

Legal Aspects of

SPORTS

SECOND EDITION

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DEDICATION

To Laura and my girls, Kelsey and Jackie: you help me be a better person.
To Mom and Dad, thanks for naming me after a writer. I guess it helps!

John J. Miller

To Michael for your endless support, to Dad for giving me my love of sports,
and to Mom for making me believe anything is possible.

Kristi L. Schoepfer



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FOREWORD

Forty-five years ago, I wrote *From the Gym to the Jury*, one of the first four books written in the field of sport law. Of my next 28 books, 18 used sport law and legal issues in sport to define the content. My books were written for professors, undergraduate and graduate students, as well as practitioners. My focus came about as an alarming number of lawsuits were being filed in the field of sport.

John Miller and Kristi Schoepfer have written a unique text that allows for an in-depth study of the legal aspects of sport. Sport law texts are proliferating and are become virtually outdated before they are published. To combat this, Miller and Schoepfer suggest using the Internet to “stay current about the legal issues affecting sports,” and—most important—they plan on providing updated cases on an annual basis using Jones & Bartlett Learning’s online resources. Thus, while the core text information might stay the same, new cases will be added to keep the content current. This is a refreshing approach to a topic that continues to need attention.

The authors use their experience and background to convey to the reader not only the legal implications of sport issues, but to offer a portrait of modern society as sports litigation reveals it.

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PREFACE

We live in a very litigious society. Every day the news is filled with individuals suing or threatening to sue another person or organization for a perceived wrong. This is particularly true in the field of sport management. Failing to understand the legal consequences of certain actions can have a meaningful and negative connotation to a sport organization. The understanding of legal concepts as applied to sport can influence employee attitudes and organizational effectiveness. Accordingly, understanding the effects of the legal aspects of sport and strategies that may be used to manage them is of paramount importance. As such, this book is written to inform future sport managers about the issues that they are most likely to encounter in their careers.

CONCEPTUAL APPROACH

Like some points of the Mississippi River, the study of the legal aspects of sport can be a mile wide and a foot deep. Although this text provides the breadth of subject matter, it differs from the Mississippi River by providing the reader an opportunity for an in-depth study of legal aspect of sport. The question as to what constitutes sports law has been asked by students, academics, lawyers, and laypersons for years. For example, a number of textbooks that use sport-specific examples and apply them to specific legal components have been written for law students. This text, however, was written with a focus to educate future sport practitioners and administrators about the legal aspects as they apply to the sports field. In its present form, it is intended as a teaching resource that can be used in sport management undergraduate or graduate courses.

This text is designed to be supplemented by online resources. The field of sports law or legal aspects of sport is developing at an incredibly rapid pace, and there is a constant concern that a text may be out of date as soon as it is published. In light of current trends, Jones & Bartlett Learning has made applicable cases available online; the intention is to update these cases on an annual basis as needed. Thus, the book changes even if the chapter information stays the same.

ORGANIZATION OF TEXT

Coverage of the legal aspects of sport can be overwhelming. This book condenses this information into particular areas that will be of concern to future sport managers and coaches into 13 chapters. Chapter 1 discusses the influence that sport has had on society. Examples of previous discrimination, ethics, and commercialization issues are presented from a historical viewpoint to create a foundation for the legal aspects sport managers face in today's society. Chapter 2 focuses on unintentional torts, specifically negligence, as applied to several sport settings. The importance of this chapter is reflected in the significant number of negligence lawsuits filed against sport organizations and personnel every year. Chapter 3 introduces intentional torts in sport, which signifies the increase of individuals involved in sport who are intentionally trying to injure another person. Chapter 4, on tort defenses, identifies tactics that sport managers may utilize to protect themselves and their organizations in the event of litigation. Chapter 5 on risk management explains how sport managers can employ everyday strategies to assist in making the activity as safe as possible without diminishing the inherent risk of the activity.

Chapter 6 considers gender, sexual orientation, transgender, religious, racial, age, and disability-related discrimination, as well as sexual harassment issues that are present in sports. Legal areas such as Title IX, Title VII, the Americans with Disabilities Act, and the Age Discrimination in Employment Act as applied to sport are discussed in this chapter. Chapter 7 is devoted to issues of drug testing at a variety of sports levels including professional, intercollegiate, and interscholastic sports. Chapter 8 focuses on the relevant aspects of contract issues in sport, whereas chapter 9 addresses anti-trust issues in sport and Chapter 10 examines labor relations, primarily between professional sport team owners and players associations among the four major leagues in North America. Chapter 11 examines the legal concerns in sport regarding agents. Chapter 12 addresses constitutional issues, including freedom of speech and freedom of privacy, that are faced by intercollegiate and interscholastic sport administrators, coaches, and athletes. Finally, Chapter 13 considers legal aspects that are relevant at the international sport level, such as ambush marketing and doping policies.

FEATURES AND BENEFITS

Each chapter includes the following features:

- *Learning Objectives* present the chapter's desired outcome to the reader.
- A list of *Related Cases* indicates the cases that are available online.
- *Discussion Questions* prompt readers to more closely engage with the material presented in each chapter.
- A list of *Key Terms* helps the reader quickly identify critical new terms, with definitions included in the end-of-text Glossary.

INSTRUCTOR RESOURCES

Qualified instructors can receive access to the full suite of Instructor Resources, including the following:

- Slides in PowerPoint format
- Test Bank
- Instructor's Manual

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ABOUT THE AUTHORS

John J. Miller, PhD, earned his undergraduate degree in Physical Education from the University of Wisconsin-Oshkosh, Master of Arts degree in Sport Psychology from the University of Minnesota, and Doctorate in Sport Administration from the University of New Mexico. Miller coached intercollegiate men's and women's swimming for 16 years, in which time 26 swimmers achieved National Association of Intercollegiate Athletics (NAIA) All-America status. Additionally, one of the female swimmers Miller coached won four national individual NAIA swimming championships. Twelve of his teams also achieved Academic All-America status. He was elected president of the NAIS Swimming and Diving Coaches Association, selected conference coach of the year four times, and NAIA National Swimming and Diving Champion Meet director twice.

After concluding his coaching career, Miller was hired at Texas Tech University as an assistant professor where he eventually rose to full professor status. He is currently a full professor of Sport Management at Troy University, Alabama. Miller has more than 30 years of teaching experience, having taught Coaching of Sport, Legal Aspects of Sport, Research Methods in Sport Management, Sport Event Management, Sport Management Internship, Sport Facilities Planning and Management, and Financial Aspects of Sport. Miller has served the Sport Recreation and Law Association as member at large, president, and conference host as well as the editor of the *Journal of Legal Aspects of Sport*. He has more than 60 peer-review publications and more than 100 national presentations, most of which deal with legal issues in sport. He is a research fellow in Sport and Recreation Law Association, Research Consortium, and the North American Society of Health, Physical Education, Recreation, Sport and Dance Professionals. He has been awarded the Betty van der Smissen Leadership Award, Herb Appenzeller Honor Award, and President's Award by the Sport and Recreation Law Association, as well as the Sport Management Outstanding Achievement Award by the National Association for Sport and Physical Education.

Kristi L. Schoepfer, JD, earned her Bachelor of Science in Education from the University of Dayton in 1998 and a Juris Doctorate, with certification in Sports Law, from Marquette University Law School in 2001. She is currently an associate professor of Sports Law and Sports Management at Winthrop University, South Carolina. Prior to joining the faculty at Winthrop, Schoepfer was an assistant professor of Sports Law for five years at the University of Wisconsin-Parkside. In total, Schoepfer has 16 years of experience teaching Sports Law courses. At present, she teaches courses on Risk Management in Sport, Sport Law, as well as Research and Writing in Sport Management, Sport Ethics and Governance, and Introduction to Sport Management.

In addition to her teaching at Winthrop University, Schoepfer is a member of the Board of Advisors for the National Sport Law Institute, a former board member of the Sport and Recreation Lawyers Association, and a national presenter on sport law issues. For her accomplishments in teaching, research, and service, Schoepfer was awarded the 2009 Marquette University Law School Charles W. Mentkowski Sport Law Alumna of the Year Award and the 2016 Sport and Recreation Law Association Herb Appenzeller Honor Award.



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