SPORTS LAW I
FINAL EXAMINATION

Commissioner Foley December 18, 2003

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 two, 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 66.7 %.

Part #2 is valued at 33.3 %.

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 Holidays!

PART 1
ESSAY QUESTION

I. The Facts

The League

The Box Lacrosse Association ("BLA") is the only professional lacrosse league in the United States. The BLA is made up of eight individually-owned, member Clubs and is organized pursuant to written league rules. Box lacrosse is played indoors and the BLA season runs from January 1 through June 30, including championship playoffs. BLA Clubs share all national television and radio revenue equally. Club attendance and local-media revenue is not shared, resulting in significant differences in gross revenue among the eight BLA Clubs.

The Agreement

In the past 25 years, the BLA has entered into 5 collective bargaining agreements with its Players Association, the Big League Association of Box Lacrosse Athletes (BLABLA) (hereinafter "Players Association"), the authorized bargaining representative of BLA players. The parties' most recent collective bargaining agreement ("the 1997 Agreement") was entered into on July 1, 1997 and expired on July 1, 2002. Among its numerous terms, the 1997 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 BLA negotiating rights to the best un-signed amateur players. If a drafted player did not sign an agreement with his drafting Club, the Club retained exclusive BLA rights to that player for subsequent years. The Player Draft is held on August 1 of each year. The 1997 Agreement did not contain any type of Salary Cap provision.

The Negotiations

Since July 1, 2002, negotiating committees for the BLA Owners and the 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 BLA negotiators have insisted that any new agreement contain some sort of Salary Cap system to "insure that the best players don't all end up on the same team". The BLA Negotiating Committee argued that such a system was competitively and financially necessary and pointed to the similar systems that exist in the more profitable NFL and NBA.

Since July 2002, Players Association negotiators unqualifiedly rejected any type of Salary Cap in part because, as far as they knew, all of the BLA Clubs were making a profit for their individual Club owners. As a result, the parties focused their negotiations on other, less contentious, collective bargaining issues. Despite their differences on the Salary Cap issue, the parties completed the January - June 2003 season, operating under the terms of the expired 1997 Agreement.

On July 1, 2003, after the conclusion of the 2003 season, the BLA Negotiating Committee announced a "lockout" of the Players, effective immediately. Under the terms of the BLA lockout, BLA Clubs 1) refused to sign any new contracts with BLA Players whose contracts had terminated at the end of the 2003 season and 2) indefinitely postponed the November 1, 2003 start date of the annual BLA Pre-Season Training Period. BLA Players, like most professional athletes had no problem with missing a few weeks of training camp but, by the end of November 2003, a number of Players were starting to get concerned about the possible postponement of the 2004 season. On December 1, 2003, the Players Association sent the BLA Negotiating Committee the following email message:

> ***Please be advised that: 1) The Players Association will consider a Salary Cap but only if the minimum and maximum salary percentages are high enough to disburse a fair share of BLA revenues 2) The current proposed Salary Cap numbers are one hundred per cent unacceptable! and 3) For the good of our beloved sport of box lacrosse, now is the time to end your ill-advised lockout, start the 2004 season and form a Joint Player-Owner Study Committee to review this important matter over the next six months.***

On December 15, 2003 BLA Negotiators responded with the following email to the Players Association:

> ***We are losing much too much money to start another season without a Salary Cap and it is much too late for a study committee. But, we owe it to the fans of BLA 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 December 15, 2003 all BLA Clubs will be operating in accordance with the Salary Cap that had been proposed to the Players Association back in July 2002. As you may recall, under this system total Player salaries would equal between 40 per cent and 60 per cent of the BLA's gross revenues.***
>
> ***In addition, the BLA is pleased to announce that to preserve competitive balance while replenishing an expected diminished supply of players, the annual Player Draft on August 1, 2004 will be lengthened from 5 rounds to 10 rounds.***

II. Your Task

It is December 18, 2003. Former BLA player and current BLA Players Association Executive Director Donald Nofehr, is on the phone. "This legal business is tricky... [stuff]. I need your help in fighting the BLA'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 BLA make in response?

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

PART TWO
SHORT ANSWER
Answer in 1 to 3 sentences - maximum

Question 1

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 2

Complete this sports law analogy:
The Los Angeles Chargers were to Charles Flowers as the _____ were to Ralph Neely.

Questions 3(a) and 3(b)

Think about the antitrust class action cases of *Law v. NCAA* and *Brown v. Pro Football*. From a sports law perspective, what is the most significant **factual similarity** between the plaintiff's claims in these two cases? What is the important **factual difference** that led to their different **legal** results. Please briefly explain your answers.

Question 4

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 and provide two (different) case citations to support your answer.

PART THREE
Extra Credit (5 points)

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

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

My vote (if any) for 2003 Sports Law MVP (Most Valuable Participator) is:

_____.
(write in name of deserving class member or "none-of-the-above" **in blue book**)