

Chicago Daily Law Bulletin®

Volume 163, No. 84

Serving Chicago's legal community for 162 years

A solo who learned from his mistakes, becomes go-to sports attorney

Most fans of college or professional athletics have caught Chicago lawyer Eldon Ham on television or radio, discussing the legal implications of some cutting-edge sports story.

Aside from running his own sports marketing, publishing, trademark and entertainment practice, teaching at IIT Chicago-Kent College of Law, serving as an expert witness in various athlete cases and valuation matters and writing numerous books and articles along the way, Ham is a longtime guest legal analyst for media outlets across the country.

As counsel for prominent players and a thoughtful essayist on the impact of sports in society, Ham is often asked to discuss how key events at universities or in the major leagues intersect with the law, such as the Sandusky scandal at Penn State, unionization efforts at Northwestern, baseball's steroid era or the potential criminalization of flagrant cheap shots in the NFL.

Working his way through law school as a second-shift copy clerk at the Chicago Tribune, Ham expected a more traditional path. As it turned out, his legal career has been anything but traditional.

Know what you don't know

In his early years as a lawyer, Ham discovered hardships can produce life's best lessons.

Deciding after graduation to open a solo firm, he secured office space and stationary and waited for clients to stream through his door with lucrative cases. That did not happen very often.

Instead, Ham had to learn how to compete for business to survive. He joined a bar association referral program and took whatever modest cases came his way, one of which grew into a lucra-

tive California technology client. While he gained some experience, there were lean times and a lot of stress.

Candid self-assessment can be tough, but in Ham's case, it took some honest soul-searching to turn his career around. "As an attorney, you need to know what you don't know, which is easier said than done," he remembered. Ham made the hard choice to close his practice and join a firm.

As an associate attorney, Ham gained significant commercial experience that allowed him to return to a robust solo practice in later years. He also made valuable contacts, including an emerging sports agent named Steven Zucker.

Representing a Super Bowl MVP

Hall of fame baseball executive Branch Rickey famously said "luck is the residue of design." Ham believes those are words to live by. By joining a firm to gain experience, Ham had the chance to meet Zucker, and in turn, represented NFL star Richard Dent.

In 1988, the NFL gave Dent a 30-day suspension for refusing a drug test. Dent had tested positive for traces of marijuana more than a year earlier and demurred when the NFL demanded a re-test based on "reasonable cause."

When Ham discovered a discrepancy between the NFL's drug policy and its bylaws that clouded the NFL's right to demand a re-test, he and Zucker immediately filed a motion for a temporary restraining order.

The sports world was captivated by this "unprecedented challenge of the NFL's drug policy," as one columnist described the case. Ham recalled the courtroom and hallway were packed with media members, bystanders and lawyers hoping for a glimpse of the proceedings.

In the judge's chambers just before the hearing, the NFL in

SOLE SPEAK

GLENN E. HEILIZER



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dramatic fashion agreed to remove the suspension, which settled the case. Because Ham and Zucker had acted so quickly, Dent never missed a game.

The Dent case made Ham a recognized sports lawyer virtually overnight. He never looked back.

Medical paternalism and the athlete's right to choose

One of today's well-publicized debates concerns the right to compete despite serious health risks, including brain and spinal injuries. Some insist there is a moral imperative to prevent potential injury at all costs, while others argue for the athlete's right to assess the risk and make an informed choice to take the field.

Ham was an early advocate for the player's right to choose, when he filed suit in 1994 for a Northwestern University basketball player, Nick Knapp, who was permanently sidelined due to a heart condition.

Knapp, an all-star high school basketball player, collapsed on the court and was revived by paramedics. After doctors implanted a defibrillator, Knapp

announced he was ready to honor his commitment to play at Northwestern. Although he received the promised scholarship, Knapp was benched due to his medical history.

Ham's efforts led to a mandatory injunction in federal court by arguing creatively under the Rehabilitation Act that Knapp was "otherwise qualified" to play and his banishment "substantially limited" a major life activity. But the 7th U.S. Circuit Court of Appeals reversed, citing a reasonable probability of future harm and deferring to Northwestern's assessment of the risk, then finding Knapp was therefore not "otherwise qualified" to play. After the Supreme Court denied review, Knapp was off the team for good.

Though Ham appreciates the inherent desire to protect athletes at all costs, he believes players should have the right to make their own choices within reasonable limits. The concept behind forced medical exclusion — "we are going against your wishes for your own good" — can be exploited, Ham pointed out, and has been used to bar women from men's athletics and even to justify segregation in years past.

Nor has Knapp's view changed after all these years. In 2010, he told an interviewer that "institutions shouldn't make decisions that aren't theirs to make the way Northwestern did for [me]."

Entrepreneur and author

The keepsakes and mementos that fill Ham's office point to achievements in the sports world well beyond the practice of law.

For example, there are specialty-themed trivial pursuit games, co-designed by Ham and licensed by the NFL, MLB, CNN and even Caesars Palace.

Next, there are greeting cards with Chicago Bears and other NFL logos that led to allegations

of misappropriation against a card company and an arbitration award to Ham's group.

Stacked in the corner are a select collection of Major League Baseball bats from the Hoosier Bat Co., a business in which Ham was once a part owner and still represents as a client.

Also lining the shelves are a sizable group of well-acclaimed books by Ham on sports and broadcasting, including his latest work — “All the Babe's Men:

Baseball's Greatest Home Run Seasons and How They Changed America” — which received an Independent Publisher Book Award in 2014. And one of his prior books, “Broadcasting Baseball,” was a finalist in the Foreword Magazine Book of the Year awards.

Ham's favorite item, too valuable to keep in the office, is a pair of signed boxing gloves from Muhammad Ali. While at Zucker Sports, Ham represented Ali in

an endorsement deal and recalled that Ali was kind and attentive, despite his in-the-ring persona and worldwide fame.

Be proactive and learn from your mistakes

Ham's parting advice to young sole practitioners is to be proactive. Decide what you want to accomplish and be honest with yourself if you need help to get there. Mistakes happen — learn from them and move forward. Success will come when you put

yourself in a place to succeed, though perhaps not how or when you expect.

Even now, Ham takes his own advice as he continues to self-assess and seeks new challenges. Joined last year by his daughter, Carla, a lawyer and former entertainer, their boutique firm serves the needs of prominent performers, bands and venue owners. As always, Ham is excited about new opportunities around the corner.