

CONTENTS

<i>Preface</i>	xxxi
<i>Acknowledgments</i>	xxxiii
CHAPTER 1 <i>Introduction</i>	1
A. PROFESSIONAL SPORTS: AN OVERVIEW	1
B. AMATEUR SPORTS: AN OVERVIEW	5
CHAPTER 2 <i>Contracts</i>	9
A. WHY SPORTS CONTRACTS ARE DIFFERENT	10
<i>Philadelphia Ball Club v. Lajoie</i>	11
Southwest Basketball League Contract	12
<i>Questions and Discussion</i>	15
B. FORMATION	16
<i>Los Angeles Rams v. Cannon</i>	17
<i>Detroit Football Co. v. Robinson</i>	18
1. Offer	20
2. Acceptance	20
3. Interpretation	20
<i>Pasquel v. Owen</i>	21
<i>Questions and Discussion</i>	22
C. STANDARD PLAYER'S CONTRACT	23
1. Each Player Is Unique	23
<i>Johnson v. Green Bay Packers</i>	23
<i>Tillman v. New Orleans Saints</i>	25
Minor League Uniform Player Contract	26
<i>Questions and Discussion</i>	29
	xi

D. SPECIALTY CLAUSES	30
1. Signing and Roster Bonuses	30
<i>Alabama Football, Inc. v. Stabler</i>	30
<i>White v. NFL (Michael Vick)</i>	31
2. Option	38
<i>Hennigan v. Charger Football Co.</i>	38
<i>White v. NFL (Ashley Lelie)</i>	41
3. Reserve	45
4. No-Cut	46
<i>Munchak Corp. v. Cunningham</i>	46
5. Collateral Agreements	48
<i>Questions and Discussion</i>	49
E. TERMINATIONS, ASSIGNMENTS, AND REMEDIES	50
<i>Houston Oilers, Inc. v. Floyd</i>	52
<i>Houston Oilers, Inc. v. Neely</i>	54
<i>Madison Square Garden Boxing, Inc. v. Ali</i>	56
<i>Metropolitan Sports Facilities Commission v.</i>	59
<i>Minnesota Twins Partnership</i>	
<i>Questions and Discussion</i>	63
F. DEFENSES	66
1. Unclean Hands	67
<i>Minnesota Muskies, Inc. v. Hudson</i>	67
2. Unconscionability	69
<i>Connecticut Professional Sports Corp. v. Heyman</i>	69
3. Mutuality	71
<i>Questions and Discussion</i>	71
G. NEGOTIATING THE CONTRACT	72

<i>Sample v. Gotham Football Club, Inc.</i>	74
<i>Eckles v. Sharman</i>	76
<i>Questions and Discussion</i>	81
H. COACHES	82
1. Contract Formation	83
<i>Rodgers v. Georgia Tech Athletic Association</i>	84
2. Salaries, Benefits, Clauses, and Breaches	85
Pro Forma College Contract	86
<i>Price v. Univ. of Ala.</i>	88
3. Endorsements	91
<i>Questions and Discussion</i>	92
CHAPTER 3 Agents	95
A. THE CONCEPT OF AGENTS	95
<i>Total Economic Athletic Management of America,</i>	96
<i>Inc. v. Pickens</i>	
<i>Brown v. Woolf</i>	101
<i>Questions and Discussion</i>	103
B. STANDARD REPRESENTATION CONTRACTS	105
Standard Representation Agreement	105
<i>Bias v. Advantage International, Inc.</i>	107
<i>Zavian v. Lilly</i>	109
<i>Questions and Discussion</i>	111
C. DUTIES AND RESPONSIBILITIES	113
1. Good Faith	114
<i>Zinn v. Parrish</i>	114
2. Conflicts of Interest	117
<i>Detroit Lions v. Argovitz</i>	117

3.	Miscellaneous Duties	120
a.	Financial Planning	120
	<i>Gordon v. Vitalis Partners, LLC</i>	120
b.	Taxation Strategies	124
c.	Public Relations	124
d.	Ethical Concerns	124
	<i>In re Henley</i>	124
	<i>Speakers of Sport, Inc. v. ProServ, Inc.</i>	127
	<i>Questions and Discussion</i>	128
D.	AGENT REGULATION	129
1.	State Regulations	130
	Uniform Athlete Agents Act	130
a.	Criminal Liability	132
	<i>Wright v. Bonds</i>	132
2.	Union Regulations	133
	<i>Application for Certification as an MLBPA Player Agent</i>	135
	<i>Collins v. National Basketball Players Association</i>	135
	<i>Black v. National Football League Players Association</i>	137
	<i>White v. National Football League (Leigh Steinberg)</i>	142
	<i>Smith v. IMG Worldwide, Inc.</i>	149
	<i>Atwater v. NFL Players Ass’n</i>	155
3.	NCAA-Based Regulations	164
	<i>Walters v. Fullwood</i>	165
	<i>Questions and Discussion</i>	169

CHAPTER 4	<i>Labor Law</i>	173
A.	UNIONS IN PROFESSIONAL SPORTS	174
	<i>North American Soccer League v. National Labor Relations Board</i>	174
	<i>National Football League Players Association v. National Labor Relations Board</i>	176
	<i>Questions And Discussion</i>	177
B.	LABOR-MANAGEMENT RELATIONS	179
1.	Baseball's Reserve System	179
	<i>Major League Baseball v. Butterworth</i>	180
2.	Football's Rozelle Rule	183
	<i>Questions and Discussion</i>	183
C.	NATIONAL LABOR RELATIONS ACT	185
	The National Labor Relations Act	186
	<i>In re American League of Professional Baseball Clubs</i>	188
	<i>Phillips v. Selig</i>	189
	<i>Questions and Discussion</i>	199
D.	COLLECTIVE BARGAINING AND COLLECTIVE BARGAINING AGREEMENTS	200
	NFL Collective Bargaining Agreement	200
	<i>Morris v. New York Football Giants, Inc.</i>	203
	<i>King v. Detroit Lions, Inc.</i>	205
	<i>National Football League Players Association v. Pro-Football, Inc.</i>	208
	<i>White v. National Football League (Kyle Richardson)</i>	210

1.	Salary Caps	213
	Mike Freeman, Salary Cap Forces Giants to Join Teams Making Deep Cuts	213
	<i>Questions and Discussion</i>	214
E.	CONCERTED ACTIONS	216
1.	Unfair Labor Practices	217
	<i>Smith v. Houston Oilers, Inc.</i>	217
2.	Strikes	219
3.	Lockouts	220
	<i>Brady v. NFL</i>	221
	<i>Questions and discussion</i>	231
F.	ARBITRATION	233
1.	Grievance	233
	<i>Kansas City Royals Baseball Corp. v. Major League Baseball Players Association</i>	234
	<i>Major League Umpires' Association v. American League of Professional Baseball Clubs</i>	237
	<i>Major League Baseball Players Association v. Garvey</i>	239
	<i>Miami Dolphins, Ltd. v. Williams</i>	242
2.	Salary	246
	MLB Collective Bargaining Agreement	246
	<i>Questions and Discussion</i>	247

CHAPTER 5	<i>Antitrust</i>	251
A.	ANTITRUST IN SPORTS	252
	Sherman Act	253
	<i>Toscano v. PGA Tour, Inc.</i>	253
	<i>American Needle, Inc. v. NFL</i>	257
	<i>Questions and Discussion</i>	266
B.	PLAYER RESTRAINTS	268
	<i>Mackey v. National Football League</i>	270
	<i>Wood v. National Baseball Association</i>	275
	<i>Questions and Discussion</i>	280
C.	EXEMPTIONS	281
1.	Baseball	282
	<i>Flood v. Kuhn</i>	282
	<i>Piazza v. Major League Baseball</i>	288
	<i>Minnesota Twins Partnership v. State</i>	295
	Curt Flood Act of 1998	298
2.	Nonstatutory Labor Exemptions	299
	<i>Powell v. National Football League</i>	299
	<i>Brown v. Pro Football, Inc.</i>	302
	<i>Clarett v. NFL</i>	305
	<i>Questions and Discussions</i>	324
D.	LEAGUE VERSUS LEAGUE	327
	<i>United States Football League v. National Football League</i>	327
	<i>Questions and Discussion</i>	329

E. FRANCHISE RELOCATION AND ARENA FINANCING	331
<i>Los Angeles Memorial Coliseum Commission v. National Football League</i>	331
<i>Seattle Totems Hockey Club, Inc. v. National Hockey League</i>	335
<i>St. Louis Convention & Visitors Commission v. National Football League</i>	342
<i>VKK Corp. v. National Football League</i>	350
<i>Questions and Discussion</i>	356
F. AMATEUR SPORTS	359
<i>National Collegiate Athletic Association v. Board of Regents</i>	359
<i>Questions and Discussion</i>	365
CHAPTER 6 Torts	367
A. NEGLIGENCE	368
1. Duty of Care	368
<i>Kleinknecht v. Gettysburg College</i>	369
2. Standard of Care and Breach of Duty	374
3. Proximate Cause	375
4. Damages	375
<i>Questions and Discussion</i>	375
B. MEDICAL MALPRACTICE	377
1. Doctors and Sports	377
<i>Chuy v. Philadelphia Eagles Football Club</i>	378
<i>Gardner v. Holifield</i>	379
2. Duty to Disclose and Informed Consent	381
<i>Krueger v. San Francisco Forty Niners</i>	382

<i>Questions and Discussion</i>	384
C. FACILITY LIABILITY	386
<i>Akins v. Glen Falls City School District</i>	386
1. Status of Injured Party	389
2. Unreasonably Hazardous Conditions	389
<i>Wilkinson v. Hartford Accident and Indemnity Co.</i>	390
3. Minors	391
<i>City of Atlanta v. Merritt</i>	392
<i>Questions and Discussion</i>	394
D. PRODUCTS LIABILITY	395
1. Sports Equipment	395
2. Strict Liability	395
<i>Everett v. Bucky Warren, Inc.</i>	396
3. Warranty Liability	399
<i>Questions and Discussion</i>	399
E. DEFAMATION	401
1. Public Figures	401
<i>Nussbaumer v. Time, Inc.</i>	402
2. Defenses	406
<i>Stepien v. Franklin</i>	407
<i>Falls v. The Sporting News Publishing Co.</i>	410
<i>Questions and Discussion</i>	415
F. INVASION OF PRIVACY	416
<i>Ali v. Playgirl, Inc.</i>	417
<i>Questions and Discussion</i>	419
G. PARTICIPANT AND SPECTATOR INJURIES	420
1. Participants Generally	420
<i>Griggas v. Clauson</i>	420

2.	Violation of Safety Rules and Unsportsmanlike Conduct	421
	<i>Nabozny v. Barnhill</i>	421
	<i>Bourque v. Duplechin</i>	423
3.	Professional Sports	426
	<i>Hackbart v. Cincinnati Bengals</i>	426
4.	Spectators Generally	428
5.	Baseball Spectators	429
	<i>Schentzel v. Philadelphia National League Club</i>	429
	<i>Lawson v. Salt Lake Trappers, Inc.</i>	431
	<i>Benejam v. Detroit Tigers, Inc.</i>	434
	<i>Questions and Discussion</i>	437
H.	SCHOOL, COACH, AND REFEREE LIABILITY	439
1.	School Liability	439
	<i>Ross v. Creighton University</i>	440
2.	Vicarious Liability	442
3.	Coach Liability	443
	<i>Brahatcek v. Millard School District</i>	443
	<i>Vendrell v. School District No. 26, Malheur County</i>	447
4.	Referee Liability	451
	<i>Carabba v. Anacortes School District</i>	451
	<i>Questions and Discussion</i>	453
I.	TORT DEFENSES	454
1.	Assumption of Risk	454
	<i>Ashcroft v. Calder Race Course, Inc.</i>	454
	<i>Ford v. Gouin</i>	455
2.	Contributory Negligence	457
3.	Comparative Negligence	457

4.	Warnings and Releases	457
	<i>Williams v. Cox Enterprises</i>	458
5.	Immunities	459
	Recreational Use Statutes	459
	<i>Churilla v. School District</i>	459
	<i>Questions and Discussion</i>	461
J.	WORKERS' COMPENSATION	464
	<i>Waldrep v. Texas Employers Insurance Association</i>	465
	<i>Questions and Discussion</i>	468
CHAPTER 7	<i>Criminal Liability</i>	471
A.	VIOLENCE IN SPORTS	471
1.	Assault and Battery	472
	<i>State v. Floyd</i>	472
	<i>State v. Shelley</i>	475
2.	Inherently Violent Sports	478
	<i>Questions and Discussion</i>	478
B.	SPECTATOR VIOLENCE	480
1.	"Hooliganism"	480
	Walter Champion, The Great Dodgers-Wrigley Field	481
	Melee: A Bar Exam Question in the Making?	
	<i>Questions and Discussion</i>	483
C.	THE CANADIAN APPROACH	484
	<i>Regina v. Bradshaw</i>	484
	<i>Regina v. Maki</i>	486
	<i>Regina v. Green</i>	488
	<i>Questions and Discussion</i>	490

CHAPTER 8	<i>Athletic Eligibility</i>	493
A.	AMATEUR SPORTS	494
	<i>Robinson v. Kansas State High School Activities Association, Inc.</i>	495
	<i>Kirby v. Michigan High School Athletic Association</i>	498
	<i>Questions and Discussion</i>	503
B.	SCHOLARSHIPS	504
	<i>Taylor v. Wake Forest University</i>	504
	<i>Gulf South Conference v. Boyd</i>	506
	<i>Rensing v. Indiana State University Board of Trustees</i>	510
	<i>Questions and Discussion</i>	515
C.	ELIGIBILITY	516
1.	Participation as a Right or Privilege	516
	<i>Hall v. University of Minnesota</i>	516
2.	Red-Shirting	520
3.	No Transfer	521
	<i>Sullivan v. University Interscholastic League</i>	521
4.	Summer Camp Rule	523
	<i>Kite v. Marshall</i>	523
5.	Anti-Marriage	524
	<i>Bell v. Lone Oak Independent School District</i>	525
	<i>Questions and Discussion</i>	526
D.	STATE ACTORS	528
	<i>National Collegiate Athletic Association v. Tarkanian</i>	528
	<i>National Collegiate Athletic Association v. Miller</i>	533
	<i>Brentwood Academy v. Tennessee Secondary School Athletic Association</i>	539

<i>Questions and Discussion</i>	542
E. NO PASS, NO PLAY	544
<i>Spring Branch Independent School District v. Stamos</i>	544
<i>Questions and Discussion</i>	548
F. THE CHALLENGED ATHLETE	549
Americans with Disabilities Act of 1990	550
<i>Grube v. Bethlehem School District</i>	552
<i>Martin v. PGA Tour, Inc.</i>	558
<i>Pistorius v. IAAF</i>	562
<i>Questions and Discussion</i>	576
G. CIVIL RIGHTS AND RACISM	578
1. §1983 Claims	579
<i>Malcolm W. v. Novato Unified School District</i>	579
2. Title VII Claims	594
<i>Wilson v. Lock Haven Univ.</i>	594
3. Racism	611
<i>Boyd v. Feather River Cmty. College Dist.</i>	612
<i>Questions and Discussion</i>	619
CHAPTER 9 <i>Discipline</i>	623
A. THE POWER TO DISCIPLINE AND PENALIZE	623
1. Due Process Considerations	624
<i>Kelley v. Metropolitan County Board of Education</i>	624
<i>Neal v. Fulton County Board of Education</i>	629
2. High School and Intercollegiate Sports	631
<i>Questions and Discussion</i>	631
B. PROFESSIONAL SPORTS	632
1. Authority of League Commissioner	632

	<i>Atlanta National League Baseball Club, Inc. v. Kuhn</i>	633
	<i>Charles O. Finley & Co., Inc. v. Kuhn</i>	637
2.	Collective Bargaining Agreements	643
	NFL C.B.A. Collective Bargaining Agreement	643
	<i>Sprewell v. Golden State Warriors</i>	645
3.	Gambling	648
	<i>Molinas v. Podoloff</i>	649
	Questions and Discussion	651
C.	DRUG TESTING	654
1.	Professional Sports	655
	<i>Dimeo v. Griffin</i>	655
	<i>United States v. Bonds</i>	660
2.	Amateur Sports	672
	<i>University of Colorado v. Derdeyn</i>	673
	<i>Todd v. Rush County Schools</i>	674
3.	Right of Privacy and Reasonableness of Search	676
	<i>Hill v. National Collegiate Athletic Association</i>	677
	<i>Vernonia Sch. Dist. 47J v. Acton</i>	690
	<i>Brennan v. Board of Trustees for University of Louisiana Systems</i>	691
	<i>Trinidad School District No. 1 v. Lopez</i>	694
4.	Due Process and Equal Protection	697
	<i>Schaill v. Tippecanoe County School Corp.</i>	697
	Questions and Discussion	699
D.	TERMINATING EMPLOYMENT	702
	<i>Dambrot v. Central Michigan University</i>	702
	<i>Lee v. Wise County School Board</i>	708
	Questions and Discussion	710

CHAPTER 10	<i>The NCAA</i>	713
A.	ADMINISTRATION	713
	NCAA Constitution, Article 4, Organization	714
	<i>California State University, Hayward v. National Collegiate Athletic Association</i>	716
	Questions and Discussion	722
B.	ELIGIBILITY	723
1.	No-Agent Rule	723
	NCAA Constitution, Article 12.3, Use of Agents	723
	<i>Gaines v. National Collegiate Athletic Association</i>	725
2.	First-Year Eligibility	727
	NCAA Constitution, Article 14.3, Freshman Academic Requirements	727
	<i>Hall v. National Collegiate Athletic Association</i>	730
	<i>Cureton v. National Collegiate Athletic Association</i>	737
3.	Drug Testing	740
	NCAA Constitution, Article 31.2.3, Ineligibility for Use of Banned Drugs	740
	<i>O'Halloran v. University of Washington</i>	742
	Questions and Discussion	746
C.	DISCIPLINE	747
1.	Sanctions and Penalties	748
	NCAA Constitution, Article 19.6, Penalties	749
	<i>Colorado Seminary (University of Denver) v. National Collegiate Athletic Association</i>	752
	<i>Hairston v. Pacific 10 Conference</i>	754
	<i>National Collegiate Athletic Association v. Jones</i>	756
	<i>National Collegiate Athletic Association v. Lasege</i>	759

	<i>Williams v. University of Cincinnati</i>	764
	<i>Bloom v. NCAA</i>	769
2.	Death Penalty	778
	<i>Questions and Discussion</i>	779
CHAPTER 11	<i>Women and Sports</i>	781
A.	DISCRIMINATION AND HARASSMENT	781
	<i>Israel v. West Virginia Secondary Schools Activities Commission</i>	782
	<i>Croteau v. Fair</i>	785
	<i>Wynn v. Columbus Municipal Separate School District</i>	786
	<i>Postema v. National League of Professional Baseball Clubs</i>	792
	<i>Jackson v. Birmingham Bd. of Educ.</i>	798
1.	Separate but Equal	806
2.	Contact Sport Exception	806
	<i>Questions and Discussion</i>	807
B.	TITLE IX	809
	Education Amendments of 1972 — “Title IX”	810
	Education Dept. Regulations Accompanying Title IX	810
1.	Civil Rights Restoration Act of 1987	811
	<i>National Collegiate Athletic Association v. Smith</i>	812
	<i>Roberts v. Colorado State Board of Agriculture</i>	814
	<i>Favia v. Indiana University of Pennsylvania</i>	819
	<i>Gonyo v. Drake University</i>	825
	<i>Deli v. University of Minnesota</i>	830
	<i>Cohen v. Brown University</i>	832

<i>Mercer v. Duke University</i>	835
<i>Questions and Discussion</i>	837
C. EQUAL PROTECTION	839
<i>Dodson v. Arkansas Activities Association</i>	839
<i>Questions and Discussion</i>	841
D. STATE ERAs	842
<i>Blair v. Washington State University</i>	842
<i>Questions and Discussion</i>	848
 CHAPTER 12 <i>International Law</i>	 851
A. OLYMPICS	851
1. United States Olympic Committee	852
2. International Olympic Committee	852
IOC Charter	852
3. Boycotts	854
<i>DeFrantz v. United States Olympic Committee</i>	854
<i>Questions and Discussion</i>	859
B. AMATEUR SPORTS ACT OF 1978	860
The Amateur Sports Act of 1978	861
1. Disputes	863
<i>Walton-Floyd v. United States Olympic Committee</i>	863
<i>Questions and Discussion</i>	865
C. DRUG TESTING	866
International Amateur Athletic Federation	867
Constitution	
1. Doping Control Agreements and Blood Doping	869
2. Disciplines and Penalties	869

<i>Reynolds v. International Amateur Athletic Federation</i>	869
<i>Questions and Discussion</i>	875
D. INTERNATIONAL COURT OF ARBITRATION FOR SPORT	877
Charter of the International Court of Arbitration for Sport	877
<i>In the Arbitration Between: Mr. Ross Rebagliati and International Olympic Committee (IOC)</i>	878
<i>Questions and Discussion</i>	882
CHAPTER 13 <i>Intellectual Property</i>	883
A. PATENTS	883
The Patent Act	884
<i>Questions and Discussion</i>	886
B. COPYRIGHTS	887
Copyright Act	887
<i>National Basketball Association v. Motorola, Inc.</i>	889
<i>National Football League v. Rondor, Inc.</i>	892
<i>Questions and Discussion</i>	895
C. TRADEMARKS	896
Lanham Act	897
<i>Taylor Made Golf Co. v. Carsten Sports, Ltd.</i>	898
<i>Lyons Partnership v. Giannoulas</i>	900
<i>Indianapolis Colts, Inc. v. Metropolitan Baltimore Football Club Limited Partnership</i>	902
<i>Questions and Discussion</i>	906
D. TRADE DRESS	907
<i>Taylor Made Golf Co. v. Trend Precision Golf, Inc.</i>	907

<i>Callaway Golf Co. v. Golf Clean, Inc.</i>	908
<i>Questions and Discussion</i>	916
E. BROADCASTING AND LICENSING RIGHTS	917
<i>Home Box Office v. Champs, Inc.</i>	917
<i>M Sports Productions v. Pay-Per-View Network, Inc.</i>	919
<i>Worldwide Futgol Associates, Inc. v. Event Entertainment, Inc.</i>	922
<i>NFL v. Insight Telecommunications Corp.</i>	924
<i>Questions and Discussion</i>	929
<i>Table of Cases</i>	931
<i>Index</i>	939