

SPORTS LAW II
Individual Rights In Intercollegiate And Individual Sports

FINAL EXAMINATION

Commissioner Foley
Pierce Law
May 9, 2006

INSTRUCTIONS

Greetings beloved Gang of Five! The Bestest of the Best of all my Sports Law Classes. I'll keep this short, but please read these instructions and the exam questions, carefully.

The exam consists of one page of instructions and three pages of questions.

Part One is 10 (ten) (dix) (diez) (X) "Short Answer" Questions that range in value from 5 to 25 points.

Part Two is the Good Ol' Extra Credit section featuring 5 (five) (cinq) (cinco) (V) questions for your enjoyment.

Feel free to refer to your casebook as well as any notes you took in class or in preparation for this exam.

Write your responses in the bluebooks provided. Don't forget to write your exam number on each bluebook. Short answer means that your answers should be short, aka, concise. You will receive **no** credit for mere verbosity.

Good Luck, Happy Summer and, if you don't hate me after this Excellent Exam, please keep in touch!

It would be great to hear from you.

PART ONE – SHORT ANSWER (10 Questions)

Question 1 (5 points)

A Sports Law commentator has stated as follows:

“The result of this legal distinction has been to make the NCAA a schizophrenic organization whose members must act like competing businesses for some purposes but not for others – which means part of its business is run ostensibly based on one set of values, while the other part is run based on a different set of legally-mandated values”.

What legal distinction is this commentator referring to?

Question 2 (10 points)

This same Sports Law commentator has stated as follows:

“NCAA enforcement hearing procedures are often controversial and appear inconsistent with traditional American notions of fair play and due process.”

Please list 2 examples that support this commentator’s statement.

Question 3 (5 points)

If an NCAA school athletic team plays an ineligible player pursuant to a valid court order, that NCAA school will still have to forfeit the games and pay back revenues received if the player is subsequently found ineligible.

What is the commonly known name (in the NCAA community) of this NCAA policy?

Question 4 (10 points)

You are the General Counsel of the NCAA’s Enforcement Division and therefore are quite comfortable asserting that the NCAA procedures and policy referred to in Questions 2 & 3 are appropriate within the context of NCAA athletics.

Please set forth 2 specific factual justifications for these “often controversial” NCAA procedures and policy.

Question 5 (5 points)

Does the Supreme Court’s opinion in the *Brentwood Academy* case explicitly or implicitly overrule the *Tarkanian* decision?

Please answer Yes or No and then briefly explain your answer.

Question 6 (10 points)

It is 1988 and you are Jerry Tarkanian's personal attorney. You just received a copy of the Supreme Court's Decision in *Tarkanian v. NCAA*. Jerry is very competitive and insists that "there must be more litigation that we could file to stop this thing". Please explain to Jerry what additional litigation you could file at this time that would give Jerry the best chance of preventing enforcement of the NCAA decision that was the basis of the Supreme Court litigation. Jerry has been chewing towels way too hard for way too long so, please, be specific so even a non-lawyer like him will understand the nature and purpose of your recommended additional litigation.

Question 7 (25 points)

If the NCAA passed a rule imposing a separate spending cap on every Division I school's football and basketball program would this rule survive an antitrust challenge brought by a group of disgruntled Division I schools? Pick a position (Yes or No), explain the legal argument in support of your position and be sure to include what facts you would need to show as well.

Question 8 (10 points)

Can the Title IX "accommodation of interest" test be satisfied by conducting a poll of the male and female students enrolled at a college and then allocating the number of athletic opportunities proportionally? Please answer Yes or No and then briefly explain your answer.

Question 9 (10 points)

Suppose the governing body of Nascar interprets one of its own rules in good faith, but in an obviously incorrect way? Would a court, on appeal, be legally authorized to reverse Nascar's interpretation? Please answer Yes or No and then briefly explain your answer, citing a case from the course as support.

Question 10 (10 points)

Name a case involving a professional sports tour in which the outcome would have been decided differently had the *Professional Engineers* decision been applicable at that time. Briefly explain your answer.

**THIS CONCLUDES THE REGULAR CREDIT PORTION OF THE EXAM
NOW CHECK OUT THESE UNADVERTISED SPECIALS!**

Part Two – Good Ol’ Extra Credit (1 point for each correct answer)

EC #1

*Complete (IN YOUR BLUE BOOK) this fascinating (and world record setting)
Sports Law triple analogy:*

The pro basketball contract signed by Plaintiff Shelton was as _____
was to Plaintiff Jeremy Bloom, as _____ was to Plaintiff Wiley and
as _____ was to Plaintiff Colorado Seminary’s Canadian hockey
players.

EC #2

Name the 3 most interesting Current Event topics that we discussed in Class this semester.

EC #3

Fill in the blanks (WRITE ANSWER IN YOUR BLUE BOOK):

The unofficial, theatrically-based, Sports Law II motto for Antitrust Law is:
_____ is _____.

EC #4

Your vote for the 2006 Sports Law II Most Valuable Participator goes to: ???

EC #5

Name each of the initial beverage orders of each of the 6 attendees at that historic and unforgettable off campus review session on May 3, 2006.

END OF EXAM