Each league has a commissioner: 5/

NFL
- franchisee
- commissioners are voted in by the owners

STRONG Paul "Tags" (used to be league lawyer)
brought "labor peace" to NFL
1988-1992;
Salary cap
PROFITABILITY is guaranteed
65% DGR (TV/Radio) → PLAYERS
designated gross revenue
fans in stand
35% + ads, parking, concession → OWNER
Media revenue (TV, radio, internet, etc...)
"best interest of the sport" & "integrity of ga

- all commissioners in all leagues must approve the contract.

NBA
- franchisee
David Stern (used to be league lawyer)
in bad markets
Labor: have salary cap
"Larry Bird" exception - no more "future picks"
can only pay min. amt & max. amt. of $.
baseball union * Marvin Miller - #1 labor attorney - fight w/ manag
profitability
Media - OK deal; not great

NHL
- franchisee
WEAK → Gary Bettman - lawyer for NBA before now
no salary cap - Labor
- lots of free agents
TV deals: 1 in Canada / 1 on ESPN - sun. nights
Profitability - NO. Individual franchises ar
profitable (ie: Rangers, big markets) (local dea
strong labor union

MLB
- franchisee
WEAK → - "Bud" Seelig (also owner of Milwalkee)
strong labor
TV - FOX (local market)
owner doesn't have instant profitability
Luxury tax - to stop rich owners (Steinbrener)
from spending lots of $.
no salary cap

MSL
single entity league
Lamar Hunt & Ahschwitz (own 5 out of 7 teams)
no commissioner
no TV deal
no labor deal (Johnny Kerr)

---

each commissioner has 6-year term, but are usually in office for a long time.

Los Angeles Rams v. Cannon (1960)

Facts:
- P wants injunction to restrain Δ from playing football or engaging in related activities for anyone other than the Rams
- Δ was called by Rozelle in regards to the draft.
- Δ was selected in first round
- Δ signed 3 contract forms for 1960, 1961, 1962 & received 2 checks
- Rozelle left 1 contract to be filled out by Commissioner Gunsel
- Δ contacted by Oilers
- Δ revoked Rams offer & returned check

Issue: Was a contract formed?

Holding: No. Only 1 set of the contract was signed by the Commissioner.

Condition Precedent ↓

- approval by Commissioner is essential to the formation of a contract here and that is because the terms of the document say so.

- the wording of the contract: "shall become valid ... only when ... and if ... it shall be approved" "IF" means it might not happen at all.

- this was no more than an offer by Cannon to play football for the Rams until accepted by them and approved by the Commissioner.

Detroit Football Co. v. Robinson (1960)

Facts: - Robinson solicited to join Lions
- received cash advance
- Robinson persuaded to sign with Dalla
- told Lions on Dec. 29 he revoked
- his "contract" was approved by the commissioner on Jan. 4

Issue: Was there a binding contract?

Holding: No. Look at the instrument:
"this agreement shall become valid and binding upon each party hereto only when, as and if it shall be approved by the Commissioner.

- all Robinson executed was an offer which had not yet been unconditionally accepted by Detroit when he withdrew it Dec. 29.

the
Commissioners consent to a contract
a condition precedent or subsequent
to a contract?

condition precedent

Milwaukee American Ass'n v. Landis (1931)

Facts:
- Δ was commissioner & disapproved of optional contract btwn. St. Louis and Milwaukee of Bennett, a player
- Commissioner reserved the right to call Bennett back to St. Louis
- π wants to restrain commissioner from interfering with the relation between Bennett and π a with Bennett & St. Louis

Issue: Did the commissioner act within his authority?

Holding: Yes. Commissioner is empowered to investigate upon his own initiative and act, transaction or practice charged or alleged to be detrimental to the best interest of baseball.

Sample v. Gotham Football Club (1973)

Facts: – π was injured in pre-season game
- contract was breached
– contract stated that "if a player is injured in the performance of his services under this contract... the club will... continue during the term of the contract, to pay player his salary."
- Δ wants motion to dismiss.
- Δ says there were 3 one-year contra
- π says he thought it was a 3-yr. contract.

Issue: Should Δ's motion to dismiss be granted?

Holding: No. A substantial fact issue existed in whether the player met prerequisites of a contract, which precludes summary judgment.

---

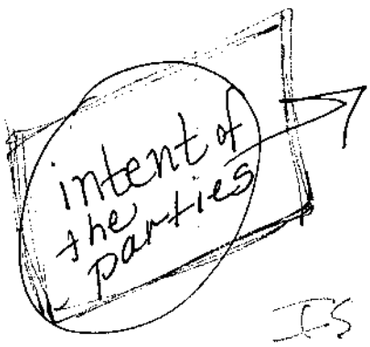
* Football doesn't have a guaranteed contract

Why? - nature of the sport
- so many players

NFL Contracts are year-to-year.

Tollefson v. Green Bay ~~Packers~~ (1950)

Facts:
- π played with Packers for 2 yrs
- in 1946 entered into contract which said π would get $300 per game unless he was discharged for cause.
- "Minimum $3600 for season" was printed by the manager in contract.
- practiced w/ team and played a regular league game
- π seeks $2700 difference



Is contract ambiguous? court decide this

Issue: Was π entitled to full sum of $3600?

Holding: Yes. If π would have only bee entitled to $3,600 if he completed season's play, there wouldn't have been reason for the insertion of the minimum claus

π was entitled to amount stated unless he was discharged for cause

---

look at 4-corners of the document.

Parole Evidence rule - can't bring in evidence outside of 4-corners of contract.

5/22

Injured players.

Tillman v. ~~New Orleans Saints~~ balancing test between the injured & one who is being relea

- player had arthritis / degenerative conditio from playing sport.
- need to have an objective finding player has to provide evidence that he is inju
  - show it is caused by that occurrenc
  - ★ show an X-Ray or MRI ★

1-47 Schultz ~~must have notice~~

slipped disk

player must demonstrate injury was causally related to impact his ability to play football.

focus on the core of the bargain - ~~INTENT~~, plain meaning of the contract

- pain is incredibly subjective.

Witnesses would be:

- ~~doctor~~
- other players (people who saw him play)

put yourself in trying to make the case

remedy

Jim Catfish Hunter v. Finley (1976)

- deferred payments to player; didn't make them

if a material breach, the court can allow the agreement to become voidable. (the breachee)

Catfish is now free agent.

Alabama Football v. Greenwood (1978)

- competition between leagues

What does a signing bonus?

- something you get for signing? or something different?

Greenwood said: a signing bonus is a signing bonus - (as opposed to $ paid over time)

Signing bonus still is to this day, but they are also $ over time.

Alabama Football Inc. v. Stabler (1975)

Facts: - Stabler signed agreement; $50,000 signing bonus & additional $50,000
- would play for Alabama for 7 years after contract expired w/ Raiders. for total of $875,000.
- also prohibited him from signing with any other franchise
- he received $50,000
- only got $10,000 when he asked for the balance.
- team said they had no $ to pay him.
- another $10,000 was paid
- $30,000 note not paid - Stabler asked court to prohibit the use of his name by Alabama Football
- trial court said Stabler didn't have to repay $.

Holding: affirmed. Stabler was exploited by Alabama by helping to sell tickets.

"a party may not disaffirm a voidable contract and at the same time enjoy the benefits received thereunder."

Equity - he only gets to keep what he had - wasn't owed any more -

Philadelphia Ball Club, Ltd. v. Lajoie (1902)

Facts: - Δ contracted to play [redacted] baseball
- violated contract by playing for a rival organization
- court refused injunction.

"The Δ's services must be unique, extraordinary, and of such character as to render it impossible to replace him..."
- court said contract lacked mutual
- Ball Club appealled.

Holding: Lajoie was of such unique character & displayed special knowledge & skill that was of peculiar value of π & difficult of substitution - loss would produce irreparable injury.

- Breach of good faith
- Specific performance

"bright star" quote

3 ways to deal with this:

1. - Specific performance
2. - monetary damages for breach (don't ~~Know - players are unique - difficult~~
3. - Contract enforced so he can't play for another team. Why? Because he was a particularly good player

- negative enforcement.

Central N.Y Basketball, Inc v. Barnett (196

Facts: - Δ was #1 draft pick of π in 195
- In July 1961, Δ signed w/ Cleveland for a term from Sep. 1961 - Sept. 196
- π says Δ was under contract w/ π.
- Δ says he is not unique & skilled basketball player.

Holding: - court finds for N.Y. Basketball.
- no unreasonable acts by π
- evidence shown that he is outstanding b-ball player of unusual attainments & exceptiona skill & ability - Value to π.

- the renewal provisions of contrac are valid & enforceable.

~~- π may not be the star, he is a star~~

Barnett is just an average player. Apply same Lycie logic.

Nassau Sports v. Hampson (1972)

Facts:
- Δ is hockey player w/ North Stars
- contract permits assignment of Δ's services to "any other professional hockey club."
- services assigned to Nassau Sports (Islanders)
- signed w/ Midwest Saints — newly formed World Hockey Ass.

ON EXAM *

4 part test:

1. Does π have probability of success @ trial
2. Had π shown irreparable injury?
3. Will interest of other party be imparred?
4. Effect on public interest?

Holding: π failed to satisfy 3 of 4 tests required for preliminary injunction.

must satisfy all 4. (realistically this might not happen)

preliminary injunctions

apply the test

Boston Celtics L.P. v. Shaw (1990)

Facts:
- Shaw signed w/Celtics – promised he would cancel his commitment w/ Stal team for next year.
- Shaw threatened to break agreement
- Arbitrator found that Shaw must kee agreement.
- Shaw appealled.
- Decision affirmed

Issues:
1) Arbitration award was unlawful? (YES)
2) District Court followed improper procedures? (YES)

Holding: Shaw bound himself to a collective bargaining agreement.

Ask 4 questions? Apply the test

1.) Celtics have likelihood of sucess on merits – arbitration is lawful.

2) Would cause irreparable harm – lose a star player.

3). Balance of harms favors "Celtics"

4) Would not harm public interest.

5/27

Defined Gross Revenues, DGR

Salary cap – began in 1993

teams make certain amt. of $
% goes to player, % goes to owner

- TV & Radio
- Tickets

— PLAYERS GET 67% OF DG
— OWNERS GET 33% OF DG

NON-DGR – OWNERS GET ALL OF TH

- CONCESSIONS
- PARKING
- Merchandise (if in the province of the owner (LOCAL REVENUE)
- STADIUM NAMING RIGHTS
- PSL (personal seat license)

EXAMPLE:

"PLAYER X" $4 MILLION – signing bonus / 4 = $1M

$77,000,000 2003 CAP

		CASH	CAP (pro-rate signing bonus)
2003	$500,000	$4.5M	$1.5M
2004	$1,500,000	$1.5M	$2.5M
2005	$2,000,000	$2M	$3M
2006	$2,500,000	$2.5M	$3.5M

divide cap by # years of contra

5/05

TORT LIABILITY:

pg. 2-4

Griggas v. Clawson (1955)

Facts: -- P & defendant on different amateur basketball teams.
- P was struck by D
- D swearing, said 'teach him a lesson'
- P has to wear glasses now, headaches
- dropped out of School (college)

Issue: Was jury's award of $2,000 to P excessive?

Holding - P's Med. bills were $362.10 ; jury is entitled to grant exemplary damages.

Manning v. Grimsley (1981) p. 2-4

Facts: - P is spectator at prof. baseball ga
- D is pitcher of Baltimore Orioles
- spectators heckled D
- hit heckler with ball through fen
- district court found in favor of D.
(Directed verdict on battery count

Issue: Was there a battery?

Holding: Jury could have inferred that Grimsley intended:
1) to throw ball in direction of heckler.
2) cause them imminent apprehension of being hit
3) to respond to conduct affecting his ability to warm up.

Judgment is not conclusive in the battery action, so remanded for a new trial.

~~Foreseeability~~ ~~he thought the net would catch the ball.~~

Punitive damages - because of INTENT

McAdams v. Windham. p. 2-8

Facts: - P & D boxing
- D struck P in heart, caused death
- in good faith

Issue: Was there an assault & battery?

Holding: NO. Harm suffered by consent in general is not the basis of a civil action.

- nothing shows the D was guilty of reckless or negligent conduct
- in the habit of boxing.

CONSENT - agreed to the battle.
AUTHORIZED - FOUGHTING

the victim cannot give consent.

Negligence and Recklessness:

Bourque v. Duplechin (1976)

Facts: - π injured in softball game.
- Δ ran into π; put arm under chin
- Δ thrown out of the game.
- witness said Δ didn't attempt to slid[e] or slowdown.

Issue: Was Δ negligent?

Holding: yes. - jaw broken
- chin required plastic sur[gery]
- injuries resulted from the Δ's negligence.
- no assumption of the ris[k]
- reckless disregard of the consequences.

Make sure expert matches exact sport

Court said this is outside the scope of what could reasonably expec[t] in a softball game.

Hackney v. Barnhill (1976)

Facts: - Soccer match.
- Δ was goalie, P was forward.
- P kicked Δ on head, caused injuries
- player said he played under F.I.F.A. Rules.
- P directed violent intent of Δ

Issue: Was P entitled to legal protection by Δ?

Holding: Matter for jury to find.

NOT contributory negligent
* Plaintiff had a reasonable duty to anticipate

Oswald v. Township High School (1982)

p. 249. Facts: π injured while playing basketball in H.S. gym. Fed. of State H.S. Association Rules in effect.
- π says Δ should have known these rules & should have exercised care to avoid causing injury to participant

Issue: Was Δ negligence? ~~[illegible]~~

Holding: Ordinary negligence, but, can recover against lawyer for not using the correct standard

player is only liable if action is deliberate or willful.

will not recover from school.

Count III of complaint - Δ had duty to play within rules of game.

π claim - Breached ordinary prudent duty

STANDARD doesn't require intent

Δ claims need to prove [reckless] conduct for neg.

WHY DIFFERENT STANDARD?

- different standard on participant sports

2-35 Recklessness

Actor is reckless if he does an act or fails to do an act which is his duty to do, knowing that his conduct creates an unreasonable risk of physical harm to another

Hackbart v. Cincinnati Bengals (1977)

Facts: - Hackbart - safety for Broncos defens
- Clark - fullback for Bengals
- ball intercepted
- Clark hit π with forearm in the back of the head.
- both players fell got up, & continued play for 2nd half of gam
- π released; sought medical damages

Issue: Was Clark's conduct reckless?

Holding: no. π assumed the risk of this happening.
- the level of violence & frequency of emotional outbursts on NFL games are such that the π must have assumed the risk.

* football is self regulated; they don't need courts to interfere.

Hackbart v. Cincinnati Bengals (1978)

Issue: Whether an intentional striking of a blow can give rise to liability in tort?

Holding: Yes. Recklessness occurs where a person knows that the act is harmful but fails to realize that it will produce the extreme harm which it did.

- trial court said it was during the course of a football game, so something that would ordinarily generate civil liability would not here.

- case reversed.

Request for admissions:

- lay out a list of facts
- ask party to agree a disagree to them
- ~~30 days to answer if you don't = you~~ admitted to everything.
- once you admit it is an assumed fact throughout the case.

Vicarious Liability

- An employer is held liable for the wrongs committed by an employee, if they were committed in the scope of employment

Averill v. Luttrell (1957)

Facts
- π (Luttrell) is baseball player
- Suing Averill for assault & battery
- Averill struck π - causing broken jaw - π says Δ was "acting within scope of employment as the agent, servant"
- π sued Δ for compensatory & punitive damages.
- Jury found in favor of π - both Δ's pay $5,000.

Issue Is Nashville Baseball club vicariously liable?

Holding: No. A master is not liable for the wilful acts of his servant who steps aside his master's business and commits an act wholly independent & foreign to the scope of employment.

Antitrust Law

3-4 **Federal Baseball Club of Baltimore v. National League of Prof. B-Ball Clubs (1922)**

Facts:- P is suing Δ for violation of anti-trust acts of July 2, 1890.
- P says Δ destroyed Federal League by buying up all clubs & making them leave their league.

Issue: Did Δs interfere with commerce in violation of anti-trust laws?

Holding: No. Competitions must be arranged between clubs from different cities and states.

Baseball Anomaly - different from any other sport
- more historically imbedded in our conscience
- different leagues competing

* 1919 - Black Sox - throw the World Series; made a lot of $ out of it.
- thrown out of the league

Antitrust cases - get 3x damages

Flood v. Kuhn (1972)

Facts: - Flood was baseball player
- traded to Phillies - not consulted on trade - you were on reserve clause
- requested to be a free agent; denied
- sued for antitrust violation - involuntary servitude
- declined to play for Philly that ye
- Philly sold rights to Senators

indentured servant because of the reserve clause

Holding: Congress had no intention of including the business of baseball within the scope of antitrust laws.

kept players from going to different teams.

HOLDING: BASEBALL IS STILL EXEMPT FROM ANTI-TRUST LAWS

baseball is no longer a state play.

Stare decisis - seem as though baseball has had an anti-trust exemption for a long time.

If Congress wanted to change it, they would say there's no baseball exemption

Why Bad? - just a committee talked about i

General Considerations

Violation of Sherman Act:
1) existence of a contract and
2) resulting unreasonable restraint of trad

NCAA v. Board of Regents - U of Oklahoma (198

Facts: - NCAA had plan for televising college football games
- limited # of games a Team coned appear on TV
- CFA said this violated Sherman Antitrust Act.
- District Court said yes.

Issue: Was this an Antitrust Act violation?

Holding: yes. Competition in the market was restrained in 3 ways:
1. NCAA fixed prices for particular telecasts
2. its exclusive network contracts boycotted all other broadcasters.
3. artificial limit on the production of college football on television

---

- NCAA has restricted rather than enhanced the place of intercollegiate athletics in the Nation's life

Mackey v. National Football League (1976)

Issue: Whether the Rozelle Rule violates Anti Trust act?

Holding: Yes.

Rozelle Rule: when player's team obligat
expires, signing club must
provide compensation to
player's former team. If
teams can't agree Commissione
can award something fair/equita

NFL argues: the market is for player's services
that is not a type of service under Sherman

Rule of Reason

Holding: [- unreasonable restraint of trade in
violation of §1 of Sherman act]

did not use per say approach:

~~teams have to work together to make~~
sure the league prospers.
- want all teams to succeed financially.

Smith v. Pro Football, Inc. (1979) p. 3-36

Did the NFL Draft violate the Sherman Act by being an unreasonable restraint of trade? YES

- π argues NFL draft constitutes a "group boycott" because the NFL clubs refuse to deal w/ any player before he has been drafted or after he has been drafted by another team.
- court says not a "group boycott"

Rule of Reason
- a restraint must be evaluated to determ whether it is significantly anticompetitive in purpose or effect.

* today, the draft is the same, except it is collectively bargained. (players consent)

→ a draft in and of itself is not anti-competitive. However, this draft is.

pro-competitive benefit: worse team gets the better players (Bengals)

- need to accomplish these ends less drastically.

- Why do players agree to a draft?
  * players have a vested interest in the game.
  * players get something in return. — min. sala $250K.

[redacted]

Molinas v. National Basketball Association (196

Facts: -π signed to play for Pistons
-admitted he betted on his team
-WAS suspended from league

Issue: Is NBA in violation of Anti-Trust laws?

Holding: No. -it was absolutely necessary for the sport to exhume Gambling from its midst in all times in order for it to survive.
- must enforce strictly
- stringent standards/sanctions
- the league was justified

-refusal to reinstate π does not rise to the status of a violation of anti-trust laws.

Sherman Act wants to promote competition.

on its face - taking Molinas out is anti-Competitive (Pistons are less competitive now

~~So, now we go to Rule of Reason:~~

1. anti competitive effect on the NBA as a whole?
2. yes; it is narrowly tailored to accomplish the goal.
it is inherently anti-competitive

Blalock v. Ladies Professional Golf Ass. (1973)

Facts: - π in tournament, observers said she moved her ball
- disqualified π, placed her on probation & imposed $500 fine.
- after a week, tournament reinstated her suspension for 1 year.

Issue: Was π's 1-year suspension a violation of the Sherman Antitrust Act?

Holding: yes. LPGA was trying to exclude π from market - a "naked restraint of trade."
- she could not compete for prize money, etc...

She was suspended by her peers.

- subjective discretion of PGA b/c at first they had only imposed probation
- it was imposed by competitors of π who stand to financially gain from exclusion of the market.

* the arrangement is illegal per se.

1. is getting cheaters a legitimate aim?
- yes

2. was their method narrowly tailored?
- no. the way they suspended her was improper - suspended by her peers
- the system is flawed.

[redacted]

North American Soccer League v. NFL (1982

Whether an agreement between members of 1 league of NFL to prohibit its members from making an investment in any member of another league violates antitrust laws?

1. IS there an anticompetitive effect? (effect on trade/commerce within the states?) YES

2. Is there an anti-competitive benefit for NFL to have that rule? YES

(Soccer is a competitor of football.)

Quality problem — NFL has a legitimate interest.

COURT SAYS NFL doesn't have legitimate argument.
- no evidence cross-ownership has effected NFL.

Court says - not a compelling enough interest to use such anti-competitive measures.

6/12

L.A. Memorial Coliseum Comm. v. NFL (1984)

Facts: - Raiders wanted to relocate to L.A.
- League rule 4.3 stated that 3/4 of the teams must approve the move. They did not.
- L.A. claims that the rule violates anti-trust

Issue: Was Rule 4.3 an unreasonable restraint of trade?

- NFL says LA failed to prove an adverse impact on the competition in a relevant market.

Relevant Market < product market / geographic market

NFL argues that Rule 4.3 (that 3/4 of the owne approve a franchise move) is reasonable because it deters unwise team transfers.

- fan loyalty is not considered, owners investments not considered

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Sherman Act - protects the public from monopolies, etc... (anti-competitive practice
2 Elements needed to establish violation of Act
1. conspiracy
2. resulting in unreasonable restraint on trade
2 Approaches: [redacted]

Sherman ~~Anti-Trust~~ Act

A) Protect Public from ~~Anti~~-Competitive Practices
   1. Monopolies
   2. Boycotts
   3. Concerted efforts not to deal

B) Elements needed to establish a violation to the Sherman Act:
   1. A contract or conspiracy
   2. A resulting unreasonable restraint on trade - 2 approaches
      1. PER SE
      2. RULE OF REASON

C) Exemptions

LA Memorial Coliseum v. NFL (1986) p. 3-63

- reversed 1984 finding
- question of **damages**

court says:
- don't just look at lost opportunit from L.A.
- have to look at upside of opportuni in Oakland.

NBA v. SDC Basketball Club (1987) P.3-6

Facts: - Clippers want to move franchises
- Clippers say the "3/4 Rule" is illegal

NBA says: - purpose of restraint uses a variet of criteria in evaluating franchise movement.
- the basketball market is different than football market
- actual effect the NBA's limitations on movements mig have on trade

Issue: Does the requirement that an NBA team seek Board of Governo approval before it seizes a new franchise location violates the Sherman Act?

- the NBA has shown a genuine issue of reasonability of the restraint.

Labor Law and Professional Sports

NLRA - National Labor Relations Act

p. 4-3 American League of Professional Baseball Clubs and Association of National Baseball League Umpires (1969)

- employer employs 24 umpires & 1 umpire-ch

* Court finds that professional baseball
- as an industry in or affecting commerce
- professional baseball is subject to the Board's jurisdic
- seeking election
- court grants election by secret ballot.

[redacted] - big deal to employees. Before it, employees were not favored when they were involved in unions.
- right to collective bargain
- right to engage in mutual aid or protectio

NLRB v. Transportation Management Corp. (198

-it is unlawful for employer to discharge an employee because of union activity under the NLRB.

-employer bears the burden in showing that the worker would have been fired even if he had not been involved with the Union.

Issue: Whether the burden on the employer is consistent with § 8(a)(1) and § 8(c)(3) that provides that a Board must prove an unlawful labor practice by a "preponderance of the evidence."

Facts:
- Santillo was fired
- his supervisor heard him talking about union activities
- Supervisor said it was because Santillo left his keys in the tu

Holding:
- Board was justified in finding that Santillo would not ha~~ve been discharged had the~~ employer not considered his efforts to establish a union
- employer did not warn him that he was subject to discipline, nor disapproval of his conduct.

TEST:
- employee must show that the reasons he was fired was for union activity.

then, burden of proof is on employer to show that employee would have been fired anyways by a proponderance of the evidence.

Section 8(a)(1) - broad; illegal for employee to interfere w/ collective bargaining, etc...

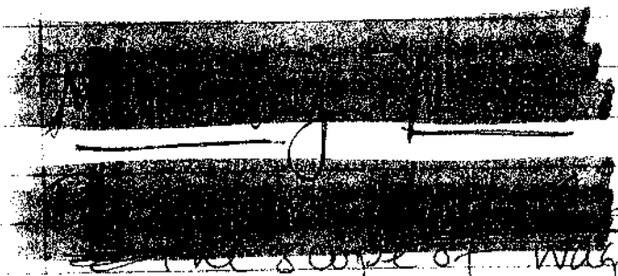
Section 8(a)(3) - unfair for employer to discriminate on employment

COLLECTIVE BARGAINING - establishes rules & regulations of the relationsh

North American Soccer League v. National Labor Relation Board (1980)

Issue: is there a joint employer relationship among the League and its member clubs?

League - exercises control over contractua relationships
- annual college draft
- every player contract must be submitted to Commission



wages, hours and condition of employme

issues arising outsid the scope of wages, hours & condition employment.

good faith

Courts usually do not say a collective bargaining agreement violates Antitrust

collective bargaining

Morio v. North American Soccer League (1980)

Facts: - Respondents refused to bargain with the Union
- Union filed unfair labor practice charge
- Respondents changed employment conditions in various ways. (taking care of their "star" players)

Holding: Respondents have engaged in unfair labor practice — π is entitled to temporary injunctive relief.

Respondent must render voidable certain provisions in the existing individual contracts.

✗ — duty is to not have unfair bargaining
— can't bargain to individuals
— management has obligation to control mandatory matters.

Bargaining Union is paramount.

National Football Players Assoc.
v.
4-57 National Labor Relations Board

Facts: - collective bargaining agreement by NFL players union
- owners & teams adopted a rule that "any player leaving the bench area during a fight will be fined $200."
- union director appealed some of the fines b/c players had not been notified of the new rule.

Issue: Was this rule in violation of the collective bargaining agreement?

Holding: yes. Employers have engaged in unfair labor practices.

Why is this bad holding?
- Commissioner can't have power to do what is in the best interest of the game
• is fighting in the best interest of the game

coaches - "at will" employees: management supervisors & labor

Ch. 5 - Labor Exemption to Antitrust Laws

Labor laws - to protect & promote collective bargaining to resolve important employer and employee concerns.

p. 5-3

Allen Bradley Co v. Local Union #3 (194

Facts: - π manufacturers electrical equipment
- want to sell products in NYC - a market where has been closed to them
- Respondents are labor union - have jurisdiction of NYC
- Respondents have closed shop agreements w/ other companies

Issue: Was there a violation of Sherman Anti-Trust Act?

Holding: Yes. Just because you are a union doesn't mean you have a monopoly.

Bottom Line

Labor can engage in monopolistic activities, but they can't work together with management to form monopolies.

"The Butcher Case"

p. 5-9

Local Union # 189 v. Jewel Tea Co. (196

Facts: - Jewel brought suit because collective bargaining agreement prohibited night meat market operations.

Issue: Is the marketing-hours restriction like wages exempt from Sherman Anti-trust Act?

NOT AN ANTI-TRUST VIOLATION

Holding: Yes. The "wages, hours, and terms and conditions of employment" include hours of the day & days of the week - which employer & unions must bargain

- Night operations without butchers, and without infringement on butcher's rights are NOT flexible.

→ "in stores where meat is sold at night is impossible to operate without butchers or employees."

seller gets hurt (Jewel Tea Co.)
- Not intended for them to get hurt therefore, the result is O.K.

in Bradley, it IS INTENDED — can't have it

p. 5-13 United Mine Workers v. Pennington (1965)

- Unions & large co. that produce coal are conspiring to hurt small companies.
- Can't do this.
- Intended to; therefore you can't do this.

DUTIES

6/

- To bargain in good faith
  1) obligation to provide information related to bargaining process.
  2) Once player is picked up, ↗ can't be represented by rival union. (except through majority vote)
  3) management must recognize the exclusive authority of the players union; can't circumvent this exclusive authority by dealing directly with the players.

TO ASSERT BARGAINING POWER:

1) Strike (NLRA guarantees this right)
2) economic pressure imposed by owners (lockout - withholding wages, withholding camps

Mackey v. NFL (1976)

Player's team needed to be compensated when traded/signed to another team

p. 5

- appeal by NFL
- District Court ruled that it was a violation if (Rozelle Rule) Antitrust Act

Issue: Whether labor exemption to antitrust laws immunize NFL's enforcement of the Rozelle Rule from antitrust liability.

Rozelle rule - before collect. bargaining agreement

- Was Rozelle Rule a mandatory subject of collective bargaining?
  - YES
  - interteam compensation

Holding: Agreements between clubs & the players involved in the Rozelle Rule do not qualify for the labor exemption.

ASK:

[redacted]

(no. it was forced on the players on the Col. Bar. Ag. unilaterally promulgated before C.B.

Labor Relation Act - protect & promote collective bargaining -

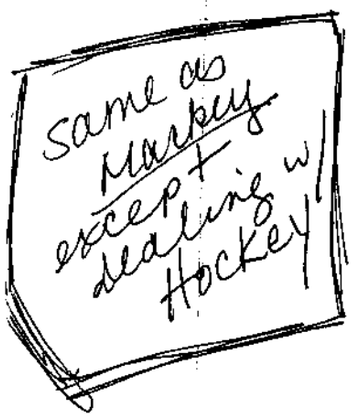
allowed for various player restraints.

If you agree to it, it is usually OK.

* Labor Unions are bargaining agent of players.

[redacted]

p.5-23 McCourt v. California Sports, Inc. (1978)



Facts: - McCourt - hockey player signed w/ Detroit Red Wings
- goalie obtained by Detroit
- Detroit wanted McCourt to go to LA Kings
- McCourt unhappy; brought suit
- District court entered prelim. injunction restraining defendants from enforcing

Issue: Does the labor exemption apply to the reserve system provisions of a collective bargaining agreement in professional sports?

Holding: No. Court agrees that the standards are set out in Marsh

- injunction vacated.

Reynolds v. NFL (1978)

Facts: - NFL players won money damages in amt of $13,675,000
- Reynolds wanted to opt out.

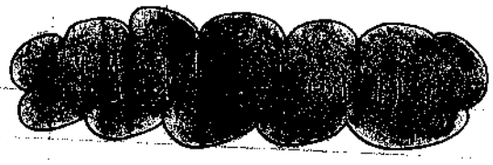
— Computes damages from Mackey case

- court says: you're part of a class - you can't opt out.

ONLY WAY TO OPT OUT:

~~= unfair~~
~~= unreasonable~~
~~= not substantial.~~

This case all 3 were met, so settlement was valid.



NFL Players Association

6/19

- helps players negotiate contracts

Labor Unions - can discuss w/ other teams what was going on as far as salaries, etc.. w/ other teams.

TITLE IX : sex discrimination/ education opportunities 6/26

Women treated unfairly in:
- pay
- hiring
- promotions

- everything comes down to $$

$30,000 to 130,000 since 1972 participants in women's sports

Women need an opportunity to participate

1972 3-part test:

- school provides scholarships in proportion to participating levels.
- male & female athletes be treated equally on a variety of other criteria ranging on access to facilities to sports medicine.
- proportion to female: male athletes overall = the number of females: males attending the school

OR

School show a history of providing opportunities

Brown University - sued by females.
Court set out criteria

& by 1979 & this created havoc

So, for the next 20-30 years, the athletic directors tried to get around this.

"How do you give away scholarships when we can't find the women?"

Ways it was attacked:

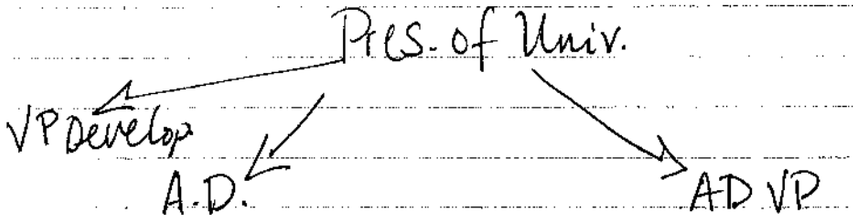
1. hurt mens sports (discriminatory law) it is a
2. hurt football - let's not count it
3. if football not taken out, we should only count a certain # of scholarships
4. only # of teams, not participants count
5. if sport doesn't make any money it shouldn't count..

in 1984: Supreme Court ruled this didn't apply to athletes who didn't get fed. aid

1988: It applied to EVERYONE.

1. 80% of schools not in compliance
2. Playing field is still not equal
3. Athletic Directors say "we just can't comply."
4. Schools are not complying b/c they say they're "giving opportunities for women"

1. football (1)
2. basketball (2) M/W
3. lacrosse (2) M/W



Oklahoma Secondary School Activity Association v. Midget (1972)

Facts: - high school football
- principals had a rule that if student went to a school where they were a majority to a minority, they would be eligible to play a sport after 2 semesters

Transfering from one high school to another

they want integration (going from majority to minority) but not the other way.

Standard

Athletic Association is under the authority to enforce its rules.
- Athletic Ass. did not act unreasonably here.

What is the Standard applied to an unincorporated association made up of state actors in their review process?

follow your own rules and regulations.

meaningful relationship between what you're doing & common sense

6-17

NCAA v. Tarkanian (1988)

- Δ is coach of NCAA basketball team
- NCAA suspended him for 10 violation of NCAA rules
- Δ says he was denied 14th Amendment right
- Nevada Supreme court found that Δ had been deprived of property & liberty & was not afforded due process
- UNLV had 3 choices:
  1) reject sanctions, don't fire Tarkanian, but risk more sanctions
  2) fire Tarkanian even though they believed NCAA was wrong. ← they did this
  3) pull out of NCAA

- Tarkanian sues - says that UNLV is a state actor & that NCAA is a private association.

Combination of a state actor & non-state actor (major part)

de facto? either way.

does state actor have meaningful option or is it a puppet of the private actor?

6-24 Louisiana High School Athletic Assn. v. St. Augustine High School (1968)

-class action suit against LHSAA for not allowing St Augustine to the athletic association.

ISSUE: Did St. Augustine have to be admitted?

Holding: yes. - Funding comes from membership dues, gate receipts for games - state owned facilities

- just because they are a private school & 57.2% members are state public schools doesn't mean they aren't protected under 14th Amend

6-23

Brand v. Sheldon Community Schools (1987)

Facts: - P is student, wrestler
- engaged in sex w/ a 16-year old
- P was declared ineligible for wrestling for the rest of the season
- P claims due process rights were violated

Holding: Due process was not violated

[Is there a ~~property interest in the expectation of a football scholarship~~? (he was going to get a scholarship)

NO, ONE HAD NOT BEEN AWARDED TO HIM YET.

property interest?

expectation is not a property interest. HAVING one is an interest

EXAM TUESDAY

[redacted] - Chapter 7

7-2 Zinn v. Parrish (1981)

Facts:
- Zinn was manager of athletes
- Parrish - drafted by Bengals
- signed contract - received 10% commission & $16,500 salary
- Contract automatically renewed unless terminated by 30 days notice
- Zinn was told his services weren't needed & is suing for his 10% of money

Holding: Judgment in favor of Zinn. Parrish could have terminated him as his agent before the new season began, but instead waited until she made a huge negotiation.

have to give $ to agent who negotiated contract.

7-5 Brown v. Woolf (1983)

Facts: - P was hockey player
- suing Δ for breach of fiduciary duty in the negotiation of contract.
- Penguins offered P $80K salary, but rejected the offer because Δ said he could do better.
- signed w/ Racer's - organization defaulted payments to P
- P argues he only got $185,000 but Δ got $40,000 (52%) of the contr

Holding: Motion for summary judgment is denied because there are unresolved questions.

Constructive fraud - tort
acts or course of conduct from which, any unconscionable advantage can arise
- breach of confidence that shocks the conscious

1. bad conduct

2. breach of confidence that is unjust enrichment

Burden of proof - Clear & convincing evidence.

7-7 Detroit Lions v. Jerry Argovitz (1984)

Facts: - Billy Sims signed contract w/ Gamblers AND Lions
- says Gamblers contract is invalid because Δ (agent) breached fiduciary duty & the contract was tainted by fraud & misrepresentation.

Issue: Was contract w/ Gamblers invalid?

Holding: yes. Δ's breach of fiduciary duty was so egregious that a court of equity can not permit him to benefit by his own wrongful breach.

- Argovitz had a personal interest in signing Sims w/ the gamblers that was adverse to Sims interests.
- didn't inform Sims of material facts to influence his decision.

* need to disclose conflicts

Keep people informed of potential conflicts

7-11

Walters v. Fullwood (1987)

bad man, bad things

Facts:
- Fullwood - running back - entered into agreement w/ World Sports & Entertainment Inc. granted exclusive right to represent Fullwood as agent in NFL negotiations.
- before the draft, Fullwood repudiated & chose to be represented by Kicklighter.
- signed w/ Green Bay Packers

Issue: Π sues, alleging:
- Δ breached agency agreement
- owes $8,038 repayment in fund recei
- Kicklighter tortiously induced Δ's breac
- Kicklighter interfered w/ Π's contractual relations with other NFL players.

Holding: Invalid contract. NCAA designed to prevent college athletes from signing professional contracts while they are still playing for school.

[redacted] PROPERTY IN SPORTS

Chapter 8

p. 8-7

Universal Athletic Sales v. American ~~Gym Corp (1975)~~ (I)

- body exercising apparatus
- wants patent
- court concludes that the patent is void for obviousness and lack of novelty and invention.

p. 8-11 Universal Athletic Sales Co. v. American Gym Corp. (1976) (II)

- district court erred in giving substantial weight to expert testimony
- trial judge thus, erred not interpret the prior art
- reverse rulings of district court as to obviousness and anticipation.

Pat Moriarty

7/8/03

Director of Football Administration - Ravens

- Salary caps
- Contract negotiations

1st 3 years - exclusive rights player

4th year - restricted free agent (free to negotiate, but still have right of 1st refusal - receive draft choice from that team