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## Second Edition

To my wife, Brenda,  
who inspires me with her love and creativity.

— Matthew J. Mitten

To my wife,  
Ida, and my daughter, Adia,  
for their love and support,  
and to my students who inspire me.

— Timothy Davis

To my parents,  
who always emphasized the student  
in student-athlete; to Gus Klekas, a coach who always  
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all of whom have been very supportive.

— Rodney K. Smith

To Professor Carole Berry,  
as we two Emeriti continue to share ideas in our  
latest writing endeavors, taking it one book at a time.

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## First Edition

To my parents,  
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— Rodney K. Smith

To Carole, another Professor Berry, my life companion and  
collaborator. We continue to learn from each other.

— Robert C. Berry

# Preface

## Second Edition

Since the first edition of this book was published in 2005, the amateur and professional sports industries have continued to evolve and new legal issues have arisen. The second edition of the book has been revised and updated to include a discussion of the most significant legal developments affecting inter-scholastic athletics, intercollegiate athletics, Olympic and international sports, and professional sports. Throughout the second edition there is revised text, new principal cases, updated notes, and new problems to facilitate analysis and discussion of the key legal topics and issues covered in each chapter. Because sports is becoming more international and global in scope, materials have been added in several chapters to provide a comparative law perspective and to discuss the key differences between the European and North American models of professional sports as well as how European Union law regulates professional sports labor markets.

Several chapters in the second edition have been reorganized to provide a more unified and streamlined discussion of the topics covered therein. In particular, Chapter 3 (Regulating Intercollegiate Athletics) and Chapter 4 (Regulating Olympic and International Athletics) have been reorganized and revised significantly to provide better coverage of these topics. The principal materials concerning legal regulation of the professional sports industries have been reorganized into three chapters: Chapter 6 (Regulating Professional Athletics); Chapter 7 (Labor Law and Relations); and Chapter 8 (League Governance, Rival Leagues, and Developing Global Issues).

We hope you enjoy our second edition and that it provides a useful tool for understanding and stimulating discussion of legal regulation of amateur and professional sports within the United States and internationally. As always, your comments and suggestions for improving our book are welcome. Please feel free to contact any of us: Matt ([matt.mitten@marquette.edu](mailto:matt.mitten@marquette.edu)); Tim ([davistx@wfu.edu](mailto:davistx@wfu.edu)); Rod ([rodney.smith@svu.edu](mailto:rodney.smith@svu.edu)); or Bob ([lawprofs@tampabay.rr.com](mailto:lawprofs@tampabay.rr.com)).

*Matthew J. Mitten  
Timothy Davis  
Rodney K. Smith  
Robert C. Berry*

February 2009



## First Edition

This book facilitates study and analysis of the significant legal, historical, economic, and sociological issues affecting the development of both the amateur and professional sports industries in the 21st century. It provides sports law professors and students with a comprehensive, multi-purpose text of cases, materials, and problems that gives a balanced perspective concerning how some of America's largest and most popular industries are regulated by our legal system. The book takes an in-depth look at the legal regulation of interscholastic athletics, intercollegiate athletics, Olympic and international sports, and professional sports.

In our experience, law students most effectively learn about legal regulation of the sports industries by understanding the underlying historical, economic, and sociological factors influencing the developing nature of the various legal relationships that exist therein (e.g., athlete and team; university and NCAA; professional team and league; etc.). To accomplish this objective, this book initially covers the respective internal regulatory mechanisms for the different levels of athletic competition (e.g., high school, college, Olympic, and professional sports), then it considers the primary bodies of public law that shape and constrain them. Individual chapters of this book focus on racial and gender equity issues in sports and facilitate multidisciplinary consideration of these important, contemporary topics. The book considers economic policy and consumer welfare issues as part of its coverage of how courts have applied antitrust law to the sports industries. This interdisciplinary examination of sports and law also is intended to appeal to upper-division undergraduate and graduate students.

This book provides a vehicle for applying general principles typically covered in first-year courses such as contracts, torts, constitutional law, criminal law, and civil procedure to sports-related legal issues and problems. For example, it includes coverage of the following issues: the nature of a university's contractual obligations to its student-athletes; tort liability of an athletic event participant to another participant; a state high school athletic association's status as a state actor and high school students' federal constitutional rights; criminal liability for on-field violence; and the implications of American courts' lack of personal jurisdiction over international sports governing bodies.

A sports law course also provides a means of initially exposing students to specialized areas of law such as antitrust, labor, intellectual property, and workers compensation laws as well as relatively new legislation such as the Americans with Disabilities Act. Our book considers how each of these areas of law (and others) regulates the sports industries. It also provides introductory materials and hypothetical problems to facilitate students' understanding of these legal principles and their application to the sports industries and society in general.

This book incorporates the strengths of existing casebooks, while also providing broader coverage of contemporary sports law issues. It includes the leading historical and recent sports law cases and provides detailed explanatory material, notes, and questions to facilitate students' understanding of complex legal doctrines. It also raises some of the deeper philosophical, sociological, psychological, and economic policy issues that arise in the sports context. This approach both mirrors the practice of law in the 21st century generally, and heightens students' understanding of sports-related legal issues. In addition,

this book has some negotiation exercises and problems designed to develop students' client counseling and transactional skills. These unique features combine both theoretical and practical components to provide sports law students with a well-rounded learning experience.

The breadth and depth of this book provide the flexibility necessary to achieve a wide range of teaching and learning objectives. It is suitable for use as a primary text in either a two- or three-credit-hour general sports law course covering individually selected amateur and sports law topics as well as issues common to both industries. It also can be used in separate two-hour or three-hour courses focusing primarily on either amateur or professional sports law issues. Alternatively, it can be used for two separate one-semester courses designated Sports Law I and Sports Law II. In addition, this book provides a suitable text for use in sports management programs and other academic disciplines studying sports law.

A sports law course provides several important educational benefits in addition to providing students with an understanding of the legal framework governing the amateur and professional sports industries. Perhaps the most important one is that the study of sports law provides students with a package of readily transferable knowledge and skills applicable to a wide variety of legal and non-legal careers. It is one of the relatively few law school courses not limited to consideration of a single, discrete area of substantive law. This book enables thoughtful study of how several different bodies of law combine to regulate the amateur and/or professional sports industries. It also facilitates students' ability to synthesize several different discrete bodies of law, to recognize how they combine to govern sports, and to understand how laws that conflict are harmonized. In doing so, the book also encourages student examination of the role of sport in our culture and how law responds to serious cultural and moral questions.

In whatever form this book is used, we trust that students and faculty alike will enjoy their engagement with the material as much as we have. We have found that sports law deals with issues that merit deeper study and reflection. We hope that this book encourages such study.

*Matthew J. Mitten*

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*Rodney K. Smith*

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## First Edition

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