

THREAT OF A LAWSUIT AFTER EJECTION

By Donald C. Collins

Q I ejected a player for exhibiting unsporting behavior during a game that was played toward the end of the season. The player is now required to sit out the first playoff game. The parents of the player are threatening to sue me and the state association. What steps should I take to prepare for the potential lawsuit?

A When we officiate a game, we make calls. That's our job. We do not act in a vacuum, though. Leagues and governing bodies set policies based upon our actions. Many leagues and governing bodies suspend an ejected player from the next game. Some teams believe that a call denied them a win, eliminating them from the playoffs. There are consequences, and consequences plus high stakes leads to litigation.

Litigation to prevent a player or team from being disqualified from the next round of the playoffs is high-speed, high-stakes litigation. There's no time for formalities. That next game is coming up fast - anywhere from a day to a week away. Law is not really set up for this - but it has to have a procedure to address it. Enter the injunction, which literally means to stop or restrain.

A disqualified team or individual runs to court to stop a league or governing body from acting. The idea is to simply stop the enforcement of a suspension or to stop or overrule the call that presumably caused a team to lose. There's not enough time to get it right. So, the law creates a balancing test.

The legal balancing test for an injunction pits the likelihood

of success if the case got a full hearing against the risk of harm to the disqualified team or individual.

Technically, the disqualified party should seldom win as they have almost no chance of winning if the case got a full hearing. Courts simply do not tend to impose their will on sports officials' judgment calls, or on sports leagues or governing bodies that are simply following their procedures, rules or bylaws.

Leagues and governing bodies that have automatic suspensions for ejected players without a review or an appeal should be virtually unassailable. Teams would not be expected to succeed in reversing an official's call absent a specific protest, review or appeal provision in league or governing body bylaws.

Still, people who seek an injunction win often enough to justify the time and trouble to move forward. They might win because the court figures that there's a 100 percent risk of harm if the team or individual seeking the injunction loses. On the other hand, some people feel that any wins by people seeking an injunction are the product of them being in a low-level court with an elected judge in their hometown. There could be some element of truth to both views.

The one thing that we've seen over time is that if the league or governing body loses in a low court, they'll eventually win in a higher court ... but that win would come at the price of delaying their playoffs or championship.

But where does all of this leave the official? Think about it. The official just went to work a game, and suddenly all heck is breaking loose around him or her.

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The official may be named in the action for an injunction, but the true defendant is the league or governing body since they're the ones imposing consequences. Still, if one is named in a court action or one's actions are the subject of one, then one should at the very least have good insurance and a good attorney.

Next, the official should be able to explain and document their actions and the rules behind them since the official's action is what the league or governing body used to disqualify the team or a player. The official should tread lightly here just in case the official runs into the rare individual or school that sues the official for costing them money after losing an injunction. I have never heard of anybody winning such a case, but they have been filed so one must be ready to defend against them.

Ultimately, the official can't prepare for litigation from people who don't like the consequences of their calls, but when faced with litigation seek counsel, and be prepared to move really fast.

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. ■