ASPEN SELECT SERIES

LEROY

COLLECTIVE BARGAINING IN SPORTS AND ENTERTAINMENT:

Professional Skills and Business Strategies

Wolters Kluwer
Law & Business

ASPEN SELECT SERIES

COLLECTIVE BARGAINING IN SPORTS AND ENTERTAINMENT

PROFESSIONAL SKILLS AND BUSINESS STRATEGIES

MICHAEL H. LEROY
PROFESSOR
UNIVERSITY OF ILLINOIS AT URBANA-CHAMPAIGN
SCHOOL OF LABOR AND EMPLOYMENT RELATIONS AND
COLLEGE OF LAW

Wolters Kluwer
Law & Business

Published by Wolters Kluwer Law & Business in New York.

Wolters Kluwer Law & Business serves customers worldwide with CCH, Aspen Publishers, and Kluwer Law International products. (www.wolterskluwerlb.com)

To contact Customer Service, e-mail customer.service@wolterskluwer.com, call 1-800-234-1660, fax 1-800-901-9075, or mail correspondence to:

Wolters Kluwer Law & Business
Attn: Order Department
PO Box 990
Frederick, MD 21705

Printed in the United States of America.

1 2 3 4 5 6 7 8 9 0

ISBN 978-1-4548-4743-4

About Wolters Kluwer Law & Business

Wolters Kluwer Law & Business is a leading global provider of intelligent information and digital solutions for legal and business professionals in key specialty areas, and respected educational resources for professors and law students. Wolters Kluwer Law & Business connects legal and business professionals as well as those in the education market with timely, specialized authoritative content and information-enabled solutions to support success through productivity, accuracy and mobility.

Serving customers worldwide, Wolters Kluwer Law & Business products include those under the Aspen Publishers, CCH, Kluwer Law International, Loislaw, ftwilliam.com and MediRegs family of products.

CCH products have been a trusted resource since 1913, and are highly regarded resources for legal, securities, antitrust and trade regulation, government contracting, banking, pension, payroll, employment and labor, and healthcare reimbursement and compliance professionals.

Aspen Publishers products provide essential information to attorneys, business professionals and law students. Written by preeminent authorities, the product line offers analytical and practical information in a range of specialty practice areas from securities law and intellectual property to mergers and acquisitions and pension/benefits. Aspen's trusted legal education resources provide professors and students with high-quality, up-to-date and effective resources for successful instruction and study in all areas of the law.

Kluwer Law International products provide the global business community with reliable international legal information in English. Legal practitioners, corporate counsel and business executives around the world rely on Kluwer Law journals, looseleafs, books, and electronic products for comprehensive information in many areas of international legal practice.

Loislaw is a comprehensive online legal research product providing legal content to law firm practitioners of various specializations. Loislaw provides attorneys with the ability to quickly and efficiently find the necessary legal information they need, when and where they need it, by facilitating access to primary law as well as state-specific law, records, forms and treatises.

ftwilliam.com offers employee benefits professionals the highest quality plan documents (retirement, welfare and non-qualified) and government forms (5500/PBGC, 1099 and IRS) software at highly competitive prices.

MediRegs products provide integrated health care compliance content and software solutions for professionals in healthcare, higher education and life sciences, including professionals in accounting, law and consulting.

Wolters Kluwer Law & Business, a division of Wolters Kluwer, is headquartered in New York. Wolters Kluwer is a market-leading global information services company focused on professionals.

For constant and unconditional encouragement, I drew upon the strength and love of my mother, Carol LeRoy, and my wife, Janet LeRoy. This book is dedicated to their irrepressible optimism and faith in me.

Preface

Do unions matter today? Certainly, although their influence is declining. However, in a large array of sports and entertainment industries, unions are robust. Indeed, they are necessary institutions for regulating labor-market competition in professional sports, major theater productions, and other talent-driven businesses. There are courses and casebooks on labor law, sports law, entertainment law, and sports management—but nothing that specifically examines the intersection of these areas in collective bargaining in sports and entertainment. This book has been developed to fill that void.

In a small but tangible way, this book also addresses a crisis in legal education. As some law schools contemplate a major shift from a three-year to two-year degree program, *Collective Bargaining in Sports and Entertainment* offers "mini-courses" on antitrust, labor law, and dispute resolution. The topic of the book is nearly ideal for presenting these substantive areas in equal measures. Federal jurisdiction—another subject that is part of a three-year curriculum—is also prominently featured here. *Collective Bargaining in Sports and Entertainment* serves another important purpose by offering several mock arbitration cases. Five simulations are available here—two in professional sports and three in entertainment. Some involve discipline, while others raise an issue of contract interpretation. A practical discussion is embedded in the mock cases, with tips and pointers on presenting a case at arbitration that address the following questions:

- How do you conduct a direct examination?
- What are common objections at an arbitration hearing?
- How does a cross examination differ from a direct examination?
- What are the effective elements of an opening statement?
- How should a closing argument differ from an opening statement?

Students receive concise and concrete answers to these questions to assist them in preparing their cases. Thus, students have an opportunity for a capstone experience—one that integrates their doctrinal knowledge and their introduction to techniques in oral advocacy. (The course can be offered for two credit hours, with little or no use of the arbitration cases, or three or more credit hours, with some of or all the arbitration cases.)

Some instructors and students might shy away from this book and course out of concern for knowing little or nothing about the intricacies of football, opera, a circus, theater productions, symphonies, script writing, stage work, and so forth. This was a personal concern as I started to develop the course and casebook. I soon realized that when judges hear critical disputes from these diverse entertainment venues, they may have little or no personal understanding of the work of these exceptionally talented litigants and the unique business conditions of these employers. In four years of development at the University of Illinois College of Law and School of Labor and Employment Relations, and two years at the University of Chicago Law School, several hundred students have embraced this casebook and mock cases. The fact that many had no idea about the work of choristers, costumers, music technicians, lion handlers, projectionists, cartoonists, offensive linemen, goalies, relief pitchers, point guards, news producers, broadcasters, script writers, copy editors, and so forth did not interfere with their learning experience.

I owe a debt of gratitude to my students, especially to those who offered concrete suggestions for improving these materials. I am also grateful to Ann Perry and David Zarfes (University of Chicago Law School) and Elizabeth Barker (School of Labor and Employment Relations, University of Illinois at Urbana-Champaign), who made the course possible in its experimental phases. Carol McGeehan, Richard Mixter, and Steve Silverstein (Aspen Publishers) were intellectual partners in envisioning this book and shaping its contours.

Michael H. LeRoy
January, 2014

Table of Contents