents as privileged. The Defendant's counter-motion to exclude these documents was denied.

Hutton Group, Inc. v. Advantage Mktg. Int'l, Inc., No. 09-700, 2010 WL 3938248 (W.D. Pa. Oct. 5, 2010). Plaintiff was a ticket and service provider for events such as Super Bowls and the Olympics. Plaintiff had a long-standing business relationship with Defendant company and the owner of that company, Slater (also a Defendant). After Plaintiff paid for 50% for tickets to the Opening Ceremony of the 2008 Summer Olympics, it discovered that Defendant was unable to obtain the tickets. Plaintiff filed breach of contract claims against the defendant company and Slater, individually. Slater filed a motion for summary judgment, claiming that he was shielded from liability by the corporate veil and that the claim against him as an individual must be dismissed. The court granted Slater's motion, finding that the Plaintiff did not meet its burden of overcoming the "strong presumption" that the corporate veil should not be pierced.

Moberly v. Univ. of Cincinnati Clermont Coll., No. C-1-08-569, 2010 WL 3489003 (S.D. Ohio Aug. 31, 2010). Plaintiff wanted to be an assistant basketball coach at the defendant university. He inquired with the coach, but it was too late in the season so he volunteered. The next season he applied for the job through the formal channels and was among three candidates interviewed. Plaintiff was told by the coach that he would probably get the job, but then stated that the woman in charge of intercollegiate athletics wanted to go in a different direction. Plaintiff then contacted the University's Director of Equal Opportunity and alleged racial discrimination against the basketball team. Plaintiff put the complaints in writing and sent them to the University. The other coaching candidate did not respond to the offer, so Plaintiff was offered, and accepted, the job. He filed this lawsuit claiming violations of Title VI and freedom of speech. The court magistrate judge recommended dismissal of the suit and the district court adopted the recommendation, finding Plaintiff did not suffer any adverse action due to the University's actions and because the first amendment does not protect his speech related to his position.

Randall v. Memphis City Sch., No. 09-2267-STA, 2010 WL 4392538 (W.D. Tenn. Oct. 29, 2010). Plaintiff was a tenured high school teacher and football coach in the defendant school district. Defendant Fred Curry was appointed principal in June 2005, and as such had the right to choose his coaches and athletic directors. After disagreements about how the football team was run, Plaintiff was informed that his contract as football coach would not be renewed the next year. At this point, he resigned from his teaching position. Plaintiff alleged that Defendant violated his

equal protection rights, racially discriminated against him, and violated his tenure rights under state law. The court found Plaintiff's complaint failed to state a claim on all three allegations and granted Defendant's motion for summary judgment.

Hill v. Bell, 2010 U.S. Dist. LEXIS 118064 (E.D. Pa. Nov. 4, 2010). The Bert Bell/Pete Rozelle NFL Player Retirement Plan and the Retirement Board of the Bert Bell/Pete Rozelle NFL Player Retirement Plan filed an interpleader action to determine who is entitled to the benefits of former National Football League running back Thomas Sullivan. Barbara Sullivan was married to Thomas at the time of his death and was receiving benefits from the NFL Defendants. Unbeknownst to her, Thomas had been married to Lavona Hill and had never secured a divorce from her prior to marrying Barbara. After learning of Thomas's death, Hill attempted to claim social security benefits and the Social Security Administration determined that Hill was entitled to benefits as Thomas's widow. Hill was also notified that she might be entitled to benefits as a result of Thomas's professional football career, but she eventually learned that Barbara Sullivan was receiving benefits under the Plan. Because Thomas Sullivan remained married to Lavona Hill at the time he married Barbara, the marriage between Thomas and Barbara runs afoul of South Carolina's bigamy law. Thus, the court concluded that Lavona Hill was entitled to the funds as well as any prospective benefits under the Plan. The court declined to address the issue of whether she was entitled to benefits already paid to Barbara Sullivan.

Epic Mgmt. v. Harleysville Ins. Co., 2010 N.J. Super. Unpub. LEXIS 2184 (App.Div. Aug. 31, 2010). Plaintiff, who was the general contractor for the Township of Lakewood on a project to a build a baseball stadium, filed a declaratory judgment action against the insurers of Epic's subcontractor, CJ Contractors, Inc. (CJ), seeking a determination that CJ's insurers, defendants Harleysville Insurance Company of New Jersey (Harleysville), Travelers Property Casualty Company of America (Travelers) and Selective Insurance Company of America (Selective) are responsible for payment of a $ 219,310.80 judgment Epic recovered against CJ. That judgment represents costs Epic incurred in defending against a negligence action brought by Lakewood to recover damages for the stadium's leaking roof. Lakewood's claims in that underlying litigation were settled, Epic obtained a release, and CJ's insurers funded the entire settlement but did not pay the judgment Epic obtained against CJ. Epic filed this suit because CJ became insolvent and dissolved. The trial judge ruled in the defendants favor, finding that the losses were not covered under the policies CJ had, and that the defendant insurer did not become a party to the action by representing CJ in the initial suit. The appellate court affirmed.

Nat'l Union Fire Ins. Co. v. Las Vegas Prof'l Football Ltd. P'ship, 2010 U.S. App. LEXIS 25865 (2d Cir. N.Y. Dec. 20, 2010). The defendant football club appealed the district court's decision granting the motion to compel arbitration brought by Plaintiff's parent company. The defendant purchased worker's compensation insurance from the plaintiff, and the payment agreement to the insurance policy provided that any dispute arising out of the agreement must be submitted to arbitration. A billing dispute arose and Respondent filed a complaint in court. In response, Petitioner filed a petition to compel arbitration. The district court ordered the parties to proceed to arbitration as the payment agreement stated. The court later rejected the Respondent's motion for reconsideration stating that the arguments could have, and should have, been raised earlier. In this case, the court affirmed the decision of the district court, agreeing that a motion for reconsideration may not be used to advance new arguments not previously presented to the court.

Grant v. Houser, 2010 U.S. Dist. LEXIS 92801 (E.D. La. Aug. 17, 2010). Plaintiff football players sued a former teammate after he promised tax credits for investments in a film studio and never delivered. The defendant brought a motion to dismiss and strike allegations made by Plaintiff investors for violations of the Louisiana Unfair Trade Practices and Consumer Protections Act (LUTPA), breach of contract, and bad faith. Plaintiffs were successful on their breach of contract claim—Plaintiffs transferred funds but never received the purchased tax credits as promised. Plaintiffs were also able to prove that Defendant teammate acted in bad faith and used his position to create trust, thus taking advantage of the relationship. The court denied Defendants' motion to dismiss in its entirety, but granted Defendants' motion to strike all claims brought under Federal Rules of Civil Procedure 23(b)(2). The court also granted Defendants' motion to strike all class allegations under LUTPA because LUTPA prohibits class action claims.

United Linen Wholesale, L.L.C. v. Northwest Co., 2010 U.S. Dist. LEXIS 95924 (D.N.J. Sept. 13, 2010). The defendant began the selling plaintiff's comforters, which bore the mark or images and logos owned by the NFL and Disney, based on an agreement between the plaintiff and the defendant. Plaintiff claimed it entered into that agreement to be the exclusive distributor of NFL and Disney licensed comforters to the Hispanic market. A dispute arose about the exclusivity agreement and suit was filed. The court addressed motions in limine from both sides, granted each side's motions in part, and denied them in part. The motions were based on a myriad of issues including the country of origin of a witness to lost profits to the exclusion of documents.

City of Jacksonville v. Arrigato, Inc., 2010 U.S. Dist. LEXIS 133803 (M.D. Fla. Nov. 18, 2010). Defendant entered into an agreement with Plaintiff to be the exclusive vendor of merchandise and exclusive vendor of concessions inside and outside the stadium. In return for the exclusivity, Defendant was obligated to pay royalties of 35% of gross sales to Plaintiff no later than ten days after the game. When Plaintiff did not receive payment for a game, the plaintiff moved for a default judgment, based on breach of contract and conversion. The defendant failed to file a response and the allotted time passed, thus the plaintiff's motion was granted and judgment was entered in the amount of $60,972.17.

Koenig v. USA Hockey, Inc., 2010 U.S. Dist. LEXIS 118908 (S.D. Ohio Nov. 9, 2010). Plaintiff, an amateur hockey organization, brought this action against defendant USA Hockey for terminating the 2008 membership year early. Plaintiff contended they were denied the full benefit of their 2008 membership and moved for leave to file an amended complaint. The motion would result in the addition of sixty-seven new defendants and the addition of Nicholas Bush as a new named plaintiff. In its analysis the court addressed the unlikely success of the amendment, the personal jurisdiction issues, and the likelihood of Plaintiff prejudice absent the amendment. Consequently, the court granted the addition of Nicholas Bush as a new named Plaintiff, but denied the addition of new defendants.

Best in Sports, Inc. v. Olympiakos Basketball Club of Greece, 2010 U.S. Dist. LEXIS 140188 (D. Mass. Aug. 18, 2010). Defendant brought a motion to vacate a judgment entered in August 2004 for lack of personal jurisdiction. The underlying claim was based on Plaintiff's breach of contract claim against Defendant. Defendant failed to answer the complaint or file any motion in

response, thus the court entered a default judgment in favor of Plaintiff. The court considered personal jurisdiction issues such as timeliness, voidness, relatedness, personal availment, and reasonableness, and denied Defendant's motion to vacate.

McDermott v. Newble, 2010 Mich. App. LEXIS 1394 (Mich. Ct. App. July 20, 2010). Plaintiff sports agent appealed the trial court's decision granting Defendant, a former college basketball player, summary judgment. Plaintiff entered into an oral agreement with Defendant where Plaintiff would assist Defendant in becoming a NBA player in return for compensation. Plaintiff became a certified agent in anticipation of Defendant being drafted, and thus entered into a Standard Player Agent Contract (SPAC) with Defendant. The SPAC stated that any disputes between agent and player must go to arbitration and provided that the contract was the entire agreement between the parties. When Defendant began playing in the NBA, he terminated the SPAC with Plaintiff. Plaintiff brought a claim of breach of oral contract and Defendant moved for summary judgment, alleging that the action was barred under the SPAC's arbitration clause. The lower court looked to the plain language of the contract and found the SPAC's integration clause to fall within the arbitration provision. This court found the SPAC's language to be clear and unambiguous, thus solidifying arbitration as the proper forum for dispute resolution.

Adidas Am., Inc. v. Herbalife Int'l, Inc., 2010 U.S. Dist. LEXIS 82991 (D. Or. Aug. 10, 2010). The L.A. Galaxy reached a sponsorship deal with the defendant that included putting the defendant's logo on jerseys provided by the plaintiff. The plaintiff allowed these logos for a few years, but then filed a trademark infringement suit. Plaintiff filed a Motion to Dismiss Defendant's Third-Party Beneficiary Counterclaim. Defendant alleged it is a third-party beneficiary of the contract between Plaintiff and Major League Soccer. The court found Defendant's claim failed to prove that the contracting parties intended to provide a direct benefit to Defendant. Thus, Plaintiff's Motion to Dismiss was granted.

HBCU Pro Football, LLC v. New Vision Sports Props., LLC, 2010 U.S. Dist. LEXIS 71383 (D. Md. July 14, 2010). HBCU sued New Vision Sports Properties, CSTV Networks, and Victor Pelt for breach of contract and intentional misrepresentation and unjust enrichment, alleging that, while acting as agents for CSTV, Pelt and NVSP entered into a contract with HBCU for the broadcast of three college football games. HBCU promised to provide recorded broadcasts of three games and to pay NVSP and CSTV a $50,000 broadcast fee. In exchange, NVSP promised to give HBCU 80% of the gross advertising revenues. HBCU alleges that it performed its obligation, and NVSP and CSTV did not. It also contends that NVSP and Pelt knowingly misrepresented their status as agents of CSTV. CSTV removed the suit to federal court and thenPelt and NVSP were served. Then, HBCU moved to remand to state court. Because CSTV's co-defendants had not been served at the time of removal, their failure to join the notice was not a basis for remand. Accordingly, HBCU's motion was denied.

Haag v. Castro, 934 N.E.2d 189 (Ind. Ct. App. 2010). Plaintiff soccer team rented a van for a tournament. During downtime, the team went rafting as a team building activity and the players were injured in an accident on the way to the activity. The team members brought an action alleging a breach of the insurance policy after coverage was denied. The lower court granted summary judgment in favor of the insurance company, and plaintiffs appealed. The issue before the court was whether the lower court erred in determining that Plaintiffs' injuries were not

covered by the Defendant's insurance policy. The court of appeals affirmed the decision of the lower court, finding that the plaintiff's use of the van for team-building was not covered by Defendant as the rental was for use "in the business" of soccer tournaments and the trip was not for this purpose.

COURT OF ARBITRATION FOR SPORT DECISIONS

Andrea Anderson, LaTasha Colander Clark, Jearl Miles-Clark, Torri Edwards, Chryste Gaines, Monique Hennagan, Passion Richardson v. International Olympic Committee (IOC), CAS 2008/A/1545 (July 16, 2010). The seven relay teammates of Marion Jones are challenging the disqualification of their medals due to the fact that Jones tested positive for doping. The team that ran the women's 4x100m race won the bronze medal for that event, and the team that ran the women's 4x400m race won the gold medal for that event. The women assert that there were no explicit rules in place during the 2000 Olympics explaining what should happen to the teammates of an athlete found guilty of doping. The CAS panel agreed with the women and held that the results were not to be disqualified and the women could keep their medals and diplomas.

Union Cycliste International (UCI) v. Vinokourov & Kazakhstan Cycling Federation (KCF), CAS 2008/A/1458 (Aug. 30, 2010). Vinokourov, a Kazakh cyclist, was participating in the 2007 Tour de France when he was found to have committed a blood doping offense. In July, 2007, he was disqualified from his team. In December, 2007, the KCF's Anti-Doping Commission disqualified Vinokourov for a year. In January, 2008, UCI contested the KCF's one-year decision before CAS and requested a two-year period instead. Vinokourov decided to end his career and the proceedings were stayed. In September 2008, Vinokourov decided he wanted to compete again. UCI informed Vinokourov that he would not be eligible to compete internationally until April 7, 2010. The proceeding resumed in December 2008, and on January 27, 2009, Vinokourov admitted to the doping violation and accepted the two-year ineligibility period. CAS was left to decide when the two-year suspension actually expired and stated that the ineligibility period ended on July 24, 2009, two-years from the date he was disqualified from the Tour.

Irish Football Association (IFA) v. Football Association of Ireland (FAI), Daniel Kearns and Fédération Internationale de Football Association (FIFA), CAS 2010/A/2071 (Sept. 27, 2010). This arbitration involves a player, Kearns, attempting to switch from the IFA to the FAI. The IFA is the governing body of football in Northern Ireland, and FAI is the governing body of football in the Republic of Ireland; both are affiliated with FIFA. In August 2009, Kearns requested an irreversible change from the IFA to the FAI. The request was granted in February 2010. The IFA is challenging this change of Association before CAS. The IFA's main argument is that Kearns has no territorial connection with the Republic of Ireland, and as such cannot play for the FAI. Kearns, however, has dual Irish and British citizenship. The CAS panel confirmed FIFA's change of Association, allowing Kearns to join the FAI.

Federation Fracaise des Echecs, Deutscher Schachbund, Schweizerischer Schachbund, Federatsiya Shakiv Ukrainy, United States Chess Federation and Karpov 2010, Inc. v. Fédération Internationale des Echecs (FIDE), CAS 2010/O/2166 (Sept. 27, 2010). In this arbitration, five member federations of FIDE, the international governing body of Chess, and the individual seeking presidency of FIDE are challenging FIDE's biased behavior and improper use of resources in the presidential process. The CAS ruled that it did not have jurisdiction in the matter concerning Karpov 2010, Inc. and dismissed the claims. There is no arbitration agreement that is in place between the claimant and FIDE. The panel goes on to state that even if there was an arbitration clause in place, the arbitration must concern the practice of chess. The panel also found that the member federations did not have jurisdiction because they were not the federations that nominated Karpov. All claims were dismissed.

Yuliya Chepalova v. Federation Internationale de Ski (FIS), CAS 2010/A/2041 (Oct. 1, 2010). Chepalova, a Russian cross-country skier and member of the Russian Ski Federation (RSF), was found with a prohibited substance in her system after competing in a January 2009 cross-country ski event. The FIS Doping Panel held that Chepalova be ineligible from participating in any FIS events for two years. The Doping Panel also disqualified the results of the competition where she was found to have been doping. The ineligibility period is to run from August 2009 through August 21, 2011. The CAS dismissed Chepalova's appeal.

Phillip Darrell Jones v. Commonwealth Games Federation, CAS Ad hoc Division – XIX Commonwealth Games in New Delhi, CAS arbitration N° CG2010/01 (Oct. 4, 2010). Jones was told in February 2010 that he was selected to represent Norfolk Island in the 2010 Commonwealth Games in the bowling competition. In June 2010, he completed his entry for competition, but shortly after was informed that he was not eligible because he did not qualify as a citizen of Norfolk Island. It was not until October 3, 2010 that Jones filed an appeal with to the Ad hoc Division of CAS. The Code of Sports-related Arbitration has a provision dealing with time limits for appeals in the situation that the federation in question does not have a time limit, which is twenty-one days from the receipt of the decision that is currently being appealed. Jones was notified of his ineligibility at the end of July and did not appeal until September 30. The Tribunal dismissed Jones' appeal.

Flavia Oliveira v. United States Anti-Doping Agency (USADA), CAS 2010/A/2107 (Dec. 6, 2010). Oliveira, a USA licensed cyclist, tested positive for oxilofrine, a prohibited substance under the World Anti-Doping Agency Code. Oliveira believes that her positive results were caused by physician-prescribed allergy medications. Oliveira had never received formal drug education from USADA or any other sports organization prior to this positive result. The panel imposed an eighteen-month period of ineligibility, starting August 30, 2009 and running through February 28, 2011.

CRIMINAL LAW

Farokhrany v. Jackson, 2010 Mich. App. LEXIS 1483 (Mich. Ct. App. July 29, 2010). Plaintiff and Jackson, a college football star looking to get drafted to the NFL, got into an altercation, where plaintiff claims that Jackson hit him with a bottle and Jackson claims that he only punched plaintiff. Plaintiff sued for assault and battery and defendant countersued for defamation and malicious prosecution. At the trial level, the jury held for Jackson. Plaintiff appealed. The Court affirmed the jury's verdict with respect to the plaintiff's claim for assault and battery but reversed with respect to defendant's claims for defamation and malicious prosecution. The Court held that there was no favorable termination to support the elements of malicious prosecution.

United States v. Sypher, 2010 U.S. Dist. LEXIS 135646 (W.D. Ky. Dec. 21, 2010). Defendant brought two motions before the court in an attempt to convince the court to recuse itself from her case. In 2010, a jury convicted Defendant of extortion, lying to federal investigators, and threatening a witness. This said witness was the University of Louisville head basketball coach. Defendant brought these motions under the belief that the court had financial ties to the University and that some members of the court are University of Louisville Law School alumni. The court, finding no reason to recuse itself and having administered the matter with the highest standards of fairness and justice, denied both motions.

United States v. Comprehensive Drug Testing, Inc., 621 F.3d 1162 (9th Cir. 2010). This case evolved from the 2002 BALCO investigation and the evidence it produced. Plaintiff appealed the lower courts decisions regarding the quashing of subpoenas and the return of seized property. Plaintiff obtained a warrant for the drug-testing records of ten specific major league players who were believed use steroids. However, Plaintiff went beyond the scope of the warrant, and seized and reviewed hundreds of players' records. The court dismissed the appeal from the Central District of California as untimely, but affirmed the judgments entered in Northern California and Nevada, thus quashing the more recent round of subpoenas and returning the property obtained outside the scope of the warrant.

DISABILITY LAW

Greer v. Richardson Indep. Sch. Dist., 2010 U.S. Dist. LEXIS 78639 (N.D. Tex. Aug. 2, 2010). Greer sued the school district claiming that the districts were in violation of Title II of the Disability act because the district's stadium excluded her from participation. Plaintiff sought a permanent injunction, declaratory relief, damages for violation of her civil rights and attorneys' fees and costs. Although the court found that Plaintiff had standing to pursue injunctive relief, the court granted the district's motion of summary judgment and denied Plaintiff's motion for summary judgment. The court found that Plaintiff failed to present a prima facia case, finding that sitting specifically in the bleachers is not an integral part of the sporting event, thus does not constitute denial of program access.

Brown v. County of Nassau, 2010 U.S. Dist. LEXIS 92000 (E.D.N.Y. Sept. 3, 2010). Plaintiff brought this action claiming that defendants violated Title II of the Americans with Disabilities Act and the Rehabilitation Act because the hockey arena is not being readily accessible to the

disabled. Both parties move for summary judgment. Plaintiff claimed that the limited number of wheelchair accessible seats forced him to purchase a standard seat. He also noted other problems with the coliseum such as parking, physically accessing the building, using elevators, and purchasing food and souvenirs. Defendants filed motions for summary judgment. The court denied both cross-motions for summary judgment because it found disputed issues of material fact. The court found that the legal issues relating to the ADA and the Rehabilitation Act needed to be resolved at trial.

EMPLOYMENT LAW

Melious v. Musanti, 28 Misc. 3d 1222(A) (N.Y. Sup. Ct. 2010). Plaintiff was a teacher and junior varsity basketball coach at the same school as Defendants. Defendants allegedly said that Plaintiff mistreated and discriminated against minority students and had an inappropriate social relationship with his players. Plainitiff was terminated and filed a defamation suit. This decision was on a motion to dismiss all of the counts of the complaint. The court severed the complaint and dismissed two claims, while denying the motion for the others. The two claims that were dismissed were for retaliatory discharge and interference with prospective advantage. Plaintiff claimed that he was wrongfully discharged, but because he was an at will teacher who did not have tenure, the court said that he failed to state a claim. He also claimed that he would have been admitted to the NYPD Police Academy if his records were produced by the defendant school at an earlier date, but failed to show that the degree attributed to Defendant's actions was relatively high.

Owen v. Golf & Tennis Pro Shop, Inc., No. 4:09-CV-00571, 2010 WL 3859640 (E.D. Tex. Sept. 30, 2010). Plaintiff was a golf instructor at Defendant golf store for approximately two years. In 2009, the company came to an agreement, under a process supervised by the Department of Labor, to pay certain wage payments to the instructors. Plaintiff rejected this settlement and filed suit under the FLSA, alleging his employer failed to pay him for overtime earned during his employment. The court granted Plaintiff's motion to certify as collective action because it found that the other instructors who did not agree to the settlement were similarly situated enough and the class size is not determinative. Thus Defendant's action to strike the motion was denied.

Cavazos v. E. Side Union High Sch. Dist., 2010 Cal. App. Unpub. LEXIS 10194 (Cal. App. 6th Dist. Dec. 21, 2010). Tess Cavazos is a high school teacher and was hired as the head coach of the boys' varsity basketball team at Independence High School. The interim principle was informed in January 2006, of some concerns of the way Cavazos disciplined her students. An investigation ensued and multiple complaints arose of Cavazos discipline of her players. In April 2006, the interim principal informed Cavazos that she would no longer hold the position of head coach. Cavazos brought a claim alleging gender discrimination and sexual harassment. At the district level, the jury found in favor of the defendants on the harassment claim, and also allowed the defendant's move for summary adjudication on the gender discrimination claim. Cavazos appealed the judgment. The court of appeals affirmed.

Palmer v. Town of Darien, 2010 U.S. Dist. LEXIS 103559 (D. Conn. Sept. 30, 2010). Plaintiff brought this claim alledging employment discrimination under Title VII after he was terminated from his position as a head coach on the basis of race and gender. According to the plaintiff, the

JV coach began to make discriminatory comments about him. When the plaintiff reported to the athletic director about the problem, the athletic director suspended the JV coach. Seven days later the JV coach was reinstated and the plaintiff was informed that his employment would be terminated; no reason was given for the termination. Defendants, former employers of the plaintiff, moved to dismiss the gender discrimination claim for failure to state a claim for which relief can be granted. The court denied the motion to dismiss because the allegations supported a reasonable inference that the defendants were liable for gender discrimination.

Lincoln Hockey, LLC v. D.C. Dep't of Empl. Servs., 997 A.2d 713 (D.C. 2010). Huscroft signed a two-year, two-way contract with the Washington Capitals professional hockey team. Under the contract, Huscroft could be required to play for the Capitals in the NHL or for its minor league team, the Portland Pirates. During his second year, Huscroft suffered a career-ending head injury while playing in a Pirates game. He filed a claim under the District of Columbia Worker's Compensation Act seeking temporary total disability benefits for three months and temporary partial disability benefits "to the present and continuing," which he received. The Capitals petitioned for review. The court found no merit in the Capitals challenges of compensation and awarded petitioner the workers compensation benefits.

Bezeau v. Palace Sports & Entm't, Inc., 2010 Mich. LEXIS 1656 (Mich. July 31, 2010). Plaintiff, a resident of Michigan, was a professional hockey player who signed a three-year contract in Michigan with the Detroit Vipers. The plaintiff injured himself, while not playing hockey. He later aggravated that injury during a hockey game while being loaned out to a Rhode Island team; he was a resident of New Brunswick, Canada at the time of the injury. The plaintiff has been unable to play hockey since that incident. The plaintiff applied for workers compensation benefits in Michigan. The magistrate ruled that there was no evidence that the incident during the hockey game caused the plaintiff's disabling injuries or aggravated any preexisting injuries. Plaintiff and defendant went back and forth appealing the case until it eventually made its way back to the magistrate. During this time a key case, *Karaczewski v. Farbaman Stein & Co.*, was decided. This case held that in order for Michigan workers compensation laws to apply, the injured party must be a resident of Michigan at the time of the injury and the contract for hire must have been from Michigan. As a result the magistrate dismissed the plaintiff's claims for benefits;plaintiff appealed. The Supreme Court of Michigan reversed the magistrate's decision that the plaintiff was not entitled to the claim. The court overruled the retroactivite effect of the holding of *Karaczewsk* and adopted a more flexible approach to prevent injustice.

Franklin County Bd. of Educ. v. Crabtree, 2010 Tenn. App. LEXIS 423 (Tenn. Ct. App. July 1, 2010). Lisa Crabtree was an English teacher at Franklin County High School. She coached the girls' basketball team, and also taught a physical education class that was targeted to the basketball team. Crabtree was relieved of her coaching duties and removed from teaching the physical education class. Crabtree filed a grievance request with the board under the collective bargaining agreement (CBA), stating that she wanted to immediately be returned to her coaching duties. Crabtree claims that the decision to remove her from coaching position was arbitrary and capricious and that the Board of Education did not arbitrate in good faith. The trial court heard the matter and determined that the removal of Ms. Crabtree from coaching was not governed by the CBA or subject to grievance procedures.

Crabtree then appealed to the Court of Appeals of Tennessee, which affirmed the judgment of the trial court. The appellate court found that the Ms. Crabtree did not carry her burden to show that the decision was not made in good faith and did not provide evidence that the removal was arbitrary or capricious.

Sandres v. Corr. Corp. of Am., 2010 U.S. Dist. LEXIS 113959, (E.D. Cal. Oct. 25, 2010). Plaintiff claims that defendant, his employer, retaliated against him for taking medical leave and for refusing to provide false statements in regards to an injury he suffered while playing football during work hours. Plaintiff filed a workers' compensation claim as a result of the alleged harassment he experienced. Plaintiff claimed he attempted to return to work but that the defendants refused to provide proper accommodations. Close to eight months after attempting to return to work, plaintiff's compensation claim was resolved and plaintiff attempted to contact the defendants' human resources department to begin talks of coming back to work. Defendants never retuned his call but months later send the plaintiff a letter stating that the plaintiff had failed to return calls to the defendant and was therefore terminated. Plaintiff now seeks damages from the defendant. Defendants, in response, seeks a dismissal claiming that the plaintiff lacks standing to prosecute the action because the plaintiff did not disclose the claim in his Chapter 7 bankruptcy petition. The Defendants also claim that the plaintiff's lawsuit is subject to judicial estoppel because of inadequately claiming his claim as an asset in bankruptcy proceeding.
The court determined that plaintiff had standing. The court found that the plaintiff sufficiently identified his lawsuit when the plaintiff provided an estimate value of the lawsuit. The court also determined that judicial estoppel does not bar the lawsuit because the plaintiff adequately disclosed the claim against the defendant in the bankruptcy petition.

FAMILY LAW

Fabini v. Fabini, No. 02A03-1003-DR-152, 2010 Ind. App. Unpub. LEXIS 1081 (Ind. Ct. App. Aug. 4, 2010). This is a child support case where the father was an NFL player. The child support arrangement was based on Defendant's 2008 NFL salary. After that season, Defendant was diagnosed with a condition that ended his career, so he requested the court to base the amount he owed on his investments only. The court granted the request, but began the arrangement when the NFL season would have started, not the March 2009 date that Defendant filed the petition. The appellate court affirmed the decision because he was not losing any income until the 2009 NFL season started since he never received paychecks in the summer.

HIGH SCHOOL ELIGIBILITY ISSUES

Rademaker v. Blair, 2010 U.S. Dist. LEXIS 135306, (C.D. Ill. Dec. 22, 2010). Plaintiff's son is high school senior who has been diagnosed with ADHD. Before being diagnosed her son was having trouble with geometry and received a failing grade. Because of the failing grade, he was declared ineligible to participate in athletics for the first nine weeks of the fall semester. At the end of the ineligibility period, plaintiff's son was failing drama and declared ineligible for the rest of the fall semester. Plaintiff believes that her son is now on the right medication, and that it would be unfair to judge him on the effects of not previously being on medication. Plaintiff asked the school district to forego its academic regulations and apply the non-mandatory provisions of IHSA. Plaintiff brought this suit seeks a temporary restraining order against the

school district. The court found that the plaintiff did not have a likelihood of success on the merits of her claim and noted that it could deny the motion for a temporary restraining order on this basis alone. Because the court found that the plaintiff did not have a likelihood of success on the merits, it focused on the balancing of the harms between the parties. The court held that the balance of harms weighed in favor of the defendants because granting relief would disrupt the purpose of the policy. The plaintiff's motion for a temporary restraining order was denied.

W.L.D. v. Ky. High Sch. Ath. Ass'n, 2010 U.S. Dist. LEXIS 120208 (E.D. Ky. Nov. 12, 2010). Plaintiff brought a claim alleging that the Kentucky High School Athletic Association acted arbitrarily and capriciously when it refused to accept a waiver under the transfer rule. Plaintiff was denied eligibility to participate after transferring from Danville High School. Plaintiff wanted the court to overturn the ruling, enjoining the defendants from prohibiting plaintiff's participation on the team. The court found that the plaintiff's claim that the defendant was acting arbitrarily should be decided under state law and was not a substantial question of federal law. Because the court found that it lacked jurisdiction it did not consider the plaintiff's motion for an injunction and instead remanded the case to the Boyle Circuit Court.

Sisson v. Va. High Sch. League, Inc., 2010 U.S. Dist. LEXIS 132264 (W.D. Va. Dec. 14, 2010). When Sisson was in third grade, it was determined that he had a learning disability. Though Sisson had passing grades, his parents chose to make him repeat the third grade. During his freshman year of high school he played football, baseball and basketball, but learned that he was not going to be eligible to play sports during his senior year because of his age. Sisson applied for the waiver of the age rule. At first the waiver was granted but during review the waiver was denied. Sisson's appeals failed. Six months later, Sisson filed an action alleging deprivation of due process and equal protection because the age rule was not waived. He sought a temporary restraining order and preliminary injunction. Though the court said it would have likely granted Sisson the waiver, the court rule in favor of the defendants and denied the motion for restraining order and the preliminary injunction. The court notes that there is no fundamental right to participate in interscholastic athletics. The court also noted that because Sisson was not required to repeat the third grade, he would have difficulty establishing a similarity between others who were granted waivers of the age requirement.

Ind. High Sch. Ath. Ass'n v. Watson, 938 N.E.2d 672 (Ind. 2010). Jasmine Watson was considered an elite high school athlete. Watson was seeking to transfer from Elkhart Memorial to South Bend Washington. She wanted an athletic transfer that would allow her to participate on both the basketball and track team once she began attending South Bend Washington. In order to be eligible, Watson's previous school had to sign a form, but the school refused claiming the move to South Bend was motivated by athletic reasons, which the school said was a violation of IHSAA Rule 19-4 and was a result of undue influence. The IHSAA ruled that Watson was ineligible and Watson appealed to the court. The trial court held that IHSAA's decision was arbitrary and capricious and granted an injunction. The Supreme Court of Indiana though reversed the decision of the trial court stating that the IHSAA's decision was not arbitrary and capricious and that the trial court improperly weighed the evidence.

INSURANCE LAW

Fed. Ins. Co. v. Exec. Coach Luxury Travel, Inc., 2010 Ohio 6300 (Ohio Dec. 28, 2010). Bluffton University's head baseball coach contracted with Executive Coach Luxury Travels to transport the baseball team from Ohio to Florida. The driver of the chartered bus was a company of Executive. While on the highway, the bus driver mistook an exit ramp for another lane and fell from the top of the ramp crashing onto the roadway below. The driver, driver's wife, and five baseball players were killed; others on the bus were injured. The university's insurance policy contained a clause that covered "anyone else" driving a hired auto. The insurers contended that the travel company was an independent contractor for whom the driver worked and that therefore, the driver was not using the bus with the university's "permission," and nor did the university "hire" the charter bus. The court concluded that the lower courts erred when they determined that the driver was not an "insured." The university hired the charter bus in exchange for payment to the travel company. The driver drove the bus hired by the university with the university's permission because the travel company had sought and the coach had granted a request to allow the driver to drive the bus. Accordingly, the driver was an "insured" pursuant to the omnibus clause. The case was remanded to the trial court for further proceedings.

Kerns v. Northwestern Mut. Life Ins. Co., 2010 U.S. Dist. LEXIS 126769 (E.D. Cal. Nov. 30, 2010). Plaintiff sought damages from Defendant for the breach of an insurance contract and a declaration of entitlement to disability benefits. Defendant's insurance contract offered Plaintiff one set of benefits if disability occurred from sickness, and a different set of benefits if disability occurred from an accidental bodily injury. In 2006, Plaintiff requested full disability benefits, claiming an accident caused degenerative arthritis of the spine. The defendant found it was due to sickness. At trial, the Defendant's expert witness testified that the principal reason for the degenerative arthritis of the spine was age. Thus, Plaintiff did not prove that an accident was a cause of his total disability and judgment was entered in favor of the Defendant.

Hudson Ins. Co. v. Colony Ins. Co., 624 F.3d 1264 (9th Cir. 2010). Defendant co-insurer appealed the lower court's decision that awarded Plaintiff co-insurer equitable contribution for its costs of defending an insured in an underlying lawsuit. Equitable contribution actions allow an insurer to sue for pro-rata reimbursement from another insurance company when it has independently defended a mutually insured party. The lower court found that, based on the initial complaint, Defendant had a duty to defend the insured. This court affirmed the lower court's decision, stating the plaintiff was entitled to an equitable contribution.

INTELLECTUAL PROPERTY LAW

Riddell, Inc. v. Schutt Sports, Inc., 724 F. Supp. 2d 963 (W.D. Wis. 2010). Plaintiff brought claims for patent infringement, false advertising, and "trade libel and product disparagement" against the defendant. The defendant brought counterclaims for declaratory judgment of non-infringement, invalidity, and inequitable conduct as well as counterclaims for false advertising under the Lanham Act and the Wisconsin Deceptive Trade Practices Act. These claims stemmed from Plaintiff introducing a new line of football helmets that allegedly prevents concussions

better than other helmets and the accompanying advertisement. The court granted summary judgment for the Plaintiff with respect to the false advertising and deceptive trade practices. The court also granted summary judgment for the Defendant in respect to some, but not all, of the patent claims.

MRC Golf, Inc. v. Hippo Golf Co., Inc., No. 09cv327-L(RBB), 2010 WL 4286226 (S.D. Cal. Oct. 25, 2010). Plaintiff, a golf club distributor, brought a trademark infringement suit against Defendant for using Plaintiff's brand name to sell its own golf club. A preliminary injunction was issued against Defendant's use of Plaintiff's brand name and after a request by the judge for motions, Plaintiff filed for summary judgment. The court granted the motion, finding no material facts existed as to Defendant's liability. Plaintiff also requested damages in the amount of sales revenue for the infringing clubs. Because Defendant failed to show that there should be any reduction in the amount of damages, Plaintiff received the full $1,321,535 in damages.

Saso Golf, Inc. v. Nike, Inc., No. 08 C 1110, 2010 WL 4481772 (N.D. Ill. Nov. 1, 2010). Plaintiff filed for, and was granted, a patent for a design that was implemented on their golf clubs. The company filed suit against Defendant, claiming patent infringement. Defendant claimed that nine of the ten disputed terms in the patent are ambiguous thus the claim is indefinite. The court states that an accused infringer must prove that "a skilled artisan could not discern the boundaries of the claim based on the claim language, the specification, and the prosecution history, as well as her knowledge of the relevant art area," by clear and convincing evidence. After discussing each term in question the court found that the defendant did not meet this burden. The court held the claim was not indefinite and even stated what each term meant within the context of the claim.

Swingless Golf Club Corp. v. Taylor, 732 F. Supp. 2d 899 (N.D. Cal. 2010). The defendant invented the swingless golf club, and with his wife began the plaintiff corporation. After Defendant and his wife divorced, he assigned his patents to the company and was later removed of his managerial role. Along with co-defendants, he began another company that directly competed with Plaintiff, so Plaintiff filed suit alleging patent infringement. Defendant filed counterclaims of fraud, conversion, corporate waste, and breach of fiduciary duties. Plaintiff filed a motion for summary judgment on each counterclaim and the court found in favor of Plaintiff, granting the motion on each claim.

Colucci v. Callaway Golf Co., No. 6:08cv288-JDL, 2010 WL 3909260 (E.D. Tex. Oct. 1, 2010). Plaintiff filed suit against Defendant alleging patent infringement, trade dress infringement, and unfair competition based on a putter made by Defendant that allegedly used the putter head referred to in a patent held by Plaintiff. A jury awarded damages to Plaintiff, finding Defendant's putters did infringe on some aspects of Plaintiff's patent. Defendant filed a renewed motion for judgment as a matter of law after the trial, claiming that Plaintiff's patent was invalid because there was already a club with that design for sale in the commercial market for more than one year at the time of the patent. Although Defendant presented testimony to this effect, they did not attempt to corroborate the testimony. Therefore, the court denied Defendant's motion.

Roger Cleveland Golf Co., Inc. v. Price, No. 2:09-CV-2119-MBS, 2010 WL 5019260 (D.S.C. Dec. 3, 2010). Plaintiff discovered that Defendants were selling copycat golf clubs marked with Plaintiff's brand name. Upon learning this, Plaintiff filed suit against Defendants for trademark infringement under federal law, as well as trademark infringement under state law and unfair competition and unfair trade practices under state law. Defendant Bright Builder, which was added in an amended complaint, filed a motion for summary judgment. The court agreed with Plaintiff that Bright Builder should be a party to the suit because as the website domain host it knew or should have known that the other Defendants were selling counterfeit clubs on the website.

Ruggers, Inc. v. United States, 2010 U.S. Dist. LEXIS 94354 (D. Mass. Sept. 10, 2010). Plaintiff clothing vendor alleged that Defendant rugby union violated an exclusive sponsorship agreement after defendant Under Armour induced the club to do so. Plaintiff asserted various claims against Defendant competitors, including trademark infringement, intentional interference with contract, and invasion of privacy. The defendants filed a motion to dismiss. Because Plaintiff failed to prove that the competitor used Plaintiff's mark, the court found Plaintiff failed to state a Lanham Act claim, thus removing its unfair competition claim and its publicity claim. The court allowed the competitor's motion to dismiss.

Steele v. Turner Broad. Sys., 2010 U.S. Dist. LEXIS 101604 (D. Mass. Sept. 27, 2010). Plaintiff songwriter requested default judgment based on defendant media company's failure to reply to original copyright infringement action. Plaintiff claimed his song about the Boston Red Sox was unlawfully copied and used in Defendant's advertisement. The lower court found no substantial similarity between Plaintiff's song and the song in Defendant's advertisement, thus granted Defendant's motion for summary judgment. This court declined to enter a default judgment against Defendant because the Plaintiff failed to mention Defendant in the original or the amended complaint.

The Name LLC v. Ortiz, 2010 U.S. Dist. LEXIS 121413 (S.D.N.Y. Nov. 16, 2010). Plaintiff brought a trademark infringement and dilution claim against Defendant for using Plaintiff's registered trademark and service mark to advertise a Dominican nightclub in violation of the Lanham Act. Defendants replied with a motion to dismiss for lack of jurisdiction. The court considered multiple factors and determined that a website hosted in the United States is subject to the Lanham Act and that the United States was the proper forum for the claim, thus the court denied the Defendant's motion to dismiss.

Hart v. Elec. Arts Inc., 2010 U.S. Dist. LEXIS 99622 (D.N.J. Sept. 21, 2010). Plaintiff brought this class action lawsuit alleging that Defendant advertised and sold products bearing his likeness in connection with Defendant's NCAA Football video games. Defendant moved to dismiss the claims, arguing that each element of the complaint—right of publicity/invasion of privacy, New Jersey Consumer Fraud Act (NJCFA), unjust enrichment, and conspiracy—fails to state a claim. After analyzing the arguments, the court granted the Defendant's motion to dismiss, but granted Plaintiff leave to file a Second Amended Complaint within twenty days.

Riddell, Inc. v. Schutt Sports, Inc., 724 F. Supp. 2d 981 (W.D. Wis. 2010). Plaintiff patent owner brought patent infringement claims against the defendant for infringing three separate patents related to the improvement of football helmet design. Defendant moved for summary judgment. The court granted Defendant's motion for summary judgment on Plaintiff's infringement claim regarding the notches on the helmet and compression deflection. It also found no evidence of willful infringement, so the defendant's motion on that claim was granted. The defendant's motion on the remaining claims was denied.

Titlecraft, Inc. v. NFL, 2010 U.S. Dist. LEXIS 134367 (D. Minn. Dec. 20, 2010). Plaintiff trophy manufacturer brought a claim seeking declaratory relief after Defendant sent Plaintiff a cease-and-desist letter for infringing Defendant's rights. The plaintiff was selling trophies that were similar to the Vince Lombardi Trophy, which is trademarked by the defendant. The defendant counter-claimed, alleging copyright and trademark infringement and moved for summary judgment. The court granted the defendant's motion for summary judgment because it found the plaintiff's trophies we substantially similar to the defendant's, but left Plaintiff's liability for damages unresolved.

Ohio State Univ. v. Thomas, 2010 U.S. Dist. LEXIS 96478 (S.D. Ohio Aug. 27, 2010). Defendant was producing and selling merchandise, as well as hosting a website advertising "Buckeye" products. Plaintiff brought a motion for a temporary restraining order and preliminary injunction against Defendant for trademark infringement of its trademarked names and designs. The court found that Defendant's website and electronic publication containing Plaintiff's exclusive trademarks constituted infringement and thus granted Defendant's motion.

Bouchat v. Baltimore Ravens Ltd., 619 F.3d 301 (4th Cir. 2010). Plaintiff drew a symbol used by the defendant for three seasons. He filed suit to enjoin the use of the symbol in a highlight tape and corporate lobby. Plaintiff appealed the district court's decision finding that Defendant's use of Plaintiff's copyright constituted fair use. In this case, the court affirmed in part and reversed in part. The court found that the copyright's transformative and non-commercial use in the Ravens corporate lobby constituted fair use. However, the copyright's use in season highlight films was infringing because future highlight films that depicted the same logo would not be considered fair use.

Brown v. Elec. Arts, Inc., 722 F. Supp. 2d 1148 (C.D. Cal. 2010). Plaintiff filed suit against defendant for using his likeness in a video game without his permission. The Defendant filed a motion to dismiss and the plaintiff never answered, so it was granted. Defendant then brought a motion for attorney fees based on Plaintiff athlete's original lawsuit. The court found the Plaintiff's lawsuit was neither groundless nor vexatious, thus the Defendant's motion for attorney's fees was denied.

Who Dat?, Inc. v. NFL Props., LLC, 2010 U.S. Dist. LEXIS 77194 (M.D. La. July 29, 2010). Plaintiff sued Defendants regarding the ownership and use of a certain phrase, which they claimed to use for 25 years before the NFL took the mark and claimed ownership. The court ordered the parties to show cause why the action should not be transferred. The defendants fully supported a transfer, while the plaintiffs opposed it. The court found that the majority of events

cited in the litigation occurred in the other district and that more witnesses resided in that district, thus the court transferred the action.

Who Dat Yat Chat, LLC v. Who Dat, Inc., 2010 U.S. Dist. LEXIS 114716 (E.D. La. Oct. 20, 2010). Plaintiff filed a declaratory action against defendant to use its name for a coffee shop after receiving a cease-and-desist letter from the defendant. Then, the plaintiff brought a motion for sanctions against Defendant for its alleged improper transfer of the lawsuit. Plaintiff alleged that it has suffered delays and costs in the improper transfer, while the defendant argued Plaintiff's motion is without merit and should have been denied. Because the court could not conclude that Defendant blatantly disregarded the rules of venue, the Plaintiff's motion for Sanctions was denied.

Williams v. Univ. of Ga. Ath. Dep't, 2010 U.S. Dist. LEXIS 134214 (M.D. Ga. Nov. 24, 2010). Plaintiff brought an action against Defendants demanding $80 Million dollars for Defendants' use of Plaintiff's professional materials for athletic events, including music, dances, songs, lyrics, and voices, without compensation. The court dismissed Plaintiff's complaint because Defendants were entitled to sovereign immunity and because Plaintiff's complaint was frivolous, in that it did not allege any specific harm, only general claims of wrongdoing.

United States Olympic Comm. v. Tobyhanna Camp Corp., 2010 U.S. Dist. LEXIS 117650 (M.D. Pa. Nov. 4, 2010). Plaintiff brought this action to enjoin Defendant from using the word "Olympic" or the Olympic symbol in their promotional activities. Defendant did not appear in the action and Plaintiff filed a motion for default judgment. The court granted Plaintiff's motion for default judgment, but would not award attorney's fees without Plaintiff providing further evidence in support of its request.

PROPERTY LAW

Diclaudio v. Langweiler, 2010 Phila. Ct. Com. Pl. LEXIS 192 (Pa. C.P. 2010). The underlying cause of action was a dispute over ownership and control of Philadelphia Phillies baseball tickets. The issue on appeal was the court's previous decision to grant a preliminary injunction, preventing defendant from transferring the ticket rights to a third party prior to resolution of the case. Langweiler claimed that res judicata and the "law of the case" prevented the court from considering the motion for preliminary injunction. He also contended that the standard for a preliminary injunction was not met because there was no immediate and irreparable harm without adequate remedy at law, and that the action lacked sufficient likelihood of prevailing on the merits. The court said the appellant misapplied res judicata, and appropriate discretion was exercised in ruling on the motion for preliminary injunction under the coordinate jurisdiction rule. The motion for preliminary injunction was necessary to avoid immediate and irreparable harm to the plaintiff's interests and was justified by a prima facie case likely to prevail on the merits. Therefore, the preliminary injunction was affirmed.

SECURITIES LAW

Allstate Life Ins. Co. v. Robert W. Baird & Co., 2010 U.S. Dist. LEXIS 123834 (D. Ariz. Nov. 3, 2010). Plaintiff bondholders brought this case against defendant underwriters, law firms, and others after Plaintiffs purchased $35 million in revenue bonds pursuant to documents titled "Official Statements" that after examination, omitted critical information. Plaintiffs alleged violations under federal securities law and state law securities fraud, common-law fraud, and negligent misrepresentation. Defendant filed a motion to dismiss. The court found that the majority of Plaintiff's state-law claims survived the Defendant's motion to dismiss; however, in regard to plaintiff's federal securities law claims, the court granted the Defendant's motion to dismiss in part and denied it in part.

TAX LAW

Cape Cod Five Cents Sav. Bank v. Bd. of Assessors of Harwich, 933 N.E.2d 1032 (Mass. App. Ct. 2010). A private golf course sought classification as recreational land under state tax laws, which would decrease the tax liabilities of the club. The appeal was denied and the Appellate Tax Board sought to require the course to pay taxes due for three years. The parties came to a settlement agreement. Shortly after, the course owners set up a foundation that ran the course and again sought classification as recreational land. The Appellate Tax Board again denied the request to change status. The court affirmed the decision because it found that the foundation is set up just like the corporation was before the settlement, and it holds that the foundation was created and the course is run through the foundation purely to avoid tax liability.

TITLE VII

Heard v. Waynesburg Univ., Civ. A. No. 09-1315, 2010 WL 4237933 (W.D. Pa. Oct. 21, 2010). Plaintiff was hired by Defendant as a part-time wrestling coach. In Plaintiff's second year, he punched a student-athlete when the athlete allegedly charged toward him in an angry mood. Plaintiff was suspended and ultimately fired from his coaching position because of the incident. He filed suit alleging racial discrimination in violation of Title VII and the Pennsylvania Human Rights Act. The defendant university filed a motion for summary judgment, which the court granted. The court stated that even though the plaintiff may have had a prima facie case, Defendant pointed to a legitimate reason for the termination and Plaintiff could not show this reason was a pretext for discrimination.

Hayes v. Delaware State Univ., 726 F. Supp. 2d 441 (D. Del. 2010). Plaintiff was an African-American woman who coached women's track at Defendant university and served as its Senior Woman Administrator (SWA). After Plaintiff's contract expired, she was not offered a new contract nor advised that she would not be, as required by the university policies. Plaintiff continued to work for the university, but experienced harassment from the Associate Athletic Director. Originally Plaintiff did not say anything for fear of being pushed out. Subsequently, Plaintiff brought suit alleging Title VII sex discrimination, harassment, hostile work environment, and retaliation. Defendant moved to dismiss the claim, after which Plaintiff amended the complaint. Defendant renewed the motion to dismiss claims as untimely. The

court ruled that some of the claims were untimely, but others, including hostile work environment and certain retaliatory acts, were timely claims and could continue.

Ginsburg v. Concordia Univ., 2010 U.S. Dist. LEXIS 96068 (D. Neb. Sept. 14, 2010). Plaintiff Robert Ginsburg was the head women's softball coach for Concordia University. Ginsburg, a Catholic, agreed to be sensitive to the school's Lutheran beliefs and do nothing in his personal life that would discredit Concordia's values. During a softball game, Ginsburg made a coaching decision and a comment to the assistant coach, a Lutheran, who immediately resigned from the position. The athletic director, president, and vice president of admissions for Concordia met with the assistant coach; Ginsburg was later informed he was fired, and the assistant coach took his place. Ginsburg alleged that he was terminated from Concordia due to religious discrimination. Plaintiff brought suit for a Violation of Title VII. Concordia believed that Ginsburg's complaint should have been dismissed for failure to state a claim upon which relief can be granted (Federal Rules of Civil Procedure 12(b)(6) motion) and that Concordia is statutorily exempt from Title VII, which would result in the court lacking subject matter jurisdiction. The defendant's motion was granted in part and denied in part. The court held that the plaintiff failed to state a claim upon which relief can be granted. The court found that his complaint alleged no facts in which the court could find that he was dismissed due to religion. The court gave Ginsberg the opportunity to file an amended complaint. In regards to Concordia's argument that Ginsburg's claim was statutorily exempt, the court dismissed Concordia's motion without prejudice to be reconsidered because the court did not have enough evidence before it.

Davis v. N. N.Y. Sports Officials' Council, 2010 U.S. Dist. LEXIS 104631 (N.D.N.Y Sept. 30, 2010). Defendants suspended the plaintiff from officiating further interscholastic athletic contests. Plaintiff brought eight claims against the defendants, including (1) discrimination under Title VII of the Civil Rights Act, (2) retaliation under Title VII, (3) sexual discrimination; (4) violation of the right to substantive due process, (5) violation of the right to procedural due process, (6) retaliation under 42. U.S.C §1983 and the First Amendment, (7) abuse of process under New York state common law, and (8) injurious falsehood under New York State common law. Defendants seek to dismiss all of plaintiff's claims. The court, based on the plaintiff's claims related to Title VII, found that the plaintiff failed to establish that the defendant was an employer for the purposes of Title VII or that the defendants hired her. Because the plaintiff did not include these factors, the court dismissed the plaintiff's Title VII claims for failure to state a claim for which relief can be granted. The plaintiff's sexual discrimination claim was also dismissed due to failure to state a claim because the plaintiff failed to allege that the defendant was her employer. Under the plaintiff's claims of due process, the court dismissed the claims because the plaintiff failed to present facts that would suggest that she had a protected liberty interest that the defendants had deprived her of. Under the plaintiff's substantive due process claim, the court dismissed for failure to allege facts that would suggest that the defendants' conduct constituted an exercise of power without reasonable justification, in a way that would be deemed arbitrary or oppressive. Plaintiff's First Amendment allegations were also dismissed for failure to state a claim and because her speech did not address a matter of public concern. The court noted that the plaintiff was not speaking as an advocate for employee rights or even as a citizen but rather due to personal grievances. The plaintiff's last claim of injurious falsehood and abuse of process was dismissed without prejudice and refiled to the New York State Court.

Covington v. Int'l Ass'n of Approved Basketball Officials, 2010 U.S. Dist. LEXIS 88088 (D.N.J. Aug. 26, 2010). Tamika Covington is a basketball referee who believes that the International Association of Approved Basketball Officials (IAABO) and the Hamilton Board of Education (Hamilton BOE) both discriminated against her based on her gender. She claimed that IAABO's discrimination was a violation of Title VII of the Civil Rights Act of 1964 and that Hamilton BOE's discrimination was a violation of Title IX of the Education Amendments of 1972. The Hamilton BOE and the IAABO both filed motions for judgment on the pleading. The Court granted both motions. The IAABO motion was granted because Covington failed to allege that there was an employment relationship between her and the IAABO. The Hamilton BOE motion was granted because Covington failed to establish that the Hamilton BOE received federal funding.

TITLE IX

Ollier v. Sweetwater Union High Sch. Dist., No. 07cv714-L(WMc), 2010 U.S. Dist. LEXIS 87204 (S.D. Cal. Aug. 23, 2010). Defendant school district filed a motion to dismiss a claim that a softball coach was fired in retaliation for complaining about the state of the women's softball program at her school, in violations of Title IX. Defendant argued it was moot because the original plaintiffs were no longer students at the school and did not play under the fired coach. The court held that there were still plaintiffs who played at the school and had to deal with the ramifications of Defendant's retaliatory action. The court also found that Plaintiffs had standing because they alleged concrete and particularized actions taken against Plaintiff class members after they complained of sex discrimination. Defendant's motion was denied.

Patterson v. Hudson Area Sch., 2010 U.S. Dist. LEXIS 65293 (E.D. Mich. July 1, 2010). Plaintiff brought this action against Defendant after experiencing harassment throughout middle school and high school. Plaintiff brings this lawsuit claiming that defendant violated title IX of the Education Amendments. The court found that the harassment Plaintiff was subject to constituted bullying and not sexual harassment. Because title IX protects only harassment or discrimination based on sex, the court concluded that the plaintiff's case must be dismissed. The court also noted that the harassment was not so severe, passive and objectively offensive that it would be found to deprive Plaintiff of access to education opportunities/benefits. The court also found that there was no evidence that Defendant was indifferent to the alleged sexual harassment against Plaintiff because Defendant's actions were reasonable in light of the circumstances. The Plaintiff's title IX claim failed as a matter of law and the court granted the Defendants JMOL motion.

Barrs v. Southern Conf., 2010 U.S. Dist. LEXIS 96705 (N.D. Ala. Aug. 10, 2010). Former members of the Stanford University softball team filed a motion for a preliminary injunction against Defendant requesting the court order Defendant to expand its post-season softball tournament from four to eight teams. The conference reduced the number of participants in post-season tournaments and the students alleged that this change disproportionately affected female student athletes in violation of Title IX. The Court denied the preliminary injunction after it determined that Plaintiffs failed to demonstrate that they had a likelihood of success on the merits, that irreparable harm would be caused, that the balancing test favored Plaintiffs, or that

the injunction was in the public's best interest. Defendant then asked the court to dismiss the case, declaring lack of subject matter jurisdiction because Defendant is not liable under Title IX, that the students failed to state a claim, and because the case is moot because the students have graduated. The Court denied Defendant's motion to dismiss and found that the students had sufficiently alleged that Defendant is a Title IX funding recipient. The court allowed Plaintiff to amend their complaint to seek leave within twenty-one days.

Biediger v. Quinnipiac Univ., 2010 U.S. Dist. LEXIS 73143 (D. Conn. July 21, 2010). Defendant announced its plans to cut three sports teams, which included women's volleyball, men's golf and men's outdoor track, and to create a competitive cheerleading team to compensate for the cuts. Five Quinnipiac varsity volleyball players and their coach brought suit alleging that the decision to eliminate the volleyball team violated Title IX. Plaintiffs sought a preliminary injunction, claiming that Defendant improperly managed its varsity rosters by setting artificial ceilings for the men's varsity and floors for the women's varsity teams, which deprived female athletes of equal athletic protection opportunities. The court found that Defendant discriminated on the basis of sex by failing to provide equal athletic opportunities to female students and that competitive cheerleading did not qualify as a varsity sport for the purposes of Title IX. The court enjoined Defendant from continued discrimination against its female students on the basis of sex and required Defendant to commit to sponsoring the women's volleyball team during the 2010-11 season.

Doe v. Univ. of the Pac., 2010 U.S. Dist. LEXIS 130099, 2-3 (E.D. Cal. Dec. 8, 2010). Plaintiff was a member of the defendant university's women's basketball team and alleged that three members of the University men's basketball team sexually assaulted her. Defendant punished the three males based on the investigation and a board hearing; one student was expelled and the other two were suspended. In addition there was a limited interaction policy between the men's and women's basketball teams. Plaintiff claimed that Defendant violated Title IX because it did not prevent the assault, demonstrated deliberate indifference to the sexual harassment, and retaliated against plaintiff by create a policy limiting interaction between the teams. Defendant field a motion for summary judgment, which was granted in its entirety. The court found that Defendant's actions before and in response to Plaintiff's assault were reasonable and thus and that the plaintiff could not establish a triable issue of fact based on the University's policy. The court also found that the policy was intended to protect Plaintiff and that it did not disproportionately affect her. The court dismissed the retaliatory claim as well, reasoning that there was no logical explanation to show the defendant would go through all the necessary steps to protect Plaintiff's interest while simultaneously retaliating against Plaintiff.

Parker v. Ind. High Sch. Ath. Ass'n, 2010 U.S. Dist. LEXIS 107497, 5-6 (S.D. Ind. Oct. 6, 2010). Plaintiffs bring suit alleging that the school and the Indiana High School Association violated Title IX of the Education Amendments and the Fourteenth Amendment. They alleged that the violation is due to the scheduling of the girls' basketball games on non-preferred dates and times. The Court found that there was no violation of Title IX and granted the school's motion for summary judgment. The court found that the schools treatment between the men's and women's basketball schedules did not result in a substantial disparity. The court also granted IHSAA's motion for summary judgment. The court found that Plaintiffs did not provide evidence of a constitutionally recognized duty of the IHSAA and provided no relevant cases.

TORT LAW

Univ. of Texas v. Hayes, 327 S.W.3d 113 (2010). After riding his bicycle into a chain set up as a parking barrier, Hayes filed a suit alleging he was injured because of a defect the university failed to warn him about. The university claimed sovereign immunity, but the trial court denied the plea. The appellate court held that the chain was not a special defect and that the Texas Tort Claims Act did not waive the university's immunity in this suit.

Filippazzo v. Kormoski, 75 A.D.3d 618 (N.Y. App. Div. 2010). Plaintiff and defendant were playing hockey in a roller rink when defendant charged a group of players, knocking them down. He then proceeded to punch the plaintiff. Plaintiff filed a suit to recover damages for his injuries and defendant moved to dismiss the case based on assumption of risk. The trial court denied the defendant's motion and the appellate court affirmed, finding that a triable issue of fact was presented because a sports participant does not assume the risk of reckless or intentional conduct that unreasonably increases his risk of injury.

Florida Atl. Univ. Bd. of Tr. v. Lindsey, 2010 WL 5174015 (Fla. Dist. Ct. App. Dec. 22, 2010). Plaintiff was a member of the university club wrestling team and was injured during practice. He filed suit against the university and the club's president Jason Lindsey, alleging negligence for failing to inspect the equipment and gymnasium and failing to maintain equipment. Lindsey moved for summary judgment, asserting he was an agent of the university and that the claims were barred by sovereign immunity. The trial court granted Lindsey's motion for summary judgment. However, the appellate court found genuine issues of fact as to whether Lindsey was an agent and thus reversed the lower court's decision.

Jamison v. Arm World Promotions, No. F058008, 2010 WL 3307462 (Cal. Ct. App. Aug. 24, 2010). Plaintiff entered into an arm wrestling competition at a fair and broke his arm in his first match. He signed a release as part of his entry in which he assumed responsibility for and waived any claim for an injury that he might incur. He sued the competition operators for negligence, and the defendants moved for summary judgment. The court granted the defendant's motion and the plaintiff appealed. The appellate court affirmed the ruling, finding no triable issue of fact since the defendants had a complete defense.

Yeater v. LaBrae Sch. Dist. Bd. of Educ., No. 2009-T-0107, 2010 WL 3081483 (Ohio App. Ct. 2010). The plaintiff was injured when a fellow student was moving equipment used to hold up volleyball nets. The equipment fell on the plaintiff's foot and severed several toes. The defendant moved for summary judgment and the trial court denied the motion. On appeal, the appellate court affirmed the decision, finding that there was a genuine issue of fact whether it was foreseeable that the equipment could have injured a student while the student moved it. The court also denied the defendant's claim of sovereign immunity, stating that it was not a decision regarding public policy that was in question, but a question of following or disregarding a duty.

Bonomo v. City of New York, 78 A.D.3d 1094 (N.Y. App. Div. 2010). Plaintiff filed suit alleging the city and city board of education failed to provide adequate supervision and instruction during a tennis program held in a public high school, which caused injuries to her son. A jury returned

a verdict finding the defendant negligent, but said the negligence was not a substantial factor in causing the accident. Plaintiff appealed, arguing the verdict was against the weight of the evidence. The appellate court upheld the verdict, finding it to be consistent with the evidence.

Anand v Kapoor, 15 N.Y.3d 946 (2010). While playing golf, the defendant took a shot from the rough while the plaintiff was retrieving his ball on the fairway. The defendant failed to give Plaintiff any warning and his ball hit plaintiff in the eye causing permanent vision loss. The plaintiff filed a negligence suit against defendant and defendant filed a motion for summary judgment. The judge granted defendant's motion for summary judgment based on assumption of risk, finding plaintiff was outside the foreseeable zone of danger. The first appellate court affirmed, as did this court, finding there was no reckless or intentional conduct and that the plaintiff's injury reflects a commonly appreciated risk of golf.

Mangan v. Eng'r's Country Club, Inc., 79 A.D.3d 706 (N.Y. App. Div. 2010). Plaintiff was at defendant golf course when he slipped and fell down stairs from the cart path to the tee box. Plaintiff filed suit and the defendant moved for summary judgment. The district court granted defendant's motion, finding that the assumption of risk doctrine applied, thus defendant was not liable.

Wolf v. Rawlings Sporting Goods Co., 10 Civ. 3713 (JSR), 2010 U.S. Dist. LEXIS 116294 (D.N.Y. 2010). Plaintiff was a minor league baseball player whose skull was fractured after he was struck in the head by a pitch. He filed suit against defendants, including the manufacturer, claiming the helmet was only made to withstand a sixty mile-per-hour pitch. Plaintiff sought damages based strict products liability, negligence, and breach of warranty. Defendants sought to compel arbitration based on the plaintiff's contract with the Baltimore Orioles and Major League Baseball. The court agreed with the defendants and compelled the plaintiff to arbitrate the dispute because the broad scope of the arbitration clause was broad enough to include the asserted claims.

Edward C. v. City of Albuquerque, 241 P.3d 1086 (N.M. 2010). Plaintiffs are parents of a child whose skull was fractured from a "wild ball" while in a picnic area at a minor league baseball park. The district court granted summary judgment for the defendants because they met their duty under the "baseball rule" of limited liability. The appellate court reversed, finding material issues of fact regarding whether the defendants met their duty to exercise ordinary care. The state supreme court decided that baseball stadium owners have a limited duty of care, a duty symmetrical to that of a spectator. The court said that a spectator must exercise ordinary care to protect himself from the inherent risk of being hit with a projectile, and that stadium owners may not do anything to increase that risk. In this case, because the plaintiff was in a multi-purpose area next to the field and not in the stands, the court found that the defendants did not provide prima facie evidence showing summary judgment was appropriate, thus the case was reversed and remanded.

Vaughn v. Barton, 933 N.E.2d 355 (Ill. App. Ct. 2010). Plaintiff was a spectator at her son's recreation association baseball game when she was struck by a pitch from an eleven year old warming up for the next game. Plaintiff filed suit against the recreation association that operated the league and its agent, alleging negligence. Defendants moved for a directed verdict at the

close of evidence based on the Recreational Use Act. Defendant's motion was granted and plaintiff appealed. The appellate court affirmed the decision, holding that because the plaintiff was not charged admission for the game, the Act applied and the defendants were immune from liability.

Clemens v. McNamee, 615 F.3d 374 (5th Cir. 2010). Defendant was a former trainer for Plaintiff, a retired professional baseball player. Defendant allegedly made defamatory statements to a federal commission and a website about the plaintiff's use of performance enhancing drugs. Plaintiff filed suit in a Texas state court, alleging defamation. Defendant removed the action to federal court and moved to dismiss the claim for lack of personal jurisdiction. The trial court granted the defendant's motion because the focal point of the statements was not the state of Texas, and the plaintiff appealed. The appellate court affirmed because Plaintiff failed to establish minimum sufficient contacts to support personal jurisdiction over Defendant. The court found that the statements did not involve any activities in Texas, were not made in Texas, and were not directed at Texas residents any more than they were at the residents of any other state.

Ellison v. Ky. Farm Bureau Mut. Ins. Co., NO. 2009-CA-000116-MR, 2010 Ky. App. Unpub. LEXIS 567 (Ky. Ct. App. July 9, 2010). Plaintiff, the grandmother of a little league softball player, was involved in a physical altercation with Jones, the president of the Fleming County Little League. As a result of the altercation, Jones was criminally charged and pleaded guilty. During trial Defendant, Jones' insurance company, sought declaratory judgment on whether Jones' policy insured the altercation. The court held it was not and granted summary judgment for the Defendant. The appellate court affirmed the decisions of the trial court, finding there was no duty of care owed to the Plaintiff because the injury was not a foreseeable risk. It also affirmed the decision as related to Farm Bureau because the policy covered an "occurrence," which was defined as an accident, and this clearly was not.

Turnier v. Farina, CV075007479, 2010 Conn. Super. LEXIS 2088 (Conn. Super. Ct. Aug. 17, 2010). Plaintiff was allegedly struck in the face, head, ear, and jaw by Defendant while they were both attending an American Legion basketball game. Plaintiff filed a five-part complaint for negligent assault, intentional assault, reckless and wanton misconduct, negligent infliction of emotional distress, and intentional infliction of emotional distress. Defendant filed a motion to strike counts three through five and the plaintiff objected. The court found that Plaintiff failed to allege a duty Defendant owed to Plaintiff in regard to the reckless and wanton misconduct, so it granted Defendant's motion to strike count three. The court denied Defendant's motions to strike counts four and five, determining that a fact-finder could find the requisite extremeness or outrageousness.

Bolla v. Univ. of Haw., 2010 U.S. Dist. LEXIS 134143 (D. Haw. Dec. 16, 2010). Bolla was the head coach of the women's basketball team for the University of Hawaii. After the hiring of a new athletic director (AD), Bolla approached the AD to discuss the variation between the men's and women's basketball teams and how Bolla wanted to make sure it was in compliance with Title IX. After the meeting, the AD said that he began hearing complaints of Bolla's conduct as a coach. From this point on multiple investigations were conducted. In the end, Bolla was terminated. Bolla claims that after complaining of gender inequities between the men's and

women's basketball programs he was retaliated against. He sued asserting a violation of his First Amendment rights and claimed that the relation was a violation of Title IX. Defendants moved for summary judgment, and the court granted that motion. The court found that Bolla's complaints were not protected by the First Amendment because the defendants had qualified immunity. The court also granted the University of Hawaii's motion for summary judgment because Bolla failed to raise a genuine issue of fact as to whether the University of Hawaii's reasons for terminating him were unbelievable/false.

McGrath v. Shenendehowa Cent. Sch. Dist., 2010 NY Slip Op 6389, 1 (N.Y. App. Div. 3d Dep't 2010). Plaintiff, then a high school senior and member of the Bethlehem High School girls' varsity lacrosse team, sustained injuries during a regulation game held against defendant's high school. Plaintiff alleged that the defendant negligently maintained the lacrosse field and created a dangerous condition by using a sandy or soft material to fill ruts on the field. Defendant moved for summary judgment dismissing the complaint based upon the doctrine of assumption of risk and plaintiff cross-moved for summary judgment dismissing the affirmative defense. The court granted defendant's motion, finding that the condition of the field was open and obvious and that plaintiff assumed the risk of being injured. Plaintiff appealed. She asserted that she was only able to observe the surface condition of the field and that, although she noticed patches of hard dirt with no grass, she had no knowledge that the dirt patch actually consisted of loose soil or sand concealing a deep rut. The court, viewing the evidence in a light most favorable to plaintiff and providing her with the benefit of every favorable inference, found that there was a genuine issue of fact as to whether the rut that allegedly caused plaintiff's accident was an open and obvious condition or constituted a concealed risk. The court denied summary judgment, stating that the question was one for a jury to assess.

Lomonico v. Massapequa Pub. Sch., 2010 NY Slip Op 32333U, 2 (N.Y. Sup. Ct. Aug. 17, 2010). While practicing a cheerleading stunt at a varsity cheerleading practice, plaintiff's daughter sustained injuries when she was struck in the head by another student and caused to fall to the gymnasium floor. The plaintiff claims that the defendant was negligent in that it failed to adequately supervise the cheerleading practice, failed to adequately instruct the students on how to perform the cheerleading stunt, and failed to provide protective matting and/or other padded covering on the hardwood floor of the gymnasium where the accident occurred. As a result of the accident, the plaintiff alleged that her daughter suffered various personal injuries. Defendant moved for summary judgment alleging that the plaintiff could not maintain any causes of action against the defendant. The Court found that the plaintiff raised a genuine issue of fact as to whether the defendant's supervision was inadequate and resulted in the failure to exercise reasonable care to protect the plaintiff's daughter from an unreasonably increased risk. The defendant's motion for summary judgment was denied.

Sanford v. Town of Greenwich, 2010 Conn. Super. LEXIS 3083 (Conn. Super. Ct. Nov. 22, 2010). Plaintiff's son suffered serious injuries while attending soccer practice on a Greenwich middle school field. Plaintiff filed suit against the town and its board of education alleging negligence and seeking reimbursement for the child's medical expenses. Defendants moved for summary judgment. The trial court held that the town was immune unless one of the exceptions to the governmental immunity doctrine applied. The child was attending a soccer camp on a school athletic field. The child was not legally required to be at the school on the date of the

incident. Although the town was not acting in a proprietary capacity when it allowed a soccer camp to use the school field for a fee, plaintiff failed to allege that the town created the condition that led to the child's injuries. The summary judgment motion was granted.

DiPietro v. Farmington Sports Arena, LLC, 123 Conn. App. 583 (Conn. App. Ct. 2010). Plaintiff's daughter was injured while playing soccer in an indoor soccer facility. The mother sued defendants, three limited liability companies (LLCs) and one of their members, alleging negligent installment and maintenance of an unreasonably dangerous carpet. The Superior Court granted defendants' motions for summary judgment in both cases. Plaintiff appealed. In view of the standard applicable to a premises liability claim, the testimony of plaintiff's biomechanics expert that the surface was unreasonably dangerous for use in an indoor soccer facility was sufficient to withstand summary judgment. The judgments were reversed and the case was remanded with direction to deny their motions for summary judgment and for further proceedings according to law.

Civitella v. Pop Warner Football Team of Shelton, Inc., 2010 Conn. Super. LEXIS 3122 (Conn. Super. Ct. Dec. 1, 2010). Plaintiff's son participated in a Pop Warner Football program. While participating, his son's coach directed degrading and insulting comments to the son, which caused emotional trauma and distress in the son. The father filed suit against the football coach for slander and intentional infliction of emotional distress, and also against the football team, and team officials for vicarious liability because they took no action against the coach. Defendants filed a motion to strike the complaint. While the complaint alleged that the statements were uttered in an attempt to degrade and discredit the son in front of his teammates, it contained no reference to the conduct of any team member. The only acts pleaded were those of the alleged defamer, the coach. The complaint lacked allegations that were indispensable to a claim of slander per quod. The intentional infliction of emotional distress counts were sufficiently pleaded because the language was used in the presence of twelve- to fourteen-year-olds, who may not have been prepared to deal with the emotional effects or such berating, as more mature high school or college athletes would be. The motion to strike the slander claims was granted, but the motion to strike the intentional infliction of emotional distress claims was denied.

Sanchez v. Candia Woods Golf Links, 2010 N.H. LEXIS 141 (N.H. Nov. 24, 2010). Candia Woods Golf Links installed plastic yardage markers in the middle of the fairway. While out golfing in Candia Woods, Sanchez noticed a marker 17-20 yards away from him, aimed to the right of the marker, and was then struck in the eye when the ball hit marker and ricocheted back at him. Plaintiff filed a negligence suit against defendant. Defendant moved for summary judgment, and the court granted it and Plaintiff appealed. Plaintiff argued that defendant breached a duty to provide a safe environment for its patrons, and that it was error for the trial court to find as a matter of law that the placement of the yardage markers was not inherently dangerous. The court rejected this argument. The clearly visible yard markers were a known hazard of the game of golf, and the location of the yard markers in this case was not inherently dangerous. Plaintiff was fully aware of the clearly visible yardage marker and intended to hit his ball around it. The risk of his shot ricocheting off the marker was one he assumed, and one against which defendant had no duty to protect him. The court affirmed the judgment.

Turnier v. Farina, 2010 Conn. Super. LEXIS 2088 (Conn. Super. Ct. Aug. 17, 2010). Turnier filed a five-count amended complaint against defendant, alleging that while both men were attending an American Legion baseball game, defendant struck the plaintiff in the face, head, ear, and jaw, causing serious injuries. Defendant filed a motion to strike for the counts for reckless and wanton misconduct, negligent infliction of emotional distress, and intentional infliction of emotional distress.

Defendant argued that for purposes of reckless and wanton misconduct, plaintiff failed to allege that defendant owed a duty to plaintiff. Plaintiff argued that Connecticut recognized a cause of action for assault and battery based on reckless and wanton behavior. Plaintiff alleged that defendant suddenly and without warning approached him and recklessly, wantonly, and maliciously assaulted plaintiff by striking him in the head and face, but plaintiff failed to allege a duty running from defendant to plaintiff in his claim for reckless and wanton misconduct. For purposes of both emotional distress claims, defendant argued the alleged underlying conduct was not extreme, outrageous, or severe. The elements of negligent and intentional infliction of emotional distress differed as to the state of mind of the actor and not to the conduct claimed to be extreme and outrageous. Plaintiff sufficiently pleaded claims of negligent and intentional infliction of emotional distress because defendant's physical assault upon plaintiff at a public baseball game constituted extreme and outrageous conduct. The court granted defendant's motion to strike the reckless and wanton misconduct claim and denied the motion to strike both emotional distress claims.

Howard v. Mo. Bone & Joint Ctr., Inc., 615 F.3d 991 (8th Cir. Mo. 2010). Howard, a college running back for Greenville College, went to the Missouri Bone and Joint Center to work with an athletic trainer and improve his football skills after having suffered an ankle injury. While working with this trainer, Howard felt a pop and sharp pain in his lower back, but the trainer told Howard to work through the pain. Howard then sought medical attention and was diagnosed with a herniated disc. Howard brought this negligence action against the center alleging that the center's negligence caused the back injury he sustained. The jury returned a verdict for the player, after which the center filed a motion for judgment as a matter of law or for new trial. The district court overruled that motion and the clinic appealed.

The clinic contended that the evidence presented at trial only established that the player suffered a herniated disc during his workout, not that he was injured by continuing to work-out. There was sufficient evidence on causation for the issue to go to the jury. His doctor testified at his deposition about the player's symptoms, causally linking the player's injury to his workout. There was no abuse of discretion in denying the clinic's motion for a new trial on the causation issue. The evidence was sufficient to allow a reasonable jury to find that the clinic's trainer breached the standard of care of certified athletic trainers. The judgment was affirmed.

Searle v. Town of Bucksport, 2010 ME 89 (Me. 2010). John Searle alleged that while attending a high school football game, he fell through an opening in the bleachers caused by a missing board and was injured. A day or two before the game, a maintenance director noticed them missing board but did not correct the problem or block off the area. Searle filed a complaint alleging that the School Department's and Town's negligent maintenance caused his injury. The Town and the School Board filed a motion for summary judgment asserting governmental immunity. The

court granted the motion, and Searle appealed. He argued that the trial court erred by holding that the bleachers were not a public building or an appurtenance to a public building, and, therefore, that no exception to governmental immunity applied. The high court held that the bleachers were not "buildings" under standard dictionary definitions. They were not fixtures because 1) they were as easy to relocate as a tent and were not annexed to the school or football field; 2) they were not uniquely adapted to the field; and 3) the department did not intend to make them an irremovable part of the realty. Thus, the bleachers could not be considered appurtenances, and the bleachers were designed for use primarily by the public in connection with public outdoor recreation, the town and department were entitled to immunity. The judgment was affirmed.

Feld v. Borkowski, 2010 Iowa Sup. LEXIS 102 (Iowa Oct. 22, 2010). In an action against defendant co-participant in a softball practice, plaintiff sued for injured sustained when struck by a flying bat after defendant released his bat while hitting a pitched ball. The district court granted summary judgment and the appellate court affirmed. The state supreme court concluded that softball, for purposes of tort liability, was a contact sport. Therefore, the liability standard was recklessness instead of negligence. Nevertheless, the district court had erred in granting summary judgment because there was a question of fact as to whether the defendant acted recklessly. The abnormality of the bat's flight pattern after the ball was struck at least supported an inference of recklessness. A jury could have concluded that defendant, knowing he had swung ahead of the pitch and that his body was out of position to make solid contact with the ball, continued his swing in a very unorthodox manner and released the bat in momentary frustration and anger. This inference was sufficient to support a jury question on recklessness. The decision of the court of appeals was vacated. The judgment of the district court was reversed and the matter was remanded for further proceedings.

Doody v. Evans, 188 Ohio App. 3d 479 (Ohio Ct. App., Franklin County 2010). Doody, a catcher for a softball team, sought review of the judgment of the Franklin County Court, which granted summary judgment to Evans, the base runner, on the catcher's personal injury claim alleging that the runner was reckless and caused him injury. While playing a game of organized adult recreational softball, the runner collided with the catcher while attempting to score, in violation of the league's no collision rule. As a result of the collision, the catcher suffered a torn bicep tendon, which required surgery. The court held that the trial court properly granted summary judgment to the runner and rejected the catcher's proposition that his injury was legally compensable solely because it occurred as a result of a violation of the leagues no collision rule. Instead, the court had to consider whether the specific conduct was both within the league's rules and foreseeable. In this case, a collision between a base runner and a catcher was a foreseeable hazard of the game of softball and was part of a foreseeable risk assumed by the catcher as a competitor. Absent evidence that the catcher's injury arose out of conduct that was not truly an intrinsic part of the sport of competitive softball, the catcher's cause of action could not be sustained. The court affirmed the judgment of the trial court.

Little v. State, 240 P.3d 861 (Ariz. Ct. App. 2010). Polk, a member of the University of Arizona's women's basketball team, died after collapsing in a training room in 2005. In 2007, Plaintiff, Polk's mother, filed a complaint against Polk's doctor with the Arizona Medical Board. On February 7, 2008, the Board ruled that the doctor's care constituted "unprofessional conduct"

under Arizona law. On May 15, 2008, plaintiff filed a notice of claim with the state. The trial court granted summary judgment for the state because the claim was not filed within the required period. Plaintiff appealed the summary judgment. The appellate court concluded that the trial court correctly concluded that plaintiff's filing of the Board complaint marked the 180-day accrual of the claim. The state was not prohibited from asserting the notice-of-claim statute as an affirmative defense, based on its delay in providing decedent's medical records. The judgment was affirmed.

Hatfield v. Penn Twp., 2010 Pa. Commw. LEXIS 678 (Pa. Commw. Ct. Dec. 16, 2010). While a spectator at a softball tournament held at a park owned by the township, appellant fell and was injured when she stepped in a hole in a grass and dirt area between two softball fields. She filed a negligence action against the township for failing to maintain the premises and failing to warn visitors of the dangerous conditions. The township claimed governmental immunity as a defense under the Pennsylvania Recreational Use of Land and Water Act (RULWA). The trial court found the township was immune from liability under the RULWA, but did not determine whether, in the absence of RULWA immunity, the township would still be entitled to summary judgment. Hatfield appealed. The appellate court noted that under the RULWA, when land was altered from its original state and improvements existed, those improvements had to be maintained in a manner safe for public use. As the grass and dirt pathway where Hatfield fell had been altered from its original state and thus was an "improvement," the RULWA did not insulate the township from liability. The trial court's order was reversed and the matter was remanded to determine whether the township was entitled to summary judgment.

Sandholm v. Kuecker, 2010 Ill. App. LEXIS 1095 (Ill. App. Ct. 2d Dist. Oct. 18, 2010). Plaintiff was a teacher, head basketball coach, and athletic director at Dixon High School. The defendants started a campaign to remove the plaintiff as the coach and athletic director due to their disagreement with his coaching style. The school board removed him as coach, but allowed him to remain the athletic director. The coach sued the vocal opponents alleging defamation, false light, and tortious interference claims. The trial court dismissed all of the claims, finding that the defendants had immunity under the Citizen Participation Act. It then limited their attorney fee award to the fees incurred in obtaining dismissal under the Act. Plaintiff appealed the dismissal and defendants appealed the fee ruling. The appellate court found that (1) the coach did not show that the Act was unconstitutional, as the legislature properly balanced the right to petition the government for favorable action and a party's right to common law relief; (2) the Act applied to the defendants' attempts to get the school board to act favorably; and (3) the trial court, pursuant to the Act, properly limited the attorney fee award to the vocal opponents despite the fact that case involved more than the Act. The appellate court affirmed the trial court's judgment in its entirety.

Brokaw v. Winfield-Mt. Union Cmty. Sch. Dist., 788 N.W.2d 386 (Iowa 2010). Jeremy Brokaw, a high school basketball player, fell after being struck by a player, McSorley, from an opposing team during a varsity basketball game. McSorley was charged with a technical foul and ejected from the game. Brokaw and his parents filed suit against McSorley alleging assault and battery and against the school district for negligent supervision of the opposing player. The trial court held for the plaintiff as to the other player, but for the defendant district. The plaintiffs argued that the lower court awarded inadequate compensatory damages against the opposing player and

incorrectly denied punitive damages against him. They also asserted that the trial court erroneously dismissed their negligence claim against the school district. The state supreme court found that the trial court's award of compensatory damages was supported by substantial evidence because there was conflicting evidence regarding other injuries that were suffered by the basketball player. Substantial evidence supported the trial court's finding that the school district could not have reasonably foreseen that the opposing player would intentionally attack another player. The could also found no merit to plaintiff's claim that an award of punitive damages was mandatory under Iowa law and concluded that the trial court did not abuse its discretion in refusing to award punitive damages with the full understanding that it could have awarded them. The decision was affirmed.

Estate of Richardson v. Bowling Green State Univ., 2010 Ohio 3475 (Ohio Ct. Cl. July 26, 2010). A student-athlete with sickle cell trait, was at a practice for the university football team when he experienced cramping. He left the field under his own power and went to the locker room. When his cramping did not ease, a trainer called 911, but as that happened the decedent stopped breathing and was pronounced dead at the hospital two hours later. Plaintiff, the student's estate, filed suit against the university, alleging wrongful death and survivorship. In rendering judgment for the university, the court concluded that the standard of care did not require the university's training staff to perform an examination of the student before he left the field, as cramping in the lower legs was a common condition among practicing athletes. Further, the estate was unable to prove that the university's failure to seek emergency medical treatment earlier than it did was the proximate cause of the student's death. The court concluded that the weight of the evidence established that the dramatic downward spiral in the student's condition from the time when he first experienced whole-body cramping to the time of his death was so abrupt that his survival was unlikely. The court rendered judgment in favor of the university.

Pazos v. Borough of Sayreville, 2010 N.J. Super. Unpub. LEXIS 2005 (App. Div. Aug. 17, 2010). Plaintiff was attending her son's freshmen football scrimmage when she fell and hit her head on a table and injured her ankle after falling in a hole on the field. She brought a personal injury action against the borough, school district, and high school. The high school athletic director testified that he was aware that people would sit and congregate in the sloping area adjacent to the field near the location where plaintiff fell, and that spectators exiting the field would pass by that location, but that he had never noticed any safety concerns or dangerous conditions in the area where the plaintiff fell. The Court held that there was no question that plaintiff fell and injured herself at the football field. However, because plaintiff could not identify the dangerous condition that caused her injury, she was not able to meet all the elements of her claim. In the absence of such a showing, plaintiff lacked any basis on which to assert that defendants had "constructive notice of a dangerous condition." Summary judgment, therefore, was properly granted to defendants in this matter.

Rivera v. City of Phila., 2010 Pa. Commw. Unpub. LEXIS 772 (Pa. Commw. Ct. 2010). Plaintiff stopped to watch children playing soccer at a city field. She stood by a wooden goal that had been built by soccer players from the neighborhood. A player kicked the ball, which hit the post. The post, with an exposed nail, then fell down and struck the plaintiff on the right cheek. She was treated for the puncture wound and she now has a hyper-pigmented scar across her right cheek. Plaintiff then filed a complaint against the City seeking damages for the injury. The trial

court granted summary judgment in favor of the defendant. The appellate court held that the trial court properly relied on precedent and committed no error in dismissing the city. The order was affirmed.

Bauver v Commack Union Free School Dist., 2010 NY Slip Op 32084U, 2 (N.Y. Sup. Ct. Aug. 6, 2010). Plaintiff was allegedly struck in the face by his soccer coach, the defendant Sebastian DiRubba. He filed suit against the district and coach. The defendants moved to dismiss because the plaintiff did not file a notice of claim, or allege facts necessary under the applicable law. The court granted the plaintiffs motion for leave to amend the complaint. The court denied the plaintiffs motion to remove defense council. Plaintiff claimed defense council previously represented them and so there was attorney client privilege involved. The court disagreed, so it denied the motion

Dumont v. N.J. Devils, 2010 N.J. Super. Unpub. LEXIS 2166 (App.Div. Sept. 1, 2010). Plaintiff attended a Devil's home game and was struck in the face by a puck that left the ice. Plaintiff neither saw the puck coming, nor heard warnings from any spectators in the seats near her. She filed suit and the trial court granted summary judgment for the defendant. On appeal, plaintiff argued that defendants breached their duty of care by failing to notify her "of the option to change seats because of the risk of flying hockey pucks," and that a material question of fact existed as to whether defendants had breached their duty of limited care because they had not undertaken a qualitative or quantitative risk assessment, or a comparative analysis identifying the high risk seating sections of the arena. The Court considered plaintiff's arguments in light of the record and applicable law and concluded that the arguments are without sufficient merit to warrant discussion in a written opinion. The trial court's decision was affirmed.

Kleemann v. Emerson, 2011 WI App 1 (Wis. Ct. App. 2010). Plaintiff appealed from a summary judgment decision that dismissed his negligence action against defendant co-participant and plaintiff's insurer for injuries he suffered when a hockey puck shot by the defendant hit him in the face. Plaintiff challenges the trial court's determination that the recreational immunity statute applied and its refusal to allow him to amend his complaint. The Court affirmed, finding no error because the statute was applicable since hockey is a contact sport and the complaint should have been amended earlier.

Hlywa v. Liberty Park of Am., 2010 Mich. App. LEXIS 1382 (Mich. Ct. App. July 15, 2010). Plaintiff filed suit against co-participant and soccer facility, alleging recklessness, after co-participant slide tackled her in an adult recreation league. Plaintiff appealed the trial court's order granting summary judgment for the defendants. The trial court said that the risk of injury is inherent in soccer and the appellate court agreed. The appellate court stated that even if not in the rules, this conduct is different than egregious or reckless conduct and summary judgment was appropriate.

Vilardo v. Barrington Cmty. Sch. Dist. 220, 2010 Ill. App. LEXIS 1369 (Ill. App. Ct. 2d Dist. Dec. 20, 2010). Plaintiff had gone to defendant's baseball field to use the batting cages with his son. Plaintiff was sitting behind the L screen, pitching to his son, when a ball struck the screen, passed the mesh, and hit plaintiff in the face. Plaintiff filed a claim alleging negligence and willful and wanton conduct based on defendant providing defective equipment. The trial court

dismissed plaintiff's negligence claim because of immunity and dismissed the willful and wanton conduct claim as well because the defendant did not know of the defect and so was not reckless. Plaintiff appealed, but the appellate court affirmed the decision.

Estate of Newton v. Grandstaff, 2010 U.S. Dist. LEXIS 117575 (N.D. Tex. Nov. 3, 2010). Plaintiff, the estate of decedent who died participating in a basketball tournament at a YMCA brought claims of negligence, wrongful death, and outrage against the defendants. Defendants moved to dismiss. The court denied defendants Wes Grandstaff, Jane Doe Grandstaff, and Next Level Ballers' motion to dismiss and granted plaintiffs' request for leave to replead. The court granted in part and denied as moot in part the motion to dismiss of defendant YMCA of Metropolitan Dallas. Plaintiffs were directed to file their amended pleading in conformity the order, and were directed to properly serve defendant YMCA.

Mosley v Conte, 2010 NY Slip Op 32424U (N.Y. Sup. Ct. Aug. 17, 2010). Plaintiff Shane D. Mosley, Sr., a professional boxer, and his conditioning coach met with defendant Victor Conte at the offices of Conte's company Bay Area Laboratory Cooperative (BALCO). Conte took blood samples from Mosley and, based on the results, recommended a regimen of BALCO products, which would help Mosley improve his endurance in the ring, According to the Complaint, Mosley sought and received assurances from both Hudson and Conte that the products were "healthy, legal, and permitted for athletes." As part of a criminal trial against Conte, high profile athletes including Mosley testified about their use of the performance enhancing drugs that they purchased from BALCO. Conte pleaded guilty of conspiracy to distribute steroids. Later, Conte made statements to the press indicating that Mosley took steroids before the Mosley-De La Hoya rematch and that he knew the drugs were illegal. The Court ordered plaintiff to conduct a search of all available computers through a forensics expert chosen by plaintiff within 45 days of the order and submit all documents retrieved to the Court for in camera review. Additionally, the court ordered that the forensics expert needed to provide a second set of the documents to defendant, who has 20 days to provide the Court with a privilege log so the court can rule on the complete record.

D'Agostino v. Easton Sports, Inc., 2010 Conn. Super. LEXIS 3200 (Conn. Super. Ct. Dec. 9, 2010). Plaintiff softball pitcher filed a two count complaint against defendants, a softball bat manufacturer and a batter, in connection with injuries the pitcher suffered by a ball hit by the batter, who used the manufacturer's bat. The pitcher alleged a product liability claim against the manufacturer and a negligence claim against the batter. Both defendants sought summary judgment. The batter's motion for summary judgment was granted because the batter's conduct was only negligent, and to maintain an action against a co-participant the conduct must be reckless or intentional. The manufacturer's motion for summary judgment was denied because the manufacturer's presentation did not establish that the bat's design was not unreasonably dangerous.

Stringer v. Nat. Football League, 2010 U.S. Dist. LEXIS 98874 (S.D. Ohio Sept. 22, 2010). Korey stringer was a professional football player and wore equipment manufactured by the defendant manufacturer at the Minnesota Vikings training camp, where he experienced a heat stroke and died. His estate filed suit against the defendants alleging design defect, breach of warranty, and failure to warn. The court granted summary judgment for the defendant

manufacturer on the design defect and breach of warranty claims, leaving only the issue of failure to warn for trial. The plaintiff's estate sought leave to appeal to the reply brief from defendant. In this decision, the court found there were questions of fact related to causation and a jury needed to hear the case to determine if the failure to warn was a cause of the death, and if there was a duty to warn of the possibility of heat stroke. The plaintiff's motion was denied, as was the defendant's motion for partial reconsideration.

Atwater v. NFL Players Ass'n, 626 F.3d 1170 (11th Cir. Ga. 2010). Plaintiff football players appealed a district court decision to grant summary judgment for the defendants, the National Football League (NFL) and its Players' Association (NFLPA), on claims of negligence, negligent misrepresentation, and breach of fiduciary duty, arguing the Labor-Management Relations Act did not preempt claims as to failed investments under a Financial Advisors Program. While not a signatory, the NFL was bound by the collective bargaining agreement (CBA) since the CBA explicitly specified that the NFL was bound by it. The negligence claims against the NFLPA were preempted because the alleged duties (investigating and approving financial advisors) arose directly from the CBA's Career Planning Program provision. Background checks were performed as part of that CBA-mandated Program and the players could not say they reasonably relied on that because there was disclaiming language that players were solely responsible for their personal finances in the CBA. The fiduciary duty claims directly arose from the CBA's mandate that defendants use their best efforts to establish the program, which included providing information to players on handling their personal finances. Retired players could also enforce their rights under the labor laws. Because the court found that the labor laws did preempt the claims by the plaintiffs, the district court's decision was affirmed.

Betts v. New Castle Youth Dev. Ctr., 621 F.3d 249 (3d Cir. 2010). Plaintiff suffered a spinal cord injury while making a tackle during a pick-up football game at defendant facility. The Plaintiff appealed the lower court's decision entering summary judgment for Defendant youth development center. The court found Defendant immune from suit in their official capacities because Defendant was managed by the Department of Public Welfare, thus granting Defendant Eleventh Amendment immunity was appropriate. The court also affirmed the summary judgment for Defendant's individual capacities because the Plaintiff failed to show Defendant acted with deliberate indifference.

WORLD INTELLECTUAL PROPERTY ORGANIZATION DECISIONS

SGG Lisco LLC v. zhang xue ming, WIPO Arbitration and Mediation Center, Case No. D2010-0748 (Ling Li, Arb.)(2010). This arbitration decision concerned Spalding, a manufacturer of sporting goods, fighting for the domain name spalding-cn.com. Spalding has been in the Chinese market since 1995 and provided a copy of its Chinese trademark registration of the name Spalding. Spalding is arguing that the domain name will lead to a likelihood of confusion for the consumer. The panel agreed with Spalding's argument and transferred the domain name to Spalding.

Brigitte Poulin, Jean-Guy Poulin v. Ggot, Ltd., WIPO Arbitration and Mediation Center, Case No. D2010-0834 (Weston, Arb.)(2010). This arbitration decision concerned Poulin Racing, a car racing team, fighting for the domain name 78-poulinracing.com. The disputed domain name was

being used as a click-through webpage that redirected the consumer to a pornography webpage. The Poulins provided evidence that they had unregistered trademark rights in the name "Poulin Racing." They also established that the disputed domain name was being used in bad faith because the name "Poulin" is derived from the complainant's family name and that name has no pornographic meaning. The panel agreed with the complainants and ordered the domain name be transferred to Brigitte Poulin.

World Wrestling Entertainment Inc. v. Israel Joffe, WIPO Arbitration and Mediation Center, Case No. D2010-0860 (Lyon, Arb.) (2010). This arbitration decision concerned the WWE, a sports entertainment company that puts on the event "WrestleMania," fighting for three domain names all containing the name WrestleMania. Complainant has held the registered marks for WrestlMania since the 1990s. Respondent tried arguing that the names were not being used in bad faith because bad faith involves an attempt to sell the domain names to the trademark holder in an attempt to make money; Respondent never had an intention to sell the names and has not attempted to sell them either. The panel stated that the mere registration and holding of a domain name where the main focus is a registered mark is bad faith use. The three domain names were transferred to the complainant.

Royal Yachting Association v. Baron Kurtz, WIPO Arbitration and Mediation Center, Case No. D2010-0927 (Alexiev, Arb.)(2010). This arbitration decision concerned the UK's national body for competitive boating fighting for the domain names ryabooks.com and ryacourses.com. The trademark RYA has been in existence and used continuously since 1952. RYA is known for its boating training courses and has published books to supplement those training courses. The panel found that the domain names were confusingly similar to the complainant's registered marks, that respondent had no legitimate rights to the domain names, and that the domain names were registered in bad faith in an attempt to profit from the complainant's successes. The panel ordered that both domain names be transferred to the complainant.

Organising Committee Commonwealth Games 2010 Delhi v. PrivacyProtect.org/ netlinkblue digital energy (p) limited, WIPO Arbitration and Mediation Center, Case No. D2010-1194 (Narayanswamy, Arb.) (2010). This arbitration decision concerned the organizing body of the 2010 Commonwealth Games at New Delhi fighting for the domain name delhi-commonwealth-games.com. The complainant was awarded the hosting of the games in 2003 and has filed applications in order to register its marks for the games. The respondent registered the domain name in 2006, once it was already public knowledge that the Commonwealth Games would be in New Delhi. Respondent did not submit any response. The panel found that the respondent could not have any rights to the domain name and that the domain name was registered in bad faith in an attempt to mislead the public. The panel ordered the domain name be transferred to the complainant.

Real Madrid Club de Futbol v. Saad Alharbi, WIPO Arbitration and Mediation Center, Case No. D2010-1302 (Khasawneh, Arb.) (2010). This arbitration decision concerned the Real Madrid Football Club fighting for the domain name realmadridclub.net. Respondent claimed that the disputed site makes it clear that it is not the official club site, that it serves only as a forum for Real Madrid fans in the Arab world, and that the domain name is not being used to benefit the respondent financially. However, upon visiting the disputed domain name, the panel found

advertisements linked to third-party websites including links to one of the Complainant's competitors. The panel found that the disputed domain name was confusingly similar and registered, and used in bad faith. The domain name was transferred to the complainant.

Formula One Licensing B.V. and Formula One Administration v. Domains by Proxy, Inc. and Mohammad Sultan, WIPO Arbitration and Mediation Center, Case No. D2010-1644 (Pibus, Arb.) (2010). This arbitration decision concerned the organizers of the FIA Formula One Racing World Championship fighting for the domain names watchliveformula1.com and watchlivef1.com. Respondent did not provide a response to the contentions. The panel found that the domain name was confusingly similar to the registered marks and that the names were registered in bad faith. The panel also found that Respondent was licensed to use the copyrighted footage that was being used on the site. The panel ordered both domain names be transferred to the complainant Formula One Licensing B.V.

Federation Internationale de Football Association (FIFA) v. Seo Jae Woo, WIPO Arbitration and Mediation Center, Case No. D2010-1717 (Park, Arb.) (2010). This arbitration decision concerned FIFA fighting for the domain name fifa11.com. FIFA has licensed EA Sports to produce video games that are released annually; these games have been sold under the name FIFA, followed by the two-digit year of the relevant tournament. The respondent did not submit a response. The panel found that the disputed domain name is entirely composed of the complainant's registered marks and that the "11" following the words "FIFA" increases the likelihood of confusing similarity. The panel also found that the site might be deriving traffic from the complainant's business. The domain name was transferred to the complainant.

AIBA – International Boxing Association v. PrivacyProtect.org/ Elton John, WIPO Arbitration and Mediation Center, Case No. D2010-1967 (Osborne, Arb.) (2010). This arbitration decision concerned the International Boxing Association, which governs the sport of boxing, fighting for the domain name aibaboxing.com. The site was being used to tarnish the reputation of the complainant and its current president and executive director by posting defamatory allegations about them. Respondent did not reply. The panel found that the domain name was confusingly similar to the complainants registered mark, that the respondent was using the site with no legitimate interest to the registered mark, and that the name was registered and being used in bad faith. The domain name was transferred to the complainant.

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