

Best's Insurance Law Podcast



[How COVID-19 Is Changing Sports Risk - Episode #187](#)

Posted: Thurs., Jan. 27, 2022



Hosted by: John Czuba, Managing Editor

Guest Attorney: Al Goldberger of Law Offices of [Alan S. Goldberger](#)

Qualified Member in *Best's Insurance Professional Resources* since: 2006

Alan S. Goldberger

John Czuba: Welcome to "Best's Insurance Law Podcast," the broadcast about timely and important legal issues affecting the insurance industry. I'm John Czuba, Managing Editor of *Best's Insurance Professional Resources*.

We're pleased to have with us today, [Attorney Al Goldberger](#). Al is a New Jersey attorney and veteran sports official with more than three decades' experience officiating college and high school basketball and baseball, and high school football. He officiated college and high school basketball for over 30 years.

He also umpired college baseball for the Eastern College Athletic Conference, and worked as a high school football official throughout the state of New Jersey. Al is the author of "Sports Officiating -- A Legal Guide," the recognized authority on the law for referees, umpires, and those who supervise their services.

Based in suburban Fairfield, New Jersey, he is a member of the New Jersey, New York, and Maryland Bar Associations, counseling clients nationwide in sports industry and athletic risk management and liability defense, officiating program management, business-related disputes, administrative hearings, and contractual relations.

Al also serves as parliamentarian and legal counsel to the International Association of Approved Basketball Officials. He's also a frequent speaker to officiating at sports organizations, conference coordinators, coaches, athletic administrators, attorneys, and others involved in sports and athletic officiating administration, impacting many colleges, universities, and school districts nationally.

In addition to "Sports Officiating -- A legal Guide," now in its second edition, he is also co-author of "Sport, Physical Activity, and the Law," a college textbook now in its third edition. Al, thank you so much for joining us today.

Al Goldberger: Thank you, John. Appreciate your having me.

John: Nice having you, as always. Today's topic, Al, and it's still ever-changing, is the COVID-19 impact on youth sports. Tell our audience, Al, how have various sports been impacted over the last couple of years now?

Al: John, the first thing we need to do when we're talking about any aspect of youth sports is a little unpacking. When the subject of youth sports in the midst of a global pandemic comes up, the conversation begins for me with a headline I saw last summer in the Raleigh, North Carolina "News Observer." I'll paraphrase it, "All sports are professional sports, maybe not for all the athletes, but for everyone else involved."

Youth sports these days is a \$19 billion industry viewed by many as a pathway to the fame and fortune that elite athletes will often attain. The lure of all this sometimes results, in my view, in some skewed perspectives on the part of parents and the children involved.

What we need to realize about the impact of anything that presents a danger to children in the youth sports environment is sometimes not anticipated by the folks who are sponsoring, administering, coaching, or volunteering to deliver these programs and organized sports to children.

In other words, we need to recognize that sometimes, when we're dealing with the children in sports, we lose perspective, and that our perception that youth sports means it's a game, and a children's game, can be turned on its end in a heartbeat, to the perception that the kids need to compete and win so they can get to that championship round, the trophy, the scholarships, and all the financial and other rewards and admiration that go with such achievements.

Children, being children, don't necessarily appreciate the risks associated with playing the sport. It's important to understand, in this context, John, that infectious life-threatening disease is just one of a number of threats to young athletes who play sports. I realize over the past two years, COVID has taken its place in the youth sports scene, like in every aspect of life.

In the context of youth sports, COVID takes its seat at the table next to stuff like lightning, traumatic brain injury, which we've talked about before on these podcasts, unsafe facilities, nonconforming equipment, coaching personnel, volunteers unpaid who are unfamiliar with rules and fundamentals involving safe play, sometimes inadequate vetting of adult staff and volunteers, and any number of things that present a danger to a young athlete. While not minimizing the impact of the pandemic, exposing young athletes to unreasonable risks, if the truth be told, is nothing new in youth sports.

We find that over the past two years, some of the state, regional, and local COVID guidelines — and CDC guidelines for managing the youth sport environment are used to guard against the disease, ranging from education of parents, volunteers, and administrators in the regimens of sanitizing, the playing implements, social distancing, other government-imposed limitations on spectators, and in some cases, elimination of spectators altogether.

With a proliferation of travel teams and the massive investment of many moms and dads in the development of their little "D-1" athlete, every parent hopes that will happen, the practice of piling the team and the staff like sardines into SUVs for a tournament in another town or maybe in another state has made travel teams lucrative for some parties. All these things, not just the games, but the surrounding activities, present a potential danger to young athletes exposed to dangers that sometimes they don't have to be exposed to.

Why is that? If you ask the adults, it's because they say "the kids want to play," as if the kids really perceive the significance of the presence of a fatal infectious disease, potentially. Some of these same adults, of course, we hear and we're bombarded with the fact that people want their "freedom" back.

They want to go to bars and they want to get their lives back to where they were before all this. It's not happening, we know that. The rational question for the children is, what makes sense? What reasoning compels us sometimes to disregard health authorities who have devoted their lives, in some cases, to the prevention and the mitigation of infectious disease?

John: You touched on numerous ways that sports have been impacted overall since COVID-19. Which of the sports are most affected?

AI: Without question, we're talking about, in terms of the most effect, indoor sports. To refine that or drill that down a little bit, contact sports. Contact sports is a term that's thrown around, but specifically, just for fun, let's talk about basketball, talk about wrestling.

In the basketball area, of course, you have the participants running up and down an 84-foot court breathing heavily, calling out plays, running into each other, having close personal contact. Example, in the summer of 2020, Commonwealth of Massachusetts determined that basketball was high-risk for COVID infections. Basketball wasn't going to happen in Massachusetts, legally speaking.

What did the folks do in the case of one tournament that had been scheduled and then canceled? They moved it to a neighboring state where the restrictions weren't imposed. Those are some of the things that we need to deal with. There are numerous examples like that. We don't need to stay in Massachusetts.

California, signs were posted back in 2020 when the pandemic started, "Tournaments not allowed at this particular facility due to COVID-19." Somehow or rather, reported in the news, the signs came down, a tournament or two went on. This is what we're up against. This is what the children are up against sometimes.

John: Al, what changes do you feel need to be implemented?

Al: Like with any other area of public health, the people in sports, like all of us, regardless of what business we're in, need to pay attention to the science. The American Academy of Pediatrics cites a number of things. We've read about a lot of them.

Depending on the number of participants in a particular sport, the frequency and duration of contact, the spacing that's available, the ventilation of the facility, there are some things that can be done to mitigate the risks.

The public health authorities place a lot of stock in minimizing travel to other communities and regions. Of course, one of the touchstones of youth sports is, we talked about a few minutes ago, the travel teams. Traveling and the ancillary activities present, obviously, their own risks to young athletes and to the adults who travel with them.

The American Academy of Pediatrics, also cites the usual suspects. They talk about frequently touched surfaces need to be cleaned and disinfected at least daily or between uses. They talk about not sharing equipment, talk about locker room use should be reduced. Ventilation sometimes is not what it should be, particularly in the older buildings.

They talk about athletes not sharing food or drink and the proper use of face masks, which have come into favor in terms of wearing a better mask as opposed to just something covering your mouth and nose. All of these things, of course, apply to sports. They're not always practical in terms of what the athletes are doing.

Is it impeding their breathing, or do the masks present some kind of choking hazard? These are all considerations. It's very difficult when you're dealing in youth sports, where you have a high component of adult volunteerism to get folks frankly to pay attention to a lot of items, like hygiene, distancing, and sanitizing.

As officials, we sometimes look with a jaundiced eye on some of these suggestions about sanitizing surfaces and distancing in the sports venue when it's impossible even to sometimes get the players to pull their pants up above their rear ends while playing the sport, as required by the rules-makers.

All of these things are dependent on people who have varying views of the significance of the items and frankly, aren't always able to put these practices or willing to put these hygiene and safety practices into use.

John: How has this impacted officiating, Al. What does, in your opinion, the revised sports landscape look like now?

Al: It has impacted officiating greatly because, like with other areas of endeavor, many of the professionals in the field have opted out. As officials, we know the games go on, but we also know that without the officials, it's just a pick-up game. At some point, of course, early on in the pandemic, lots of games went on.

Lots of high school athletes were down in, particularly in Texas, if I remember correctly, playing high school-age baseball tournaments. Lots of officials have elected not to referee or umpire under circumstances of COVID. That superimposed on already a nationwide shortage of officials, particularly in the youth sports area has changed the landscape considerably.

Other factors, factors other than infectious disease have contributed to a shortage of officials, not the least of which is frequent instances of assaults on officials, and poor sportsmanship and abusive behavior on the part of participants, more adults than children, I have to add. All of these things contribute to the shortage of officials. The landscape has changed.

Officials in some cases are being asked to take on additional responsibilities and enforce certain regulations that have something to do with the disease that also becomes problematic. Officials are also being asked to execute waiver documents, as our athletes as well. All of these are factors.

John: You mentioned a point before where in one particular case they crossed over states to play an important game or match. Have there been any key rule changes or have any states been in the forefront of rule changes based on what's been happening?

AI: Not so much rules changes, John, but regulations regarding some of the ancillary activities, the travel arrangements, and whether or not spectators are permitted, what number of spectators or how they are to comport themselves, and so on and so forth.

As far as playing rules changes, probably fewer than most people think. Most playing rules changes come about as a result of things that happen during competition that raise either a safety concern, an enforceability concern, or a concern with the balance between offense and defense in the sport.

With the games down over the past two years, there hasn't been that much that has gone on with mass cancellations. In a sense, some parts of the sports landscape have stood still, and rules changes are among them. Obviously, we have venue restrictions, distancing restrictions, and other guidelines imposed by local health authorities.

John: AI, what do you think the future holds?

AI: A fellow named Casey Stengel who's well-known to sports fans from a few years back said, "Never make predictions, especially about the future." I think in this case he was probably right. The future for youth sports requires a recognition. Like the headline said, "All sports are pro sports" in a very real sense."

Also, in the future, we need to understand that we can't lose perspective. If it's going to be reason, science, and protecting those who can't protect themselves, then there's a chance that we all could survive and youth sports could survive the global pandemic. If it's just a case of my child wants to play, and the children need to play, then we have some significant problems.

Public health experts tell us that infection results from not only the close proximity of the athletes when they're engaged in the competition, but the travel, the locker rooms, the sideline, the meals, and the lack of hygiene practices. These all can lead to infection. If it's just "my child wants to play," that doesn't seem to me like a real good reason.

We've faced this before. It's not just COVID-19, John, it's unsafe facilities, it's failure to teach fundamentals, it's dangerous environmental conditions, and it's not responding properly to an incident that might have caused traumatic brain injury, not dealing with that properly.

You don't solve these things by passing out pamphlets or by educating parents. You solve them by appropriate administration of the competition. It's becoming harder and harder. COVID-19, very serious, obviously, but it's another thing that we have to deal with in youth sports. We don't always deal with it well, frankly, so we need to get better.

John: AI, thanks so much for joining us again today.

AI: My pleasure, John. Thank you.

John: You've just listened to [Al Goldberger](#), attorney from New Jersey. Special thanks to today's producer Frank Vowinkel.

To subscribe to this audio program, go to our web page, www.ambest.com/claimsresource. If you have any suggestions for a future topic regarding an insurance law case or issue, please email us at lawpodcast@ambest.com

I'm John Czuba, and now this message.

Transcription by CastingWords

To find out more about becoming a Qualified Member in *Best's Insurance Professional Resources*, contact professionalresources@ambest.com or visit our [Learn More](#) page to start the application process.

BEST'S INSURANCE PROFESSIONAL RESOURCES

Copyright © 2022 A.M. Best Company, Inc. and/or its affiliates ALL RIGHTS RESERVED.



No portion of this content may be reproduced, distributed, or stored in a database or retrieval system, or transmitted in any form or by any means without the prior written permission of AM Best. While the content was obtained from sources believed to be reliable, its accuracy is not guaranteed. For additional details, refer to our Terms of Use available at AM Best website: www.ambest.com/terms.