

SPORTS AND THE LAW
SPRING SEMESTER, 2009
PROF. LEN SIMON

INTRODUCTION AND FIRST ASSIGNMENT

Welcome to Sports and the Law. I look forward to meeting you all.

It would be wasteful to spend a two hour class just getting to know one another, so **here is a short assignment for the first class, Thursday, January 15th at 10:00 a.m. Text, pp. 1-17 and supplement, pp. 57-60.**

Think about the assigned reading in the context of Barry Bonds. Could the Commissioner of Baseball have suspended Bonds as soon as he was indicted for perjury and obstruction of justice?

Or does Bonds have a right to play until he is convicted? Taking a different tack, could the Commissioner have suspended Bonds because he refused to answer questions in the steroids investigation last year, or can a player simply decline to cooperate in a Commissioner's investigation?

However, before you do any reading or heavy thinking, please review the information below and be sure you want to take this class. If you do, I expect you to read the assigned material and be prepared to discuss it on Jan. 15th. If you are on the waiting list and hoping to get in, you should do the reading and show up for class. Hopefully, you will clear the waiting list by week two.

But first, please read and heed my warnings:

1. This is a legitimate and challenging law school course, not a sports bull session. We will not chat in class about whether the Yankees will make the playoffs, although we may talk about free agency or whether it's healthy for the Yanks to spend so much more money than the Royals. But we will study serious legal issues, and how they affect the sports business. By the end of the course you should have a much better understanding of how the major sports teams and leagues operate, and what can be done to challenge their actions in court, if anything. If that's not what you had in mind, please drop the class and make room for someone else.

2. I expect regular class attendance, on time. Students with more than two unexcused absences will be dismissed from the course. Also, wandering in ten minutes late, or leaving early, is quite rude and distracting. If you have a job interview or something else like that, I understand, but if not, please be here on time and stay until the end of class.

3. You do not need to be a sports fan to understand or excel at this course. I cannot deny that those of you who have been studying the sports pages since you were kids may be a little ahead on some issues, but the newcomers seem to catch up quickly if they do the reading, come to class, and ask questions when necessary. I endeavor to make the course as accessible as possible to the non-fan or casual fan. Indeed, some of the serious fans are handicapped by their knowledge, because they assume things must be legal “because that is how it is.” That approach will lead you astray.

4. If I use sports terminology which is not familiar to you, or baffle you for some other reason, raise your hand and ask for an explanation. For example, if I talk about a football “draft” and you don’t know what that is, you **MUST** ask! It is not good for you, or me, or the person sitting next to you who also doesn’t know what I mean, for us not to communicate.

5. We have both a textbook (Weiler & Roberts) and a Statutory and Documentary Supplement by the same authors. You **must** purchase both and bring them to class, particularly when we have assignments from both on the same day. Indeed, the materials in the supplement (collective bargaining agreements, contracts, etc.) are crucial to this course, and in some weeks will be more important than the court cases.

6. The course will culminate in an open book, open notes final exam. Last year we had about three-fourths essay questions and one-fourth multiple choice questions – no promises, but probably similar this year.

7. **I expect you to read the assignments and come to class prepared to participate.** I ask questions, and I like it when students ask questions. I do not want to lecture for long periods of time, unbroken by questions or comments, so we need class participation. I also do not want two or three people to do all the talking, so if only a few people are talking, you can be sure that I will be calling on students randomly to get more people into the discussion. Many of the issues are controversial, so we need different opinions on the table. **I reserve the right to increase or decrease course grades by the maximum permitted by USD for class participation. Again, if you do not want to do the reading or participate in the discussions, please drop the class and make room for someone else.**

8. I am a practicing attorney. For that reason, a class may need to be rescheduled some time. I will try to minimize this and work with the class to find a good time for make-ups, but you should not be surprised if this happens once. Twice would be bad luck. Three times has never happened.

9. A tentative syllabus will be posted later or distributed at the first class. I will modify it as necessary, particularly to accommodate guest lecturers. In the past we have had one or two classes with guest lecturers (sports executives, agents, etc.). Some guest lecturers cover curricular material, some do not, so I may have to do some adjusting of the schedule and assignments as I line up speakers. I will also modify assignments to bring in current events or new cases.

10. Although I am an only a part time professor, I will make myself available to you for in-person meetings, or whatever you need. I will set up office hours, probably immediately before

class, but appointments are even better, and I am flexible on times. And I am always available by email, lens@csgrr.com, either to answer your questions or to schedule an in-person appointment or a phone call. Do not assume that I am a busy lawyer who has no time for you. I will make the time.

11. You can expect to get emails from me about changes in class schedule, assignments, or current events to think about (see below). If you do not check your email, you may not be fully prepared for class.

12. With any luck, sports law will be in the news during the semester. As I write this, the NFL is in court with some of its players over drug suspensions, the football players union recently lost a case to some of its retired players, Plaxico Burress is suspended for carrying a gun, but his union is challenging the suspension, congressmen are complaining about games being carried on the NFL Network, and the Chargers are still looking for a new stadium, inside or outside San Diego. And that's just pro football! If you see an article or know of a current issue you think might be discussed in class, please bring it to class or better yet email it to me. I don't promise to use them all in class, and some will be deferred until later in the semester when they fit in, but current events are an excellent way to understand the practical applications of the principles we are learning.

13. Two cautionary notes about assignments in the textbook. *First*, when a case excerpt appears in the textbook, it often turns out that the paragraph or two of the book before the excerpt explains the factual background of the case, and all of the facts are then deleted from the case excerpt. So if I assign *Milwaukee v. Landis* on p. 15, you will see that you need to start reading at the bottom of p. 14 to make any sense of the case. I will try to make my assignments clear and avoid this problem, but if you start reading a case and don't understand the facts, look at the last paragraph or two of the preceding text and the facts are probably there. *Second*, the fine print notes after the cases are not my favorite part of the book, and you should not get bogged down puzzling over all of the hypotheticals or other material unless you like to do that. Read the text and the case excerpts carefully, and skim through the notes to see if they tell you something important from the real world (e.g., that a similar case was decided differently by a different court) but don't sweat all of the theoretical stuff unless it interests you.

I look forward to seeing you on January 15 at 10:00 a.m.

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