**LER 590 CB - Collective Bargaining in Sports and Entertainment**

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**Spring 2020**

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**Course Description**: This course examines collective bargaining in the contexts of professional sports and entertainment. Its purpose is to educate you about U.S. labor policy, and in tandem, prepare you to represent employers or unions. Some of you will find the course useful for careers that serve professional athletes, entertainers, and the industries that employ these talented people.

The course differs from a standard class in collective bargaining or labor law. By focusing on professional sports and entertainment, you will learn about antitrust law— a body of public policies that is given only passing attention in a standard labor law or collective bargaining course. The Sherman Act and Clayton Act are studied in light of antitrust exemptions that apply to monopolistic employment arrangements such as the reserve system (its opposite is called free agency), the draft and exclusive rights for a player, eligibility restrictions for star amateurs, and other anticompetitive practices in music, theater, movie, TV, and sports settings.

The course explores how unions have evolved as potent employee responses to highly restrictive employment practices. Course readings examine powerful weapons that unions may use under U.S. labor law to counteract employer cartels in theater, movies, baseball, football, basketball, hockey, and related industries. These weapons include full, and partial and intermittent strikes, as well as strike threats. The course will help you analyze whether, and to what extent, these bargaining tactics enable rank-and-file employees, and star performers, to share in the wealth that they generate in combination with capital investments made by employers.

At the same time, the course examines an important anomaly permitted by U.S. labor law— employer associations consisting of firms who compete against each other in product markets, but unite in associations to increase their bargaining power against labor unions. Employer economic weapons— the offensive lockout, and *Mackay Radio* doctrine that allows the hiring of permanent striker replacements— are also examined.

The duty to bargain wages, hours, and other terms and conditions of employment is analyzed, with emphasis on perplexing bargaining subjects, such as: Is residual revenue from Internet replay of TV shows a mandatory subject of bargaining for employers and screen writers? Is salary arbitration in baseball a mandatory or permissive subject of bargaining; and how do these legal classifications affect major league baseball and the players union when they reach impasse on the subject?

There is also a craft focus to the entertainment side of the course. You will learn about the unique professions of symphonic musicians, screen- and television-writers, actors, opera performers, directors, and stage employees. The cast includes colorful unions such as AFM, SAG, WGA, AFSTRA, IATSE, and DGA, and equally interesting employer bargaining associations.

On the sports side of the course, case law traces to the 1880s, when baseball players and teams fought over the nascent reserve system and the emerging monopoly of a few teams sanctioned by a league.

Another part of the course provides hands-on, experiential learning. Mock arbitrations are part of the curriculum.

You will be assigned to a team, and prepare an arbitration case for an employer or union.

You will also hear an arbitration case put on by their peers and write short mock arbitration decisions.

One arbitration involves a striking theater employee who was fired for repeatedly attempting to slap a replacement worker who called her a vulgar name. Video evidence from the actual arbitration is a key part of the case. Another mock arbitration involves a major league baseball player who was suspended for violating the policy against performance enhancing substances. Other cases involve an opera performer who was injured in a fire-breathing act (adapted from a real case); mandatory overtime at a radio station; and a grievance from an NFL player that he was cut without receiving injury pay.

You will learn advocacy skills, such as developing theories of a case, organizing evidence, examining witnesses, making objections, and presenting closing arguments.

When you observe an arbitration, your assignment will be to write mock arbitration decisions in which you make fact findings, apply theories to evidence, and render a ruling.

The course emphasizes writing. You will be assigned weekly question sets and mock arbitration case. The writing “load” is steady, at four pages per week. You will not have an overwhelming week, or a week off. Ideally, you will feel challenged and rewarded for your weekly effort.

Much of class time will be spent on discussions that will assist you in thinking about, and writing, these assignments. In short, as long as you apply steady effort, these response papers should be mostly or entirely completed by the end of the course (and there is no final exam).

**Course Update**: My book for this course was published in January 2014. Our current course includes an update for course materials. I will circulate a free course supplement in a separate file. There is a new chapter on unionization and related issues that affect collegiate athletes, and new cases on other topics of interest.

**Course Structure**: **Your diligent preparation and consistent participation are necessary to make this course successful**. Given your presumed unfamiliarity with analyzing legal issues, most classes will involve my presentation of lecture materials. As the semester progresses, however, you will be able to participate in more class discussions.

**Class attendance is necessary and absolutely required**. You **must** keep up with casebook readings. Experience shows, however, that you are unlikely to make sense of these materials on your own— at least for the first few classes. If you keep up with assignments **and** attend class regularly, you will learn a great deal by the end of the semester.

**Text**: **All readings are from Michael H. LeRoy, Collective Bargaining in Sports and Entertainment (1st ed.), and a supplement that I will distribute in a PDF file.**

**Grading**: Your grade will be the sum of these components:

**1**. **Pre-Submit Questions (40%)**: Each class has a unique reading set, accompanied by questions. Pick one or more questions (you choose), and develop a thoughtful response. **Write a three page answer (you can exceed the minimum; use double spacing, 12 point font, standard margins). Submit to my email address (mhl@illinois.edu) before class.**

**Between approximately Week 3 through Week 9, you will make a brief PowerPoint presentation in lieu of writing a pre-submit paper. For grading purposes, it will count the same as a pre-submit paper. Your presentation will be about five minutes and limited to 3-4 slides.**

**Go the end of this syllabus for PowerPoint presentation suggestions.**

**When you make a PowerPoint presentation, that will count the same as a writing assignment. No writing assignment will be due from you for that week.**

If you pre-submit before the start of each scheduled class, 40% of your course grade is an A. If you do not pre-submit before one class, this part of your grade will drop to a B+; for two classes, a B; for three classes, a B- and so forth. **When you pre-submit, please use this heading in the subject line: LER 590 CB**. **On a week when you make a presentation, submit your PowerPoint slides just as you would for a paper**.

**2. Post-Submit Questions (40%) (Called “Compiled Paper”)**: Class time will be used to improve and expand our understanding of the materials. Thus, you will take your readings (example, Chapter 1), and during class or sometime after class, **add another page with another question, *or* a “deeper” answer to a pre-submit. Put this revised response in a file new file**. **Thus, your post-submit (due at the end of the semester) will be four pages per assignment (minus the one week that you make a PowerPoint presentation)**.

As each class goes by, you will copy a new pre-submit paper in this developing file. You will also extend each response to reach a four page minimum for each assignment. My hope is that you will have a laptop or similar in class; that you will have your pre-submit paper in front of you; that you will volunteer to answer a few questions; that you will listen to my presentation of materials; and that you will also listen to your classmates. **During this time, you should work on and complete the extension part of your pre-submit paper**.

Your complied paper will be accepted between the end of the last class (**Monday, May 4th**) and one week later (**Monday, May 11th, 11:59 p.m.**).

Papers are graded using these criteria: (a) extent to which readings are specifically incorporated into answers; (b) analytical quality; (c) comprehension of course materials; and (d) grammar, spelling, professional appearance, and proofreading. **A note on papers: There is no penalty for exceeding the page guidelines, though there is no guarantee, either, that this paper will be graded more favorably than a standard submission**. Objective measures such as footnotes or internal citations, page length, and word count may be used as grading factors in this comparison.

**3. Participation (10%):** Attendance is mandatory and tracked every class. If you cannot attend a particular class, e-mail me in advance with your reason. I will use reasonable discretion to excuse or not to excuse an absence. **Attendance problems may result in a course grade reduction**.

For the participation element, we will either (a) flip the class and have a panel of peers lead the discussion for a set of readings (for about half the class [I will present material in the other half]), or (b) have class presentations and related Q & A as half of each class period.

You will be expected to participate on one panel during the semester. Note: Good-faith participation will result in an “A” for this element, though non-performance or weak performance will be significantly downgraded. You are expected to participate and share your thoughts—you are not expected to be an expert. When material is confusing or unclear, you are expected to present this as a problem for peers to address, and we will work on a solution together.

**4. Mock Arbitration Case (10%)**: You will prepare and present one mock arbitration case dealing with an employment-related immigration issue in a unionized work setting. The 10% grading component applies to your preparation for, and participation in, the mock arbitration.

You will observe other teams prepare and present a different case**. You will have a writing assignment of the same length (i.e., four pages) for the compiled submission (this element is graded as part of your complied paper)**. **Note: There is no pre-submit element to this part of the course—you must be in class and observe your peers put on their case.**

**Concluding Thought**: I aim to create a culture of shared learning, where I set the agenda and we all contribute to the intellectual content of the course.

**Sexual Misconduct Policy and Reporting**

The University of Illinois is committed to combating sexual misconduct. As such, you should know that faculty and staff members are required to report any instances of sexual misconduct—which also includes dating violence, domestic violence, and stalking—to the University’s Title IX and Disability Office. What this means is that as your instructor, I am required to report any incidents of sexual misconduct that are directly reported to me, or of which I am somehow made aware. When a report is received, an individual with the Title IX and Disability Office reaches out to provide information about rights and options, including accommodations, support services, the campus disciplinary process, and law enforcement options. There is an exception to this reporting requirement about which you should be aware. A list of the designated University employees who, as counselors, confidential advisors, and medical professionals, do not have this reporting responsibility and can maintain confidentiality, can be found here: [wecare.illinois.edu/resources/students/#confidential](http://wecare.illinois.edu/resources/students/#confidential). Other information about resources and reporting is available here: [wecare.illinois.edu](http://wecare.illinois.edu/).

**Office Hours:** **I promise to make myself readily available to you upon request.** Please call (244-4092) or e-mail me for an appointment, and suggest times.

**Concluding Thought**: *My hope is that you will find this course among the most valuable in your professional education*.

**SUGGESTIONS FOR POWERPOINT PRESENTATIONS**

**You are free to choose your own topic, or accept or modify suggestions below. We can have two or more presentations on the same topic. Your presentation does not necessarily have to match the readings of a particular week.**

**California’s Name, Image, and Likeness Law for NCAA Student-Athletes**

**How Non-Compete Agreements Affect Low Wage Workers**

**Negotiations for Major League Baseball and MLB Players Association**

**Negotiations for the National Football League and NFL Players Association**

**Transgender Athletes in Competitive Sports**

**Abuse Scandals in NCAA Athletics: What More Can Be Done to Protect Student Athletes?**

**Efforts to Limit Speech Rights of Unions**

**Scabby the Rat: Is He Being Unfairly Silenced?**

**Talent Agencies for Movies and TV Productions: Can They Avoid Boycotts from Unions?**

**How Do Unions Protect Intellectual Property Rights of Screen Writers?**

**Should Student Athletes Be Employees? Pros and Cons**

**Strikes and Lockouts in Pro Sports: Lessons from Past Labor Disputes**

**The NFL Concussion Settlement: Is It Fair to Players?**

**How Is Netflix Transforming the Movie Industry?**

**Colin Kaepernick: Victim of Collusion or Victim of Delusion?**

**Would Unions Be Better Off Without the National Labor Relations Act?**

**Right-to-Work and the Janus v. AFSCME Decision (138 S. Ct. 2448): Effects and Consequences**

**Current Trends in Unionization of U.S. Workers**

**“Red for Ed”: What Are the Implications of Recent Statewide Teacher Strikes?**

**Presentation on Any of the Unions Listed in Chapter 4**

**Attitudes of American Workers: Do They Favor Unions and Collective Action?**

**Is the Rise of Donald Trump a Symptom of a failed Labor Movement?**

**U.S. Women’s Soccer Legal Fight for Pay Equity**

**Is There a Future for Major Symphonies?**

**Who Owns Homer Simpson?**

**The Internationalization of American Sports Leagues: Labor Implications**

**Can the NCAA Survive in Its Present Form?**

**Is Mandatory Employment Arbitration Fair to Workers?**

**Medieval Guilds: How They Compare to Contemporary Unions**

**How Can Worker Rights Be Increased?**

**Minimum Wage Laws and Minor League Baseball Players**

**Mobile Billboard Ads and the Ohio State Sex Abuse Scandal**

**How Michigan State University Administrators Failed Student Athletes**

**The NLRB and Unionization of Graduate Students**

**Suppose Social Security Benefits Are Curbed: Would Labor Unrest Follow or Would Workers Accept It?**

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