



Sports Law Report

SPECIAL POINTS OF INTEREST:

- Use warnings at your facility or event regarding any potential risks of injury.
- Conduct a legal risk management assessment to identify, and lessen the likelihood of, potential liabilities.
- Extensively research the background of any potential celebrity endorser.
- Have your attorney include a strong "morals" clause in the contract.

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The Case of the Famous Chicken!

It has been a long-standing doctrine in sports law that spectators at a baseball game assume the risk of potentially getting hit by foul balls. The application of the assumption of risk doctrine thereby serves as a complete bar to recovery for damages caused by a foul ball. This doctrine has even been extended to hockey games and errant pucks that fly into the stands. But what about the scenario where a fan is distracted by the antics of a mascot and gets hit by a foul ball?

Well, this exact scenario played out in Dayton in 2007 during a minor league baseball game. A fan attending a Dayton Dragons game was hit by a foul ball and knocked unconscious. She claimed she was distracted by the antics of the "Famous Chicken",

a nationally known mascot who was hired by the baseball club to provide entertainment during the game. The injured fan ended up suing both the team and the Chicken, arguing that they were both negligent in conducting this type of entertainment during a baseball game.



"Watch Out for Foul Balls"

The injured fan was ultimately denied relief under the assump-

tion of risk doctrine. The court held that it is common knowledge during baseball games that foul balls are hit into the stands, and that patrons at such games assume the risk of being struck. Furthermore, evidence at trial showed that the teams undertook to give several warnings to fans, including three announcements that were made over the loudspeaker "that spectators should be on the lookout for foul balls. Courts like warnings.

This decision should be encouraging to Minor League Baseball teams, where the promotional activities surrounding the game are just as important as the game itself. However, every team should still do a legal risk management assessment to guard against these type of lawsuits.

Welcome to our inaugural Sports Law Report!

Welcome to the inaugural edition of the Koeberle Law Firm's "Sports Law Report". The purpose of this quarterly newsletter is to educate our sports and entertainment clients on emerging legal issues that may affect their business. Attorney Brian E. Koeberle, Esq., founder of the

Koeberle Law Firm, has 20 years experience as an attorney, sports marketing agent, and negotiator. He is currently the managing attorney of the Koeberle Law Firm, as well as president of Koeberle & Associates, a sports and entertainment marketing agency. He is widely published in the

areas of sports and recreation law, and has lectured extensively on sports law, sports marketing, and event management. We look forward to bringing you our unique perspective on the legal issues affecting and shaping the business of sports, both today and tomorrow.



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Personal service at an affordable cost!

The Koeberle Law firm is a boutique firm catering to the legal needs of both small businesses and individuals. We strive to bring affordable, efficient and effective legal services to our clients in a timely and personal manner. We are entrepreneurs and business owners. We are family-oriented and compassionate attorneys. And we are dedicated advocates for all of your legal needs. For further information, please contact Brian Koeberle at 412-788-9554 or email me at brian@koeberlelaw.com.

- This newsletter is only intended to provide general information and is not intended to provide specific legal advice.



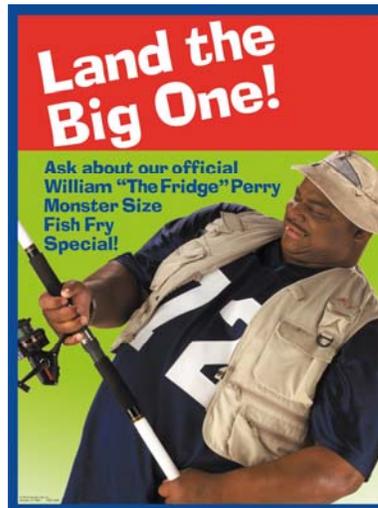
The Pitfalls of Celebrity Endorsements!

In the wake of the recent Tiger Woods scandal, companies looking to book an athlete for a personal appearance or product endorsement are naturally wary of the process. Yet, the fact of the matter remains that the right celebrity appearance or endorsement can pay off big-time for a company looking for a fresh promotion that can drive traffic and sales.

With that said, it pays to do your homework, as well as protect yourself in the contractual process, when hiring an athlete. The following tips can help you navigate the process for a successful promotion:

- ◆ The biggest name is not always the best. Go for character over notoriety in the selection process.
- ◆ If you are going to use a talent

broker, ask for references. The best talent agencies match the right athlete to your promotion.



- ◆ Remember, an athlete's agent or manager's first loyalty is to the

athlete, not to you. Consider using an experienced sports attorney/consultant to negotiate the deal on your behalf.

- ◆ Research the celebrity's background for any skeletons in the closet. This is much easier today with internet searches.
- ◆ Have your attorney draft a strong "morals" clause in the contract. Decide up front what transgressions you can and cannot live with. For instance, you might be able to live with a speeding ticket, but a DUI should be grounds for termination of the contract.

Celebrity endorsements are a great way to generate buzz. Just make sure you take the appropriate measures so that you are not "stung" by scandal.