**SYLLABUS**

**Topics in Sports Law**

**255.6**

**Spring 2013**

**Professor Roy Eisenhardt**

Chapter References are to the Casebook,

*Sports Law and Regulation*, 2nd Ed.

Supplementary reading is on bSpace.

|  |  |  |
| --- | --- | --- |
| **Class** | **Date** | **Assignment** |
| Class 1 | Jan 8 | **Introductory**We start with the history of a professional team’s contractual control over players’ rights, particularly the reserve clause; under this clause, a team could bind a player to play his entire career for that team. You encountered this issue in another context—most likely *Lumley v. Wagner*—in first year contracts (opinion is on *bSpace*). Do not be concerned if you lack an understanding of Antitrust law at this point; we will provide this in subsequent classes. For this class please read:* Chap. 6, Sec. C, pp. 406-411;
* Chap. 6, Part 2, pp. 421-426.
* *Flood v. Kuhn*. In lieu of the edited version of *Flood v. Kuhn* found on p. 426 please read the unedited opinion of the Court. I have posted this opinion on *bSpace*. Think about why several justices disengaged themselves from Part I of the opinion.
* *Nat’l & Am. League v. MLBPA*, Chap 7, pp. 538-542
 |
|  Class 2 | Jan 15 | **Introduction to Antitrust Issues**.This class and the next explore the inherent tension between (1) The need for individual teams and the league to operate collaboratively, and (2) The general policy of antitrust law to resist *combinations* that “restrain trade.” We will consider this tension both in terms of internal league governance or “self-ordering,” and contracts between the League, and other persons and industries. Please read:* Chap 8—pp. 625-645 including Notes 1-4; pp. 652-656;
* *American Needle v NFL*, pp. 656-660, 7th Cir. opinion
* *American Needle v. NFL*, 130 S. Ct. 2201 (2010) reversing the 7th Cir. opinion printed in the casebook. (As optional reading, the original district court opinion is also in *bSpace*, as well as the Solicitor General’s brief to the Supreme Court.)
 |

|  |  |  |
| --- | --- | --- |
| Class 3 | Jan 22 | **Continuation of Antitrust Issue**Please read:* *No. Am.Soccer v. NFL*, Chap. 8, pp. 665-670
* *AFL v. NFL*, p. 671-675
* *Hecht v. Pro-Football*, p. 675-678
* *Phila. World Hockey v. Phila. Hockey*, p. 678-684
* *USFL v. NFL*, p. 685-691;
* The opinion of Judge Scheindlin denying defendants’ FRCP 12(b)(6) motion in *Laumann v. NHL, et al.; & Garber v. MLB.* I have uploaded this to *bSpace*.
 |
| Class 4 | Jan 29 | **Labor Law Fundamentals.**This class is an introduction to the important and interesting history of federal labor law and its current application to professional sports. I have uploaded the NLRA and the Taft Hartley Act to *bSpace* for your reference.Please read: * Chap. 7-- pp. 483-514

 I have also uploaded the current CBA’s of the WNBA, NBA, NFL and MLB in *bSpace* for convenient reference. Depending upon the circumstances at the time, we may dedicate part of this class to a discussion of the NHL lockout.  |
| Class 5 | Feb 5 | **Dispute Resolution and Discipline under the CBAs/ The Authority of the Commissioner.**A fundamental aspect of players’ rights under the CBAs is the inclusion of arbitration in the dispute resolution process. This class will explore the importance of arbitration in the sports industry as a chosen method of dispute resolution. Please read:* Chap 7, pp. 537-550
* *Boston Celtics v. Shaw*, p. 559
* *Owens et al.,* p. 564
* *NBA v. NBPA,* p. 570
* Pp. 579-80*,Notes 1 & 2,* regarding Latrell Sprewell*.*
* New Orleans Saints “bounty” discipline and player appeals. Material on bSpace. See particularly the opinion of Paul Tagliabue modifying the discipline imposed by Commissioner Goodell.
 |

|  |  |  |
| --- | --- | --- |
| Class 6 | Feb 12 | **The Interface of Antitrust and Labor Law—the Non-statutory Labor Exemption (NSLE).**Now that you have a basic understanding of both antitrust and labor law, and the history of evolving player bargaining power, the next two classes address the important intersection between league collective bargaining and federal antitrust policy.Please read for the next two classes:* Chap. 6—pp. 436-461.
* *Brady v. NFL* 644 F.3d 661 (2011) (bSpace)
* *NBA v. NBPA* complaint (bSpace)
* *Butler et al. v. NBA* complaint (bSpace)

I suggest you review *Brady v. NFL* and the two NBA complaints to observe how use of the judicial process can become a tactic in negotiation of the collective bargaining agreements. We will also discuss the NHL lockout in the context of the NSLE. |
| Class 7 | Feb 19 | **Continuation of the NSLE—**We will continue our discussion of the cases arising from the NFL, NBA, and NHL lockouts. Please also read Chap 6, pp. 461-480.   |
| Class 8 | Feb 26 | **Health, Safety, and Risk Management Issues.**. The next two classes will deal with current issues relating to on-field violence, life-endangering injuries, players with disabilities, and performance enhancing drugs .Please read Chap. 12--pp. 911-936; 1006-1013 & Note 1. In addition to *McSorley*, we will also discuss the pending Todd Bertuzzi civil trial. See the materials on *bSpace*. |
| Class 9 | Mar 5 | **Health, Safety, and Risk Management Issues, cont.**Please read**:** * Chap. 7, 594-605**.** I have excerpted the drug policies from the CBAs on bSpace.
* Chap. 12--971-975; 978-979; 988-991.

We will also discuss:* The current legal issues around player concussions, efforts of the NFL to reduce injury, and possible long term effects on the NFL;
* I have scheduled the team physician for the Oakland A’s as a guest speaker, to discuss current medical issues in professional team sports.
 |

|  |  |  |
| --- | --- | --- |
| Class 10 | Mar 12 | **Intellectual Property**We now move to Intellectual Property in the context of the sports industry, the third substantive segment of the course. We will cover this broad area in the next three classes.  For the first class please read: Chap. 13--pp. 1023-1052. |
| Class 11 | Mar 19 | **Intellectual Property Continued**Please read: Chap. 13--pp. 1052-1072.  |

|  |  |  |
| --- | --- | --- |
| Class 12 | Apr 2 | **Intellectual Property Continued**Please read: Chap. 13: 1072—1100. In addition to this reading, I suggest you review the complaint in *Barnett v. NFL* (*bSpace*) regarding use of images of retired players. We will also discuss the *O’Bannon* and *Keller* litigation regarding college players’ right of publicity, and the current lawsuit by the Professional Leagues against the State of New Jersey regarding state legalization of sports betting |
| Class 13 | Apr 9 | **Title IX: Gender Equality**This class will introduce you to the history and current application of Title IX in intercollegiate sports. Please read: Chap. 11, p 825-831; 832-842; 849-856-859  |
| Class 14 | Apr 16 | Reserved  |