

# Contract Unfulfilled

By Donald C. Collins

There are times when the law simply enshrines the ethics of our business. Such is the case when a group can't provide enough officials to fulfill the terms of a contract.

Associations have always adhered to the following principles when shorthanded:

**1. Do not lie.** Associations have always let clients know when they're too shorthanded.

**2. Work with clients on adjustments.** Associations have always told clients they can service them when they're shorthanded if the client wants to work with the association on needed adjustments.

**3. Communicate in the good times.** Remember, even when fully staffed, things can go south quickly. Associations assume they can service their schools and leagues based on past practices. Many associations will have trouble if there's a drastic alteration in scheduling practices in their territory.

## Sometimes, there are incentives to lie — but not in officiating.

These three principles are the essence of the law.

Organizations that lie to get a contract are engaging in misrepresentation. Of course, there are businesses where organizations lie because the cost of lying is less than the cost of losing business. Sometimes, there are incentives to lie — but not in officiating.

Officials associations don't have an incentive to lie. Outside of a few large urban areas with multiple associations, most associations that can't service a client can't do so because there just aren't enough local officials. Nobody could provide the service if the local officials just aren't there.

Schools and teams have to play on, and they have to do so with those officials who still exist. Like it or not, schools, leagues, teams and officials

are bound together. We have to adjust for, to and with each other. The law accounts for this imperfect world.

The essence of contract law is communicating and adjusting, not certainty and rigidity. This sounds a bit moralistic, but sometimes the law enshrines morality.

Once we communicate, we can convey the problems caused by a shortage of officials. This frees up schools, leagues, teams and officials associations to partner on the needed adjustments.

Shortages demand adjustments. Some of the adjustments will relate to the timing of receiving schedules, the timing of associations declining games, the timing of reschedules, the timing of moving games up or back by a few hours to free up crews, travel fee issues where crews do multiple games and even flexibility on crew sizes.

Officials know about making these adjustments because we've had to make periodic adjustments before. The difference now is the scale of the adjustments. Officials will need to become more formal as they encounter a large-scale shortage of officials. All the adjustments an association makes need to be written down. It is imperative to have written contracts. There simply is less room for confusion because long-term officials' shortages force clients to compete for officials. This competition can lead to a less friendly, more litigious business environment. In short, write it down.

Finally, associations should begin to realize that even when they're fully staffed, a lot of what they do is based on scheduling assumptions. If a few schools or teams suddenly add multi-team tournaments on the same weekend, even the best-staffed association can suddenly experience a shortage. It's best to formalize adjustments before the adjustments become needed.

*Donald C. Collins is the commissioner of the San Francisco Section of the California Interscholastic Federation. He is a longtime basketball official and lawyer. This article is for informational purposes and is not legal advice. □*

## Safety First, Scheduling Concerns Last

Once a game gets underway, the officials are charged with proper supervision and control of the contest. If officials responsibly believe a visible hazard exists — such that continuing the game will place the players' safety in jeopardy — the game should be stopped. To ignore such hazards risks a lawsuit for yourself, your association or your league for negligence. It doesn't matter the sport — basketball, soccer, baseball, softball, football, volleyball, lacrosse, wrestling, etc. — when players' safety and a chance of a negligence lawsuit are the issues, it's better to halt the game and see if game management can correct the situation. If not, then it's better not to play at all. Safety concerns outweigh rescheduling woes.

## Watch What You Say or Watch for a Lawsuit

As sports officials, it's appropriate to talk to the players at times. Doing so can, in fact, be effective game management — a quick word now can avoid minor things from becoming major problems later. But be careful you're not just warning players about conduct that should be penalized. If there should have been an ejection and that player's further conduct results in an injury to another player, the failure to properly enforce the rules amid your comments recognizing it was a problem could come back to bite you.

Also be careful not to make off-handed comments, either on or off the field, about anything that may tend to jab at an individual's reputation. No one expects referees to be superhuman, constantly remaining perfectly silent, but remember if you do comment about a coach, player or fan, tread very carefully and watch what you say. Certain comments can reflect poorly on yourself — and could lead to entanglement in a defamation suit.

PRESENTED BY  
member information  
**[micp]**  
consultation program

Go to [www.naso.org](http://www.naso.org)  
and click on  
member benefits for  
more on MICP.