The WIAA as a State Actor: A Decade Later, *Brentwood Academy's* Potential Effect on Wisconsin Interscholastic Sports

Joe Trevino

a. Mike Stasiewski's hypothetical situation
   i. Standout QB at Lambeau East, transfers a week into his senior season to Lambeau West because he moved in with his father, after his parents’ divorce.
   iii. WIAA rules prohibit him from playing his senior season but, he can apply for a waiver.
   v. Stasiewski's waiver is denied and he then files a preliminary injunction and a federal civil rights claim under 42 USC 1983, asserting that the WIAA violated his procedural due process rights
   vi. At the heart of every constitutional claim are four elements:
       1. the plaintiff is a person;
       2. he has a life, liberty, or property interest involved
       3. the adverse party denied him procedural due process; and
       4. That the adverse party is a state actor
   vii. Assume that the circuit court and the court of appeals found in favor of the WIAA, on the grounds that the WIAA is not a state actor
   viii. At issue before the Wisconsin Supreme Court as a matter of first impression is whether the WIAA is a state actor

b. Primer on state action
   i. Doctrine of state action has undergone relatively dramatic changes
   ii. Public Function Test
   iii. Sufficient Nexus Analysis

c. State action and Amateur Athletics Collide
   i. Supreme Court holds that the NCAA is not a state actor
   ii. Brentwood Academy and the Entwinement Test
       1. Facts
       2. Make-up of the TSSAA
       3. 6th circuit
       4. Supreme court
       5. What Brentwood's holding means
d. The WIAA
   i. How the WIAA works
      1. WIAA Handbook
   ii. Case law on State Action and the WIAA
      1. Before Brentwood
      2. Post-Brentwood
         b. Wakefield v. Wis. Interscholastic Athletic Assoc., Case No. 08CV003423 (Wis. Cir. Ct. 2008).
      3. What to make out of Wisconsin’s scattered case law
         a. Five decisions -- State actor 3; Not a state actor 2
   iii. The WIAA as a Stat
      1. Side-by-side comparison to the TSSAA
      2. Entwinement present, and may be pervasive enough to qualify the WIAA as a state actor
         a. Go over best practices for an attorney
      3. Implications of WIAA being found a state actor
      4. What the finding of state action means for Mike Stasiewski
   iv. Conclude
      1. Questions