

THE SPORTS LAWYER

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National Hockey League

Flyers Reach More Than \$1M Settlement with Season Ticketholders

A class action suit filed by season ticketholders of the Philadelphia Flyers was settled on Friday, December 20, 2013. Full-time season ticketholders claim they were misled by the Flyers into thinking their package included tickets to the 2012 Winter Classic, which it did not. The season ticketholders sought recovery of money spent on the tickets and other damages.



Flyers season ticketholders believed that when they purchased season tickets for the 2011-2012 season, the package would include tickets to all home games for the Flyers. Tickets to the 2012 Winter Classic on January 2, 2012, were not included, and those with season tickets were stuck buying tickets separately in a three-game pack, which included tickets to an alumni game and an AHL game. Along with the price of the tickets, fans were forced to pay forty-one dollars in processing fees. This settlement allows each Settlement Class Member to either receive forty-five dollars in vouchers for food and drink or an entertainment package worth approximately seventy-five dollars. If the 15,000 fans that are eligible to recover choose the larger return, the settlement could amount to over \$1.125 million, as well as any legal fees up to \$500,000. The court and the NHL still must approve the settlement.

“We continue to believe that our actions in selling Winter Classic ticket packages were in all ways perfectly appropriate and in full compliance with the law,” Comcast-Spectacor wrote in a statement to season ticketholders on Friday. “However, to avoid engaging in protracted litigation involving our most valued customers, we are pleased that we have been able to craft a settlement that provides you with benefits to enhance your season ticket holder experience.” The plaintiffs are represented by Derek G. Howard of Minami Tamaki LLP. The suit was filed in the United States District Court of New Jersey in May 2012.

-- Kyle Sutton

National Basketball Association

Clippers Fan Sues Team for \$5 Million Under Telephone Consumer Protection Act



On February 3, 2013, Ari Friedman sued the LAC Basketball Club, Inc. (LA Clippers) in the United States District Court for the Central District of California for damages and injunctive relief pursuant to the Telephone Consumer Protection Act (TCPA). Friedman alleges that the LA Clippers shared his cell phone information, which led to his receiving text message spam.

Friedman attended a LA Clippers game in 2012, and during the game he sent a text to the organization to be posted on the stadium scoreboard. The team did not inform Friedman that, as a result of his text, he would receive spam text messages and promotional offers. After the game, Friedman began receiving spam texts and phone calls that were placed via an “automatic telephone dialing system” defined and prohibited by the TCPA. The TCPA was enacted by Congress to give consumers a choice on how they could be contacted by corporate entities and to protect them from the nuisance of automated calls and privacy invasion. Friedman claims the LA Clippers shared his phone number, which led to its being placed in an automatic telephone dialing system. Friedman seeks \$5,000,000 in statutory damages, injunctive relief, and any other available legal or equitable remedies.

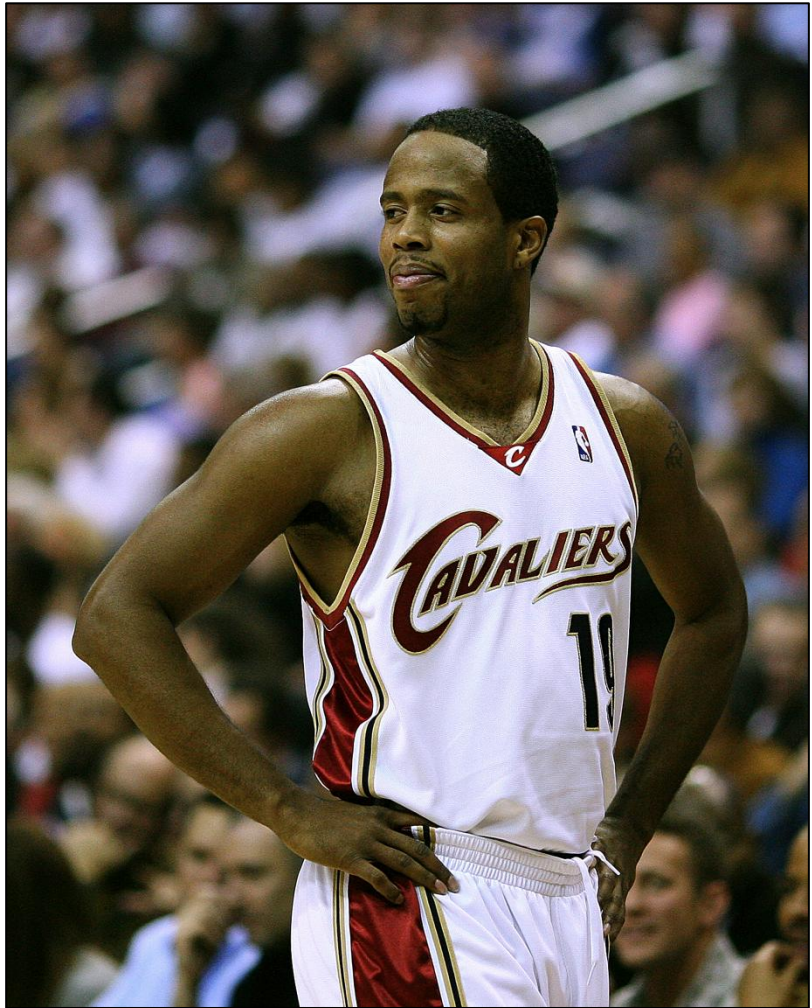
In his complaint Friedman alleges he was “harmed by the acts of [the LA Clippers]” by being illegally contacted via his cell phone, “thereby causing [him] to incur certain cellular telephone charges...and invading [his] privacy.” Friedman is represented by Todd M. Friedman and Nicholas J. Bontrager from the Law Offices of Todd M. Friedman, P.C. in Beverly Hills, California. The LA Clippers is represented by Robert H. Platt and Susan Page White of Manatt, Phelps & Phillips, LLP in Los Angeles, California.

-- Victoria Acuff

Former NBA Player Sued over Breach of Contract

On December 5, 2013, Pro Sports Marketing Ventures & Promotions, LLC (Pro Sports MVP) sued former NBA player Damon Jones in the Southern District Court of Texas for backing out of a tour of U.S. military bases in Afghanistan. The former NBA player backed out of the tour at the last minute, leading to the military's cancellation of its contracts with the tour manager.

Jones had signed a contract with Pro Sports MVP in May 2013 to do meet-and-greets and goodwill visits with the troops from June 20 to July 1. On the eve of the tour, Jones informed Pro Sports MVP he would not be attending because he had contracted to commentate Game Six and Game Seven of the NBA Finals. Pro Sports MVP rescheduled the trip for the next day, but Jones claimed he still would not go because of the illness of a family member. The hospital form showed the family member had been released the day before the flight and Pro Sports MVP offered to reschedule again, but Jones claimed to still be with family in Texas. The former NBA player was photographed attending the Miami Heat's championship victory party at a nightclub on the evening of June 21. Pro Sports MVP alleges that Jones created these excuses to get out of the tour and instead attend the championship party. As a result, the U.S. military canceled the company's goodwill tour contracts. Pro Sports MVP seeks \$90,000,000 for breach of contract.



Both Jones and representatives of Pro Sports MVP have declined to comment on this lawsuit. Pro Sports MVP is represented by Eric Scott Howard with Howard & Jensen, LLP of Colorado Springs, CO. The case has been assigned to Judge Sim Lake, and a hearing date is not yet set.

-- Alexandra Kinzinger

Liga Nacional de Fútbol Profesional

Judge Orders FC Barcelona to Provide Neymar's Contract

On December 18, 2013, Spanish High Court Judge Pablo Ruz ordered Liga Nacional de Fútbol Profesional club FC Barcelona to provide the contract of Neymar Da Silva Santos Junior and any other documents that will provide the financial details of the Brazilian striker's transfer to the club. FC Barcelona President Sandro Rosell is being sued by one of the club's members for misappropriation of funds regarding the cost of the transfer.

Judge Ruz has given Barcelona five days to provide the contract of Neymar along with any documents that would indicate the amounts paid for his transfer



to Barcelona and the club's financial reports from 2011, 2012, and 2013. Neymar signed with the club in June with a transfer cost of €57.1 million, of which €17.1 million was paid to his former club Santos in Brazil, according to court documents. The Barcelona club member bringing the suit, Jordi Cases, is seeking clarification as to where the remaining €40 million of the transfer fee went. Barcelona claims that the official transfer sum is accurate but that the parties receiving the remaining funds cannot be disclosed due to a confidentiality agreement. It has been widely reported that the money was paid to the Neymar & Neymar Company that is jointly owned by the player and his father.

“It is not known what has really taken place with the €40m supposedly paid to the player or his representatives,” Cases said in a statement read in the court hearing. “We have acted with complete transparency and we have nothing to be concerned about,” said club spokesman Toni Freixa. “We have explained the details of the transfer...€40m went to a company. If any judicial body asks for the information then there will be no problem.”

-- Harry Wright

Major League Baseball

Three Charged in Attempting to Kidnap, Extort Texas Ranger

On December 4, 2013, the United States Attorney's Office in Miami, Florida, brought charges against three men in the United States District Court, Southern District of Florida, for an alleged scheme to smuggle, kidnap and extort Major League Baseball outfielder Leonys Martin, a member of the Texas Rangers. The three men charged were Eliezer Lazo, Joel Martinez Hernandez, and Yilian Hernandez. The accusations against the three include hostage taking and extortion conspiracy, charges punishable by life in prison.

The lawsuit stems from Martin's defection from his native Cuba, a process that culminated in his signing a five-year, \$15.5 million contract with Texas in May 2011. Martin's defection attempt began with an offer from a family friend to arrange a trip for Martin, family, and friends from Cuba to Mexico by yacht, from where they would cross by land into the United States.

Martin allegedly accepted the offer, but once in Mexico, he was allegedly taken to a mattress-lined compound near Monterrey and detained by armed men, one of which has been identified as Lazo. At the compound, Martin was allegedly forced to sign a representation contract with management company Estrellas del Beisbol ("Estrellas"), in which Lazo and Martinez were allegedly partners. Estrellas offered to train Martin and assist in the completion of his defection in exchange for thirty percent of any future salary or bonuses. The commission received by MLB Players Association General Certified Player Agents is generally around five percent. Martin allegedly paid Estrellas \$1.35 million after signing with Texas, but the company brought suit against Martin for breach of contract, as 30 percent of his \$15.5 million would have netted Estrellas \$4.65 million. The federal indictment seeks forfeiture of the Estrellas' bank account, any interest Lazo may have in the company, as well as money Estrellas may have received through other baseball player contracts formed under duress.

Martin, who is represented by attorney Paul H. Minoff of Fort Lauderdale-based firm GrayRobinson P.A., stated in a counter-suit against Estrellas that he "had no choice but to sign it ... considering that [he, other players and his family] were all being held hostage." Minoff further described Estrellas as a "nonexistent entity that serves as a front for illegal activity, such as human smuggling and trafficking, kidnapping and extortion." Lazo and Martinez are currently serving five and seven-year prison sentences for money laundering. The three men are also expected to face similar charges in the smuggling of another thirteen Cuban baseball prospects to the United States.



-- Josh Mastracci

National Football League

Former Kansas City Chiefs Players Sue Team over Concussions



On December 3, 2013, Alexander Cooper and four other former Kansas City Chiefs players sued the Kansas City Chiefs Football Club, Inc. in the Circuit Court of Jackson County, Missouri, for damages resulting from head injuries suffered while playing. The players allege that the Chiefs knew for years that post-concussion syndrome and cognitive impairment was prevalent among football players but failed to inform them of those dangers.

In the period between August 31, 1987, and March 29, 1993, plaintiffs allege that the Chiefs failed in their duty as an employer to protect the players from long-term injuries as a result of concussions. The players

cite widespread knowledge of chronic traumatic encephalopathy (CTE) and other side effects of concussions dating back to 1928 as evidence in their complaint, including numerous studies showing that repetitive head trauma is known to lead to these detrimental effects. Despite the widespread nature of the scientific studies, the players allege that defendant never warned them of the risks and even purposefully misrepresented such risks. In their complaint, the players state that the team repeatedly downplayed the seriousness of concussions, and frequently referred to them as simply “getting your bell rung.” It is also alleged that the team gave players “ammonia inhalants, caffeine cocktails and/or Toradol” in order to abbreviate the time injured players spent off the field. The players generally allege the team failed to take due care in protecting their players from injury and that the players relied on the information provided by the Chiefs organization to their detriment, namely injuries resulting from years of head trauma. The players seek actual and punitive damages, as well as court costs.

“I believe this is a way to say to an individual team within the NFL, ‘What did you know, when did you know and what did you do about it?’” said Dirk Vandever, one of the lead attorneys for the plaintiffs. Vandever is an attorney from the Popham Law Firm, P.C. in Kansas City. The plaintiffs are also represented by Kenneth B. McClain, Lauren E. McClain, and Timothy J. Kingsbury of Humphrey, Farrington & McClain, P.C. in Independence, Missouri, as well as John M. Klamann, Andrew Schermerhorn, and Paul D. Anderson of the Klamann Law Firm, P.A., in Kansas City. The Chiefs have declined to comment.

-- Wyatt Lyles

Other News

Principal and Former Athletic Director File Civil Rights Action against Arizona Interscholastic Association

On December 9, 2013, Deer Valley Principal Barbara Dodds and former athletic director John Allen sued the Arizona Interscholastic Association (AIA) in the U.S. District Court for the District of Arizona in Phoenix for civil rights violations. Dodds and Allen allege that the AIA retaliated against them when they reported players' complaints of racial discrimination.

Concerns arose in the summer of 2013 over the improper recruiting of players from another high school by two Deer Valley High School coaches. Dodds and Allen fired the coaches, but two players who transferred to Deer Valley from a rival high school were deemed ineligible by the AIA for the prior contact they had with the two former coaches. Dodds and Allen attempted to restore their eligibility prior to the school's season opener arguing that they were protecting the players from racial discrimination they faced at their former school. AIA denied the appeal and informed Dodds and Allen that playing the two students in its season opener would be a violation of AIA rules. Dodds and Allen believed the players were eligible to play and permitted both students to play in the season opener prior to being declared eligible by the AIA. In response to the rules violation, AIA placed Deer Valley on probation, a rare punishment that banned all teams from the playoffs for one year. The probation was ultimately limited to football. The district decided against renewing both Dodds's and Allen's employment contracts. In the lawsuit, Dodds and Allen alleged that the AIA planned to punish them for reporting racial discrimination and that its investigation led to "preordained" results, which is a violation of their due process rights. Dodds and Allen are seeking damages for back pay and compensation for emotional distress.

"There was no ulterior motive for Barb and I, other than to support these kids," said Allen. Mark Mignella, the representing attorney of the AIA, stated, "The claims are without any merit." Mignella, of the law firm Mark R. Mignella, P.C., added, "The AIA followed the process created by the member schools, of which Deer Valley is one." Dodds and Allen are both represented by William R. Hobson of the Law Office of William R Hobson in Chandler, Arizona. The lawsuit is assigned to U.S. District Court Senior Judge Paul G. Rosenblatt, and a date for the hearing is not yet set.

-- Sara LaMont

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