

RUTGERS SETTLES RANDALL'S ABUSE LAWSUIT

by Martin J. Greenberg

I. INTRODUCTION

On December 6, 2013, Derrick Randall (Randall), a former basketball player for Rutgers University (Rutgers), filed suit against Rutgers, the State University of New Jersey, and Former Head Men's Basketball Coach Michael Rice (Coach Rice), Timothy Perneti, Jame Martelli, Janine Purcaro, Mark P. Hersshorn, and University President Robert L. Barchi (President Barchi) (collectively referred to as the Defendants) in the United States District Court of New Jersey. In a Preliminary Statement, the complaint states:

Derrick, a highly promising player on the Rutgers men's basketball team, was chronically and heinously targeted and abused, both physically and psychologically, by Michael Rice, his head coach.¹

Not only did Rutgers fail to provide such accommodations, but knowing of Derrick's disabilities and related issues, and exhibiting deliberate indifference to the impact of Coach Rice's behavior, Defendants allowed Derrick to be subjected to the outrageous and continuous abuse perpetrated by Coach Rice.²

This abuse was documented through video footage of team practice, publicly released by ESPN's television program, "Outside the Lines" in April 2013, which reflected Derrick and other players being violently grabbed, kicked, shoved, and berated by Coach Rice.³

It was not until the public release of this video, and the national attention the story received, that the University was compelled to publicly address the outrageous, and until then, concealed abuse that was being committed by Coach Rice against Derrick and others.⁴

On April 5, 2013, Rutgers President Barchi admitted that (i) there was a failure of process; (ii) student-athletes may have been harmed; (iii) Coach Rice chronically

¹ Complaint & Demand for Jury Trial at 2, *Randall v. Rutgers, The St. U. of New Jersey, et al.*, No. 3:13-cv-07354-FLW-DEA, para. 2 (D.N.J. 2013).

² *Id.* at para. 6.

³ *Id.* at para. 7.

⁴ *Id.* at para. 8.

and pervasively abused his players; and (iv) President Barchi personally knew of the abuse since the fall of 2012.⁵

I apologize to any student-athletes on the team who may have been personally harmed. The kind of chronic and pervasively abusive behavior demonstrated on that video is unacceptable . . . I was deeply disturbed by the behavior that the video revealed which was much more abusive and pervasive than I had understood it to be.⁶

On or about November 8, 2013, during an interview aired on the television program “20/20,” Coach Rice further acknowledged bullying his players, and that he had a “chip on his shoulder.” When asked how he would defend his abusive conduct, he stated, “You don’t. It is unacceptable.”⁷

New Jersey Governor Chris Christie described Coach Rice as an “animal,” and further stated, “The way these young men were treated by the head coach was completely unacceptable and violates the trust those parents put in Rutgers University.”⁸

Hall of Fame college basketball coach John Thompson characterized Coach Rice’s behavior as “child abuse.”⁹

What follows is information taken directly from Randall’s complaint against Rutgers and the Defendants.

II. PARTIES

The complaint listed the following individuals as defendants:

Defendant [Coach] Rice . . . was a [National Collegiate Athletic Association (NCAA)] Division I head basketball coach at Rutgers and was an agent, servant, and/or employee of Rutgers. Coach Rice was named head coach of the Rutgers men’s basketball team on May 6, 2010, and was terminated from his position on April 3, 2013.¹⁰

Defendant Timothy Perneti ([Perneti]) was a NCAA Division I Director of Intercollegiate Athletics at Rutgers and was an agent, servant, and/or employee of Rutgers. Perneti was named Athletic Director on April 1, 2009 and resigned from his position on April 5, 2013.¹¹

⁵ *Id.* at para. 9.

⁶ *Id.*

⁷ *Id.* at para. 13.

⁸ *Id.* at para. 14.

⁹ *Id.* at para. 16.

¹⁰ *Id.* at para. 27.

¹¹ *Id.* at para. 28.

Defendant James Martelli (Coach Martelli) was a NCAA Division I assistant basketball coach at Rutgers and was an agent, servant, and/or employee of Rutgers. Coach Martelli was hired as an assistant coach of the Rutgers men's basketball team in May 2010 and resigned from his position on April 4, 2013.¹²

Defendant Janine Purcaro ([Purcaro]) is the current Chief Financial Officer for Intercollegiate Athletics at Rutgers and is an agent, servant, and/or employee of Rutgers. Purcaro has held this title since September 26, 2011.¹³

Defendant Mark P. Hersshorn ([Hersshorn]) served as Chairman of the Rutgers University Board of Governors Committee on Intercollegiate Athletics and is a current member of the Rutgers Board of Governors. He is an agent, servant, and/or employee of Rutgers.¹⁴

Defendant President Barchi is the current President of Rutgers. He has served as President since September 1, 2012, and is an agent, servant, and/or employee of Rutgers.¹⁵

III. FACTUAL BACKGROUND – RUTGERS RECRUITS DERRICK AS STUDENT WITH DIAGNOSED LEARNING DISABILITIES AND AS A HIGHLY RATED BASKETBALL PLAYER

The complaint then states the following facts:

Derrick was a student and varsity basketball player on the Rutgers men's varsity basketball team from the fall of 2011 through the spring of 2013.¹⁶

Prior to Derrick's recruitment by Rutgers and his enrollment at the University in the fall of 2011, Derrick was a highly rated high school basketball player.¹⁷

In high school, Derrick was ranked the No. 17 center in his class by Scout.com and the country's No. 26 power forward prospect by Scout.com and ESPN.com.¹⁸

Derrick was diagnosed with learning disabilities at an early age. His diagnosis has resulted in special accommodations being made to address Derrick's disabilities. As a result of his disabilities, Derrick experienced the lack of confidence and self-esteem that are attendant thereto.¹⁹

¹² *Id.* at para. 29.

¹³ *Id.* at para. 30.

¹⁴ *Id.* at para. 31.

¹⁵ *Id.* at para. 32.

¹⁶ *Id.* at para. 33.

¹⁷ *Id.* at para. 34.

¹⁸ *Id.* at para. 35.

¹⁹ *Id.* at para. 37.

When Derrick was recruited by Rutgers, the University was made aware of Derrick's disabilities and related issues and specifically agreed to make special accommodations to address Derrick's needs.²⁰

Brian Randall met with Coach Rice when Derrick first arrived at Rutgers and informed Coach Rice that Derrick needed someone to talk to and to help him out. Coach Rice represented to Brian Randall that Rutgers would provide Derrick with the resources he needed, including a psychologist, and assured him in particular that the University would look out for Derrick's psyche.²¹

IV. A CASE OF ABUSE

The complaint further details the abuse that took place.

Defendants, directly and/or through their agents, willfully, recklessly, negligently and with deliberate indifference, placed Derrick in a hostile environment in which he was regularly and continuously subjected to physical, mental, verbal and emotional abuse of the most outrageous nature.²²

Such chronic, abusive and damaging conduct occurred after Derrick joined the Rutgers basketball team as a freshman, and continued throughout his sophomore season.²³

The culmination of this abuse was marked by the public release of a compilation of raw video clips on April 2, 2013 by ESPN's television program, "Outside the Lines," which revealed Derrick and others being subjected to grossly demeaning behavior at the hands of their coach during the team's practices (the "Video").²⁴

The Video shows Coach Rice grabbing, shoving and kicking players and hurling basketballs directly at their heads and bodies. Coach Rice can also be heard berating his players with abusive and profane language including homophobic slurs.²⁵

According to Eric Murdock, former Director of Basketball Player Development for Rutgers from 2010 to 2012 ("Murdock"), "It often got worse after the camera was shut off."²⁶

The Rutgers administration, including at least Messrs, [President] Barchi, Hershhorn and Perneti and Ms. Purcaro, as well as Assistant Coach Martelli, knew of this abusive conduct, yet stood by and allowed it to continue as Derrick regularly

²⁰ *Id.* at para. 38.

²¹ *Id.* at para.40.

²² *Id.* at para. 42.

²³ *Id.* at para. 43.

²⁴ *Id.* at para. 44.

²⁵ *Id.* at para. 45.

²⁶ *Id.* at para. 46.

and continuously suffered more and more damage to his health, self-esteem, well-being and career prospects.²⁷

These individual Defendants ignored reports and complaints and deliberately concealed evidence of Coach Rice's pervasive and continuous abusive conduct from Derrick's family and the public at large, in blatant disregard of their obligations and responsibilities to Derrick, and undoubtedly to protect Rutgers' multi-million dollar athletics program and its impending entry into the Big Ten conference with the millions of dollars in revenue that opportunity presented.²⁸

The outrageous, intimidating and abusive conduct to which Derrick was subjected included Coach Rice hurling basketballs at his head and legs and hitting, grabbing, striking and shoving him.²⁹

Coach Rice verbally, mentally, and emotionally abused Derrick through violent screaming, cursing and other humiliation tactics, including the use of homophobic slurs and other shockingly derogatory and discriminatory name calling.³⁰

A photograph of Coach Rice grabbing Derrick by the neck and face on the bench during a game, with Derrick looking completely lost and helpless, speaks volumes, as does the Video of such abusive behavior.³¹

Such continuous and admittedly abusive conduct, and Defendants' knowingly and/or recklessly allowing it to continue, is reprehensible enough on its own. However, when combined with the fact that Rutgers was apprised of Derrick's disabilities and related issues and agreed to make special modifications to accommodate his needs, leaving Derrick to somehow fend for himself against the person with complete authority and control over him and his athletic scholarship -- his head coach -- truly is conduct of the most egregious and damaging nature.³²

Defendants acted with deliberate indifference in circumstances in which they could and should have exercised substantial and reasonable control over both Coach Rice and the environment in which Coach Rice committed his abuse against Derrick.³³

As a result of Coach Rice's abuse and the hostile and violent environment Coach Rice created, Derrick suffered physically, mentally and emotionally.³⁴

The continuous abuse left Derrick in a constant and debilitating state of anxiety and fear. He felt completely helpless under the authority of Coach Rice. He lost all

²⁷ *Id.* at para. 47.

²⁸ *Id.* at para.48.

²⁹ *Id.* at para. 49.

³⁰ *Id.* at para. 50.

³¹ *Id.* at para. 51.

³² *Id.* at para. 52.

³³ *Id.* at para. 53.

³⁴ *Id.* at para. 54.

confidence and, not surprisingly, did not and could not know how to deal with Coach Rice's abuse. As a result, Derrick shut down more and more.³⁵

Derrick tried to just go through the motions, believing that he had no choice but to be obedient and to tolerate and endure the abuse of Coach Rice.³⁶

Incredibly, in a system in which assistant coaches were assigned to each of the players to serve as "life coaches" for the purpose of assisting the student-athletes in coping with academic and personal matters, Derrick's special learning and related needs were entrusted to the team videographer.³⁷

What is more, Coach Rice frequently engaged in mind games with Derrick, such as asking him if he was ready to go into a game and on receiving an affirmative answer, leaving Derrick on the bench without any explanation.³⁸

On several occasions, Coach Rice stared directly at Derrick with an unmistakable look of hatred.³⁹

With respect to Coach Rice's abuse, the assistant coaches told Derrick and the other players to deal with it.⁴⁰

Assistant Coach Martelli not only stood by while Coach Rice abused his players, but Coach Martelli himself participated in, and contributed to, such abusive behavior.⁴¹

Eventually, Derrick lost all confidence in himself and in his athletic abilities, which impacted his ability to perform both on and off the court.⁴²

As a result of such abuse, Derrick was compelled to leave Rutgers and to close the book on his dream of playing on the University's basketball team.⁴³

Meanwhile, upon information and belief, Coach Rice and Perneti received severance packages including at least \$475,000 and \$1,200,000, respectively; Rutgers moved to the Big Ten Conference; and Derrick and other players were left to live with the damage caused by two traumatic seasons fending for themselves against Coach Rice's abuse.⁴⁴

³⁵ *Id.* at para. 55.

³⁶ *Id.* at para. 56.

³⁷ *Id.* at para. 57.

³⁸ *Id.* at para. 58.

³⁹ *Id.* at para. 59.

⁴⁰ *Id.* at para. 60.

⁴¹ *Id.* at para. 61.

⁴² *Id.* at para. 62.

⁴³ *Id.* at para. 63.

⁴⁴ *Id.* at para. 64.

Derrick has incurred substantial damages as a result of the continuous physical, mental, verbal and emotional injuries suffered, as well as lost economic opportunities and earning potential. In addition, Derrick is entitled to punitive damages and attorneys' fees.⁴⁵

Aggression and abuse proliferate where they are tolerated, and Defendants admittedly tolerated Coach Rice's aggression and abuse to the severe detriment of Derrick Randall.⁴⁶

V. THE VIDEO AND THE AFTERMATH

Upon information and belief, on or about July 11, 2012, counsel for Murdock sent a letter to Rutgers and Perneti, which inter alia, claimed that Murdock was wrongly terminated from his position in retaliation for inquiries and discussions with others regarding alleged misconduct by Coach Rice.⁴⁷

Upon information and belief, on or about November 26, 2012, Murdock met with Perneti and provided him with a copy of a DVD containing video footage taken at multiple team basketball practices showing Coach Rice abusing his players.⁴⁸

Upon information and belief, on or about November 26, 2012, Perneti informed President Barchi about the Video and the nature of its contents.⁴⁹

Upon information and belief, on or about November 27, 2012, Rutgers hired John Lacey, an attorney at Connell Foley LLP and an executive committee member of Rutgers School of Law, to conduct an internal investigation into the contents of the Video and to issue a report on his findings.⁵⁰

Upon information and belief, on or about December 13, 2012, Perneti announced that Coach Rice would be suspended for three games and fined \$50,000, without any disclosure of Coach Rice's abusive behavior to the public, let alone to Derrick's family.⁵¹

Upon information and belief, in December, 2012, Hershhorn viewed the Video. Hershhorn did not take the matter to the full Board of Governors, nor did he take any other action.⁵²

On or about December 13, 2012, John Lacey issued an internal report ("the Report"). The Report provides, in pertinent part:

⁴⁵ *Id.* at para. 65.

⁴⁶ *Id.* at para. 66.

⁴⁷ *Id.* at para. 67.

⁴⁸ *Id.* at para. 68.

⁴⁹ *Id.* at para. 69.

⁵⁰ *Id.* at para. 70.

⁵¹ *Id.* at para. 71.

⁵² *Id.* at para. 72.

Coach Rice was previously counseled by AD Perneti concerning his treatment of others. Additionally, some of Coach Rice's assistants felt compelled to speak with him about his use of offensive language and his negative treatment of certain players. (pp. 4-5).

[Coach Rice's] behavior toward players included insulting language and outbursts such as pushing a player. (p. 14).

[Murdock's] complaint was not a complete surprise to AD Perneti. Indeed, AD Perneti had already personally taken disciplinary action against Coach Rice on two prior occasions in early 2012 for some of the same behavior cited by [counsel for Murdock]. (p. 16).

[On November 26, 2012], Mr. Perneti and Ms. Purcaro met with Coach Rice. They showed the DVD clips to Coach Rice and AD Perneti expressed dismay as to certain clips that appeared to show Coach Rice insulting, demeaning and, in some cases, coming into overly aggressive physical contact with Rutgers men's basketball players. This conduct included referring to players as "pussies," "idiots," "fags," "faggots," and "bitch." These words were often preceded by the word "fucking." (p. 21).

[T]he clips on the DVD showed Coach Rice (a) kicking a basketball on three separate occasions; (b) throwing a basketball at or toward basketball players; and (c) passing a basketball with two hands by casting it as the feet or legs of a player. (p. 24).

[I]t did appear that some of the actions by Coach Rice included physical contact with a player that could not be justified. (p. 24).

[Connell Foley LLP] received no evidence showing that it is acceptable for a coach to kick a player in the buttocks out of frustration, to hurl a basketball at a player in anger because a player made a mental mistake during a drill, or to slap a player repeatedly from behind with a blocking pad after the player has completed the drill sequence. The actions recited above coincide with specific actions by Coach Rice that were depicted on the DVD supplied by [Murdock's attorney] as well as on the videos [reviewed by Connell Foley LLP]. (p. 33).

[T]hese improper actions, even if sometimes done in jest, constitute grossly demeaning behavior directed at players and occasionally at coaches. (p. 33).

[T]his behavior by a coach has no place in a college basketball program, especially where some actions, when viewed in context, appear to be taken in anger or frustration. A reasonable person could interpret some of this behavior “as being evidence of intent to cause physical harm” to another individual. (pp. 33-34).⁵³

Despite the clear evidence of misconduct, on or about December 29, 2012, Coach Rice was allowed to resume his coaching duties and no disclosure of his abuse against his players was made to the players’ families or to the public.⁵⁴

Defendants’ conduct after the issuance of the Report and Coach Rice’s suspension confirms that Defendants did not make any real effort to help those players who had been subjected to Coach Rice’s abuse, and reflected Defendants’ deliberate indifference to the hostile and abusive environment to which University students, including Derrick, were being subjected.⁵⁵

On or about April 2, 2013, ESPN’s television program, “Outside the Lines,” aired the violent and explosive Video.⁵⁶

On or about April 2, 2013, President Barchi finally viewed the Video for the first time, despite his awareness of its existence since at least December, 2012.⁵⁷

But for ESPN disclosing the Video, it is likely that President Barchi still would not have viewed it, Rutgers would have continued its policy of deliberate indifference to Coach Rice’s behavior, and Coach Rice would have remained in his coaching position and continued to abuse Derrick and others.⁵⁸

Only after the release of the Video and ensuing public outrage, (i) on or about April 3, 2013, Coach Rice was fired; (ii) on or about April 4, Martelli resigned; and (iii) on or about April 5, 2013, Perneti resigned.⁵⁹

IV. CAUSES OF ACTION

The complaint set forth a number of causes of action against the Defendants, including:

A. First Cause of Action – Negligence Against all Defendants;

⁵³ *Id.* at para. 73.

⁵⁴ *Id.* at para. 74.

⁵⁵ *Id.* at para. 75.

⁵⁶ *Id.* at para. 76.

⁵⁷ *Id.* at para. 77.

⁵⁸ *Id.* at para. 78.

⁵⁹ *Id.* at para. 79.

- B. Second Cause of Action – Negligent Hiring, Training, Supervision and Retention Against Rutgers, Perneti, President Barchi, Purcaro, and Hershhorn;
- C. Third Cause of Action – Gross Negligence Against All Defendants;
- D. Fourth Cause of Action – Breach of Fiduciary Duty Against All Defendants;
- E. Fifth Cause of Action – Assault and Battery Against Rice;
- F. Sixth Cause of Action – Intentional Infliction of Emotional Distress Against Rice;
- G. Seventh Cause of Action – Negligent Infliction of Emotional Distress Against All Defendants;
- H. Eighth Cause of Action – Interference with Prospective Economic Advantage Against All Defendants;
- I. Ninth Cause of Action – New Jersey Law Against Discrimination Against All Defendants;
- J. Tenth Cause of Action – Title II of the American with Disabilities Act Against Rutgers;
- K. Eleventh Cause of Action – Section 504 of the Rehabilitation Act of 1973 Against Rutgers; and
- L. Twelfth Cause of Action – 42 U.S.C. §1983 Against All Defendants.⁶⁰

VI. PRAYER FOR RELIEF AND DEMAND FOR TRIAL BY JURY

Plaintiff’s Prayer for Relief included joint and several liability, “compensatory damages, punitive damages (where applicable), interest, attorneys’ fees, disbursements, costs and all further relief to which Plaintiff is entitled and which the Court deems just and proper.” Randall demanded a jury trial as well.⁶¹

V. SETTLEMENT

⁶⁰ *Id.* at 17–28.

⁶¹ *Id.* at 29.

Randall's lawsuit was filed on December 6, 2013, about eight months after Rutgers fired Head Basketball Coach Rice for mistreating his players.⁶² It was announced in April of 2016 that Rutgers and the Defendants monetarily settled the lawsuit with Randall.⁶³ In the Settlement Agreement, Randall was paid the gross amount of \$300,000:

1. Consideration. In consideration for entering into this Agreement and Randall's agreement to be bound by the promises and covenants set forth herein, Rutgers agrees that it will pay Randall the gross amount of Three Hundred Thousand Dollars and No Cents (\$300,000.00), in full settlement of any and all of Randall's claims, including any claim for attorneys' fees and/or costs. Within 30 days of the date that counsel for Rutgers receives a copy of this Agreement executed by Randall, the Stipulation of Dismissal, attached as Exhibit A, signed by Randall's counsel, and executed W-9 forms from Randall and his attorneys' law firm, Rutgers shall issue a check payable to "Kantor Davidoff Mandelker Twomey Gallanty & Kesten, P.C. in trust for Derrick Randall" addressed at 415 Madison Avenue, 16th Floor, NY, NY 10017 in the gross amount of \$300,000.00. An IRS Form 1099 will be issued to Randall and Kantor Davidoff Mandelker Twomey Gallanty & Kesten, P.C. with respect to this payment. In addition, Rutgers will immediately pay Randall's expert witness fees in the amount of Six Thousand Eight Hundred Dollars and No Cents (\$6,800.00) directly to Dr. Alexander Sasha Bardey addressed at 303 Fifth Avenue, Suite 403, New York, NY 10016.⁶⁴

The parties also executed a broad general release:

2. General Release. In consideration for the benefits provided for in this Agreement, Randall knowingly and voluntarily waives, releases, and gives up any and all claims and rights, known and unknown, that he, his heirs, executors, administrators, successors, and/or assigns may have against Rutgers, its affiliates, Insurers and Re-Insurers, officers, directors, agents, contractors, and employees, in their individual and official capacities, each of their predecessors, successors, and assigns; Michael Rice, his heirs, executors, administrators, successors, and assigns; Timothy Perneti, his heirs, executors, administrators, successors, and assigns; James Martelli, his heirs, executors, administrators, successors, and assigns; Janine Purcaro, her heirs, executors, administrators, successors, and assigns; Mark Hershhorn, his heirs, executors, administrators, successors, and assigns; and Dr. Robert L. Barachi, his heirs, executors, administrators, successors, and assigns herein collectively referred to as "Releasees"), based upon any act, event, or

⁶² See generally *Rutgers Fires Coach Mike Rice*, ESPN (Apr. 3, 2013), http://www.espn.com/new-york/mens-college-basketball/story/_/id/9128825/rutgers-scarlet-knights-fire-coach-mike-rice-wake-video-scandal.

⁶³ Jerry Carino, *Rutgers Pays \$300G to Former Mike Rice Player Derrick Randall*, USA TODAY (May 19, 2016), <http://www.usatoday.com/story/sports/college/rutgers/2016/05/19/rutgers-pays-300k-former-mike-rice-player-derrick-randall/84577456/>.

⁶⁴ Settlement Agreement and General Release at 1, *Randall v. Rutgers, The St. U. N.J., et al.*, 13-cv-7354-FLW-DEA. (2016).

omission occurring before the date Randall executes this Agreement. Such claims include, but are not limited to, all claims that were made or could have been made in the Lawsuit; any claims of harassment or discrimination based upon race, color, national origin, ancestry, religion, marital status, gender, age, sexual orientation, citizenship status, medical condition, or disability; any claims of retaliation in connection with the advancement of rights or for cooperation with an investigation of any other person's rights thereunder; any claim under the New Jersey Law Against Discrimination, Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendment of 1972, 20 U.S.C. § 1620, the Americans with Disabilities Act, the Rehabilitation Act of 1973, Sections 1981 and 1983 of the Civil Rights Act of 1866, the United States Constitution, the New Jersey Constitution, and any other federal, state, or local law, claims of covenant of good faith and fair dealing, breach of promise, misrepresentation, negligence (including, but not limited to, negligent hiring, negligent supervision, negligent retention, negligent training, and negligent infliction of emotional distress), gross negligence, fraud, estoppel, defamation, intentional infliction of emotional distress, assault, violation of public policy, interference with prospective economic advantage; tortious interference with contractual relations; breach of constructive trust/fiduciary duty; violations of Rutgers's rules and regulations; any claim for costs, fees, or other expenses, including attorneys' fees; and all claims under any other federal, state, or local law or common law claims relating to complaints by Randall about violation of federal, state or local law or common law by Releasees, including but not limited to, claims arising from or related to Randall's attendance at, or departure from, Rutgers, or participation or lack thereof in Rutgers's Men's Basketball program.

Rutgers is unaware at this time of any claims that it, its heirs, executors, administrators, successors and/or assigns may have against Derrick Randall based upon any act, event, or omission occurring prior to the date Randall executes this Agreement.

This Release is intended by the Parties to be construed as a General Release and to release any and all claims and rights of Randall and Rutgers (whether known to them or not), including, but not limited to, any claims for attorneys' fees, arising on or before the date of the execution of this Agreement, to the fullest extent permitted by law.⁶⁵

In executing the Settlement Agreement, none of the Defendants admitted liability:

5. No Admission of Liability. Neither the terms of this Agreement nor the fact of its execution shall be deemed to be or construed as an admission of liability, wrongdoing or a violation of any law, statute or regulation, any contract or agreement, or any other legal duty on the part of Rutgers or any of the Releasees, and neither this Agreement nor the furnishing of consideration shall be deemed or construed for any purposes as evidence or an admission of liability or wrongful

⁶⁵ *Id.* at 1-2.

conduct of any kind. Randall shall not be considered a prevailing party in the Lawsuit for any purpose.⁶⁶

The Randall case may have been one of the first abuse lawsuits in which a university student-athlete sued a university for monetary damages and received compensation therefor.

After the Rutgers basketball abuse scandal, Randall transferred from Rutgers to the University of Pittsburgh (Pitt).⁶⁷ The NCAA ruled that he was immediately eligible to play.⁶⁸ Randall stated, “I felt like a new home and a new start, and I need to get away and start clean.”⁶⁹ Randall was eligible to play for Pitt in the 2013–14 season and contributed primarily as a substitute at center and power forward coming off the bench.⁷⁰ He played in all thirty-six games with one start at center, averaged 2.1 points, 2.4 rebounds per game, and shot 56.4% from the floor.⁷¹

Unfortunately, Randall was suspended indefinitely from the basketball team after he was arrested in April of 2014.⁷² Randall was subsequently charged with driving while intoxicated.⁷³ The arrest occurred on the Rutgers campus, and Randall’s passenger, Abayomi O. Olaogun, was also arrested and charged with use of a controlled dangerous substance, possession of a controlled dangerous substance, and possession of drug paraphernalia.⁷⁴ The then-current Pitt Head Coach Jaime Dixon said, “[t]he incident involving Derrick Randall is not only surprising, but incredibly

⁶⁶ *Id.* at 3.

⁶⁷ Cardiac Hill, *Derrick Randall Transferring from Rutgers to Pitt*, Cardiac hill (June 16, 2013), <http://www.cardiachill.com/2013/6/16/4436616/derrick-randall-transferring-from-rutgers-to-pitt-basketball-pittsburgh-panthers-scarlet-knights>.

⁶⁸ Mike DeCourcy, *Derrick Randall Eligible at Pitt after transfer from Rutgers*, SPORTINGNEWS, (Feb. 1, 2017), <http://www.sportingnews.com/ncaa-basketball/news/4518980-derrick-randall-eligible-pitt-rutgers-transfer-player-abuse-scandal>.

⁶⁹ *Id.*

⁷⁰ *Derrick Randall*, OFFICIAL ATHLETIC SITE OF THE U. OF PITT, http://www.pittsburghpanthers.com/sports/m-baskbl/mtt/derrick_randall_853328.html (last visited Mar. 6, 2017).

⁷¹ *Id.*

⁷² Paul Zeise, *Pitt Suspends Senior Center Derrick Randall Indefinitely*, PITT. POST-GAZETTE (Apr. 29, 2014), <http://www.post-gazette.com/sports/Pitt/2014/04/29/Pitt-suspends-senior-center-Derrick-Randall-indefinitely/stories/201404290257>.

⁷³ *Id.*

⁷⁴ *Id.*

disappointing. Although I believe it was out of character for Derrick, he has been indefinitely suspended.”⁷⁵

VI. COMMENTARY

Dirty laundry in college athletics is best left in the locker room rather than being aired in a courtroom. Coaches should be personally liable, and mental and physical abuse should be a reason for dismissal. Student-athletes cannot compete financially with universities and the big law firms that they hire. The student-athletes are often on scholarship, and do not have the resources for a long protracted legal battle. Student-athletes deserve some form of protection. Perhaps some type of tribunal or hearing panel could be set-up through university rules and regulations to hear abuse cases through a neutral arbitrator. The arbitrator’s decision would have the effect of an edict issued by a court of law. Allegations of abuse should also trigger an independent, objective, and non-interested third-party investigation, which student-athletes would not be able to have completed on their own with their meager financial resources. These independent investigations could be created through a university policy and rule that could be utilized by the arbitrators in assessing the situation. Additionally, there should be response timelines to ensure compliance by the administration.

These kinds of actions (those involving mental and/or physical abuse) are so egregious that they can have lifelong physical and mental effects upon the student-athletes that essentially steals away the whole purpose of their college careers. Punishments against a coach that is found to be abusive need to be doled out for that kind of absolutely sanctionable and prohibited activity. While the coach should be held liable, as well as the university, any administrators that turn their head to bury the egregious activities in the name of fund raising, college reputation, or just plain saving

⁷⁵ *Id.*

face, should also stand before the firing squad. Abusive coaches are bullies with clipboards that leave their scars and tattoos of abuse on student-athletes in the form of depression, overwhelming anxiety, eating disorders, physical harm, and even attempted suicide. Bullying also includes the pressure from a coach to play through injuries that result in more serious or further injury or exacerbating the initial injury. No student-athlete should have to push through the pain, or be asked to lie to their doctors and trainers, they should not be afraid of losing their scholarship money and their educational opportunities because of a bullying coach. There should be rules and regulations provided and enforced to protect the student-athletes from retaliation by the coach for reporting abuse.

The problem is particularly acute in women's basketball. Over the past twenty-eight months, at least seven Division-I schools have been investigated, suspended, or parted ways with coaches in that sport following player complaints of mistreatment. Abuse may be occurring no more than before, but it is simply coming to light because players are empowered by digital tools and are standing up for themselves. Not only are abuse cases surfacing in women's basketball, but most frequently in non-revenue sports, particular those involving women. This begs the question: Is there really more abuse in women's sports or is our sports culture simply silencing male student athletes? Not all abuse in men's sports are as egregious as Mike Rice. Why does it have to get to Mike Rice levels before we hear about it? Where there is a little abuse we inevitably find that it is systematic and epidemic. We find that the administration turns a blind eye and purposefully railroads parental concerns. The system needs an overhaul, which should come from the universities themselves or regulatory conferences, on how alleged abuse is to be handled.

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