



# KLF Legal Briefs

## SPECIAL POINTS OF INTEREST:

- Delinquencies in HOA fees hurt all homeowners.
- PA common law, the UCA, and the UPCA provide HOA's with the authority to collect assessments.
- KLF has been active in negotiating endorsement agreements.
- Pro leagues and teams are cracking down on unlicensed sports products.

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## Collecting Delinquent HOA Fees!

Homeowners association fees and assessments are the lifeblood of private residential developments. In today's economy, many HOA's are faced with increasing delinquencies in their respective communities. However, if your HOA isn't vigilant about collecting delinquent assessments, the other owners end up having to pick up the slack. If the situation goes on too long, home values and resale of units begin to suffer, as the HOA becomes short on funds necessary for the upkeep of the community. Common areas become rundown, roads deteriorate, and essential services like snow removal, security and garbage pickup suffer. Equally important, lenders are avoiding communities with high delinquency rates. Freddie Mac, Fannie Mae and the

FHA are refusing to write new mortgages in communities where more than 15% of owners are delinquent in HOA fees.

So what is an HOA to do to collect delinquent fees from "deadbeats"? Look to both PA common law, as well as the statutory authority of the Uniform Condominium Act (UCA)



or the Uniform Planned Community Act (UPCA), for relief. PA courts have long held that owners of property in private residential communities have an implied obligation to pay their fair share for the upkeep of the

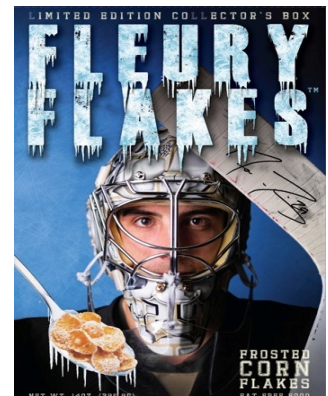
roads and other common areas of the development.

The UCA and UPCA both give HOA's statutory authority to collect assessments and fees from all property owners. The Acts create a "statutory lien" against the property of a delinquent homeowner, which can be "foreclosed in a like manner as a mortgage in real estate." However, the association's lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within three years after the assessments become due. Another option for the HOA is to file a breach of contract claim against the delinquent homeowner, which is subject to a 4-year statute of limitations. So insist that your HOA collect all delinquent dues in a timely manner!

## Recent endorsement agreements!

Negotiating and drafting athlete endorsement agreements is a big part of the work of attorney Brian Koeberle. In fact, he has negotiated hundreds of such agreements over the past 20 years. The past year has been a busy one for the sports attorney, as evidenced by the following highlights of some of his most recent endorsement deals:

- **Fleury Flakes:** Official breakfast cereal of Penguins goalie Marc-Andre Fleury;
- **Ryan Miller Kick-Save Krunch:** Official breakfast cereal of Sabres goalie Ryan Miller;
- **Dupuis Dijon Mustard:** Official mustard of Penguins forward Pascal Dupuis.





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## Koeberle Law Firm, LLC

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

## NFL/Steelers Crack Down On Knockoffs!

Recently the Pittsburgh Post-Gazette reported on a case in federal court filed by the NFL and the Pittsburgh Steelers against a local sportswear company. The league and team took action against Turtle Creek Sportswear, claiming the company was in contempt of court for violating a previous court order against the company. In 2005, the company entered into a consent agreement not to sell clothing that was a “knockoff” of official Steelers merchandise. The team and NFL had originally sued the firm for selling products such as “Big Ben #7” caps in black and gold. Recent investigation by the Steelers and NFL alleged that the company was again selling merchandise with slightly altered versions of the Steelers logo, as well as versions of players’ names and uniform numbers.

“Knockoffs” or unlicensed products

are a big problem for the various sports leagues and teams, and they are taking a hard-line approach to companies that they believe are infringing on their trademarks. But are the leagues and teams going a bit too far? The leagues and teams have the right (and in fact the obligation under trademark law) to police and enforce their trademark rights, even if it means suing a small t-shirt company. No one would question the Pittsburgh Steelers right to prohibit unlicensed usage of its logo or team name. But do the teams control the colors of their uniforms, or the num-



bers on the back of jerseys, or their players’ nicknames? And how about catch phrases such as “Steel Curtain”, or “City of Champions”, or “Dawg Pound”, or “Tittletown”?

I always advise my clients to take a conservative approach when developing sports products to make sure they are not infringing upon any intellectual property rights. For instance, I had a client that wanted to create a steak sauce with Pittsburgh Steelers wide receiver Hines Ward. They originally wanted to call the product “Hines 86 Sauce”. I counseled them that the name was too similar to “Heinz 57 Sauce” owned and marketed by the H.J. Heinz Company. In the end they decided to call the product “Hines Ward 86 Sauce”. Better sometimes to play it safe than to end up in court fighting an entity like the NFL or a multi-national corporation.