EXAM # _____

SPORTS LAW
Conflict Resolution in Professional Sports

FINAL EXAMINATION

Commissioner Foley May 10, 2005

INSTRUCTIONS

Greetings beloved students! I'll keep this short, but please read these instructions and the exam questions, carefully.

The exam consists of three parts. Part One is one Essay Question. Part Two is four "Short Answer" Questions. Part Three is three, even-shorter-answer, Extra Credit questions for your enjoyment.

Feel free to refer to your casebook and statutory materials, as well as any notes you took in class or in preparation for this exam. The essay fact pattern, **alone**, contains sufficient information for you to respond to the essay question. If you feel it is necessary to assume any additional facts to respond, please identify all such assumed facts.

Part #1 is valued at 50 %.

Part #2 is valued at 50 %.

Write your responses in the bluebooks provided. Don't forget to write your exam number on each bluebook. You may write as much as you wish on the essay question, but you will receive **no** credit for mere verbosity. Your essay response will be evaluated based upon:

1. Your demonstrated ability to identify and analyze disputed legal and factual issues (including providing "major" **case** and **statutory** citations where appropriate); and

2. Your demonstrated knowledge of the legal processes to be used to resolve these disputes or otherwise protect the interests of the parties.

Good luck and Happy Summer Vacation!

PART 1
ESSAY QUESTION

I. The Facts

The League

Major League Rugby ("MLR") is the only professional rugby league in the United States. MLR is made up of eight individually-owned, member Clubs and is organized pursuant to written league rules. MLR.'s season runs from June 1 through November 30, including championship playoffs. MLR Clubs are organized much like NFL Clubs sharing all national television and radio revenue equally. Ticket revenue is not shared, resulting in significant differences in gross revenue among the eight MLR Clubs.

The Agreement

In the past 20 years, MLR has entered into 4 collective bargaining agreements with the MLR Players Association, the authorized bargaining representative of MLR players. The parties' most recent collective bargaining agreement ("the 2000 Agreement") was entered into on July 1, 2000 and expired on July 1, 2004. Among its numerous terms, the 2000 Agreement provided for an annual five round Player Draft in which the Clubs, picking in inverse order of their finish in the prior season, obtained exclusive MLR negotiating rights to the best un-signed amateur rugby players. If a drafted player did not sign an agreement with his drafting Club, the Club retained exclusive MLR rights to that player for subsequent years. The Player Draft is held on May 15th of each year. The 2000 Agreement did not contain any type of Salary Cap provision.

The Negotiations

Since May 1, 2003, negotiating committees for the MLR Owners and the MLR Players Association have held monthly meetings at which they have attempted to agree upon a new collective bargaining agreement. No agreement has been reached, however, primarily because MLR negotiators have insisted that any new agreement contain a Salary Cap system that would cap player salaries at 75% of 2003 levels. According to the MLR Negotiators, this system would provide MLR Owners with both "cost certainty" and "reasonable profits" each season. MLR Owners argued that such a system was also necessary to provide for competitive games within the MLR and pointed to the similar systems that exist in the more profitable NFL and NBA.

Beginning in May 2003, Players Association negotiators unqualifiedly rejected any type of Salary Cap, in part, because, they believed that all of the MLR Clubs were making a profit for their individual Club owners. On May 1, 2004 the MLR Clubs imposed a lockout on MLR Players barring them from performing services under their player contracts until the adoption of a new collective bargaining agreement. On August 1, 2004 the MLR Players, for the first time, proposed an alternative Salary Cap that would cap MLR Player salaries at 100% of the 2003 level. This offer was rejected by the MLR Negotiating Committee as an "insufficient cost savings" and the entire 2004-2005 MLR season was eventually cancelled.

On May 1, 2005, the MLR Players Association sent the MLR Negotiating Committee the following email message:

> ***Please be advised that: 1) The Players Association will consider a Salary Cap that caps MLR Players Salaries at 90% of the July 2004 level; 2) For the good of our beloved sport of rugby, now is the time to end your ill-advised lockout, start the 2005 season and form a Joint Player-Owner Study Committee to review this important matter over the next six months; and 3) Any collective bargaining agreement signed by the parties must provide for NO Salary Cap in the final year of the Agreement.***

On May 3, 2005 MLR Negotiating Committee responded with the following email to the Players Association:

> ***We are losing much too much money to start another season without a meaningful Salary Cap and it is much too late for a study committee. But, we owe it to the fans of MLR to find a way to start the season on time. Accordingly, the lockout will be lifted immediately and an abbreviated training camp will be held. As of May 15, 2005 all MLR Clubs will be operating in accordance with the Salary Cap that had been proposed to the Players Association back in May 2003. As you may recall, under this system gross total Player salaries in MLR would not exceed 75% of MLR's gross revenues.***
>
> ***In addition, MLR is pleased to announce that to preserve competitive balance while replenishing an expected diminished supply of players, the annual Player Draft on May 15, 2005 will be lengthened from 5 rounds to 10 rounds.***

II. Your Task

It is May 5, 2005. Former MLR player and current MLR Players Association Executive Director Donald Nofehr, is on the phone. "This legal business is tricky... [stuff]. I need your help in fighting the MLR's Salary Cap - and while your at it, let's try and get rid of the Player Draft too!" says Nofehr.

A Player strike is out of the question, so write a memo in response to Executive Director Nofehr advising him, **in detail**, of the following:

1. What legal strategies and legal actions could the Players Association use to protect their interests?

2. What arguments could the Players Association make to support their legal strategies and legal actions?

3. What arguments could the MLR Club Owners make in response?

4. What would be the likely outcome of the Players Association's legal strategies and legal actions?

PART TWO
SHORT ANSWER
10 points each
Answer in 1 to 3 sentences – maximum *(no credit for verbosity)*

Question 1

Look back at the above Essay Question. More specifically, focus on the third "Condition" of the MLR Player Association's proposal of May 1, 2004. Why did the Players want a "No Salary Cap" provision in the last year of their proposed Collective Bargaining Agreement?

Question 2

Complete this sports law analogy:
The Mandatory Player Salary was to the Plaintiffs in the *Brown v. Pro Football* case as _____ was in the *Yazoo Smith* case.

Questions 3

Suppose a wealthy entrepreneur has an idea for a new start-up pro sports league, but, wants the league's potential antitrust liability to be as limited as possible. From a purely legal perspective what are the two most useful steps this entrepreneur could take when setting up this new business venture. Please briefly explain.

Question 4

What is the standard of judicial review of an arbitration decision that is rendered pursuant to a collective bargaining agreement? Please provide a case citation that supports your answer.

Question 5

What is the most significant **factual** reason that in the past 10 years there have been no player contract enforcement actions that are factually similar to the cases of *Lajoie* and *Barnett*?

PART THREE

Extra Credit #1 (5 points)

Name the three most significant current event topics that we discussed in class this semester.

Extra Credit #2 (5 points)

What Section of the NLRA authorizes the NLRB to bring a "10(j) Injunction" to enforce one of its rulings.

Extra Extra Credit #3 (3 points) (yes you get the points just for filling in the blank)

My vote (if any) for 2005 Sports Law MVP (Most Valuable Participator) is:

_____.

(write-in "name of deserving class member" -- who does NOT happen to be you -- or "none-of-the-above" **in blue book**)