## SPORTS LAWYERS JOURNAL Volume 5

Geoffrey M. Moore, Has Hockey Been "Checked from Behind" North of the Border? Unruh, Zapf, and Canada's Participant Liability Standard, 5 SPORTS LAW. J. 1 (1998)

This Article examines the two-participant liability standards that control in Canadian jurisdictions: namely, a simple negligence standard and a negligence standard combined with an intent requirement. The Article then surveys relevant Canadian case law. Next the Article documents the incidence of spinal cord injuries in Canadian amateur hockey, and some attempts that have been made to curb the serious problem. Finally, the Article examines alternative approaches to Canadian participant liability, including the United States' recklessness approach, which it ultimately recommends.

**Jeff S. Lambert**, *Avoiding the Rough*: A Two-Case Analysis and Perspective on Defining the Boundaries of Trade Dress Protection for Golf Equipment, **5 SPORTS LAW. J. 61 (1998)** 

Analysis on Gregory T. Talley's 1996 Sports Lawyers Journal article analyzing Taylor Made Golf Co. v. Trend Precision Golf, Inc. and the decision's effect on golf club manufacturer's ability to obtain trade dress protection for color combinations. Once the trade design is found either inherently distinctive or distinctive based on acquired secondary meaning, the design must still be shown to be nonfunctional before it will be protected.

John Croke, An Examination of the Antitrust Issues Surrounding the NBA Decertification Crisis, 5 SPORTS LAW. J. 163 (1998)

> This Article examines the applicability of antitrust and labor law to the decertification of the NBA. It begins with an analysis of the "nonstatutory labor exemption" created for any collective bargaining relationship. This

is accomplished by discussing the case history of the exemption and the standard necessary for its application. Next, the duties under labor law are discussed. This involves the obligations under labor law of collective bargaining parties. The inquiry is then directed at the lock-out of the NBA players and the consequences of decertification. Further, a discussion of the procedure for decertification, as well as potential antitrust problems are addressed.

John C. Graves, Controlling Athletes with the Draft and the Salary Cap: Are Both Necessary?, 5 Sports Law. J. 185 (1998)

This Article discusses the draft in professional sports and the potential legal issues raised by it. This analysis is accomplished through a lengthy discussion of the cases that have been brought, challenging the draft system. Next, the Article addresses whether the draft still accomplishes its intended goals. The discussion then shifts to the salary cap, which has been implemented in many professional sports. A review of the different types of caps with particular emphasis on the NBA's salary cap follows. Finally, various attacks that have been brought against the salary cap are discussed.

Jonathan M. Conti, The Effect of Salary Arbitration on Major LeagueBaseball, 5 Sports Law. J. 221 (1998)

This Article supports the present salary arbitration system in Major League Baseball. It calls the system "an effective compromise between the reserve system and free agency, one in which players with between three and six years of service are given the opportunity to attain a salary closer to their market value." It discusses the final offer arbitration system in which the arbitrator must choose one of two figures: that submitted by the player or that submitted by the team. As such, this Article contends that the risk of the nocompromise environment of an arbitration hearing will

compel the two parties to submit figures that are reasonably close together.

Finally, this Article advises that although imperfect, and a topic of constant debate among team owners and players, the salary arbitration system in effect in Major League Baseball is a fair compromise between the owners and the players.

Richard E. Green, The Taxing Profession of Major League Baseball: A Comparative Analysis of Nonresident Taxation, 5 SPORTS LAW. J. 273 (1998)

Travis Lee signed with the expansion Arizona Diamondbacks for a then-record \$10 million. Matt White received a record \$10.2 million from the fellow expansion Tampa Bay Devil Rays. Nonresident athletes are taxed at a higher rate than resident athletes. Nonresident taxation of athletes by cities and states is commonly referred to as "the jock tax." California has the highest tax rate of any state with a professional team.

Tulane Moot Court Mardi Gras Invitational: Problem and Winning Brief, 5 SPORTS LAW. J. 317 (1998)

Brief for Appellee arguing that the obsolete baseball antitrust exemption does not apply to the sale and relocation of minor league teams. Social and economic policy reasons illustrate why baseball's exemption should not reach the sale and relocation of minor league teams. Viewing the undisputed outcome was that appellants violated antitrust law.