

Your Rights and Responsibilities

Could Using Video Lead to Liability?



Don Collins



Alan Goldberger

The following question was asked during the “Current Legal Issues: Your Questions Answered” session at the 2008 NASO Summit. The answers are from session leaders Don Collins, a lawyer and executive director of the San Francisco section of the California Interscholastic Federation, and Alan Goldberger, New Jersey lawyer and official who wrote the book *Sports Officiating: A Legal Guide*.

Q As we’re all getting excited about video, I’m wondering what exposures we have in filming student athletes? Somebody could come and say, “You’re producing this material and it’s based upon my performance.” Are there any liabilities that we have or protections that we have in the form of model release forms and things like that that we should be thinking about?

A **Don Collins:** The basic law would center around the distribution or the interference with someone’s privacy. Generally when you enter a public forum you lose that protected right (of privacy) and the only time that it becomes regained, so to speak, is generally when someone is selling. In fact, I think there have been a few cases that are quite prominent of Internet abuse. Allison Stokke, a female pole vaulter was warming up before a meet, minding her own business and then a photographer took a few pictures of her warming and those got disbursed across the Internet. Before long, she’s a regular search on Google and hasn’t done anything to warrant it.

You have the California water polo boys in their

Speedos, someone took the picture and sent it off to a gay Australian porn site. But they were neither gay, Australian nor pornographic; they were just boys playing water polo. In those cases the difficulty was they weren’t selling the minors’ likenesses, they simply posted it and it became hard to regulate. In fact, it may not have even been within a state’s province to regulate it. So if you’re not selling it, you’re probably safe, but the moment that you start selling it you could get into trouble.

Alan Goldberger: I agree absolutely. In some states, New York for example, there are privacy related statutes that deal with that sort of thing. The problem that you may encounter or an association may encounter is a restriction in the venue as far as filming. Not to put an end to the question, but the other thing that comes to mind about video, in today’s technologically advanced world you may be asked, and some of us already have been asked to look at some parent’s or coach’s little clip of the last play that you missed. And obviously it is not a good idea ever to do that under any circumstances, otherwise you’ll be doing it every play and not really garnering the respect of anyone. So that is another thing that we have to deal with that we didn’t have to deal with a few years ago. □



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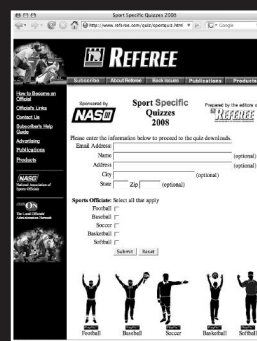
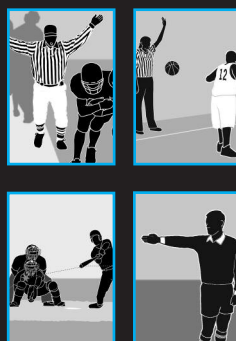
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