

Sports Officiating and the Law: A Survey of Risks and Protections

Eric T. Gilson*

This piece surveys various situations where legal relief has been sought from sports officials and examines available protections, focusing primarily on statutory provisions.

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I. Introduction

There has been an exponential increase in sports officials’¹ involvement in legal matters during the past two decades.² Officials are surfacing as named defendants in civil litigation,³ together with additional parties⁴ in matters pertaining to the officials’ officiating. Players, coaches, and spectators are among the parties seeking relief from officials, and a body of case law now exists that addresses sports official liability. The purpose of this piece is to survey situations where legal relief has been sought from officials and examine available protections, primarily focusing on statutory provisions. The case coverage is divided into five main sections. The initial section organizes the cases by party and their

* Librarian III/Assistant Professor, Rutgers University School of Law, Camden, New Jersey. Thank you to my colleagues at the Rutgers University School of Law, Camden, Law Library, who provided their support with this piece; Editor-in-Chief Aaron Wakamatsu, Articles Editor Sean Maddox, and the team of editors at the WILLAMETTE SPORTS LAW JOURNAL; together with Alan S. Goldberger, Esq., for his support.

¹ Throughout this piece, the terms “official,” “referee,” and “umpire” will be used to refer to individuals who officiate sports.

² ALAN S. GOLDBERGER, SPORTS OFFICIATING: A LEGAL GUIDE 16 (Referee Enter. 2d ed. 2007)(1984). Judicial rulings on negligence claims involving officials have been estimated at 5 million. *Id.* at 50.

³ See, e.g., Robert Tomsho, *More Referees Play Defense in the Courts*, WALL ST. J., Aug. 11, 1989, at B1 (discussing the rise in official related litigation and noting the insurance implications); see also Mel Narol, *Officials Seek Timeout From Litigation and Abuse*, N.Y. TIMES, July 24, 1988, at S7 (discussing the increase in and providing examples of official litigation); GOLDBERGER, *supra* note 2, at 27 (discussing the development of litigants going beyond school districts in seeking relief from officials).

⁴ For a discussion of third-party defendants in these matters, see *infra* section IV, pp. 39–41.

particular causes of action. The second section organizes the cases by circumstances, discussing particular situations that have led to litigation. The third section addresses the dynamics of these cases by addressing additional parties who may be named in the litigation. The fourth section discusses statutory protections and includes particular coverage of New Jersey's legislation in this area. Interspersed within this section is also coverage of additional protections available to officials, including general volunteer statutes, common law defenses, exculpatory agreements, and higher insurance coverage. The concluding section summarizes the survey findings.

II. Plaintiffs

A. Players

In *Kline v. OID Associates, Inc.*, Kevin Kline, an experienced soccer player, participated in an aggressively played co-ed indoor adult soccer league match.⁵ A "physical altercation" occurred between players on opposite teams, and the goalie on Kline's team was ejected.⁶ Kline came in to play goalie and saved an opponent's shot. After the save, the opposing player "either attempted to kick the ball or to intentionally kick Kline."⁷ Kline was injured and sued the player who kicked him, the official, the facility owner, and the soccer league organizer,⁸ contending his injuries resulted from their "negligent, intentional, or reckless conduct."⁹ The appellate court stated that there must be "reckless or intentional misconduct" for a player to proceed against another, and the same "standard should apply to nonparticipants involved in the game, unless there is evidence of negligent supervision."¹⁰ The court further noted that, to establish a negligent supervision claim,¹¹ a "party must produce evidence such as a defendant allowing a player with a known propensity toward violence to play or allowing a team to play when there is a total absence of management."¹² Here, Kline "assumed the ordinary risks of the game" and "failed to establish that the appellees knew that the game involved any risk greater than the ordinary risk a player assumes" playing soccer.¹³ As a result, the court rejected Kline's negligent supervision

⁵ *Kline v. OID Assocs.*, 609 N.E.2d 564, 564 (Ohio Ct. App. 1992).

⁶ *Id.*

⁷ *Id.* at 565.

⁸ *Id.* In addition to officials, players have sought relief from other parties for their injuries. *See, e.g.*, *Pape v. State*, 456 N.Y.S.2d 863, 864 (N.Y. App. Div. 1982 (rejecting collegiate intramural floor hockey player's claim of "lack of supervision and training by New York State relative to referee's officiating."); *Reckling v. Pontiac 358 Inc.*, No. 205581, 1999 WL 33455104 (Mich. Ct. App. Jan. 5, 1999) (denying arm wrestler's premise liability suit based on the competency of the referee hired to officiate the arm wrestling match). *See also* *Ritzdorf v. YMCA*, No. A-90-1041, 1993 WL 13405 (Neb. Ct. App. Jan. 26, 1993) (denying recreational basketball player's negligence claim on lack of foreseeability grounds against YMCA for injuries sustained during a fight occurring after a YMCA game); *Brown v. National Football League*, 219 F. Supp. 2d 372 (S.D.N.Y. 2002) (involving negligence claims against a professional football organization when referee struck a player in they eye with a weighted penalty flag during a game). For a discussion of third party defendants in these matters, *see infra* section IV, pp. 39-41.

⁹ *Kline*, 609 N.E.2d at 565. Negligence is characterized by "[t]he failure to exercise the standard of care that a reasonably prudent person would have exercised in a similar situation." BLACK'S LAW DICTIONARY 1133 (9th ed. 2009). Intentional torts are those "committed by someone acting with general or specific intent." *Id.* at 1626. Recklessness is "[c]onduct whereby the actor does not desire the harmful consequences but nonetheless foresees the possibility and consciously takes the risk." *Id.* at 1385.

¹⁰ *Kline*, 609 N.E.2d at 565.

¹¹ Assuming additional duties beyond officiating has also led to claims for negligent supervision. *See, e.g.*, *Hearon v. May*, 540 N.W.2d 124 (Neb. 1995) (high school wrestling referee who volunteered to instruct wrestlers on various moves following a match, and subsequently injured a wrestler while illustrating a move, exposed himself to a negligent supervision claim in his assumed instructor role).

¹² *Kline*, 609 N.E.2d at 565 (citations omitted).

¹³ *Id.* at 566.

claim and rejected Kline's alternative claim that "his injuries were a result of intentional conduct or recklessness on the part of appellees."¹⁴

B. Coaches

Coaches have also been plaintiffs in cases involving official liability. In *Aboubakr v. Metropolitan Park District of Tacoma*, Aboubakr sued game officials and others on negligence grounds.¹⁵ The game in question, between players "under 18 years old," was "highly competitive," and the teams, the Knights and the Braves, "exchanged verbal taunts, including profanities."¹⁶ Although the officials told the players to calm down and stop using profanity, both teams continued exchanging words.¹⁷ One Braves player, Timothy Streets, "appeared to get increasingly angry."¹⁸ The Braves assistant coach allegedly encouraged his players to taunt. Officials ejected a player from each team.¹⁹

While the teams shook hands after the game, a fight erupted between Streets and a Knights player, Chris Carter.²⁰ The Braves' coach led Streets and the rest of the team away for a post-game discussion.²¹ Following the discussion, "Streets took off running toward the Knights' side of the field, grabbed Carter and began wrestling."²² The Braves' coach separated the boys and directed Streets to the other side of the field.²³

Once there, [the coach] released Streets, but kept himself positioned so that Streets could not run back toward Carter. Streets continued walking; when he was approximately 10 feet in front of [the coach], he suddenly bent over, picked up a baseball, turned around, and threw it towards the Knights' side of the field. Unfortunately, the baseball struck Aboubakr in the eye, causing serious injury.²⁴

Aboubakr sued, alleging "the umpires breached their duty of care by failing to adequately 'control' the verbal taunting between the teams, thereby allowing the situation to escalate into physical violence."²⁵ In addition, Aboubakr claimed "the umpires should have taken greater steps to control the situation, such as stopping the game."²⁶ The court rejected the coaches' claim on foreseeability grounds, stating that "[g]enerally, the scope of the duty to control a third person's conduct is limited to those precautions necessary to protect against the foreseeable risks of danger imposed by the third person."²⁷ The court further noted that, in athletics, umpires "can be held liable only if the player who committed the

¹⁴ *Id.*

¹⁵ *Aboubakr v. Metro. Park Dist. of Tacoma*, No. 23543-9-II, 1999 WL 149739, at *1 (Wash. Ct. App. Mar. 19, 1999). See also *Rearick v. Refkovsky*, No. CV95 043978 S, 1995 WL 681474, at *1 (Conn. Super. Ct. Nov. 9, 1995) (coach filed defamation action against referee alleging referee "ejected him from the game and subsequently stated to five individuals at the game that he 'smelled alcohol' on the [coaches'] breath at the time of the ejection.").

¹⁶ *Aboubakr*, 1999 WL 149739, at *1.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.* A Braves' player was told "he could no longer play after directing a comment to the Knights' bench," and a Braves' pitcher was ejected when he "argued against ball and strike calls and used profanity." *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.* at *2.

²⁶ *Id.*

²⁷ *Id.* at *3 (citation omitted).

act had a known propensity toward violence or there was a total absence of supervision.”²⁸ Aboubakr produced no evidence that this standard was violated, so the court rejected his negligence claim. The plaintiff’s vicarious liability²⁹ claim against the Park District of Tacoma based on the umpires’ alleged negligence was also dismissed on “lack of foreseeability” grounds.³⁰

C. Spectators

Sports observers have also been plaintiffs in cases involving sports official liability. For instance, in *Santopietro v. City of New Haven*, Raymond Santopietro, Jr., was watching an organized league softball game from behind the backstop.³¹ A player hit a fly ball and “intentionally flung his bat toward the backstop.”³² The bat went “through the backstop and struck Santopietro, Jr., in the head, resulting in serious injury.”³³

Santopietro, Jr., sued, contending that the umpires’ duty included maintaining field control to avoid “spill over to spectators.”³⁴ On appeal, the umpires did not “concede that such a duty exist[ed],” but argued that even if it existed, “the plaintiffs failed to define the duty.”³⁵ The court’s research revealed no other jurisdiction that “explicitly considered whether to impose or how to define such a legal duty.”³⁶ The Connecticut Supreme Court assumed, “without deciding, that umpires . . . have a duty, essentially as postulated by the plaintiffs, to exercise reasonable judgment as umpires in order to maintain control of a game so as to prevent an unreasonable risk of injury to others.”³⁷ To establish this duty was breached, Santopietro, Jr., was required to prove

in the absence of exceptional circumstances, by expert testimony . . . that the allegedly negligent action or failure to act by the umpire constituted an abuse of the umpire’s discretion to evaluate the particular circumstances and to take only such disciplinary action the umpire deem[ed] appropriate. Moreover, the expert testimony [proffered by Santopietro, Jr.] must establish an abuse of that discretion sufficient to permit a jury to infer the umpire’s action or failure to act constituted such a loss of control of the game as to give rise to an unreasonable risk of injury to the plaintiff.³⁸

The court found Santopietro, Jr., failed to meet this standard, despite presenting two examples of arguably negligent umpire behavior. In one incident, “a player tossed a bat toward other bats after an unsuccessful plate appearance.”³⁹ In another, “some players taunted members of the other team.”⁴⁰ Both

²⁸ *Id.* (citations omitted).

²⁹ Vicarious liability is defined as “[l]iability that a supervisory party (such as an employer) bears for the actionable conduct of a subordinate or associate (such as an employee) based on the relationship between the two parties.” BLACK’S LAW DICTIONARY 998 (9th ed. 2009). The umpires were employed part-time by defendant Park District of Tacoma.

³⁰ *Aboubakr*, 1999 WL 149739, at *4.

³¹ *Santopietro v. City of New Haven*, 682 A.2d 106, 107 (Conn. 1996). *See also* *Ulrich v. Minneapolis Boxing and Wrestling Club, Inc.*, 129 N.W.2d 288 (Minn. 1964) (promoter may be vicariously liable for injury caused to fan by official when the official was exiting a boxing match).

³² *Santopietro*, 682 A.2d at 107.

³³ *Id.*

³⁴ *Id.* at 116 (footnote omitted).

³⁵ *Id.*

³⁶ *Id.* (footnote omitted).

³⁷ *Id.*

³⁸ *Id.* at 117.

³⁹ *Id.* at 118.

⁴⁰ *Id.*

incidents were insufficient to establish a loss of game control to “imperil unreasonably the safety of others.”⁴¹

III. Circumstances

A. Field-of-Play Decisions

Traditionally, officials’ decisions during play have been considered part of the game.⁴² Generally, courts have been hesitant to interfere with a call on the playing field.⁴³ In *Georgia High School Association v. Waddell*, high school football officials did not award the requisite first down after a “roughing the kicker” penalty.⁴⁴ The high school athletic association denied the challenge from a player’s parent regarding the call, so the parents sought judicial relief.

The Georgia Supreme Court held that “courts of equity in this state are without authority to review decisions of football referees because those decisions do not present judicial controversies.”⁴⁵ Some question whether this non-interventionalist approach will continue with the advancement of technology, particularly the availability of instant replay.⁴⁶ It has been further suggested that instant replay may resolve claims before judicial intervention is necessary,⁴⁷ giving officials an advantage.⁴⁸

⁴¹ *Id.*

⁴² See Harvey Araton, *Sports of The Times; In Officiating, To Err Is Part of Game*, N.Y. TIMES, Dec. 1, 1998, at D1 (discussing the human nature of officials to make errors and the impact of their decisions).

⁴³ See *Gardner v. N.Y. Racing Ass’n, Inc.*, 525 N.Y.S.2d 116, 118 (N.Y. App. Term 1988) (steward’s discretionary, “quasi-judicial” but erroneous disqualification of a horse from race not reviewable); *Shapiro v. Queens County Jockey Club*, 53 N.Y.S.2d 135, 139 (N.Y. Mun. Ct. 1945) (ordinarily, the court has no duty to “substitute its decision” for officials in determining race winners); *White v. Turfway Park Racing Ass’n*, 718 F. Supp. 615, 619 (E.D.Ky. 1989) (stewards’ determination on eligibility and finish order were entitled to “a presumption of correctness”); *Snow v. N.H. Interscholastic Athletic Ass’n*, 449 A.2d 1223 (N.H. 1982) (denying request to review the need for a foul call in qualifying race of track meet); *State ex rel. Durando v. State Athletic Comm’n*, 75 N.W.2d 451 (Wis. 1956) (confirming boxing commission had no authority to overturn errant knockout count used by boxing official absent fraud); *Terry v. State Athletic Comm’n*, 873 A.2d 19 (Pa. Commw. Ct. 2005) (confirming boxing commission’s decision to support referee’s knockout call despite defeated boxer’s allegations he was the victim of illegal contact); *Scott Parven, Judgment Calls—Sports Officials in Court*, 9 ENT. & SPORTS LAW. 9, 10–11 (1991) (discussing the courts’ non-interventionalist position towards officials’ decisions); *Shlomi Feiner, The Personal Liability of Sports Officials: Don’t Take the Game Into Your Own Hands, Take Them to Court!* 4 SPORTS LAW J. 213 (1997) (reviewing the court’s non-interventionalist approach). *But see State ex rel. W. Va. Secondary Schs. Activity Comm’n v. Hrko*, 579 S.E.2d 560 (W. Va. 2003) (permitting high school football player to play in game despite suspension and granting an injunction entitling him to a hearing prior to the imposition of future suspension); *Pagnotta v. Pa. Interscholastic Athletic Ass’n*, 681 A.2d 235 (Pa. Commw. Ct. 1996) (wrestler disqualified by an official for striking his opponent enjoined athletic association from suspending him from wrestling tournament).

⁴⁴ *Ga. High School Ass’n v. Waddell*, 285 S.E.2d 7, 8 (Ga. 1981).

⁴⁵ *Id.* at 9.

⁴⁶ For further discussion of the impact of instant replay on officials’ decisions, see Darryll M. Halcomb Lewis & Frank S. Forbes, *A Proposal for a Uniform Statute Regulating the Liability of Sports Officials for Errors Committed in Sports Contests*, 39 DEPAUL L. REV. 673, 676 (1990) (noting the impact video may have on this non-interventionalist approach). See also Feiner, *supra* note 43, at 214 (noting the potential increase in suits due to instant replay and technology). *But see* S. Christopher Szczerban, *Tackling Instant Replay: A Proposal to Protect the Competitive Judgments of Sports Officials*, 6 VA. SPORTS & ENT. L.J. 277, 330 (2007) (proposing more stringent standards for reviewing officials’ judgment calls).

⁴⁷ Feiner, *supra* note 43, at 230.

⁴⁸ *Id.*

i. Profits and Field-of-Play Decisions

In *Bain v. Gillispie*, official Jim Bain called a foul in the last minute of a game between Purdue University and the University of Iowa, allowing Purdue to secure a victory.⁴⁹ “Some [University of Iowa] fans blamed Bain for [the] loss.”⁵⁰

The owners of a novelty store marketed T-shirts critically depicting Bain.⁵¹ In response, Bain filed for “injunctive relief, actual and punitive damages.”⁵² The store owners filed a malpractice counterclaim against Bain, contending his “conduct in officiating the game was below the standard of competence required of a professional referee.”⁵³ The owners argued “[t]his in turn destroyed a potential market for . . . memorabilia”⁵⁴

On appeal, the court rejected the malpractice claim, finding the official “owed no duty”⁵⁵ to the store and noting that officials “are in the business of applying rules for the carrying out of athletic contests, not in the work of creating a marketplace for others.”⁵⁶ The owners also filed a contract based claim contending “they were beneficiaries under Bain’s contract with the Big [Ten].”⁵⁷ The Court rejected this argument, holding the owners were “nothing more than incidental beneficiaries”⁵⁸ and entitled to no relief.

B. Weather Conditions

Weather conditions have created liability challenges for officials. In *Harris v. Red Bank Regional High School*, runner Jamel Harris, along with his mother, Doris Harris, sued an official (among others) for negligence when Harris “slipped on a wet track while participating in a spring track meet”⁵⁹ The track was all-weather with bumps on its surface and designed for almost instantaneous drainage.⁶⁰ The competitors wore shoes with spikes on the track’s artificial surface.⁶¹ Although rain was present “on the morning of the meet,” it subsided to a drizzle at the time Harris arrived at the track.⁶²

Pursuant to National Federation of State High School Associations’ rules and guidelines, the referee . . . [had]

⁴⁹ *Bain v. Gillispie*, 357 N.W.2d 47, 48 (Iowa Ct. App. 1984).

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.* On the malpractice claim, the *Bain* court indicated that “[a]bsent corruption or bad faith,” no “independent tort for ‘referee malpractice’ exists.” *Id.* at 49. *But see* WALTER T. CHAMPION, JR., *FUNDAMENTALS OF SPORTS LAW* §3:1 (2d ed. Supp. 2008–2009) (discussing the various theories under which officials have been exposed to liability for malpractice); Jason Loomis, *The Emerging Law of Referee Malpractice*, 11 *SETON HALL J. SPORT L.* 73, 99 (2001) (suggesting instant replay as an alternative to official malpractice actions).

⁵⁴ *Id.*

⁵⁵ *Id.* at 49.

⁵⁶ *Id.*

⁵⁷ *Id.* at 50.

⁵⁸ *Id.*

⁵⁹ *Harris v. Red Bank Reg’l High Sch.*, 2005 WL 2620577, at *1 (N.J. Super. Ct. App. Div. Oct. 17, 2005). *See also* *Pichardo v. N. Patchogue Medford Youth Athletic Assoc.*, 569 N.Y.S.2d 186, 187 (N.Y. App. Div. 1991) (precluding recovery to baseball player for assuming risk and playing during “threatening weather”).

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² *Id.*

primary responsibility for the event upon his or her arrival at the meet. Under those rules, the referee [had] discretion to cancel or postpone the contests ‘due to an emergency, such as hazardous weather conditions or power failure.’ The rules provide[d] no further guidance on the question of weather conditions that warrant suspension of an outdoor track meet⁶³

The official, upon arrival, “inspected all of the sites for the various events and found them to be in acceptable condition.”⁶⁴ The official also instructed the judges for the individual events “to suspend activity and find either her or [the athletic director] if there was ‘any question of’ anything ‘dangerous or inappropriate.’”⁶⁵

There was no evidence that any participant was injured prior to Harris’ heat. However, some had “slipped or fallen.”⁶⁶ There were reports that it was raining hard at the time of Harris’ race; however, people gave varying descriptions of the track’s condition, ranging from “no noticeable puddles” to “water running off the track.”⁶⁷ Prior to his race, Harris “saw puddles in his lane.”⁶⁸ Harris was injured after “[falling] at the first hurdle.”⁶⁹

The appellate court rejected Harris’ claim of gross negligence against the official and granted summary judgment for the defendants. The court reasoned that

[w]hile it may be that a weather condition like lightning poses a prospect of serious injury from electrical current that is unrelated to playing the sport and sufficiently apparent to permit an inference of less than reasonable care, the dangers posed by moisture on an all-weather running track are not similarly apparent. Injury from a fall while running and jumping is inherent in the sport of hurdling and the extent to which that risk is enhanced by moisture on an all-weather track is not a matter of common understanding.⁷⁰

Based on the foregoing, the court found the official did not “breach [her] duty of care . . . by allowing the meet to continue.”⁷¹ The court found that Harris’ claim failed under negligence standards, and as such, determined it was “unnecessary” to address whether the claim met New Jersey’s “heightened standard” of liability for officials.⁷²

C. Field Conditions

Field conditions are an additional concern for officials. In *Forkash v. City of New York*, two 18-year-old softball players, Gary Forkash and Martin Hersh, suffered injuries while participating in a softball game occurring “in a (City of New York) Park Department playground.”⁷³

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ *Id.* at *2.

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ *Id.* at *3 (citation and footnote omitted).

⁷¹ *Id.*

⁷² *Id.* (citations omitted). For a discussion of the New Jersey provisions in these matters, *see infra* section V, pp. 41–42.

⁷³ *Forkash v. City of N.Y.*, 277 N.Y.S.2d 827, 831 (N.Y. App. Div. 1967). Failure to maintain a playing area has surfaced in the high school context as well. *See, e.g., Nunez v. Isidore Newman High Sch.*, 306 So. 2d 457 (La. Ct. App. 1975) (high school did not breach its duty to protect basketball player from dangers of wet basketball court).

[The players] testified that during the fifth inning, at about 8:30 or 9:00 p.m., when it had grown quite dark, a ball was lined to the outfield, where both were playing. While both were running toward the ball, Forkash tripped on a piece of glass and plunged into Hersh. The testimony of the two players further indicate[d] that the field was strewn over its cement surface with shards of glass from numerous broken bottles; that prior to the game they told a uniformed Park Department supervisor, who was also acting as an umpire, that the field was not in playing condition; that the supervisor had the infield, but not the outfield, cleared with a large broom; and that at the end of the first inning they complained to the supervisor that the outfield was not in playing condition, but were told that the brooms had been put away, and ‘it was getting dark and just get out there and play.’⁷⁴

In this case, Forkash and Hersh sought relief from the City, not the umpires, for personal injuries sustained due to the umpires’ conduct. The appellate court allowed the matter to proceed, holding it was a jury question whether the city was responsible, focusing in part on the instruction to the players to continue play and the impact on the players’ continued participation.⁷⁵

IV. Third-Party Defendants

A. School Districts

Parties may seek relief from third parties rather than, or in addition to, officials. In *Carabba v. Anacortes School District No. 103*, senior high school wrestler Stephen Carabba sought relief from school districts for a serious injury sustained while participating in a high school wrestling match.⁷⁶ Carabba alleged that the referee in his wrestling match was an agent of the school districts, making the school districts liable for negligence.⁷⁷

Carabba’s injury occurred during a wrestling match between Carabba and Roger Anderson. Anderson was “well ahead on points,” but attempted a pin on Carabba to add to his team’s point tally.⁷⁸ Anderson applied half nelsons⁷⁹ on Carabba, and Anderson’s efforts moved the boys to the “northwest corner of the main mat[,] near where small side mats were placed against the main mat.”⁸⁰ The referee then “noticed a separation between the main mat and the side mat, and went to close the gap to protect the contestants[,] should they roll in that direction and off the main mat onto the bare floor.”⁸¹ This act “momentarily” diverted the official’s attention.⁸² During this time, witnesses claim Anderson applied a

floor). Liability claims have also extended to field owners and associations based on inspections. *See, e.g., Smith v. St. Louis County Softball Assoc.*, 623 S.W.2d 38 (Mo. Ct. App. 1981) (denying claim against field owner for alleged failure to instruct the umpires on safe playing conditions and denying claim against the association for its alleged negligent training and field assignments of umpires).

⁷⁴ *Forkash*, 277 N.Y.S.2d at 831.

⁷⁵ *Id.*

⁷⁶ *Carabba v. Anacortes Sch. Dist. No. 103*, 435 P.2d 936, 937 (Wash. 1967).

⁷⁷ *Id.*

⁷⁸ *Id.* at 939.

⁷⁹ “A half nelson [was] described by one of the witnesses, Mr. Goldbloom, a high school wrestling coach, in the following manner: ‘A half nelson would be one arm of the applying wrestler under the arm of the other, and somewhere on the back of the neck, or head, applying pressure to turn the opponent to the opposite side, toward the opposite direction the hold is applied.’” *Id.* at 939, n.3.

⁸⁰ *Id.* (footnote omitted).

⁸¹ *Id.*

⁸² *Id.*

full nelson on Carabba, although their description of the hold time “varied from 1 to 10 or more seconds.”⁸³

The buzzer (signaling “the end of the round”) and the referee’s whistle came “almost simultaneously,” and Anderson “broke [his] hold . . . after a final lunge.”⁸⁴ Carabba suffered a permanent paralyzing injury following the hold.⁸⁵ The Washington Supreme Court concluded that the school districts owed the wrestlers “a duty to provide non-negligent supervision” and remanded the matter for a new trial, noting that, “if the referee was negligent, the school district must, as a matter of law, respond in damages.”⁸⁶

B. Athletic Associations

Athletic associations have also been named as defendants in litigation pertaining to an official’s conduct. In *Edwards v. Doug Ruedlinger, Inc.*, high school football player Derrick Edwards sued the Louisiana High School Athletic Association (“LHSAA”) for a paralyzing injury he sustained during a high school football game.⁸⁷ An opposing team member “improperly and illegally” tackled Edwards, allegedly causing the debilitating injury.⁸⁸ Edwards argued the LHSAA was negligent because the LHSAA’s rules prohibited “spearing” and “face tackling,” and the LHSAA failed to “ensure that either the coaches at its member schools or the LHSAA-sanctioned game officials properly interpreted this rule.”⁸⁹ Edwards appeared to assert liability “based upon the LHSAA’s failure to require its members and game officials to both teach and enforce the existing rules.”⁹⁰ Edwards’ claim assumed “the LHSAA’s status as a rulemaking body imposes a duty to regulate the conduct of all those involved in athletic programs at its member schools.”⁹¹ The court rejected the assumption, finding that

[t]he LHSAA’s supporting affidavits establish[ed] that it ha[d] no involvement in the selection, training, supervision[,] or payment of teachers, coaches, referees[,] or other officials. As a voluntary association of schools, its power and authority in the face of a violation of its rules or bylaws is limited to suspension or expulsion from competition of an offending member [T]here was nothing presented here to indicate that either of the schools involved, or any of the game officials, had a history of offenses which would warrant disciplinary action by the LHSAA. To impose a duty on the LHSAA to control

⁸³ “The full nelson was described by Mr. Goldbloom in the following manner: ‘A full nelson would be the same thing (as a half nelson) with both sides where the arms go under both arms, placed on the back of the neck area, anywhere from the head, back of the neck and pressure would be applied down, forcing the person’s chin in his sternum, or breastbone.’” *Id.* at 939, n.5.

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ *Id.* at 948. *But see* *Kennel v. Carson City Sch. Dist.*, 738 F.Supp. 376 (D. Nev. 1990) (rejecting respondeat superior claim against school district based on its lack of control and supervision over officials). Others have also relied on their lack of control over an official to avoid liability. *See, e.g., Classen v. Izquierdo*, 520 N.Y.S.2d 999 (N.Y. Sup. Ct. 1987) (rejecting vicarious liability claim against sports facility proprietor who did not select, train, instruct, or supervise boxing referees).

⁸⁷ *Edwards v. Doug Ruedlinger, Inc.*, 669 So. 2d 541, 542 (La. Ct. App. 1996). *See also* *Harvey v. Ouachita Parish Sch. Bd.*, 545 So. 2d 1241 (La. Ct. App. 1989) (rejecting player’s claim that the association controlled the referees and was responsible for failing to instruct the referees to remove players who engage in excessively rough behavior resulting in his injury).

⁸⁸ *Edwards*, 669 So. 2d at 543.

⁸⁹ *Id.* at 544.

⁹⁰ *Id.*

⁹¹ *Id.*

the conduct of those who allegedly failed to act to prevent Mr. Edwards['] injury would be to alter its fundamental structure and functions.⁹²

Thus, Edwards' claim was dismissed.

V. Statutory Protections

The National Association of Sports Officials proposed model legislation to protect officials from liability,⁹³ and a number of states have enacted liability limiting legislation in this area.⁹⁴ Although the provisions generally provide for a heightened standard of fault for liability against officials, the specific language varies. For example, Mississippi provides broad protection and provides that

[s]ports officials who officiate athletic contests at any level of competition in this state shall not be liable to any person or entity in any civil action for injuries or damages claimed to have arisen by virtue of actions or in actions relating in any manner to officiating duties within the confines of the athletic facility at which the athletic contest was played.⁹⁵

The Mississippi legislation does, however, exempt from protection officials "who cause injury or damage to a person or entity by actions or inactions which are intentional, willful, wanton, reckless, malicious or grossly negligent."⁹⁶ Arkansas provides liability immunity to "any athletic official during the officiating of an interscholastic, intercollegiate, or any other amateur athletic contest being conducted under the auspices of a nonprofit governmental entity."⁹⁷ Illinois exempts those who "officiate without compensation, or receive a 'modest honorarium' for their officiating services. . . ."⁹⁸ Louisiana generally requires participation in a training course, but waives the requirement "upon submission of appropriate documented evidence as to that individual's . . . proficiency in first aid and safety"⁹⁹ To further illustrate the type of language included in sports official legislation, the following section will survey New Jersey's legislation in this area.

⁹² *Id.* at 545.

⁹³ NASO Model Legislation, <http://www.naso.org/legislation/page3.htm> (last visited Dec. 22, 2009).

⁹⁴ See GOLDBERGER, *supra* note 2, at 27 (noting approximately one-third of states have passed legislation limiting officials' negligence liability); *id.* at 212 (providing a graphical map of the states that have enacted liability limiting legislation for officials). For additional discussion on applying a heightened liability standard to officials, see Kenneth W. Biedzynski, *Sports Officials Only Should be Liable for Acts of Gross Negligence: Is That the Right Call?* 11 U. MIAMI ENT. & SPORTS L. REV. 375 (1994); Mel Narol, *Sports Participation with Limited Litigation: The Emerging Reckless Disregard Standard*, 1 SETON HALL J. SPORT L. 29 (1991); Feiner, *supra* note 43; Lewis & Forbes, *supra* note 46; Michael Mayer, *Stepping in to Step Out of Liability: The Proper Standard of Liability for Referees in Foreseeable Judgment-Call Situations*, 3 DEPAUL J. SPORTS L. & CONTEMP. PROBS. 54 (2005). *But see* GOLDBERGER, *supra* note 2, at 17 (recognizing statutes protecting officials from liability may also further define and expand official responsibility); *id.* at 60–61 (noting increased standards for officials have been created through officials' own codes and legislation pertaining to athletic conduct).

⁹⁵ MISS. CODE ANN. § 95-9-3(1) (West 2009).

⁹⁶ MISS. CODE ANN. § 95-9-3(3).

⁹⁷ ARK. CODE ANN. § 16-120-102(b) (West 2009).

⁹⁸ 745 ILL. COMP. STAT. ANN. 80/1(1)(d) (West 2009).

⁹⁹ LSA-R-S 9:2798(B)(1) (West 2009).

A. New Jersey Legislation on Volunteer Officials

In New Jersey, volunteer officials are immune to liability if they provide their services “free of charge, except for reimbursement of expenses”¹⁰⁰ to a nonprofit or similarly chartered sports team or a “member team in a league organized by or affiliated with a county or municipal recreation department.”¹⁰¹ This provision applies “not only to organized sports competitions,” but also to “the practice and instruction in that sport.”¹⁰² To gain immunity, volunteer officials must participate “in a safety orientation and skills program”¹⁰³

However, a volunteer official may be liable if he or she permits “a sports competition or practice to be conducted without supervision.”¹⁰⁴ Immunity is also unavailable for “an athletic coach, manager, or official who provides services or assistance as part of a public or private educational institution’s athletic program.”¹⁰⁵ Furthermore, an official is not protected when engaging in “willful, wanton, or grossly negligent act[s] of commission or omission.”¹⁰⁶ Lastly, an official may be liable if he or she “caus[es] damage as the result of his negligent operation of a motor vehicle.”¹⁰⁷

B. New Jersey Legislation on Compensated Officials

New Jersey also provides immunity to compensated officials. In particular, the applicable legislation provides that

[Sports officials accredited] by a voluntary association . . . and who serve[] that association, a conference under the jurisdiction of the association, or a public entity as defined in Title 59 of the New Jersey Statutes in the capacity of a sports official, whether or not compensated for his services, shall not be liable in any action for damages as a result of his acts of commission or omission arising out of and in the course of [rendering his] services. Nothing in this act shall be deemed to grant immunity to any person causing damage by his willful, wanton, or grossly negligent act or commission or omission, nor to any person causing damage as the result of his negligent operation of a motor vehicle.¹⁰⁸

As New Jersey’s legislation reflects, state-specific legislation in this area may contain multiple components. In addition to a heightened liability standard, legislation may specifically address an official’s compensation or volunteer status, define when and to whom services are provided for protection to apply, and contain qualifications, such as participation in a training course.

VI. Conclusion

Liability exposure for officials has come from various parties and situations. As discussed herein, players, coaches, and spectators have initiated litigation against officials for personal injuries. In addition, officials’ field-of-play decisions have been challenged in the courts. Weather and field conditions have

¹⁰⁰ N.J. STAT. ANN. § 2A:62A-6(a) (West 2009).

¹⁰¹ § 2A:62A-6(a).

¹⁰² § 2A:62A-6(b).

¹⁰³ § 2A:62A-6(c)(1).

¹⁰⁴ § 2A:62A-6(e).

¹⁰⁵ § 2A:62A-6(f).

¹⁰⁶ § 2A:62A-6(c)(1).

¹⁰⁷ § 2A:62A-6(d).

¹⁰⁸ § 2A:62A-6.1.

also created circumstances in which officials' conduct has been the subject of litigation. State-specific statutory provisions, although varied in their protections, now exist to provide liability protections for officials. In addition, general volunteer statutes, common law defenses, exculpatory agreements, and higher insurance coverage also provide protections. Perhaps instant replay, although arguably providing a basis for additional judicial intervention in this area, will serve as a valuable tool for officials in tackling potential legal issues on the field.