



Play the Game

An athlete's right to be free of sexual abuse:
New responsibilities and ongoing challenges

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Recognize: Sexual Abuse is an Uncomfortable Topic



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Three Protective Norms from Sexual Abuse

- 1) Protect children from sexual abuse:
 - All youth-serving organizations
- 2) Protect those in subordinate positions:
 - Boss, Prison Guards, Religious Leaders, Public Housing
- 3) Protect via Professional License:
 - Lawyers, Doctors, Teachers, Counselors and Therapists

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Four Unique Features of Sports that Make Sexual Harassment and Abuse More Likely:

- 1) Authority: The coach-athlete relationship
- 2) Time: The increased opportunity for harassment
- 3) The physical nature of sports, and;
- 4) The *appropriate* focus on the athlete's body.

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To solve the issue of sexual abuse and violence,
rather than *protection*, think *power*.

CONGRESS:

- 1978 Sports Act, 36 U.S.C. Sec. 220501 et seq., Was Designed to Give Athletes Power.

How?

- Athlete Ombudsman
- AAC (“Athletes Advisory Council”)
 - Peer elected
- 20% Representation on all Boards and Committees
- USOPA (“U.S. Olympians and Paralympians Assn”)

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Athlete's Remedies Outside the USOC Dwindle and Are Not Remedied

When the USOC knew that an NGB wasn't living up to the requirements of the Sports Act, Blackmun didn't intercede and require Sports Act-compliance; he required the athlete to bring a Section 9 or 10 complaint *to do his job*.

- USOC required athletes to bring Section 9 or 10 complaints
- USOC funded the NGB's legal bills, but not the athlete's legal bills.
- There is no attorney's fee provision in the Sports Act, the way there is with every other civil rights law.
- Blackmun refused to consider opening the Sports Act to remedy this problem for athletes.

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II. Apart from the statute of limitations, all of Plaintiffs' claims against USAG fail as a matter of law..... 13

A. Plaintiffs' negligence-based claims fail as a matter of law because USAG did not owe a legal duty to the plaintiffs. 13

1. USAG had no legal duty to protect plaintiffs from Nassar's criminal conduct. 14

a. USAG would only have a duty to protect plaintiffs if USAG knew or should have known of Nassar's criminal propensities. 14

b. Plaintiffs fail to plead facts showing that USAG knew or should have known of Nassar's criminal propensities, and, therefore, plaintiffs fail to state a claim under the *Iqbal/Twombly* standard. 15

c. In any event, any duty owed by USAG would not extend to those plaintiffs who were abused outside of any "special relationship." 16

2. USAG had no duty to warn MSU, Twistars, or others of the reported concerns about Nassar. 19

B. Plaintiffs' vicarious liability and agency theories fail as a matter of law because Nassar's criminal conduct was outside the scope of any agency. 20

C. Plaintiffs' fraud and misrepresentation claims fail as a matter of law because they are not pleaded with particularity, as required by Rule 9(b). 22

D. Plaintiffs' intentional infliction of emotional distress claims fail as a matter of law because plaintiffs do not allege any intentional conduct by USAG. 24

Conclusion 25

Larry Nassar – 400+ Victims



SafeSport Act, Signed into Law, February 2018



Safe Sport Act

- The USOC has a legal duty to protect all athletes from physical, emotional and sexual abuse.
- Mandatory Reporters
 - 1) To Police, and;
 - 2) To the U.S. Center for SafeSport
- Children cannot be alone with a member-adult unless it is an emergency.
- Establishes the **U.S. Center for SafeSport.**

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Power and Control

- The Passage of the Statute is a **BEGINNING**, not the end.



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Four Major Reports

- Ropes & Gray
 - Scott Blackmun Lied to Congress
- House Subcommittee
 - USOPC Negligent
- Borders Commission
 - Retaliation
- Senate Olympics Investigation
 - Senators Moran and Blumenthal

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Ongoing Developments

- 3 Bills In Congress Now
 - Two would create a Commission to re-write the Sports Act – DeGette/ Gardner and Senator Booker
 - Another requires USOPC to fund US Center for SafeSport \$20 million per year.
- U.S. Department of Justice
- FBI Investigation
- IRS Investigation
- State Attorney's General Investigation
 - Indiana and California

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The US Center for SafeSport Doesn't Effectively Train

“COACHES SHALL NOT HAVE ROMANTIC
OR SEXUAL RELATIONSHIPS WITH THE
ATHLETES THEY COACH, REGARDLESS
OF AGE OR CONSENT.”

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Team Integrity

Changes to the Sports Act

- Elected Athletes have 50% of USOC Board votes.
- Remove the 10-year rule.
- Provide Whistleblower Protections
- Require USOC to get NGBs into compliance with Sports Act... not athletes.
- Create an Athlete Advocate Position
- Cut Ties with Anti-Athlete law firms
- Compensation levels consistent with other non-profits

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Spread Reforms Worldwide

- Countries
- CAS
- IFs
 - FIFA
 - Human Rights
- IOC

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Thank You for Your
Attention!



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If you have any questions or concerns please contact me
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