

# Preface

## Fifth Edition

Our fifth edition has the same general organization and 12 chapters as our fourth edition and provides a comprehensive and timely discussion of youth, high school, college, Olympic, and professional sports legal issues, including gender and racial equity, health, safety, risk management, and intellectual property law issues. Significant additions include: revised NCAA bylaws relating to the cancelation or reduction of student-athlete scholarships, student-athlete transfer eligibility, student-athlete and agent interactions, the addition of independent members in the governance structure, and the new enforcement and penalties structure; discussion of NCAA infractions decisions applying the NCAA's post-2013 penalty structure; antitrust cases challenging NCAA eligibility rules; an updated comment on concussions that includes recent cases, state legislation seeking to reduce the incidence of concussions, and settlements of concussion-related disputes between claimants and the NCAA, NFL, and NHL; discussion of coaches' involvement in the college admissions and basketball scandals and a revised coaching contract negotiation exercise; provisions of the NFL, NBA, MLB, and NHL collective bargaining agreements; a revised problem analyzing the NBA uniform player contract; updated player association regulations governing sports agents; proposed revisions to the Uniform Athlete Agents Act; updated league drug and personal conduct policies; discussion of U.S. Safe Sport legislation and the obligations of sports organizations to protect athletes from sexual misconduct; significantly revised Olympic and international sports law materials, including recent CAS awards interpreting and applying the 2015 World Anti-doping Code as well as summaries of national court and European Court of Human Rights cases recognizing the independence of the CAS and the validity of its awards; a reorganized gender equity chapter that includes new and expanded discussion of Title IX regulations and pregnancy and sexual harassment, sexual orientation discrimination in sports, the participation rights of transgender and intersex athletes (including the Castor Semenya CAS award), the NCAA's 2018 sexual violence policy, and major professional sports leagues' domestic violence policies; new commentary questioning the baseball rule and the limited duty rule as applied to absolve stadium owners of liability to spectators; and revised or new problems relating to antitrust, labor relations, and intellectual property issues. Like past editions, the fifth edition has an accompanying extensive Teacher's Manual with sample syllabi, explanations, and suggestions

for effectively teaching the materials in each chapter and detailed discussion of all problems. We miss the friendship and contributions of Rodney Smith. We are happy, however, to welcome Barbara Osborne to our team. As always, you are welcome to contact any of us with your comments and suggestions for improving our book: Matt (matt.mitten@marquette.edu), Tim (davistx@wfu.edu), Jeremi (duru@wcl.american.edu), or Barbara (sportlaw@unc.edu).

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### **First Edition**

This book facilitates study and analysis of the significant legal, historical, economic, and sociological issues affecting the development of both the amateur and professional sports industries in the twenty-first century. It provides sports law professors and students with a comprehensive, multipurpose text of cases, materials, and problems that gives a balanced perspective on how some of America's largest and most popular industries are regulated by our legal system. The book takes an in-depth look at the legal regulation of interscholastic athletics, intercollegiate athletics, Olympic and international sports, and professional sports.

In our experience, law students most effectively learn about legal regulation of the sports industries by understanding the underlying historical, economic, and sociological factors influencing the developing nature of the various legal relationships that exist therein (e.g., athlete and team, university and NCAA, professional team and league, etc.). To accomplish this objective, this book initially covers the respective internal regulatory mechanisms for the different levels of athletic competition (e.g., high school, college, Olympic, and professional sports); then it considers the primary bodies of public law that shape and constrain them. Individual chapters of this book focus on racial and gender equity issues in sports and facilitate multidisciplinary consideration of these important, contemporary topics. The book considers economic policy and consumer welfare issues as part of its coverage of how courts have applied antitrust law to the sports industries. This interdisciplinary examination of sports and law also is intended to appeal to upper-division undergraduate and graduate students.

This book provides a vehicle for applying general principles typically covered in first-year courses, such as contracts, torts, constitutional law, criminal law, and civil procedure, to sports-related legal issues and problems. For example, it includes coverage of the following issues: the nature of a university's contractual obligations to its student-athletes, tort liability of an athletic event participant to another participant, a state high school athletic association's status as a state actor and high school students' federal constitutional rights, criminal liability for on-field violence, and the implications of American courts' lack of personal jurisdiction over international sports governing bodies.

A sports law course also provides a means of initially exposing students to specialized areas of law such as antitrust, labor, intellectual property, and workers

compensation laws as well as relatively new legislation such as the Americans with Disabilities Act. Our book considers how each of these areas of law (and others) regulates the sports industries. It also provides introductory materials and hypothetical problems to facilitate students' understanding of these legal principles and their application to the sports industries and society in general.

This book incorporates the strengths of existing casebooks while also providing broader coverage of contemporary sports law issues. It includes the leading historical and recent sports law cases and provides detailed explanatory material, notes, and questions to facilitate students' understanding of complex legal doctrines. It also raises some of the deeper philosophical, sociological, psychological, and economic policy issues that arise in the sports context. This approach both mirrors the practice of law in the twenty-first century generally and heightens students' understanding of sports-related legal issues. In addition, this book includes some negotiation exercises and problems designed to develop students' client counseling and transactional skills. These unique features combine both theoretical and practical components to provide sports law students with a well-rounded learning experience.

The breadth and depth of this book provide the flexibility necessary to achieve a wide range of teaching and learning objectives. It is suitable for use as a primary text in either a two- or three-credit-hour general sports law course covering individually selected amateur and sports law topics as well as issues common to both industries. It also can be used in separate two-hour or three-hour courses focusing primarily on either amateur or professional sports law issues. Alternatively, it can be used for two separate one-semester courses designated Sports Law I and Sports Law II. In addition, this book provides a suitable text for use in sports management programs and other academic disciplines studying sports law.

A sports law course provides several important educational benefits in addition to providing students with an understanding of the legal framework governing the amateur and professional sports industries. Perhaps the most important one is that the study of sports law provides students with a package of readily transferable knowledge and skills applicable to a wide variety of legal and non-legal careers. It is one of the relatively few law school courses not limited to consideration of a single, discrete area of substantive law. This book enables thoughtful study of how several different bodies of law combine to regulate the amateur and professional sports industries. It also facilitates students' ability to synthesize several different discrete bodies of law, to recognize how they combine to govern sports, and to understand how laws that conflict are harmonized. In doing so, the book also encourages student examination of the role of sport in our culture and how law responds to serious cultural and moral questions.

In whatever form this book is used, we trust that students and faculty alike will enjoy their engagement with the material as much as we have. We have found that sports law deals with issues that merit deep study and reflection. We hope that this book encourages such study.

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