



For The Record

The Official Newsletter of the National Sports Law Institute

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NSLI CALENDAR

JUNE 17, 2011

Current Issues in Entertainment and Sports Law

→Hosted by the NSLI and Sponsored by the Sports & Entertainment Law Section of the State Bar of Wisconsin
→Eckstein Hall, room 144 (1—5 pm)

OCTOBER 21, 2011

NSLI Annual Conference

→Hot Topics in Sports Law and Business
→Eckstein Hall, room 144 & 4th Floor Gallery

Major League Baseball Commissioner Bud Selig Joins Marquette University Law School as Distinguished Lecturer in Sports Law and Policy

Major League Baseball Commissioner Allan H. (Bud) Selig has been named to the adjunct faculty at Marquette University Law School as distinguished lecturer in sports law and policy.



“Bud Selig is, without question, one of the most skilled and accomplished professionals in the sports industry today,” said Joseph D. Kearney, dean of Marquette Law School. “We are truly honored that he would commit his time to our students and grateful that he’s chosen our classrooms as a place to pass down his significant wisdom to the next generation of leaders.”

The appointment formalizes a teaching position Selig has held at Marquette Law School since 2009, lecturing for several classes of the Professional Sports Law course each spring. The course is part of the nationally prominent Sports Law program at Marquette Law School, which is also home to the National Sports Law Institute. Both are led by Marquette Law School Professor Matt Mitten. Selig has been a member of the NSLI Board of Advisors since its inception in 1989.

“I have thoroughly enjoyed the lively dialogue with students in the classroom at Marquette Law School over the past several years,” said Selig. “It is very rewarding for me to pass on some of my experiences and hopefully enrich their legal education by discussing sports law and business issues affecting the historical development, structure and operations of Major League Baseball.”

In Selig’s 18 years as Commissioner (both interim and permanent), the game has achieved record attendance, record revenue, and new heights in social consciousness. Under his leadership, baseball has enjoyed the

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longest period of labor peace since the inception of the Players Association. He led the change in baseball's economic landscape that has created the greatest competitive balance in the game's history and in American sports today, with nine clubs winning the last 10 World Series.

Selig brought Major League Baseball back to his native Milwaukee in 1970 and helped save the Brewers franchise with the building of Miller Park. Despite the worst economic conditions since the Great Depression, the Brewers have averaged 2,960,813 fans the past three seasons.

Selig has received numerous honors, including the Master of the Game Award from the National Sports Law Institute in 2000. Earlier this year, Selig received the Jackie Robinson Foundation's Lifetime Achievement Award and was honored with a statue at Miller Park

ADDITIONS TO THE SPORTS LAW CURRICULUM AT MARQUETTE UNIVERSITY LAW SCHOOL

In the past academic year several courses have been added to Marquette University Law School's sports law curriculum, which strengthen and enhance its breadth and depth.

- Professor Matthew Mitten, NSLI Director, and Rich Reider, President of RaR Consulting, LLC, taught a workshop on "Sports Sponsorship and Marketing Legal and Business Issues" for the first time in the spring 2011 semester. The course focuses "on the development of practical legal skills, including how to effectively negotiate and draft sports sponsorship and marketing contracts and to protect a client's contract and intellectual property rights in connection with sports sponsorship agreements and marketing arrangements."
- During Marquette University Law School's 2011 summer session in International and Comparative Law in Giessen, Germany, Professor J. Gordon Hylton will teach a course on "Comparative and International Sports Law." This course will analyze "the historical development of professional team sports, the structure of sporting organizations, the domestic and international governance of sport, . . .the impact of public regulatory regimes on the internal regulation of sport, . . .the legal status of athletes as employees, public and private efforts to eliminate doping, and the impact of intellectual property on sponsorship and promotion of sporting events."
- Rick Schlesinger, Executive Vice President - Business Operations, Marti Wronski, Vice President and General Counsel, and Teddy Werner, Senior Director, Business Operations, all with the Milwaukee Brewers Baseball Club, will teach a workshop on "Legal and Business Issues in Baseball" in the fall 2011 semester. The course "explores the legal and business issues that Major League Baseball and its member clubs encounter on a regular basis and their practical implications. Topics include an overview of the Collective Bargaining Agreement, player contracts, salary arbitration, media rights, sponsorships, and ballpark renovation."
- Attorney Joseph Tierney, III, shareholder with Meissner, Tierney, Fisher & Nichols, S.C., will teach a course focusing on "Sports Industry Taxation Issues" in the spring 2012 semester. This course "will introduce students to a range of tax law, policy, and practice issues arising in the amateur and professional sports industries, including the construction and financing of sports facilities, college athletics, the compensation of professional athletes (including federal, state, and international tax issues), and the structure and operation of professional sports leagues and franchises (including choice of entity, day to day operations and business sale)."

- Professor Paul Anderson, NSLI Associate Director, will teach a workshop on “Legal and Business Issues in Collegiate Athletics” for the first time in the spring 2012 semester. This course will “relate to challenges to intercollegiate eligibility and amateurism rules, academic progress and graduation rates; the NCAA’s Legislative Services Database (LSDBi), and enforcement of NCAA rules (including proceedings before the Committee on Infractions and Infractions Appeals Committee); athlete privacy (e.g., FERPA and HIPPA regulations); gender equity compliance; prevention of sexual and racial harassment; application of the Equal Pay Act, Title VII and collegiate coaching contract disputes; legal rights of former student-athletes (e.g., exploitation of right of publicity); the economics of collegiate athletics; and critiques of the collegiate model of athletics.”
 - Professor Anderson will also introduce a new workshop, “Legal Issues in Youth, High School, and Recreational Sports,” in the spring of 2013. This course will address issues such as “the application of the Federal Volunteer Protection Act; review of constitution/bylaws of youth sports organizations for legal compliance; comparative analysis of high school athletic associations and their status as state actors; constitutional rights in high school athletics; student-athlete prayer; gender equity compliance and concerns in high school athletic programs; prevention of sexual and racial harassment and hazing of student-athletes; waivers and releases of tort liability for injuries; premises liability; recreational safety and user statutes; legal duties of care and risk management; and participation rights of homeschooled students.”
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National Sports Law Institute 2010 Year in Review

by **Paul M. Anderson**, Editor & NSLI Associate Director

During 2010, the NSLI and the Sports Law program at Marquette University Law School continued to provide diverse educational opportunities for Marquette law students as well as current and future leaders in the sports industry. In addition, through various publications and events, the NSLI has continued to provide a national forum for the thoughtful consideration and discussion of American and international sports law and business issues. An overview of these activities and publications follows.

THE INCREASING REGULATION OF SPORTS IN A DECLINING ECONOMY

On Friday, October 22, 2010, the National Sports Law Institute hosted a conference titled *The Increasing Regulation of Sports in a Declining Economy* at the Marquette University Alumni Memorial Union. Conference sponsors included the law firms of Foley & Lardner, LLP and Greenberg & Hoeschen, LLC, along with the Sports & Entertainment Law Section of the State Bar of Wisconsin. The panels and speakers for the conference included:

PANEL 1: Changing Methods of ADR and Their Impact on Sports

- Moderator: Matthew Mitten, Professor of Law, Marquette University Law School, and Member, Court of Arbitration for Sport, Lausanne, Switzerland
- Topics and Panelists:
 - Jill Pilgrim, Principal & Business Counsel, Precise Advisory Group; President, The Center for The Protection of Athletes Rights, Inc.; Principal, Pilgrim & Associates Law Office (New York, NY and Miami, FL)

TOPIC → *Changing Methods of ADR and Their Impact on Sports*

- o Richard McLaren, Professor of Law, University of Western Ontario, London, Ontario, Canada, Counsel to McKenzie Lake Lawyers LLP, and Member, Court of Arbitration for Sport, Lausanne, Switzerland
TOPIC → *Sport Losing its Integrity? Corruption: Drugs & Gambling*
- o Ilhyung Lee, Edward W. Hinton Professor of Law & Senior Fellow, Center for the Study of Dispute Resolution, University of Missouri, Columbia, MO
TOPIC → *Culture in the Sports Dispute Resolution Forum*



Attorney Jill Pilgrim

PANEL 2: Economic & Legal Regulation of Sports: Part One

- Moderator: Patricia Cervenka, Professor of Law and Director, Marquette University Law Library

- Topics and Panelists:

- o Robert H. Lattinville, Partner, Stinson Morrison Hecker LLP, Saint Louis, MO
TOPIC → *Identifying and Cultivating Security in a Challenging Economy*
- o Matt Parlow, Associate Dean for Academic Affairs and Associate Professor of Law, Marquette University Law School, Milwaukee, WI
TOPIC → *The Impact of the Great Recession on the National Basketball Association*
- o J. Gordon Hylton, Professor of Law, Marquette University Law School, Milwaukee, WI
TOPIC → *The National Hockey League And The Great Recession Of 2008*
- o Martin Greenberg, Managing Member, Law Office of Martin J. Greenberg, LLC, and Member, Southeast Wisconsin Professional Baseball Park District, Milwaukee, WI
TOPIC → *It Takes A Village To Build A Sports Facility*



Attorney Bob Lattinville

PANEL 3: Economic & Legal Regulation of Sports: Part Two

- Moderator: Clark Griffith, Attorney at Law, Clark C. Griffith, P.A., and Commissioner, Northern League of Professional Baseball, Minneapolis, Minnesota
- Topics and Panelists:
 - Marti Wronski, Vice President and General Counsel, Milwaukee Brewers Baseball Club, Milwaukee, WI
TOPIC → *Milwaukee Brewers: Challenges and Opportunities*
 - Robert Kaler, Chief Operating Officer & General Counsel, United States Soccer Foundation Inc., Washington, D.C.
TOPIC → *Kickin' The Recession To The Curb?*
 - Jim McKeown, Antitrust Practice Chair, Foley & Lardner LLP, Milwaukee, WI
TOPIC → *Economic & Legal Regulation of Professional Sports: Antitrust & Competitive Balance*
 - Michael Small, Partner and member, Sports Industry Team and Business and Reorganization Practice, Foley & Lardner LLP, Chicago, IL
TOPIC → *What Drives a Team Into Chapter 11?*



Attorney Marti Wronski



Attorney Matt Banker

PANEL 4: Economic & Legal Regulation of Sports: Part Three

- Moderator: Jamie McGaver, Assistant Director of Compliance/Operations, Marquette University, Milwaukee, WI
- Topics and Panelists:
 - Sarah Bobert, Senior Associate Athletic Director - Internal Operations, and Senior Woman Administrator, Marquette University, Milwaukee, WI
TOPIC → *Title IX and its Impact on the Economics of College Sports*
 - Steve Cottingham, Director of Athletics, Marquette University, Milwaukee, WI
TOPIC → *Longhorns and Huskers and Bronco's! Oh My! Conference Expansion and Re-alignment*
 - Matt Banker, Assistant Commissioner for Institutional Services, Ohio Valley Conference, Nashville, IN
TOPIC → *A March to Financial Madness: The Economy's Impact on Division I Athletics' Operating Budgets & Legislative Proposals*

- o Rodney Fort, Professor, Sport Management and Associate Dean for Graduate and Faculty Affairs, School of Kinesiology, University of Michigan, Ann Arbor, MI
TOPIC → *Collegiate Athletic Spending: Arms Race or Principals and Agents?*

PANEL 5: Green Facility Law

- Moderator: Paul Anderson, Associate Director, National Sports Law Institute and Adjunct Professor of Law, Marquette University Law School, Milwaukee, WI
- Panelists:
 - o Greg Heller, Senior Vice President & General Counsel, Atlanta Braves, Atlanta, GA
TOPIC → *Legal Considerations for In-House Counsel on “Green” Projects*
 - o William Miller, Assistant Professor, Exercise Science & Sport Management, University of Wisconsin-Parkside, Kenosha, WI
TOPIC → *Developing Green Regulation and the Potential Impact on the Sports Industry*



Attorney Greg Heller

OTHER SPEAKER PRESENTATIONS

Throughout 2010 the NSLI hosted several other speaker presentations at Marquette University Law School, including:

- On January 21, 2010, Professor J. Gordon Hylton, discussed *Sports Leagues as Single Entities: The Historical Dimension*.
- On February 11, 2010, Professor Paul Anderson presented his annual discussion of *Current Issues in Sports Law* for students in the Sports Law program.
- On February 23, 2010, Attorney Lora Kaelber (L’02), a development officer with the Midwest Athletes Against Childhood Cancer Fund, and Attorney Andrea Hoeschen, Director of Health Initiatives with the Wisconsin Sports Development Corporation discussed *Working for a Charitable Sports Organization*.
- On March 25, 2010, Attorney Teddy Werner, Senior Director, Business Operations for the Milwaukee Brewers, discussed *Salary Arbitration in Major League Baseball*.
- On September 14, 2010, Associate Dean Matt Parlow discussed *Professional Sports League Commissioners’ Authority and Collective Bargaining*.
- On September 15, 2010, Attorney Christian Spears, Senior Associate Athletic Director at Northern Illinois University in DeKalb, Illinois, talked to students in the Sports Law program about *Current Issues and Careers in Collegiate Athletics*.

- On October 21, 2010, the NSLI hosted a panel on *Current Issues and Careers in Professional Sports*, which featured Greg Heller, Senior Vice President & General Counsel, Atlanta Braves; Teddy Werner, Senior Director, Business Operations for the Milwaukee Brewers; and Mike Sneathern, Associate Counsel, Milwaukee Bucks.
- On November 9, 2010, Professor Rich Reider, President of RaR Consulting, LLC, discussed *The Business of Sports Sponsorship*.

PUBLICATIONS

Marquette Sports Law Review

Under the leadership of 2009-2010 Editor-in-Chief Alex Porteshawver, Volume 20, Number 2 of the *Marquette Sports Law Review* was published in the spring of 2010. This issue included the following articles, surveys and comments:

- Richard McLaren, *Twenty-Five Years of the Court of Arbitration for Sport: A Look in the Rear-View Mirror*
- Robert Lattinville, Robert Boland & Bennett Speyer, *Labor Pains: The Effect of a Work Stoppage in the NFL On Its Coaches*
- Jack Sahl, *Entertainment Law—The Specter of Malpractice Claims and Disciplinary Actions*
- Nick DeSiato, *Silencing the Crowd: Regulating Free Speech in Professional Sports Facilities*
- Timothy Patrick Hayden, *Can Summer Training Camp Practices Land NFL Head Coaches in Hot Water?*
- Jessica Baranko, *Comment: It's My Name and Mine Alone: How Chad Ocho Cinco Affects the Right of Publicity*
- Kristen Knauf, *Comment: If You Build It, Will They Stay? An Examination of State-of-the-Art Clauses in NFL Stadium Leases*
- 2009 Annual Survey: *Recent Developments in Sports Law*
- Noel Johnson, *Book Review: The Little White Book of Baseball Law*
- Lance Kearns, *Book Review: Negotiate Like the Pros*
- Kristen Knauf, *Index: Sports Law in Law Reviews and Journals*



Under the leadership of 2010-2011 Editor-in-Chief Erica Reib, Volume 21, Number 1, was published in the fall of 2010. This issue featured articles written by members of the National Sports Law Institute's Sports Law Alumni Association, including the following:

- Paul Anderson, *Foreword: The National Sports Law Institute's Sports Law Alumni Association*
- Martin J. Greenberg & Bryan M. Ward, *Non-Relocation Agreements in Major League Baseball: Comparison, Analysis, and Best Practice Clauses*
- W. S. Miller, *Changing Playing Fields: The Sports Attorney's Obligation to Learn Green*
- Kristi L. Schoepfer & Mark Dodds, *Internships in Sport Management Curriculum: Should Legal Implications of Experiential Learning Result in the Elimination of the Sport Management Internship?*
- Lauren McCoy, *140 Characters or Less: Maintaining Privacy and Publicity in the Age of Social Networking*

- Thomas A. Hamilton, *The Long Hard Fall from Mount Olympus: The 2002 Salt Lake City Olympic Games Bribery Scandal*
- Marie-France Wilson, *Young Athletes at Risk: Preventing and Managing Consequences of Sports Concussions in Young Athletes and the Related Legal Issues*
- Noel Johnson, *Tinker Takes the Field: Do Student Athletes Shed Their Constitutional Rights at the Locker Room Gate?*
- Scott R. Chandler, *Whose Right is it Anyway?: How Recent Cases and Controversies Have Blurred the Lines Between First Amendment Protection and an Athlete's Right of Publicity*
- Alex Porteshawver, *Under Review: Stadium Construction and State Environmental Policy Acts*
- Kristen E. Knauf, *Shades of Gray: The Functionality Doctrine and Why Trademark Protection Should Not be Extended to University Color Schemes*
- Brittany Van Roo, *One Trilogy That Should Go Without a Sequel: Why the Baseball Antitrust Exemption Should Be Repealed*
- Alejandro Bautista, *Comment: College Football's Serial Murderer: Sick Cell Trait*
- Laurie C. Frey, *Comment: They Aren't Who We Thought They Were: The Importance of Genetic Testing in Major League Baseball to Prevent the Falsification of Players' Ages*
- Andrew Medeiros, *Book Review: Headless Horsemen: A Tale of Chemical Colts, Subprime Sales Agents, and the Last Kentucky Derby on Steroids*
- Jeremy Goff, *Book Review: Playing with the Boys: Why Separate is not Equal in Sports*
- Michael C. Shull, *Index: Sports Law in Law Reviews and Journals*



For the Record is the official newsletter of the National Sports Law Institute. Articles published in Volume 21 included:

- Martin Greenberg & Kaitlyn Wild, *Leaping Without Looking: MOU's Create Risks When Universities Do Not Know Their Legal Significance*
- Samuel Owens, *A Public Interest Perspective on College Sports Amateurism: Reframing the Exploitation of NCAA College Athletes*
- Martin Greenberg, *The Use of Clawback Clauses in College Coaches' Contracts*
- *2009-2010 Sports Law Survey* (a summary of the results of a survey of members of the American Association of Law Schools to determine sports law's prevalence as an area of study)
- Martin Greenberg & Clark Griffith, *Head Coach's Authority to Hire Assistant Coaches and the Necessity of a Paper Trail*
- Carrie Leonetti, *The Art of Discretion: Umpires as Judges*
- Laurence Landsman, *Financial Fraud is One of the Biggest Off-Field Challenges to NFL Players*
- Alexander Pendleton & William Fischer, *Michigan Supreme Court Holds Releases Signed by Parents Are Unenforceable*

Sports Facility Reports



Sports Facility Reports (SFR) is an online newsletter published online annually at <http://law.marquette.edu/jw/sfr>. SFR provides information related to the sports facility industry. Volume 11 included the following articles and compilations of research:

- Bill Miller, *The Greening of Professional Sports: Developing Professional Responsibility and Ethical Challenges for Sports Attorneys*
- Bill Miller, *Developing Green Regulation and the Potential Impact on the Sports Industry*
- *Green Facility Resource List*
- Reports
 - ◊ Major League Stadium/Arena Referendum Information
 - ◊ Facility Update Charts
 - ◆ Major League Baseball (appendix 1a & appendix 1b)
 - * Minor League Baseball™ (appendix 1.1)
 - * Minor League Baseball™ (appendix 1.2)
 - * Minor League Baseball™ (appendix 1.3)
 - ◆ National Basketball Association (appendix 2)
 - * Other Basketball Leagues (appendix 2.1)
 - ◆ National Football League (appendix 3a & appendix 3b)
 - * Other Football Leagues (appendix 3.1)
 - ◆ National Hockey League (appendix 4)
 - * Other Hockey Leagues (appendix 4.1)
 - * Other Hockey Leagues (appendix 4.2)
 - ◆ Soccer (appendix 5)
 - ◆ Motorsports (appendix 6)

You Make the Call. . .



The *You Make the Call. . .* online newsletter provides analysis of significant cases impacting the sports industry. It is published online twice annually at <http://law.marquette.edu/jw/ymtc>. Volume 12, Number 1, includes cases from January 1 until June 30, 2010, covering the following areas of law:

- Alternative Dispute Resolution
- Agency/Fiduciary Duty
- Constitutional Law
- Contract Law
- Court of Arbitration for Sport Decisions
- Disability Law
- Labor Law
- Miscellaneous
- Products Liability
- Property Law
- Title IX
- Tort Law

- Discrimination Law - Race
- Discrimination Law - Gender
- Drug Testing Issues
- Employment Law
- Intellectual Property Law
- Intellectual Property Law (Part Two)
- Tort Law (Part Two)
- USADA Arbitration Decisions
- USOC Arbitration Decisions
- World Intellectual Property Organization Decisions
- Worker's Compensation

Volume 12, Number 2, including cases from July 1 until December 31, 2010, includes cases covering similar areas of law including:

- AAA Decisions
- Antitrust Law
- Bankruptcy Law
- Civil Rights Law
- Constitutional Law
- Contract Law
- Court of Arbitration for Sport Decisions
- Criminal Law
- Disability Law
- Employment Law
- Family Law
- High School Eligibility Issues
- Insurance Law
- Intellectual Property Law
- Property Law
- Securities Law
- Tax Law
- Title VII
- Title IX
- Tort Law
- World Intellectual Property Organization Decisions



Attorney Elsa Cole
2010 Joseph E. O'Neill Award Winner

JOSEPH E. O'NEILL AWARD

This 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 winner of the 2010 award was Elsa Cole, former Vice President of Legal Affairs/General Counsel for the NCAA.

SPORTS LAW ALUMNI ASSOCIATION

The National Sports Law Institute's Sports Law Alumni Association (SLAA) includes Marquette University Law School graduates who are committed to supporting the NSLI and Sports Law program after graduation.

Among other functions, SLAA members raise funds for student scholarships and support NSLI events, including Alumni Career Panels and Sports Law Alumni lunches.

During 2010, the NSLI hosted two Sports Law Alumni Career Panels. The first panel took place on March 9th and featured Jason Kuiper (L'06), Program & Policy Analyst – Advanced, Department of Human Resources, University of Wisconsin – Milwaukee; Jaime McGaver (L'07), Assistant Director of Compliance/

Operations, Marquette University; Brent Moberg (L'04), Director of Compliance, University of Notre Dame, South Bend, Indiana; Megan Ryther (L'07), Associate Attorney, Quarles & Brady LLP, Milwaukee; and Justin Pollnow (L'08), Assistant Athletic Director for Compliance & Student Services, University of Wisconsin - Green Bay. The second panel held on November 18, 2010, celebrated the ten year anniversary of the creation of the NSLI's Sports Law Certificate, and featured alumni recipients of the Certificate, including: Tiffany Jones (L'09), Peterson, Johnson & Murray SC, Milwaukee; Danez Marrable (L'03), Associate A.D./Student Support Services, University of Alabama – Birmingham; Lauren McCoy (L'09), Assistant Professor, Sports Management, University of Wisconsin-Parkside, Kenosha; Ben Menzel (L'02), Attorney, Beck, Chaet, Bamberger & Polsky, S.C., Milwaukee; Erica Reib (L'11), Editor-in-Chief, *Marquette Sports Law Review*; and Dirk Vanover (L'08), In-House Counsel, BUYSEASONS, Inc., New Berlin, Wisconsin.

Alumni who participated in Sports Law Student/Alumni Networking lunches in 2010 included: Lora Kaelber (L'02), Midwest Athletes Against Childhood Cancer (MAAC) Fund, Inc., Milwaukee; Nick DeSiato (L'08), Law Clerk, Milwaukee County Circuit Court, Milwaukee; and Lauren McCoy (L'09), Assistant Professor, Sports Management, University of Wisconsin-Parkside, Kenosha.

Annual Golf Outing

On Saturday October 9, 2010, Marquette University Law School's Sports Law Society and the National Sports Law Institute's Sports Law Alumni Association hosted the Annual Sports Law Golf Classic at Silver Spring Golf Club. Proceeds from the Classic support scholarships for Marquette sports law students.

Charles Mentkowski Sports Law Alumnus of the Year Award

This award is given annually to an alumnus who has supported the NSLI and the MULS Sports Law program while making a significant impact on the sports industry. The 2010 recipient was Mike Sneathern, a member of the class of 2002, and Associate Counsel, Milwaukee Bucks.

STUDENT SCHOLARSHIPS & ACHIEVEMENTS

Annual Alumni Scholarships

Alumni Scholarships are given each year to support scholarships for the editors of the *Marquette Sports Law Review*. The 2009-2010 recipients of these scholarships were Jessica Baranko, Lindsay Caldwell, Kristen Knauf, and Alex Porteshawver.

Annual Alumni Achievement Award

The Alumni Achievement Award is given to a second year student based on his or her performance in sports law, performance as a member of the *Marquette Sports Law Review*, service to the Sports Law Society, and service to NSLI and Sports Law Program events and activities. The 2010 winner of this award was Ashley Fale.



Attorney Mike Sneathern
2010 Sports Law Alumnus of the Year

Anne Wall Brand Protection Award

This award is given annually to the J.D. or joint J.D./M.B.A. student at Marquette University who is judged to have written the best article on "sports brand protection." The winner of the 2010 Wall Award was Will Rakestraw, for his article *NFL's Exclusive Dealing With Electronic Arts: Intellectual Property Protections Versus Potential Antitrust Concerns*.

Francis D. & Jane Keogh Kelly Scholarship

This scholarship recognizes a student in the Sports Law Program for excellence in the study of sports law and service to the Program. The recipient of the 2009-2010 scholarship was Alex Porteshawver, the Editor-in-Chief of the *Marquette Sports Law Review* for 2009-2010.

Joseph E. O'Neill Prize for Student Writing

This prize is awarded to the student who has published the best article in the *Marquette Sports Law Review* during the academic year as judged by its Advisory Board. In 2010, there were joint winners of this award: Jessica Baranko, *It's My Name And Mine Alone: How Chad Ochocinco Affects The Right Of Publicity*, 20 MARQ. SPORTS L. REV. 463 (2010); and James Halt, *Where is the Privacy in WADA's "Whereabouts" Rule?*, 20 MARQ. SPORTS L. REV. 267 (2009).



Jessica Baranko, 2010 O'Neill Prize for Student Writing Winner

Joseph E. Tierney Jr. Award

This award was created by the NSLI in remembrance of Joseph Tierney, Jr., a former NSLI Board Member and strong supporter of the Institute. The award is given to the student in the Sports Law Program who graduates with the highest grade point average in sports law classes that satisfy the requirements for the Sports Law Certificate. The recipient of the 2010 award was James Halt.

Martin J. Greenberg Award

This award is presented in honor of former NSLI 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 recipient of the 2010 award was Lindsay Caldwell. Lindsay excelled in the classroom and was the Executive Editor of the *Marquette Sports Law Review* in 2009-2010.



Lindsay Caldwell, 2010 Martin J. Greenberg Award Winner

Martin J. Greenberg Venue Excellence Award

This award was created through the generosity of the Martin J. Greenberg family trust. It is given to a student in the *Sports Venues; From Election Day to Game Day* seminar in recognition of his or her performance in class and contribution to the Sports Law Program. The co-winners of the 2010 Venue Award were Kristen Knauf, the 2009-2010 Lead Articles Editor for the *Marquette Sports Law Review*, and Nick Walls, the 2009-2010 President of Marquette's Sports Law Society.



Sports Law Certificate Recipients

The following alumni earned the National Sports Law Institute's Sports Law Certificate upon graduating from Marquette University Law School in May or December of 2010 (pictured above): {back row from left} Nick Walls, Kaitlyn Wild, Lindsay Caldwell, Noel Johnson, Scott Luzi, Lance Kearns, Jon Seamon, Ethan Rector, Ben Cohen; {second row from left} Jason Prekop, Jeremy Joffray, James Theis, Nick Reider, Will Rakestraw, Matt Tiesling, James Halt, Adam Finkel; {first row from left} Alex Porteshawver, Jessica Baranko, Kristen Knauf, Ashley Wilson, Marie-France Wilson (recipient of the LL.M. in Sports Law), Nicole Standback, and Alexis Henderson; {not pictured} Adam Ben-Zikri, Scott Chandler, Kyle Hager, Mark Suhr, and Brittany Van Roo.

National Sports Law Student Writing Competition and Award

The goal of the National Sports Law Student Writing Competition is to encourage law student scholarship on current topics in sports law. The 2010 winner of this Award was Brittany Van Roo, a

member of Marquette University Law School's 2010 graduating class. Her article, *One Trilogy That Should Go Without a Sequel: Why the Baseball Antitrust Exemption Should Be Repealed*, was published in the fall 2010 issue of the *Marquette Sports Law Review*.

Sports Law Moot Court Team

Marquette University Law School's 2009-2010 Sports Law Moot Court team competed in National Sports Law Moot Court Competition held in New Orleans in February of 2010. Team members included Jessica Baranko, Lindsay Caldwell, and Nicole Standback.

SPORTS LAW INTERNSHIPS

In order to earn the NSLI's Sports Law Certificate, Marquette University Law School students must complete a one semester volunteer internship. In 2010, the NSLI hosted student interns within the following organizations: Gamebreakers College Coaching Representation Group, Hicks Sports Group, Lewis University Athletic Department, MACC Fund, Marquette University Athletic Department, Milwaukee Brewers, Milwaukee Bucks, Milwaukee Wave, National Sports Law Institute (Court of Arbitration for Sport Indexing Project), National Sports Law Institute Professional Sports Lease Indexing Project, NIKE Legal Department, Northern Illinois University Athletic Department, South Milwaukee High School, Southeast Wisconsin Professional Baseball Park District, Sports Contract Management System Project (with USA Today and Premier Stinson Sports LLC), SportsBiz Television Show, Start Playing Safe High School Risk Management Group, University of Wisconsin-Green Bay Athletic Department, University of Wisconsin-Madison Athletic Department, University of Wisconsin-Milwaukee Athletic Department, University of Wisconsin-Parkside Athletic Department, Wedge Real Estate Development, and the Wisconsin Sports Development Corporation.

USA TODAY/NSLI COACHES' SALARY DATABASE

In 2010, the NSLI began to collaborate with *USA Today*, Premier Stinson Sports (PSS) and Stinson Morrison Hecker LLP, in the collection and analysis of employment contracts for NCAA Division I college athletics directors. The partnership produces a database - parts of which are published online (<http://www.usatoday.com/sports/college/football/2010-coaches-contracts-database.htm>) and in print by *USA Today*.

SPORTS LAW RESEARCH WEBSITE

In 2010 the NSLI enhanced its website in order to assist law professors, students, sports lawyers and others in the sports business by providing them with access to information useful to their research and practice.

- The Sports Law Research Website (<http://law.marquette.edu/jw/research>) contains links to sports law cases, periodicals, documents, academic resources, organizations, international resources, and facility research.
- The Sports Organizational Documents Page (<http://law.marquette.edu/jw/sldocs>) links to organizational documents that can be found online, including collective bargaining agreements, NCAA manuals and publications, college coaching contracts, international competition rules and decisions, state high school athletic association manuals, and various federal materials.
- The Sports Links Page (<http://law.marquette.edu/jw/links>) categorizes useful links to organizations and websites throughout the sports industry.

- The International Sports Law Resources website (<http://law.marquette.edu/cgi-bin/site.pl?2130&pageID=3464>) contains information about materials held at the NSLI and Marquette University Law School, including awards and case digests, comparative treatises, conference materials, journals and Olympic materials.

NSLI DIRECTORS' PUBLICATIONS AND ACTIVITIES

Professor Matt Mitten, the NSLI's Director, published the following books and articles:

- *Sports Law and Regulation: Cases, Materials, and Problems* (2d. Ed.) (co-authored with Timothy Davis, Rodney Smith, and Robert Berry) (2009); January 2010 and August 2010 Supplements.
- *American Needle v. NFL: U.S. Professional Clubs Are Separate Economic Threads When Jointly Marketing Intellectual Property*, International Symposium on Sports Law, Proceedings of the 60th Congress of the International Association of Legal Science, Istanbul, Turkey, May 13, 2010 (forthcoming).
- "Sports Law": *Implications for the Development of International, Comparative, and National Law and Global Dispute Resolution*, 85 TUL. L. REV. 269 (2010) (with Hayden Opie).
- *Targeted Reform of Commercialized Intercollegiate Athletics*, 47 San Diego L. Rev. 779 (2010) (with James L. Musselman and Bruce W. Burton)

Professor Mitten participated in the following conferences and seminars:

- Speaker, *Sports Medicine Risk Management for College and University Counsel*, National Association of College and University Attorneys 50th Annual Conference, Washington, D.C., June 29, 2010.
- Speaker, *Olympic and Professional Drug Testing Legal Issues*, 57th American College of Sports Medicine Annual Meeting, Baltimore, MD, June 4, 2010.
- Panel Organizer and Moderator, *When is a "Sports Lawyer" Not a Lawyer?*, 36th Annual Sports Lawyers Association Conference, Phoenix, AZ, May 21, 2010.
- Moderator and Speakers, *Teaching Sports Law*, 36th Annual Sports Lawyers Association Conference, Phoenix, AZ, May 21, 2010.
- Speaker, *Antitrust Law Limits on U.S. Professional Sports League Centralized Licensing and Internal Regulation of Intellectual Property Rights*, International Symposium on Sports Law, 60th Congress of the International Association of Legal Science, Istanbul, Turkey, May 13, 2010.
- Speaker, *Olympic Sports Arbitration*, Ohio State University College of Law, Columbus, OH, February 12, 2010.
- Speaker, *Sports Medicine Legal Issues and Risk Management*, Ohio State University Sports Medicine Grand Rounds, Columbus, OH, February 12, 2010.
- Presider, *Taxation and Legal Issues of College Sports Programs*, NCAA Scholarly Colloquium on College Sports, Atlanta, GA, January 12, 2010.



- Speaker, *Drug Testing and Sports Medicine Legal Issues in NFL Collective Bargaining: The Need for Uniformity*, American Association of Law Schools Section on Law and Sports, New Orleans, LA, January 9, 2010.

Professor Paul Anderson, the NSLI's Associate Director, published the following chapters, articles, and books:

- Editor of *SPORTS BETTING AND THE LAW*, ASSER International Sports Law Centre (in press 2011) (with Rob Siekmann and Ian Blackshaw).
- *Chapter 11: Legal Responsibilities and Chapter 12: Legal Rights and Business Responsibilities*, in *SUCCESSFUL SPORTS OFFICIATING (Volume 2)* (in press 2011).
- *The U.S. System for Regulating Internet Gambling and The Regulation of Gambling Under U.S. Federal and State Law*, in *SPORTS BETTING AND THE LAW* (in Press 2011) (with Siekmann and Blackshaw).
- *Chapter 7.22: Principles of Trademark Law*, in *LAW FOR RECREATION AND SPORT MANAGERS (5th Ed.)* (Cotten and Wolohan, Editors) (2010).
- *The Regulation of Gambling in the United States*, *INTERNATIONAL SPORTS LAW JOURNAL*, 2009. 1/2, 68-75.
- *Regulation of Gambling on the Internet*, *INTERNATIONAL SPORTS LAW JOURNAL*, 2009. 1/2, 75-80.

Professor Anderson participated in the following conferences, seminars, and discussions:

- Organizer, Moderator, and Panelist, *Current Issues in Sports Law Roundtable*, as part of the "A Mirror of our Culture: Sports in Society," Conference co-sponsored by the Green Bay Packers and St. Norbert College, Lambeau Field, May 27, 2010 (Presented materials related to Gender Equity in College Athletics, Drug Testing in Professional Sports, Antitrust Law's Impact on Professional Sports, and Athlete Right's in Their Image/Likeness.)
- Organizer and Moderator, *Ethical Issues in Entertainment and Sports Law*, Sports & Entertainment Law Section of the State Bar of Wisconsin, Marquette University Law School, April 15, 2010.
- *Sports Law?*, Open House for Admitted Students, Marquette University Law School, March 27, 2010.
- Co-Organizer, *Emerging Issues in Sports Wage and Hour Cases Panel*, Emerging Issues in Wage and Hour Cases, Marquette University Law School Labor and Employment Law Program, Milwaukee, Wisconsin, March 12, 2010.
- *Title IX: The 2000s and Beyond*, 23rd Annual Conference on Sport, Physical Activity, Recreation and Law, Albuquerque, New Mexico, March 5, 2010 (with B. Osborne).
- *Current Issues in Sports Law 2009-2010*, Marquette University Law School, February 11, 2010.





MOVE TO ECKSTEIN HALL

On July 8, 2010, the National Sports Law Institute opened in its new location in the Howard Eisenberg Suite, room 138A, within the new home of the Marquette University Law School, Eckstein Hall (<http://www.marquette.edu/law/>). The Institute's office contains the sports law library, the NSLI's sports agreement and arbitration decision holdings, and student work and meeting space. The *Marquette Sports Law Review* is housed on the third floor of Eckstein Hall in the Robert Boden Suite, room 336D.



SPORTS LAW IN LAW REVIEWS AND JOURNALS*

AMATEUR SPORTS ISSUES

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- Andrew B. Carrabis, *Strange Bedfellows: How the NCAA and EA Sports May Have Violated Antitrust and Right of Publicity Laws to Make a Profit at the Exploitation of Intercollegiate Amateurism*, 15 BARRY L. REV. 17 (2010).
- Richard G. Johnson, *Submarining Due Process: How the NCAA Uses Its Restitution Rule to Deprive College Athletes of Their Right of Access to the Courts . . .Until Oliver v. NCAA*, 11 FLA. COASTAL L. REV. 459 (2010).
- Robert A. McCormick & Amy Christian McCormick, *A Trail of Tears: The Exploitation of the College Athlete*, 11 FLA. COASTAL L. REV. 639 (2010).
- Josephine R. Potuto & Jerry R. Parkinson, *If It Ain't Broke, Don't Fix It: An Examination of the NCAA Division I Infractions Committee's Composition and Decision-Making Process*, 89 NEB. L. REV. 437 (2011).
- Glenn M. Wong, Warren Zola, & Chris Deubert, *Going Pro in Sports: Providing Guidance to Student-Athletes in a Complicated Legal and Regulatory Environment*, 28 CARDOZO ARTS & ENT. L.J. 553 (2011).

ANTITRUST LAW

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- Matt Carter, *Comment, Punting on Logic: The Roberts Court to Sack Small Business Once Again in American Needle v. NFL*, 30 LOY. L.A. ENT. L. REV. 477 (2010).
- Steve E. Cavezza, *"Can I See Some ID?": An Antitrust Analysis of NBA and NFL Draft Eligibility Rules*, 9 U. DENV. SPORTS & ENT. L.J. 22 (2010).
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- Nathaniel Grow, *Antitrust and the Bowl Championship Series*, 2 HARV. J. SPORTS & ENT. L. 53 (2011).
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- Robert S. Jeffrey, *Note, Beyond the Hype: The Legal and Practical Consequences of American Needle*, 11 FLA. COASTAL L. REV. 667 (2010).
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- Kelly M. Vaughn, *Note, First and Goal: How the NFL's Personal Conduct Policy Complies with Federal Antitrust Law*, 96 CORNELL L. REV. 609 (2011).

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- Nicolas Saenz, *Note, Sports Franchise Bankruptcy: A New Way for Team Owners to Escape League Control?*, 10 VA. SPORTS & ENT. L.J. 63 (2010).

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- John K. Tokarz, *Comment, Involuntary Servants: The NCAA's Abridgement of Student-Athletes' Economic Rights in Perpetuity Violates the Thirteenth Amendment*, 2010 WIS. L. REV. 1501 (2010).

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- David Feingold, *Note, Who Takes the Heat? Criminal Liability for Heat-Related Deaths in High School Athletics*, 17 CARDOZO J.L. & GENDER 359 (2011).
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- John R. Wallace, *Note, Discriminatory & Disparaging Team Names, Logos, & Mascots: Workable Challenges & the Misapplication of the Doctrine of Laches*, 12 RUTGERS RACE & L. REV. 203 (2011).
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- Anna Peterson, Comment, *But She Doesn't Run Like a Girl . . . : The Ethic of Fair Play and the Binary Conception of Sex*, 19 TUL. J. INT'L & COMP. L. 315 (2010).

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- David Adelsberg, Note, *Did the MLBPA Strike Out? An Analysis of Union Liability in Major League Baseball's Anonymous 2003 Steroid Testing*, 28 CARDOZO ARTS & ENT. L.J. 695 (2011).
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- Stacey B. Evans, Survey, *Sports Agents: Ethical Representatives or Overly Aggressive Adversaries?*, 17 VILL. SPORTS & ENT. L.J. 91 (2010).

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- Jeremy H. Danney, *Comment, Sacking CEQA: How NFL Stadium Developers May Have Tackled the California Environmental Quality Act*, 19 PENN. ST. ENVTL. L. REV. 131 (2011).
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- Andrew D. Appleby, *Leveling the Playing Field: A Separate Tax Regime for International Athletes*, 36 BROOK. J. INT'L L. 605 (2011).
- John D. Colombo, *The NCAA, Tax Exemption, and College Athletics*, 2010 U. ILL. L. REV. 109 (2010).

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- Richard T. Karcher, *Rethinking Damages for Lost Earning Capacity in a Professional Sports Career: How to Translate Today's Athletic Potential Into Tomorrow's Dollars*, 14 CHAP. L. REV. 75 (2010).
- Tom Kennaday, *Sports Participant Liability in South Carolina: The District Court Takes a Swing*, 22 S. CAROLINA LAWYER 20 (Jan. 2011).
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- Joseph F. Dorfler, *Casenote, America's Cup in America's Court: Golden Gate Yacht Club v. Societe Nautique de Geneve*, 18 VILL. SPORTS & ENT. L.J. 267 (2011).
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- Mitchell Nathanson, *Truly Sovereign at Last: C.B.C. Distribution v. MLB AM and the Redefinition of the Concept of Baseball*, 89 OR. L. REV. 581 (2010).
- Michael R. Wilson, *Why So Stern?: The Growing Power of The NBA Commissioner*, 7 DEPAUL J. SPORTS L. CONTEMP. PROBS. 45 (2010).
- Glenn M. Wong & Chris Deubert, *National Basketball Association General Managers: An Analysis of the Responsibilities, Qualifications, and Characteristics*, 18 VILL. SPORTS & ENT. L.J. 213 (2011).

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