2003 National Sports Law Institute Year in Review

by Paul M. Anderson, Editor
NSLI Associate Director

During the past year the National Sports Law Institute and the Sports Law Program at Marquette University Law School have continued to provide diverse educational opportunities for law students and current and future leaders in the sports industry, while also providing a national forum for the thoughtful consideration and discussion of American and International sports law issues.

INTERNATIONAL SPORTS LAW AND BUSINESS IN THE 21ST CENTURY


The two-day conference featured several panels focusing on various facets of international sports law and business. In depth descriptions of each panel can be found in Volume 14, Number 4 of For the Record. What follows is a listing of the participants in each of the conference panels:

YEAR IN REVIEW / continued on page 2...
Panel 1: Sports Facility Financing, Development and Safety

Martin Greenberg, Managing Director, ScheerGame Sports Development, LLC; CEO, CollegeTown, LLC, Milwaukee, Wisconsin; and member, NSLI's Board of Advisors

Michael Cramer, President & Chief Operating Officer, Southwest Sports Group, Inc., Dallas, Texas, and Chair, NSLI's Board of Advisors

Michael Siebold, Founding Partner and Dr. Angela Klingmüller, Partner, Arnecke Siebold, Frankfurt, Germany

Richard Weiss, Managing Partner, Foley & Lardner, Washington, DC, and member, NSLI's Board of Advisors

Panel 2: Olympic and European Sports Stadium Safety Issues

Anne Wall, founder, Marketing Navigators, Inc., Hartland, Wisconsin, and member, NSLI's Board of Advisors

David Schwendiman, Assistant United States Attorney/Counsel to the United States Attorney, United States Attorneys Office for the District of Utah, Salt Lake City

Dr. Hazel Hartley, Principal Lecturer, Leeds Metropolitan University, West Yorkshire, England

Panel 3: Drug Testing in Sports

Professor Richard McLaren, University of Western Ontario, member, Court of Arbitration for Sport; and member, NSLI’s Board of Advisors

Richard Pound, QC, President, World Anti-Doping Agency member, International Olympic Committee; and Chancellor, McGill University

John O’Leary, Senior Lecturer in Law and Programme Leader for the LLM/MA International Sports Law, Anglia Polytechnic University, Chelmsford, England

Stacy Robinson, Director of Player Development Programs, National Football League Players Association, Washington, DC

Professor Klaus Vieweg, Institut fuer Recht und Technik, University of Erlangen, Germany, and Vice President, International Association of Sports Law

Panel 4: International Player Restraints and Competition Law

Professor Stephen Ross, University of Illinois College of Law, Champaign, Illinois, and member, NSLI’s Board of Advisors

Dr. Steve Cornelius, Director of the RAU Centre for Sport Law, RAU University, Johannesburg, South Africa

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Panel 6: Acquisition, Sale & Movement of Sports Franchises in a Global Environment
Clark Griffith, Owner/Attorney, Clark C. Griffith, Professional Association, Minneapolis, Minnesota, and member, NSLI's Board of Advisors
Dean Polenz, Principal, Financial Valuation Group, American Appraisal Associates, Milwaukee, Wisconsin
Jonathan Taylor, partner and head of the Sports Law Group at Hammonds Solicitors, London, United Kingdom
Mary K. Braza, partner, Foley & Lardner, Milwaukee, Wisconsin
François Ponthieu, KGA AVOCATS, France

Panel 7: Resolution of Sports Disputes
James Nafziger, Thomas B. Stoel Professor and Director of the International Law Program, Willamette University College of Law; member, NSLI's Board of Advisors; and Vice President, International Association of Sports Law
Nathalie Korchia, lawyer and Senior Lecturer, University of Paris, France
Professor Richard McLaren, University of Western Ontario; member, Court of Arbitration for Sport, and member, NSLI's Board of Advisors
Professor James Gray, Griffith University Law School, Brisbane, Australia, and Senior Research Fellow at the Asser International Sports Law Center, TMC Asser Institute at The Hague
Professor Robert Davis, Stetson University College of Law, St. Petersburg, Florida, and member and special secretary, Board of Directors, International Association of Sports Law
Professor Dimitrios Panagiotopoulos, Secretary General, International Association of Sports Law, Assistant Professor, University of Athens, Greece

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In addition to these panels, on the first day of the conference, lunch was preceded by a presentation by keynote speaker Ulrice Payne Jr., the former President and CEO of the Milwaukee Brewers Baseball Club. After the final panel on this first day, conference attendees and speakers toured Miller Park, the home of the Milwaukee Brewers and enjoyed the conference dinner at the stadium.

The second day featured the 2003 Master of the Game Award luncheon. This award honors an individual who has made significant contributions to the sports industry and who exemplifies the highest level of professionalism in his or her field. Past recipients of the award are former Marquette University head men's basketball coach Al McGuire, former Green Bay Packers quarterback and coach Bart Starr, Major League Baseball hall of fame player and Atlanta Braves executive Hank Aaron, Green Bay Packers president Bob Harlan, Major League Baseball Commissioner Allan "Bud" Selig, and Secretary for Health and Human Services Tommy Thompson. This year's winner is Donna de Varona, a founding member and first president of the Women's Sports Foundation; she served four terms on the President's Council on Physical Fitness and Sports, and was a moving force in Congress' passage of the 1978 Amateur Sports Act and the landmark "Title IX" legislation.

After the final panel the NSLI hosted a reception for all attendees and speakers at the Howard Eisenberg Memorial Hall in the Marquette University Law School. Approximately 160 individuals representing 14 countries and 6 continents attended the conference. A limited number of conference materials are still available for purchase for $20.00 plus shipping and handling. For more information, contact the NSLI at (414) 288-5815; send an email request to mnsli@mu.edu, or check the NSLI's website at http://law.marquette.edu/jw/pubs.

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J.D./M.B.A. IN SPORTS BUSINESS JOINT PROGRAM

The joint J.D./M.B.A. in Sports Business is offered through Marquette University's Law School and College of Business Administration. The program enables students to earn both degrees in less time than if each degree were pursued separately. By also earning the National Sports Law Institute's Sports Law Certificate, Marquette students have the opportunity to combine their knowledge of sports law with a graduate business education that will provide them with a unique package of educational credentials attractive to sports industry employers. Graduates will acquire knowledge and understanding of the theoretical and practical legal and business issues likely to be encountered by sport organizations in the 21st century. The hallmark of the joint degree program is the readily transferable legal and business skills learned in both programs that can be applied to a wide range of employment opportunities outside the sports industry. Detailed information on the joint program is available on the web at http://law.marquette.edu/jw/jdmba.

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NSLI BOARD OF ADVISORS

The National Sports Law Institute's Board of Advisors assists the NSLI's directors with conference and educational programs, fund raising, award nominations, and provides guidance for the future direction of the NSLI and the Sports Law Program at Marquette University Law School. The newest additions to the Board in 2003 are; Wayne Lueders, Partner and Chair, Sports Industry Team, Foley & Lardner, Milwaukee, Wisconsin, and Richard Siladi, Senior Vice President - National Director for the Financial Valuations Group of American Appraisal Associates, Inc., Milwaukee, Wisconsin.

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SPORTS LAW ALUMNI ASSOCIATION

The National Sports Law Institute's Sports Law Alumni Association consists of Marquette University Law School graduates who are committed to supporting the NSLI.
And the Sports Law Program. The Association selects that annual winner of the Sports Law Alumnus of the Year award, raises funds for the Annual Alumni Scholarship, and publishes a quarterly newsletter. Association members also participate in an annual career panel and the newly created Alumni Practice Series at Marquette. In 2003, the Association added several new members including: Travis Burau, Milwaukee, WI (L'03); Matt Carey, Director of Tier I/Advanced Development Boys Hockey, Powerade Iceport, Cudahy, WI (L'99); John Gillard, Jr., Brodek & Gillard, S.C., Racine, WI (L'96); James Gray, Partner, Pierski & Gray, Milwaukee, WI & Associate Professor, School of Law, Griffith University, Queensland, Australia (L'90); Ian Harper, Los Angeles, CA (L'03); Eugene LaFlamme, Attorney, Mong & Yankala, SC, Milwaukee, WI (L'02); Christopher McKinny, Legal Action of Wisconsin, Oshkosh, WI (L'03); Matt McLaughlin, Associate Attorney, Zetley & Cohn, SC, Milwaukee, WI (L'99); Brian Nuedling, Thorpe, Compton & Christian SC, Delavan, WI (L'03); Michelle Pierce, Attorney, Fortis Health, Milwaukee, WI (L'03); Nicola Solinger, Contracts Administrator, Octagon, Washington, D.C. (L'03); Nyea Sturman, MBA Student, University of Oregon-Warsaw Sports Marketing Center, Eugene, OR (L'03); and Jeffrey Tanner, Milwaukee, WI (L'03).

SPORTS LAW CERTIFICATE

Students graduating from Marquette University Law School are eligible to earn a Sports Law Certificate from the National Sports Law Institute in the semester of their graduation from law school. The following graduates earned the NSLI's Sports Law Certificate upon graduating from Marquette in May of 2003: Brian Nuedling, Kerri Cleghorn, Niki Solinger, Kristin Muenzen, Jeff Tanner, Nyea Sturman, Travis Burau, Danez Marrable, Matt Mountin, Patricia Anderson, Ryan Landry, Navdeep Singh, Chris McKinny, Michelle Pierce. The requirements for the Sports Law Certificate are available on the web at http://law.marquette.edu/jw/jw/certificate.

AWARDS AND SCHOLARSHIPS

On April 25, 2003, the NSLI hosted its annual Awards and Scholarship dinner at the Hilton Milwaukee Center. The dinner provides the Directors of the National Sports Law Institute, members of the NSLI's Board of Advisors, and members of the Sports Law Alumni Association with the opportunity to honor the winners of several student awards and scholarships, Sports Law Certificate candidates, the Marquette University Law School Sports Law Moot Court team, outgoing members and the newest editorial board of the Marquette Sports Law Review, the annual winner of the Sports Law Alumnus of the Year Award, and the Annual winner of the Joseph E. O'Neill Award.

Francis D. & Jane Keogh Kelly Scholarship

This scholarship recognizes a student in the Sports Law Program at Marquette for his/her excellence in the study of sports law and his/her service to the sports law program at Marquette. The 2002-2003 recipient of the Francis D. & Jane Keogh Kelly Scholarship was Kristin Muenzen, former Editor-in-Chief of the Marquette Sports Law Review, and now an attorney with Thaler & Thaler, in Ithaca, New York.

Joseph E. Tierney Jr. Award

This award was created by the National Sports Law Institute and Bernice Y. Tierney in memory of Joseph Tierney Jr., a former NSLI Board Member and strong supporter of the Institute. The Award is given annually to the student in the Sports Law Program who graduates with the highest grade point average in sports law classes while completing the requirements for the Sports Law Certificate. The 2003 winner of the Joseph E. Tierney Jr. Award was Michelle Pierce, former Marquette Sports Law Review Lead Articles Editor, now in the legal department at Fortis Health Insurance Company, in Milwaukee, Wisconsin.
Martin J. Greenberg Award

This award is presented in honor of former Director Martin J. Greenberg. It is given annually to the third year law student who has excelled in the study of sports law and service to the Sports Law Program. The 2003 winner of the Martin J. Greenberg Award for excellence in the study of sports law was Nyea Sturman, former Executive Editor of the Marquette Sports Law Review, and now an MBA Student at the University of Oregon-Warsaw Sports Marketing Center.

Carl Scheer Venue Excellence Award and Martin J. Greenberg Venue Book Awards

The Scheer Award was created through the generosity of the Greenberg family trust, and is given to the student who writes the best analytical paper in the Sports Venues: From Election Day to Game Day, course taught by Professor Martin J. Greenberg. The 2003 winner of the Carl Scheer Venue Excellence Award was Christopher McKinny, former Managing Editor of the Marquette Sports Law Review, and now an attorney with Legal Action of Wisconsin in Oshkosh.

In addition, Professor Greenberg presents Martin J. Greenberg Venue Book Awards in recognition of runner-up papers in the course. The 2003 winners of the book awards were current third year student Aaron Bitter, current Marquette Sports Law Review Executive Editor Brent Moberg, and graduate Niki Sollinger, Contracts Administrator, with Octagon, in Washington, D.C.

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of the Alumni Association, an Adjunct Assistant Professor at Marquette, and the NSLI's Associate Director.

**Joseph E. O'Neill Award**

The **Joseph E. O'Neill Award** was established by the O'Neill family, the law firm of Davis & Kuelthau, S.C. and the National Sports Law Institute after Mr. O'Neill's untimely death in 1992. The award is given annually to an individual in the sports industry who has made a significant contribution to the field and done so while exemplifying the highest ethical standards. The 2003 winner of the O'Neill Award is Robert A. DuPuy, President and Chief Operating Officer of Major League Baseball.

As President and Chief Operating Officer of Major League Baseball, he is responsible for all phases of baseball’s Central Offices, including licensing, sponsorship, international, broadcasting, publishing, marketing, public relations, government relations, baseball operations, legal affairs, finance, baseball’s internet operations and the labor relations committee.

DuPuy, 56, has been involved in most of Major League Baseball’s legal issues since 1989, when he was brought in as outside legal counsel. He negotiated the settlement of the collusion grievance in 1990, and served as the principal outside counsel to the Commissioner and the Executive Council from 1992 until 1998, when Commissioner Allan H. (Bud) Selig hired him as MLB Executive Vice President of Administration and Chief Legal Officer.

In that capacity, DuPuy oversaw the consolidation of the American and National Leagues into the Central Offices, the consolidation of MLB’s office in Washington, D.C., and the formation of MLBAM (Major League Baseball Advanced Media) as its initial Chief Executive Officer.

DuPuy, who grew up in Branford, CT, received an A.B. from Dartmouth College in 1968 and a J.D. from Cornell in 1973 where he was Editor-in-Chief of the Cornell Law Review. He saw military service with the U.S. Army from 1968 to 1970 and served a year in Vietnam in the 504th Military Police Battalion, where he received the Army Commendation Medal for his service.

After receiving his law degree, DuPuy joined Foley and Lardner, becoming a partner in 1980. He has served as a member of that firm’s Management Committee, and as Chairman of the firm’s Professional Standards Committee. He is a long-time member and Past-Chairman of the State Bar of Wisconsin’s Professional Ethics Committee. He taught legal ethics and professional responsibility at the University of Wisconsin Law School, from 1985-1998, and has lectured nationally on the subject.

**CAREER PANEL**

Each year the National Sports Law Institute and the Sports Law Alumni Association host a Sports Law Alumni Career Panel. The alumni panelists present their perspective on breaking into the sports industry.

On February 12, 2003, the Sixth Annual Sports Law Alumni Career Panel was held at Marquette University Law School. Panelists included: Matt Banker (L’01), Membership Services Coordinator, National Collegiate Athletic Association, Indianapolis, Indiana; Ben Menzel (L’02), attorney, Previant, Goldberg, Uelmen, Gratz, Miller & Brueggeman, S.C., in Milwaukee, Wisconsin; Michael Sneathern (L’02), Legal Associate, Milwaukee Bucks; and James Sullivan (L’01), Vice President - Sports Marketing Division & General Counsel, Imani Sports LLC, Minnetonka, Minnesota.
ALUMNI PRACTICE SERIES

In the fall of 2003, the NSLI and the Sports Law Alumni Association hosted the first Alumni Practice Series. Each semester a Marquette graduate is invited to discuss practical aspects of their job within the sports industry with students in the Sports Law Program. On November 23, 2003, Matt Banker (L'01), Membership Services Coordinator with the NCAA presented "A Perspective on a Career with the NCAA and Discussion of Current Issues Facing the NCAA."

ETHICAL ISSUES IN SPORTS & ENTERTAINMENT LAW SEMINAR

On March 21, 2003, the National Sports law Institute, the Sports & Entertainment Law Section of the State Bar of Wisconsin, and the Sports Law Alumni Association hosted a seminar on "Ethical Issues in Sports & Entertainment Law." Panelists included: Martin Greenberg, Managing Director of ScheerGame Sports Development, and a member of the NSLI’s Board of Advisors; Tim Baldwin, Director of Tax & Business Consulting, Empowered Financial Associates in Milwaukee and a member of the Sports Law Alumni Association; Kevin Gibson, Assistant Professor of Philosophy and Faculty Member, Center for Dispute Resolution Education at Marquette University; Paul Anderson, Chair of the Sports Law Alumni Association, NSLI Associate Director, and Vice Chair and Program Coordinator for the Sports & Entertainment Law Section; Eryn Doherty, attorney with the National Labor Relations Board and a member of the Sports Law Alumni Association; J. Gordon Hylton, Associate Professor of Law at Marquette University and a member of the NSLI’s Board of Advisors; and David Papke, Professor of Law, Marquette University.

Approximately 70 individuals attended the seminar, which was followed by a reception in Eisenberg Memorial Hall. Materials from the Seminar are still available from the NSLI and can be ordered online at http://law.marquette.edu/jw/pubs.

CURRENT ISSUES IN SPORTS LAW

In the spring of 2003, NSLI Associate Director Paul Anderson presented his first “Current Issues in Sports Law” presentation to students in the Marquette Sports Law Program. This annual presentation provides an overview of current issues in the sports law area, especially for students in the Sports Law Program who have not yet taken any sports law courses.

GUEST SPEAKER EVENT

In addition to the events mentioned above, on Tuesday, September 23, 2003, the NSLI presented a panel with two international sports law professors. Dr. Hazel Hartley, Leeds Metropolitan University, West Yorkshire, United Kingdom, spoke on “An Innocent Abroad? Natural Justice Rights and the Diane Modahl Doping Case, 1996-2001.” Dr. Steve Cornelius, RAU University, Johannesburg, South Africa, spoke on “Affirmative Action in Sports in South Africa.”

WELCOME MIXER

On September 4, 2003, the NSLI hosted its third annual welcome mixer for students and alumni interested in Marquette’s Sports Law Program. The welcome mixer was also held in honor of Visiting Boden Professor Hayden Opie.
PUBLICATIONS

Marquette Sports Law Review

Under the leadership of Editor-in-Chief Kristin Mueenzen, Volume 13, Number 2 of the Marquette Sports Law Review was published in the spring of 2003. The issue included the following articles:

- Intercollegiate Athletics’ Unique Environments for Sexual Harassment Claims: Balancing the Realities of Athletics with Preventing Potential Claims
- Recent Federal Income Tax Issues Regarding Professional and Amateur Sports
- Aside the Aside: The True Precedent of Baseball in Law
- Professional Sports Leagues and the First Amendment: A Closed Marketplace
- Weakening Its Own Defense? The NCAA’s Version of Amateurism

Under the leadership of Editor-in-Chief T.D. Stuck, Volume 14, Number 1 has recently been published. In response to the report of the Secretary of Education’s Commission on Opportunity in Athletics, this issue is a symposium on “Title IX at Thirty.” The symposium includes the following articles and reports:

- Title IX: Unresolved Public Policy Issues
  Ted Leland & Karen Peters
- In Defense Of Title IX: Why Current Policies Are Required To Ensure Equality Of Opportunity
  Jocelyn Samuels & Kristen Galles
- Who Owns Sports? The Politics Of Title IX
  Martha Burk & Natasha Plurudy
- Comments On Title IX
  Clark C. Griffith
- Is Title IX Really To Blame For The Decline In Intercollegiate Men’s Nonrevenue Sports?
  Daniel R. Marburger & Nancy Hogshead-Makar
- Title IX And College Sport: The Long Painful Path To Compliance And Reform
  Ellen J. Staurowsky
- Title IX: Part Three Could Be The Key
  C. Peter Goplenrd III
- Title IX In The 21st Century
  Barbara Osborne
- Wrestling With Title IX
  Cynthia Lee A. Pemberton
- Is Notice Required In A Title IX Athletics Action Not Involving Sexual Harassment?
  Diane Heckman
- Sexual Harassment In Sports: How “Adequate” Is Title IX?
  Erika Tripp
- "Open to All" Title IX at Thirty
  The Secretary of Education’s Commission on Opportunity in Athletics
- Minority Views on the Report of the Commission on Opportunity in Athletics
  Donna de Varona & Julie Foudy
- Further Clarification of Intercollegiate Athletics Policy Guidance Regarding Title IX Compliance
  Gerald Reynolds, Assistant Secretary for Civil Rights

These or other issues of the Marquette Sports Law Review can be ordered online at http://law.marquette.edu/jw/mslr.

For The Record

For The Record is the official newsletter of the National Sports Law Institute consisting of articles on timely topics within the sports industry, event announcements, useful information for researchers, and other information for the sport industry practitioner. Articles published in Volume 14 included:

- Advice and Consent: Student-Athlete’s Educational Malpractice Claim Strikes Out

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Volume 4, Issues 1 and 2 of the online newsletter Sports Facility Reports were published in 2003. These issues included articles on:

- NHL Finances: Skating on Thin Ice
- Sports Facility Issues Websites
- Sports Facility Development
- Team/Facility Websites

Each issue also includes cumulative Facility Update Charts providing information on each team in the four major American sports. This newsletter is only available online. Interested individuals should go to http://law.marquette.edu/jw/sfr to register to receive Sports Facility Reports by email.

You Make the Call...

Volume 5 of the NSLI's case reporting newsletter You Make the Call... was a double issue providing reports on the following cases:

- Scott v. Savers Property and Casualty Insurance Company

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SURVEY OF AMERICAN LAW SCHOOLS
TEACHING OF SPORTS LAW

Between 1998 and 1999 the National Sports Law Institute conducted a national survey to determine the prevalence of sports law as a course of study in American law schools. The results of the survey were published in 1999. In 2003 the NSLI conducted another survey to update the 1999 results. The 2003 report surveys the following areas:

- Courses offered,
- Professors teaching these courses (full time or adjunct),
- Student organizations,
- Journals or law reviews,
- Internship opportunities, and
- Other activities or opportunities available to students.

The executive summary of the 2003 survey was published in Volume 14, Number 4 of For The Record. It is also available online at http://law.marquette.edu/jw/surveys along with the 1999 survey and more detailed reports of the 1999 and 2003 results.

MEDIA COMMENTARY

During the past year, NSLI Director Matt Mitten, Professor of Law and Associate Dean for Academic Affairs at Marquette University Law School, and NSLI Associate Director Paul Anderson, Adjunct Assistant Professor of Law, offered commentary on sports-related issues to various national and local media including, the Washington Post, the Milwaukee Journal Sentinel, the Marquette Tribune, the Chicago Sun-Times, the Arizona Republic, Street & Smith's Sports Business Journal, and Fox News in Milwaukee.

SPORTS LAW MOOT COURT TEAM


New For Your Bookshelf

   Richard Parrish
   271 pgs.: ISBN 0 7190 6607 7

2. The International Guide to the Taxation of
   Sportsmen and Sportswomen
   Dr. Rijkele Betten (Editor)
   International Bureau of Fiscal Documentation
   Supplements published through 2002-2003
   ISBN 90-76078-41-6

3. Drugs, Sport and the Law
   Antonio Buti & Saul Fridman
   Scribbers Publishing (2001)
   vii + 157 pgs.: ISBN 0 9586727 8 4

   Strategies
   Herb Appenzeller

5. Public Dollars, Private Stadiums: The Battle over
   Building Sports Stadiums
   Kevin J. Delaney & Rick Eckstein
   240 pgs.: ISBN 0813533430

6. The Chicago Black Sox Trial: A Primary Source
   Account (Great Trials of the 20th Century)
   Wayne Anderson
   64 pgs.: ISBN 0823939693

7. The Legal Status of Sportsmen and Sportswomen
   Under International, European and Belgian
   National and Regional Law
   Roger Blanpain
   ISBN 9041119809
YEAR IN REVIEW / continued from page 11.

STUDENT INTERNSHIPS

The NSLI's internship program offers Marquette students various opportunities to work with sports organizations for one semester. Current internship sponsors include: Intersport, LLC, the Leib Group, LLC, the Marquette University Athletic Department, Miller Brewing Company, the Milwaukee Brewers, the Milwaukee Bucks, the Milwaukee Tennis & Education Foundation, the National Sports Law Institute Ambush Marketing Project, Pierki & Gray, LLP, ScheerGame Sports Development, LLC, South Milwaukee High School, the University of Wisconsin - Parkside, and Wisconsin State Fair Park.

In addition, Marquette University Law School students are eligible to participate in a unique six month internship program with Southwest Sports Group LLC, the holding company for the Dallas Stars National Hockey League club, Texas Rangers Major League Baseball team, and other sports enterprises. Each year, one Marquette law student is selected to work full time during the summer in Dallas, Texas with Southwest Sports Group's General Counsel and other key company executives on a wide variety of sports-related legal and business issues. The intern may also attend Southern Methodist University Law School during the subsequent fall semester as a visiting student while continuing to work with Southwest Sports Group on a part time basis.