



## School Sports Aren't All Fun And Games

Coaches can be held liable for injuries suffered in games and practices

By DOUGLAS S. MALAN

**W**ith school starting again, athletic fields will be filled with students benefitting from all that sports have to offer, such as competition, teamwork and handling adversity.

But for high school coaches, it's not as simple as rolling out a ball and overseeing a practice — that is, if they want to avoid a lawsuit.

Even basic physical activity, such as running, can turn into a question of liability for coaches. This especially comes into focus in the early days of football training, when players often are sweating through extreme conditions wearing heavy equipment.

But liability issues can pop up anywhere in athletics and coaches are discovering that there is no shortage of situations that could land them in legal trouble.

"It's added a lot of responsibility for the coach," said Daniel B. Fitzgerald, a sports and entertainment law associate at Updike, Kelly & Spellacy in New Haven. "There are some coaches I've spoken with informally who say it's not worth it anymore" to coach for little or no pay at a time when lawsuits are a real threat.

Fitzgerald blogs at Connecticut Sports Law and monitors coaches' liability issues throughout the country. "I don't know if [lawsuits] are increasing, but they're out there," Fitzgerald said.

One such case recently emerged in Connecticut.

Earlier this month, Hartford Superior Court Judge Elpedio N. Vitale dismissed reckless endangerment charges against two Middletown High School assistant football coaches who were arrested in July following a team workout.



Contributed Photo

**Fred Balsamo teaches a course for the Connecticut Interscholastic Athletic Association that focuses on potential litigation issues for coaches. 'It's an eye-opener,' he says.**

One of the high school players at the workout had felt queasy and light-headed after running outdoors with the team on July 6. The player was taken to Middlesex Hospital and later released after being treated for dehydration.

The town's police chief initiated an investigation. The coaches faced misdemeanor charges that they allegedly failed to provide water to the players, but evidence indicated that the coaches had acted appropriately by having the players work out in an air-conditioned room before going outside to run in shorts.



Law Tribune File Photo

**Hartford attorney Thomas Mooney says when student are injured, it's not uncommon for teachers to be sued for allegedly providing inadequate supervision.**

Players carried their own water bottles, and the coaches reminded them to hydrate throughout the workout. "To their credit, the coaches did have a written workout schedule," which was valuable evidence of their conduct, said Middletown attorney Russell S. Palmer, who represented one of the coaches.

### Kentucky Collapse

Essex defense attorney Christopher L. Morano, who also was part of the case, said police acted too quickly and the arrest "never should have happened."

It's one thing for a coach to face civil li-

ability, said Morano, who doesn't believe a civil complaint will arise from the Middletown case because police, and not the player's parents, pushed the case forward.

But charging a coach with criminal misconduct is a drastic and rare step, Morano said, and he hadn't heard of it happening before.

"We're living in a litigious society," Morano said. "The idea of there being some sort of litigation [coming from amateur sports] is not out of the question anymore."

The first documented criminal case against a coach came out of Kentucky last summer after a 15-year-old player collapsed and died during a workout in 94-degree heat. The coach was charged with reckless homicide by Louisville's district attorney based on allegations that the coach wouldn't allow his players to drink water.

At trial, a jury acquitted the coach, who faced five years in prison. Jurors determined that a mix of a prescription drug and protein supplement contributed to the player's death.

A wrongful death case against the coach is pending.

### Mandatory Activity

Civil lawsuits against institutions based on coaches' conduct have netted awards for plaintiffs around the country. In March 2009, the family of a University of Missouri football player reached a \$2 million settlement with the school after the player died during a workout.

Last August, the mother of a 12-year-old New York Little League baseball player who injured his knee sliding into second base sued the team's coaches and Little League Inc. for not properly teaching her son how to slide. She settled for \$125,000.

In 2007, a young man settled with University of Connecticut head coach Randy Edsall's football camp for \$125,000 after the player suffered a broken nose during a camp drill.

Stamford plaintiffs' attorney Stewart M. Casper said he's not sure that heat-related illness and death cases are the best ones to pursue because it can be difficult to prove that strenuous activity in the heat was the sole cause of the injury or death, as in the case of the Kentucky football player.

The majority of Casper's sports-injury litigation boils down to a question of whether school facilities and equipment met certain safety standards.

He said bringing actions against coaches

can be tricky because "most of the time you're dealing with a government entity in the school, and you have to worry about immunity" given to the coach as a public employee.

However, "with mandatory school activities, the law is pretty settled that there's not room for immunity."

Though Casper has never sued a coach, he currently has a lawsuit pending in Danbury against a physical education teacher who was teaching third-graders how to use a pogo stick. One of the children fell and suffered a brain hemorrhage, and Casper is alleging that the teacher was negligent for not making students wear helmets and for not directly supervising the activity.

"The fact that someone gets hurt doesn't mean it's actionable," Casper said. "It's heavily dependent on the activity involved."

Thomas B. Mooney, a Shipman & Goodwin partner who represents educators and boards of education, said it's not uncommon for civil litigation to arise against teachers alleging that inadequate supervision led to a student's injury.

"Part of the reality of school life is teachers are the subjects of claims," Mooney said. "It's common today when a student gets hurt to look around and see who is to blame."

Mooney said the key defense is to prove that the coach or teacher was acting within the scope of his responsibilities and not doing anything "wanton, willful or malicious."

### 'Eye-Opener'

Fred Balsamo is in a position to prepare coaches for all of the liabilities they'll face when they become certified. He is the executive director of the Connecticut Coaching Education Program at the Connecticut Interscholastic Athletic Conference (CIAC), the governing body of high school athletics in the state.

Since 1985, he's taught a 45-hour course that people must pass to receive their coaching permit. Fifteen hours of instruction are dedicated solely to legal issues, and he says it's important for coaches to create a paper trail of how they conduct their practices



**Football practices in extreme conditions – especially during the heat of the summer – can lead to lawsuits against coaches if a player is injured.**

and workouts in case it's needed as evidence in a lawsuit.

"For anybody taking this course, it's an eye-opener," Balsamo said. "I tell coaches it's not my goal to scare you out of coaching, but I want to raise your awareness level."

And as of July, coaches in Connecticut must be knowledgeable about concussions and the potential effects on players. A new law signed by Gov. M. Jodi Rell requires coaches to complete a training course about head injuries offered through the CIAC and then build upon that knowledge through continuing education courses in subsequent years.

Balsamo said the CIAC has trained 6,000 coaches since May, and Connecticut is one of only three states with this type of concussion law on the books.

Balsamo spends a lot of time in his coach's certification course discussing supervision of students. He said most coaches don't think twice about leaving students alone in a locker room to prepare for practice or a game while the coach gets a field ready. And it's common for a coach to tell athletes to start warming up on the field before the coach comes out to join them.

"In the eyes of the law, that's not prudent behavior," Balsamo said, because claims of deficient supervision can arise if anything happened to the students.

Balsamo also discusses a less-likely legal scenario involving the coach's responsibility to prepare players for competition at various positions on a field. For example, an athlete playing a new position could be injured, and then claims that the coach failed to provide proper instruction for how to play that particular position.

"If you're putting a kid in a position he's never played before, you're exposed" to potential liability as a coach, Balsamo said. "Not everyone is going to file a lawsuit, but you don't want that risk." ■