SYLLABUS

OBJECTIVES:

1. To obtain a keen understanding of sports as an industry by drawing on a cross-section of various areas of the law.

2. To identify and respond to legal issues associated with sports management.

3. To develop one’s own jurisprudence of Sports law with an eye toward identifying and critiquing competing legal theories.

MATERIALS:


   Sports page of local daily newspaper.

   ESPN TV

   

   2. CLASS HANDOUTS

PREREQUISITES:

Satisfactory completion of all first year courses (or part time status)

ATTENDANCE:

Regular attendance is required. Excessive absences (more than three) may result in a forced withdrawal from the course or a reduction in grade. If you miss two classes, you must see me.

GRADING:

Grades are based on (1) a three-hour multiple choice examination (50%) and (2) 15-18 page paper (40%) and two class projects (10%). The exam is designed to test you on the many issues and substantive legal principles that arise in the sports law world. However, to give you an opportunity to explore in great depth a particular issue or area of interest in sports law, you are to write a 15-18 page research paper on the sports law subject of your choice. I am happy to work with you to provide topic suggestions but feel free to select a topic of your choice. I do ask that you submit to me by email your topic selection no later than the first class of October. The final paper is due the last day of the official GSU COL exam period. The two projects are designed to provide skills training and will be assigned during the semester with their respective due dates.

OFFICE HOURS:

I follow an open door policy and encourage students to see me. I am around the office on Tuesday (1500-1700), Wednesday morning, and Friday (8-9 and 1145 – 1300). If you prefer an appointment, please contact me at my office number.
I. The Anatomy of League Decision Making and its Limits
   A. Antitrust limitations to league authority
      1. Sections 1 and 2 of the Sherman Act
      2. State counterparts to the Sherman Act
      3. Rule of reason analysis
         a. per se category
         b. lesser restrictive alternatives
      4. *Flood v. Kuhn* and baseball's exemption from antitrust law
   B. League housekeeping
      1. Control of playing facilities
      2. Control of franchise
      3. Control of players
      4. Control of media
      5. Merger with competitors
      6. Tying contracts
      7. Eligibility rules
      8. Disciplinary rules
      9. Player draft
     10. Cross-ownership bans
   C. Authority of league commissioners
      1. Genesis of authority
      2. Limits to authority
II. Collective Bargaining in Professional Sports
   A. Collective bargaining
      1. Collective bargaining paradigm under the NLRA
      2. Jurisdiction and authority of the NLRB
      3. History of collective bargaining in sports
      4. Collective bargaining models
         a. NBA model
         b. MLB model
         c. NFL model
      5. Duty to bargain in good faith
         a. mandatory conditions
         b. permissive conditions
      6. Management's tools
      7. Union's tools
      8. Recurring issues
         a. money
         b. player mobility
c. security
d. retirement
e. draft
f. free agency compensation

B. Labor exemption to application of antitrust law
   1. Statutory
   2. Non-statutory

C. Baseball's exemption from antitrust law revisited

III. Enforcing the Sports Contracts
A. Contract Law and the creative use of the injunction
   1. Requirements for injunctive relief
   2. Tortuous interference with contract

B. Grievance procedures
   1. MLB model
   2. NBA model
   3. NFL model

C. Limits to enforcement of arbitration clauses in player contracts

D. Limits to arbitration

IV. Representing the Professional Athlete
A. The functions of a player agents
B. Statutory limits on player agents
C. Ethics and the player agent
D. Registration as player agent
E. Resolution of disputes between player and agent
F. The duties of a player agent

V. Negotiating Sports Contracts
A. The art and science of negotiations and negotiation theory
B. Negotiating the player-team contract
   1. Uniform provisions and clauses
   2. The collective bargaining agreement

C. Usual and unusual clauses
   1. Salary structure
2. Timing of salary payments
3. Signing or reporting bonuses
4. Roster bonus
5. Incentive and honor bonuses
6. Salary guarantees
7. Fringe benefits
8. Trade or no-trade provisions
9. Injury provisions
10. Options
11. Personal conduct provisions
12. Loans
13. Cars
14. William Perry provision
15. Spring training invitation
16. Some wild ones!!!

D. Leverage in negotiations
E. Negotiating the endorsement contract

VI. The College's Relationship with its Student Athletes

A. The genesis of the relationship

B. Definitions of amateur status
   1. NCAA definition.
   2. Olympic definitions.
   3. Factors resulting in loss of amateur status.

C. Application of workers' compensation laws
   1. Is the scholarship athlete an employee of the institution?
   2. Right to control test.
   4. Restatement (second) agency test.
   5. Repercussions of employee status.

D. Catastrophic injuries and insurance requirements

VII. Drug Testing in Amateur and Professional Sports

A. Federal law view
   1. Unlawful search or seizure.
   2. Invasion of privacy.
   3. Procedural due process.
   4. Substantive due process.
   5. Equal protection concerns.

B. State law view
   1. Challenges under State constitution.
2. Broader rights.

C. Methodology
   1. Who is conducting the testing?
   2. Why is testing being done?
   3. Who is being tested?
   4. How is the test administered?
   5. What types of drugs are students being tested for?
   6. What happens if a student fails?
   7. What procedures are employed to challenge affirmative drug test results?

D. Professional athletes and matter of collective bargaining
   1. Is drug testing a mandatory condition?
   2. Non-union players

VIII. The Regulation of Amateur Sports

A. Constitutional issues, that is, the requirement of state action
   1. NCAA v. Tarkanian
   2. Defrantz v. USOC

B. Law of private associations as a limit to sports regulation
   1. Not a powerful plaintiff's tool
   2. Has the association violated its charter, constitution, or bylaws, or otherwise engaged in wholly arbitrary or unreasonable conduct?

C. The NCAA
   1. The structure of the NCAA
   2. NCAA power and authority
   3. Processing of an NCAA infractions case
   4. Role of attorney and institution in responding to alleged NCAA violation
   5. Who is ultimately responsible to NCAA?
   6. Who does NCAA attempt to regulate?
      a. athletes
      b. coaches
      c. institutions
      d. boosters

D. Regulations regarding recruitment

E. Eligibility
   1. Amateur status revisited
   2. Limits on eligibility
   3. Unscrupulous agents and screening
   4. Freshman eligibility and Proposition 48
   5. Transfer rules
   6. Misconduct and grooming rules

IX. Sexual Discrimination in Amateur Athletics
A. Equal protection
   1. Is sex a suspect class?
   2. What is the appropriate test under the equal protection clause?

B. Title IX
   1. Is the athletic department bound by Title IX?
   2. Is the school in compliance with Title IX?
   3. What remedial action has been, or could be, taken?
   4. Is there a private cause of action?

X. Antitrust and Amateur Sports
   A. NCAA sanctions against colleges and universities
   B. Television contracts
   C. NCAA v. University of Oklahoma

XI. Baseball Salary Arbitration
   A. The history of the quagmire -- the reserve clause
   B. Free agency
   C. Arbitration on salary matters -- "final offer" paradigm
   D. Case study and arbitration presentation

XII. Intellectual Property Issues in Professional Sports
   A. Licensing
   B. Ambush marketing

XII. Facilities Management
   A. Public Financing, Revenue Sources, and Leases
   B. Duties
   C. Systems
   D. Audits
SPORTS LAW
PROFESSOR JACK F. WILLIAMS

ASSIGNMENTS

1. Read Preface and chapter 10 (public financing of stadiums, revenue sources)
2. Read chapter 10 (stadium leasing, facilities management and risk assessment)
3. Read chapter 15 (drug testing)
4. Read chapter 1 (legal relationships in amateur sports)
5. Read chapter 2 (amateur sports associations, rules, eligibility)
6. Read chapter 3 (gender equity)
7. Read chapter 4 (amateur sports and antitrust law)
8. Skim chapter 5 (we will not work problems in class) (league decision making and commissioner powers)
9. Read chapter 6 (labor relations in professional sports)
10. Read chapter 7 (enforcement of sports contracts)
11. Read chapter 8 (sports agents)
12. Read chapter 9 (negotiation sports contract)

* The course syllabus provides a general plan for the course, deviations may be necessary.