

Sports & Betting Group Of The Year: Gibson Dunn

By Zachary Zagger

Law360 (February 7, 2020, 1:01 PM EST) -- Gibson Dunn & Crutcher LLP's sports and betting practice group was once again involved in some of the biggest legal issues spanning the sports and gaming industries, including steering a pair of gaming technology companies to a major win in a bet-the-industry case that challenged the reach of federal prosecutors, earning the firm a spot among Law360's **2019 Sports & Betting Groups of the Year**.

With more than 100 attorneys working across the country, Gibson Dunn's sports law practice group has been at the forefront of the sports industry's growth over the past decade by drawing on the firm's interdisciplinary approach across its various other practice groups, including its recently launched betting and gaming group, to tackle some of the most significant and impactful legal issues affecting the sports industry and beyond.

"Our practice group really is a practice group that draws from the experiences, not only internationally, but across litigation and corporate matters," said Gibson Dunn partner Maurice Suh, one of the co-chairs of the sports law practice group. "We do a lot of this in a holistic way so that we can address all of the concerns of our clients."

This approach could be seen as Gibson Dunn followed up on its work leading the U.S. Supreme Court case that opened the door for legal sports betting across the country by securing a major win for the burgeoning online gaming industry, which relies on communication networks that cross state lines.

The Department of Justice under the Obama administration had interpreted the Kennedy-era statute enacted to stop organized crime as only criminalizing interstate sports betting, paving the way for the growth of other interstate and online gambling and gaming. But under the Trump administration, the department's Office of Legal Counsel issued a new and surprising legal opinion that the Wire Act criminalized wagering activity beyond sports betting, putting online gaming companies at risk of federal prosecution.

Gibson Dunn and its clients, tech companies NeoPollard Interactive LLC and Pollard Banknote Ltd., which operate New Hampshire's online lottery, led the way in challenging that legal opinion. They filed a



lawsuit in February 2019 that quickly led to a New Hampshire federal judge's summary judgment ruling in June that set aside the DOJ's legal opinion as "flawed."

The case is now on appeal to the First Circuit, but the strongly worded decision was a key win for Gibson Dunn and the online gaming industry.

"This wasn't just a bet-the-company case. This was a bet-the-industry case," said Washington, D.C.-based partner Matthew McGill, who was named as one of Law360's 2019 Sports & Betting MVPs. "It was a must-win and remains a must-win for the online gaming industry. I am pleased that we have had a role in it and that we have thus far been able to deliver great results for our clients."

The firm last year further represented embattled former head coach of the Nike Oregon Project Alberto Salazar in defending doping charges by the U.S. Anti-Doping Agency in arbitration. The case was one of the most extensive enforcement cases ever brought by the U.S. anti-doping watchdog and ended up bringing down the Nike Oregon Project, Nike's long-distance running program.

However, while Salazar was hit with a four-year ban Sept. 30, the American Arbitration Association only agreed with some of the technical rule violations charged by USADA. The panel specifically noted that Salazar did "not appear to have been motivated by any bad intention to commit the violations the panel" did find.

The case involved a seven-day evidentiary hearing with much of USADA's evidence in the form of testimony from witnesses, unusual for anti-doping cases that typically turn on positive drug test results. Salazar has since appealed the four-year ban to the Switzerland-based Court of Arbitration for Sport.

Gibson Dunn's sports group has also been involved in some of the major transactions affecting sports, particularly in the changing media landscape where distribution is radically moving to online streaming and nontraditional providers while sports remain a top asset.

The firm advised RedBird Capital in purchasing an equity stake in the New York City-focused, regional sports network the YES Network as part of an overall \$3.47 billion acquisition of the network last August by the New York Yankees' parent company, Yankee Global Enterprises, as well as Sinclair Broadcast Group and Amazon.com Inc.

The complicated deal was a reunification of YES and the Yankees, which helped launch the network in 2002, after The Walt Disney Co. was forced to sell it and a slew of other Fox Sports-branded regional sports networks as part of Disney's blockbuster takeover of 21st Century Fox. Sinclair scooped up the other networks, but YES was excluded from that deal.

"For me, it was like going back to the future," said partner Richard Birns, one of the co-chairs of the sports law practice group. "I had been involved with YES for many years and was involved in the sale of YES."

The new deal shows the length and breadth of Gibson Dunn's work in the sports industry.

"As these issues become more complicated, whether it be antitrust issues, IP issues, data protection issues, whatever, we feel like we have specialists who are leading those practice areas and we are able to bring them to bear in the sports context," Birns said.

--Additional reporting by Benjamin Horney. Editing by Jack Karp.

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