

# Suing an Assigner Better Be a Big Deal

By Donald C. Collins

Officials should hesitate before suing an assigner because that official has been demoted. A lawsuit is a last resort to be used when all other options have failed.

Lawsuits are burdensome. An official involved in a lawsuit must devote a lot of time preparing his or her case. It will be a major life disruption and that official will likely be treated unpleasantly by opposing counsel for an extensive period of time both prior to and during a trial. It better be worth it. If you're an official suing over a demotion, it better be a big deal.

Officials have a legal obligation to use their association's internal procedures to challenge their demotions. Courts don't exist to take the place of association procedures. If you don't use your association's procedures, a court will dismiss your lawsuit.

Courts know that the association has an expertise about its business that a court simply doesn't possess. A

## Courts don't exist to take the place of association procedures.

A court exists not to second-guess your association, but to make sure that your association followed its acts in a legal manner. If an official's claim simply boils down to a plea that the official thinks he or she is better than the assigner or the association thinks he or she is, the official is wasting time. However, if the official is claiming the association took action in a manner that is illegal, a court may review the case.

Associations sometimes don't follow their bylaws and assigners sometimes don't abide by contract terms. Courts will review that. Also, associations can follow all of their rules and regulations, but discriminate against an official based on his or her race, religion, color, gender, national origin, age or disability.

Even when an official thinks an

association acted illegally, the official must determine whether it's worth it to sue. Generally, the wisdom of suing boils down to an economic assessment whether the odds of winning times the amount one can expect to win are less than the costs of suing. Only attorneys know the answer to that equation. So officials must find a lawyer who will take their case.

Attorneys can err, so officials should remember a few things. First, the official must do more than challenge the association's decision to demote him or her. Remember, courts don't substitute their judgment for the association's. The association must have done something illegal or failed to follow its bylaws.

Second, the official must determine whether his or her prospective lawsuit only affects the official or whether it affects a class of people. For example, an official who didn't get assigned to the state tournament and simply disagrees with his or her evaluation probably doesn't have a case worth pursuing. However, if the official and the official's attorney think the case involves discrimination, it is bigger than one person and could be worth pursuing.

The official should also ask whether he or she wants to be heard by someone other than his association or whether he or she is trying to fix an illegality. The official who just wants to be heard outside his or her association may want to go to small claims court. The local small claims court is the forum for cases that are in the \$1,000 to \$2,000 range; litigants don't use attorneys and those courts are good places for somebody who just wants his or her voice heard.

The factors set out in this column may help, but deciding whether or not to sue is one of the toughest calls an official can make.

*Donald C. Collins is executive director of the San Francisco section of the California Interscholastic Federation. He is a longtime basketball official and lawyer. This material is for informational purposes only and is not legal advice. □*

## Keep Safety in Mind Before Ejecting Team Doctor

Should an official eject a team doctor, certified athletic trainer or emergency medical technician? If so, under what circumstances?

Participant safety always remains an official's top priority. When a serious injury occurs, any act or omission by an official which jeopardizes the health of a player will be subject to legal scrutiny. If a team doctor is ejected and a player later suffers a serious injury that is worsened by the lack of immediate medical attention, some might try to hold the officials liable for the consequences.

With that in mind, extra care must be taken when dealing with medical personnel. They have a job to do, and in an emergency may need to act quickly.

However, doctors, trainers and EMTs still may be ejected from contests. Their special role in protecting the safety of participants does not give them a license to misbehave or ignore the rules regarding bench decorum.

## Steps to Take When You Are Sued

Discovering that someone has named you in a lawsuit will provoke strong feelings, regardless of whether or not the lawsuit has merit. Defending yourself appropriately with all the firepower you have doesn't mean you lack empathy for an athlete who suffered a terrible injury.

When responding to a lawsuit, the very first thing you should do is begin your search for a lawyer. Once you've started the process of finding a lawyer, notify the company that provides your officiating insurance of the lawsuit, but do not assume they will defend you. If you have liability insurance through NASO, an attorney is available. Gather documentation on all the various training sessions you have attended for all the sports you officiate, including a list of all games you've officiated. It's also a good idea to save all officiating-related emails once you have been sued. Let your attorney determine which emails are relevant and important.

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