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Manatt Wins for Female Athletes in Title IX Class Action

**SPORTS LAW PRACTICE
GROUP CHAIR**

Attorneys from Manatt's Los Angeles and San Francisco offices recently obtained a historic court ruling in favor of a group of female high school athletes in San Diego, California. On March 30, 2009, Judge M. James Lorenz of the United States District Court in San Diego granted the athletes' motion for partial summary judgment and found that the defendants, Sweetwater Union High School District in Eastern San Diego County and several of its representatives, were "not in compliance with Title IX based on unequal participation opportunities in athletic program[s]." This is the first case in which a class of high school female athletes has won a summary judgment motion on the issue of failure to provide equal participation opportunities to girls under Title IX.

In April 2007, plaintiffs, female students who attend or will attend Castle Park High School in Sweetwater Union High School District, sued for injunctive relief under Title IX of the Education Amendments of 1972. Title IX provides that "[n]o person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance." Sixteen months later, in August 2008, the court certified the case as a class action.

Plaintiffs alleged unequal treatment and benefits, and unequal participation in athletic programs, against defendants. Specifically, plaintiffs alleged that the district failed to properly maintain the unenclosed and unlighted fields used by the girls' sports teams, forcing young female athletes to clean up animal waste to keep the area usable. They also alleged that the dugouts for the girls' softball teams did not have roofs

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until 2007, and had a single, inadequate batting cage. Many of the girls' coaches had to pay for improvements out of their own pockets, including for such basic necessities as a concrete floor in the softball dugout. In stark contrast, plaintiffs alleged that the boys' baseball fields were level and maintained (with their own sprinkler system), enclosed by security fencing, encircled with lighting, had a bullpen, two lighted batting cages, two cinderblock dugouts, a rollaway backstop, a large backstop, and a baseball snack stand. Parents of the female softball players were barred from operating a snack stand during softball games.

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Girl's Field



Boy's Field

Plaintiffs also alleged that the district failed to provide girls with equitable publicity and funding. In addition, they alleged that the district failed to provide female students with equal athletic participation opportunities, despite their demonstrated athletic interest and abilities to participate in sports. It was this latter point—plaintiffs' second cause of action—that was the subject of the female athletes' motion for summary adjudication.

In ruling for the athletes, the Court said: "The Court must conclude, as a matter of law, that plaintiffs have demonstrated that defendants fail to provide female student athletes with opportunities to participate in athletics in substantially proportionate numbers as males." The Court further noted that female participation at Castle Park High School was not continuing to expand, and that defendants were unable to counter plaintiffs' evidence showing unmet interest and an ability to participate on the part of the female students. "Because plaintiffs have demonstrated through admissible evidence that defendants are not in compliance with Title IX based on unequal participation opportunities in athletic program[s], plaintiffs are entitled to summary judgment on their second cause of action."

"When Manatt was asked to join in the class action on behalf of these courageous young women, we were intrigued," said Cristin Zeisler, the firm's Director of Pro Bono Activities. "When we learned of the great disparities between girls' and boys' sports at the school, we were outraged and compelled to action. We are proud of the tireless efforts of our team, and so gratified that the order makes it clear once again that unfair treatment in our schools will not be tolerated." Manatt attorneys who worked on the matter include Matt Kanny, Erin Witkow, Alison White, Yoanna Binder, Cameron Fredman and Funmi Olorunnipa. Also working on the matter was Lindy Willingham.

At present, the class has three remaining claims against the school, which will be set for trial in San Diego District Court.

Compensation Issues in Sports: Spotlight on Manatt Attorney John Heber



It is no secret that professional sports are a multibillion dollar industry. Because of this, today's sports fans are often as interested in what takes place off the field as they are in what takes place on it. Case in point: Sports fans everywhere follow with amazement, joy—and

sometimes even disgust—the astronomical salary negotiations and resulting contracts paid to top-of-the-line professional athletes, coaches and executives. But do any of these fans actually know or appreciate the details of such high-level transactions?

Just last month, college basketball coach John Calipari signed a record-setting eight-year, \$31.65 million deal to coach the University of Kentucky Wildcats. Lost among the details, however, was when and how this money was to be paid. Was Calipari to receive his salary annually or would some of it be deferred? How much, if any, was Calipari obligated to pay back in the event he—heaven forbid—chose to terminate his contract early and go elsewhere? Also lost among the details were the less sexy aspects of Calipari's deal, including his benefit and retirement plans, and the tax consequences. But such details are the bread and butter of Los Angeles-based Manatt partner John Heber.

As a partner in Manatt's Tax, Employee Benefits & Global Compensation practice group, Heber is used to designing, implementing and administering executive compensation and benefits programs for domestic and international companies. Heber also has a wealth of experience on executive pay levels, and on the foreign and domestic tax and regulatory implications of stock plans. With this background, it was inevitable that Heber—a former professional tennis player—also would advise countless professional athletes, coaches and executives on precisely these issues.

"I came to advising sports-related clients almost serendipitously. My legal background has always been in advising clients on tax, regulatory and strategic issues related to executive compensation and benefits programs. With Manatt's extensive sports-related client base, it was only a matter of time before I started providing those services to sports-related clients as well."

Over the last several years, Heber has advised a professional basketball team on deferred compensation issues with its coach, worked with an executive of another professional sports league on stock option issues, and helped navigate the complicated tax aspects of a deal that would have brought professional boxing to prime time. And Heber does not think that the work will stop there. "Once Manatt formalized its sports law practice group in February 2008, and because of some high-profile successes on the litigation front, Manatt's

position in this field has risen tremendously. Already the number of sports-related clients I've worked with has increased when compared to past years. And with each new sports-related client comes an additional opportunity to showcase my specialized services. I can hardly wait!"

Ramirez Suspension Raises Morals Clause Question

Manatt partner Mathew Rosengart, a former federal prosecutor and widely quoted expert on Major League Baseball's recent problems with drugs in the sport, notes that "under the terms of the Joint Drug Agreement, barring a criminal conviction, it is extremely difficult for teams to cancel a player's contract. Given the proliferation of drug use—which has become a national issue—it will be interesting to see how the issue plays out when the Agreement expires in 2011." Read more about this in the short article appearing in Manatt's Advertising Law Newsletter [here](#).

FOR ADDITIONAL INFORMATION ON THIS ISSUE, CONTACT:



Ryan Hilbert Mr. Hilbert is an associate in the Firm's Litigation and Intellectual Property Practice Groups. His practice focuses on litigation and counseling in the areas of trademark and unfair competition, copyright, and other intellectual property and commercial matters. He also has experience prosecuting trademarks worldwide, as well as managing domestic and foreign trademark portfolios.

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