

No. 09-214

In the

**SUPREME COURT OF THE
UNITED STATES OF AMERICA**

**MAJOR LEAGUE BASEBALL,
*PETITIONER***

v.

**KEVIN WILSON;
MAJOR LEAGUE BASEBALL PLAYERS ASSOCIATION,
*RESPONDENT.***

**ON WRIT OF CERTIORARI FROM THE UNITED STATES COURT
OF APPEALS FOR THE FOURTEENTH CIRCUIT**

BRIEF FOR PETITIONER

No. 39

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 I. THE COURT OF APPEALS INCORRECTLY HELD THAT A MAJOR LEAGUE BASEBALL PLAYER’S CLAIMS UNDER MINNESOTA’S DRUG AND ALCOHOL TESTING IN THE WORKPLACE ACT CHALLENGING A SUSPENSION UNDER A COLLECTIVELY BARGAINED-FOR DRUG POLICY ARE NOT PREEMPTED BY § 301 OF THE LMRA. 7

 II. ALLOWING SELECT PLAYERS TO RELY ON MORE FAVORABLE STATE REGULATIONS DIRECTLY CONTRAVENES PUBLIC POLICY WHICH FAVORS THE SANCTITY OF COLLECTIVE BARGAINING AGREEMENTS, PARTICULARLY AS APPLIED TO PROFESSIONAL SPORTS’ LEAGUES. 10

 III. THE COURT OF APPEALS WAS INCORRECT IN SETTING ASIDE AN ARBITRATOR’S AWARD SANCTIONING MAJOR LEAGUE BASEBALL’S REFUSAL TO ISSUE WARNINGS REGARDING THE PRESENCE OF A BANNED SUBSTANCE IN SPECIFIC PRODUCTS BECAUSE SUCH AN AWARD WAS NOT IN VIOLATION OF PUBLIC POLICY. 13

 A. On review, the arbitrator’s decision requires a high degree of deference. 13

 B. Case law and public policy considerations affirm that the MLB and Dr. Larson fulfilled the fiduciary duty owed to players by issuing repeated warning of the dangers of energy-boosting supplements. 14

 B. Although the MLB instituted the Hotline to provide information to teams, the players are ultimately responsible for the substances they consume. 17

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