

THE SPORTS LAWYER

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FEBRUARY 2012

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The Sports Lawyer is a joint publication between the Sports Lawyers Association and the Tulane Sports Law Press

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Major League Baseball

Dodgers and Fox Reach Settlement Opening Door for Sale of Team

On January 10, 2012, the Los Angeles Dodgers filed a motion seeking approval of a settlement reached with Fox Sports Net in the U.S. Bankruptcy Court for the District of Delaware. The next day, U.S. Bankruptcy Judge Kevin Gross approved the settlement, which included the Dodgers abandoning attempts to sell its media rights and agreeing to uphold its telecast agreement with Fox. Additionally, Fox agreed to withdraw its objections to the ongoing Chapter 11 proceedings for the Dodgers.

In 2001, the Dodgers entered into an agreement to provide Fox with the exclusive right to telecast 100 regular season games each season for the term of the agreement. The agreement extended through the 2013 season and provided Fox with an opportunity to negotiate exclusively for the rights to broadcast beyond 2013. Pursuant to the agreement, exclusive negotiations were scheduled to take place between October 15 and November 30 of this year. However, in an ongoing battle with Major League Baseball Commissioner Bud Selig over control of the team, the Dodgers threatened to incorporate the team's media rights into a sale of the team without approval from MLB. Upon hearing these intentions, Fox sought to have the team's Chapter 11 cases dismissed, arguing that the Dodgers were violating the agreement by attempting to sell the media rights before the end of the network's exclusive negotiating period.

In their motion, the Dodgers requested a court order approving the compromise with Fox and authorizing the Dodgers to assume the telecast agreement. With the help of a court-appointed mediator, the two sides reached a settlement whereby the Dodgers will uphold the telecast agreement, and Fox will withdraw its attempts to block the bankruptcy proceedings. Initially, Judge Gross issued a ruling that authorized the Dodgers to move up the exclusive negotiating period and begin marketing their media rights for the 2014 season and beyond. However, the settlement came after a district court judge said that Fox would likely win an appeal.

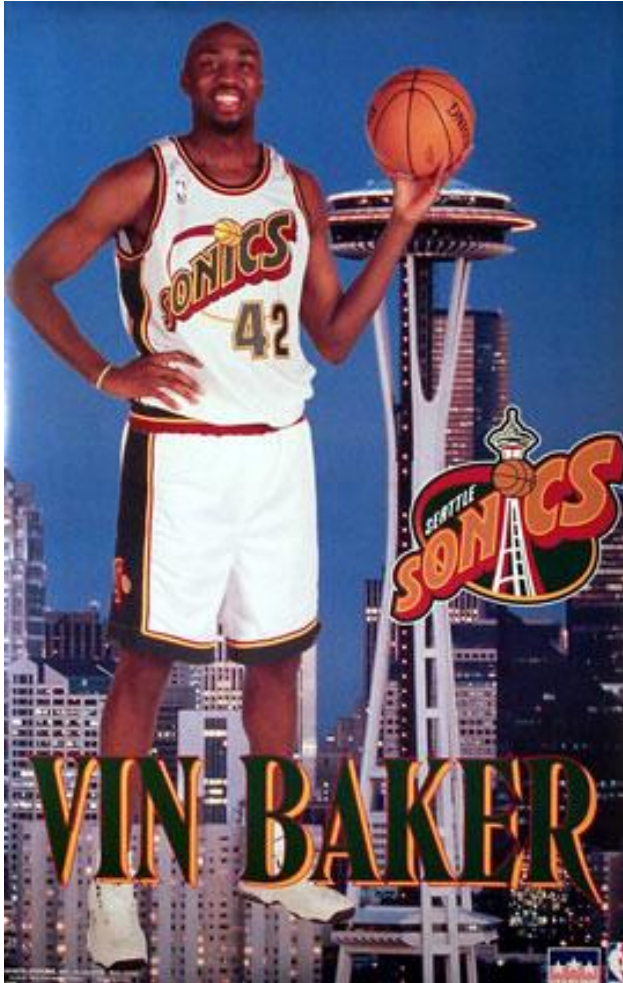
"This agreement is a significant step towards a successful sale of the Los Angeles Dodgers," a team representative said in a statement. "This consensual resolution of all disputes between the Debtors and Fox will enable the sale of the Dodgers to proceed forward." The Dodgers are represented by Robert S. Brady, Pauline K. Morgan, Donald J. Bowan, Jr., and Ryan M. Bartley of Young Conaway Stargatt & Taylor, LLP in Wilmington, Delaware. "We were never in favor of litigation, but it was imperative that we protect our exclusive media rights," said a Fox representative. "Under the terms of the settlement, Fox's media rights remain in place and we look forward to working with new ownership on future television rights discussions." Fox are represented by Robert J. Dehney, Gregory W. Werkheiser, and Andrew R. Remming of Morris, Nichols, Arsht & Tunnell LLP in Wilmington, Delaware.



-- Ryan Leske

National Basketball Association

Retired NBA Player Vin Baker Sues Former Financial Advisor



On January 4, 2012, retired NBA All-Star Vincent “Vin” Baker sued Donald Brodeur, Jr. and Brodeur & Co. Certified Public Accountants (BCCPA) for negligence and breach of fiduciary duty in the Connecticut Superior Court for Middlesex County in Middletown. Baker alleges that Brodeur and BCCPA negligently mismanaged Baker’s finances and breached their duty to him by engaging in “dishonest, disloyal, and immoral conduct.”

Beginning in 1997, Brodeur and BCCPA were hired by Baker to coordinate his professional advisors and manage his finances. In August 1999, Baker signed a seven-year \$86.6 million contract with the Seattle SuperSonics. Between 1999 and 2009, most of Baker’s earnings had been spent, a majority of his investments had lost their value, and Baker had been forced to liquidate most of his assets. In his complaint, Baker alleges that Brodeur and BCCPA breached their service contract and fiduciary duty to Baker by negligently mismanaging his assets and, in at least five named investment transactions, failing to oversee and protect his assets. Further, Baker claims that Brodeur misrepresented the sufficiency of his services, performed fraudulent transfers of Baker’s assets, and violated the Connecticut Unfair Trade Practices Act. Baker seeks compensatory damages in the amount of \$12 million, attorneys’ fees, and punitive damages in an amount to be determined at trial.

“He had other business advisors,” said Brodeur, in support of his response that he and BCCPA were “just one aspect” of Baker’s financial team. Baker is represented by Neal L. Moskow of Ury & Moskow, L.L.C. in Fairfield, Connecticut.

-- Gordon McGuire

National Football League

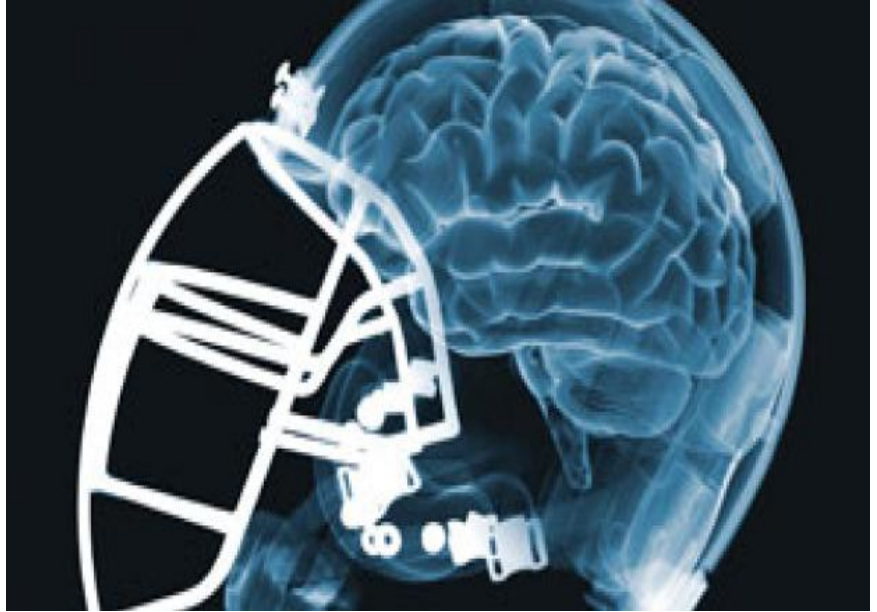
Panel Consolidates NFL Concussion Lawsuits in Philadelphia

On January 31, 2012, the United States Judicial Panel on Multidistrict Litigation granted the National Football League's motion to transfer four pending concussion lawsuits to a consolidated proceeding in the United States District Court for the Eastern District of Pennsylvania. The consolidated litigation, involving three pending cases against the NFL from the Central District of California and one pending case already in the Eastern District of Pennsylvania, has been assigned to Judge Anita B. Brody.

The California cases that have been transferred each included a number of plaintiffs, and featured nearly identical complaints. The named plaintiffs in each of the actions, Vernon Maxwell, Dave Pear, and Larry Barnes, each separately allege they were "not warned by the NFL . . . of the risk of long-term injury due to football-related concussions" and currently suffer from headaches and other long-term symptoms. The Panel noted that the transfer of the cases to Pennsylvania was appropriate because of the substantial overlap in issues of fact, and the desire to eliminate duplicative discovery and promote consistent pretrial rulings. *See* 28 U.S.C. § 1407. The NFL and all plaintiffs in the four actions supported consolidation. Defendant helmet manufacturer Riddell, however, opposed the transfer on the grounds that the claims against it were severable and consolidation would be inconvenient. The Panel dismissed these arguments, noting that Riddell is already engaged in litigation in Pennsylvania and left the matter to be determined by Judge Brody. The consolidated cases will likely be but the first of many similar suits to be transferred to Pennsylvania, as the Panel indicated that it was aware of at least sixteen other concussion-related lawsuits filed by ex-players across the country that might qualify for consolidation.

The NFL is represented by Brad S. Karp of Paul, Weiss, Rifkind, Wharton & Garrison LLP in New York.

-- Benjamin Clark



Ben Roethlisberger Settles Rape Litigation in Nevada Civil Suit



On January 20, 2012, Pittsburgh Steelers quarterback Ben Roethlisberger reached a settlement with plaintiff Andrea McNulty over a civil sexual assault lawsuit. With regard to the substance of the settlement, neither side has stated how much money, if any, was involved.

In 2009, McNulty claimed that Roethlisberger lured her into his suite at Harrah's Casino in Lake Tahoe under the guise of fixing a broken television and that he subsequently raped her after forcing her onto the bed. McNulty maintained that she reported the assault to her employer, Harrah's Casino, but Roethlisberger and Harrah's denied all allegations. In her suit, McNulty sought \$380,000 in compensatory damages for

medical expenses incurred to remedy her emotional distress after the alleged assault, as well as general and punitive damages. In defense, Roethlisberger's side painted McNulty as an emotionally unstable woman who was attempting to extort money from a sports star. The suit was originally filed in 2009 in Washoe District Court in Reno, Nevada. The parties reached the settlement after the Nevada Supreme Court denied Roethlisberger's motion to change venue from Reno to Carson City.

"All parties have reached a resolution of all claims and counterclaims," said McNulty's attorney, Calvin R. X. Dunlap, though neither side released the terms of the settlement. Dunlap is of Dunlap and Laxalt in Reno. Roethlisberger is represented by David Cornwell of DNK Cornwell, LLC in Atlanta and John Echeverria of the Echeverria Law Office in Reno.

-- Tarryn Walsh

Parties Settle Giants Stadium Injury Suit

The New Jersey Sports and Exposition Authority (NJSEA) has agreed to pay a \$2 million settlement to end a lawsuit filed by eight football fans injured at the now demolished Giants Stadium when an accelerator malfunctioned. The lawsuit also involved Schindler Elevator Corporation (Schindler), who also settled for an undisclosed amount. The suit had been filed in Superior Court in Hackensack, New Jersey.

The plaintiffs claimed to have been injured leaving the Giants-Patriots game on December 29, 2007, after a sixty-foot high escalator unexpectedly accelerated, causing some of the steps to become dislodged from the tracks. The malfunction caused a human pileup at the bottom of the escalator. One of the injured plaintiffs,



Michael Harris, required several operations before eventually having his leg amputated below the knee. The plaintiffs claimed Schindler failed to properly maintain the elevator and that NJSEA negligently allowed the escalator to overfill.

“The injuries are terrible, horrific,” said Bob Shawah, one of the former plaintiffs who required several operations as a result of his injuries. “It has been a long and strenuous stretch in our lives and it has affected us in many ways.” NJSEA was represented by Paul Soderman of Zucker, Facher & Zucker, P.C.. The case was before Superior Court Judge Alexander Carver when the settlement was reached.

-- Eric Ferrante

NASCAR

Former NASCAR Driver Ray Evernham Settles Lawsuit Against Owner George Gillett



On December 29, 2011, Ray Evernham reached a settlement with Gillett Evernham Motorsports (GEM), and Booth Creek Management Corporation for a 2011 breach of contract lawsuit. Evernham brought the suit after a dispute with Gillett over alleged unpaid shares of the former Richard Petty Motorsports (RPM). Evernham filed documents in late December to dismiss the case in the U.S. District Court for the Western District of North Carolina in Charlotte.

After a 2009 merger of RPM and GEM, Evernham remained a minority owner of both companies. In 2010, however, RPM was sold to Richard Petty and a group of investors. Evernham claimed that the sale triggered clauses in his agreement with Gillett which provided that he be compensated for his role as a minority owner. Thus, Evernham filed suit in February 2011 seeking the \$19,183,203 he claimed he was owed. In response, Gillett initially denied that the contract granted Evernham the

money he demanded. However, the parties were able to reach an undisclosed agreement at the end of December.

“I made a business decision to accept pennies on the dollar, but more so it’s time to close this chapter in my life and moved forward,” Evernham stated. “I’ve got a lot of really good things happening in 2012 and I just didn’t want to drag this along.”

-- Colin Burgess

High School Sports

Parent Sues Helmet Manufacturer After Football Brain Injury



In December 2011, Katina Giardina filed suit on behalf of her son, Dylan Cannon, against the Gulf Breeze Sports Association (GBSA) and helmet manufacturer Riddell for negligently allowing her son to play football with a defective helmet in Santa Rosa County Court in Milton, Florida. Giardina alleges that Cannon's helmet was defective and that GBSA's failure to ensure the equipment was safe contributed to his resulting brain injury.

On September 12, 2009, Cannon was a fourteen-year-old eighth grader playing for

the GBSA Juniors football team in Pensacola. During a kickoff return a player for the opposing team hit Cannon at full speed as the play was whistled dead. Doctors discovered that Cannon's brain had shifted and hit the side of his skull, causing bleeding and requiring them to remove a portion of his skull to relieve pressure and drain the blood. In her complaint, Giardina alleges that the interior lining of Cannon's GBSA-issued helmet would not inflate as designed, contributing to the injury. She further claims that the helmet's design did not provide enough support to Cannon's head to prevent injury. Giardina seeks compensatory damages exceeding \$1 million.

"We will be claiming in excess of \$1 million," said Giardina's attorney Samuel W. Bearman, citing the similar lawsuits filed against Riddell by former NFL players. "We're at least a year and a half, maybe two years away from a trial." Bearman is of Bearman Law in Pensacola. GBSA is represented by Peter S. Roumbos of Young, Bill, Roumbos & Boles, P.A. in Pensacola.

-- Ian Gunn

Youth Sports

Connecticut Youth Lacrosse League Faces Discrimination Allegations

On December 9, 2011, former coach and board member of the New Canaan Lacrosse Association (NCLA) Dr. Claudia Harris and her husband Roger Harris sued the NCLA and its board members for gender discrimination in the State of Connecticut Superior Court in Stamford. Harris alleges the NCLA discriminated against the NCLA girls program in violation of Title IX by removing her from her coaching and board positions and by spending unbalanced amounts of money on the boys program.

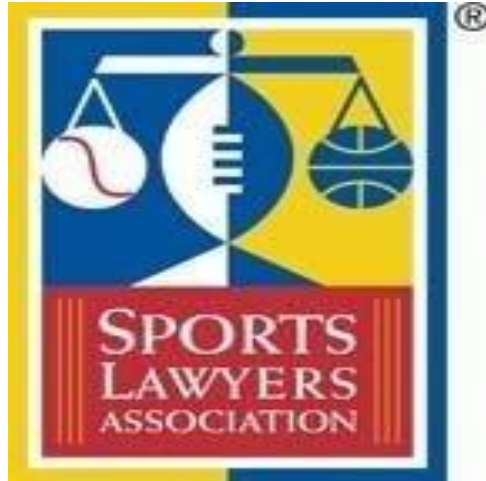


The NCLA is a youth lacrosse program with boys and girls divisions from first to eighth grade. According to Harris, the league has provided the boys with a larger number of paid coaches with “far more experience and training” in recent years. The league also provided the boys with professional referees while the referees in the girls’ league were often high school students. Harris, who was previously an NCLA 5th grade coach, was discharged from the NCLA board and her coaching position in August 2010. She believes that her dismissal resulted from her expressed concerns regarding the inequality between the boys and girls divisions. Harris further alleges that an assistant coach and league officer tried to force her to give his daughter and her friends more playing time. Harris claims the NCLA has violated her rights and the rights of the league’s female-participants under Title IX. *See* 20 U.S.C. §1861. Harris seeks \$15,000 in damages and an injunction for reinstatement.

“I want to make sure that it is very clear to anybody who is ever involved in this organization that if you bring forward concerns about child safety and welfare, you will never be dismissed,” said Harris. Harris is represented by Kevin M. Black of Bayer & Black, P.C. Attorneys at Law in Wilton, CT. “We on the Board of the NCLA welcome and look forward to the opportunity to set the record straight and bring this matter to a conclusion,” NCLA officials said. “Because we believe that the kids’ best interest is served by speedy resolution rather than prolonged litigation.” The NCLA is represented by Robert Noonan of Robert Noonan & Associates in Middlefield, CT.

-- Omar Gutierrez

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