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## 2022: The Age of the Empowered Athlete

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THE 2022 JEFFREY S. MOORAD SYMPOSIUM:  
THE AGE OF THE EMPOWERED ATHLETE

INTRODUCTIONS

**Dean Mark Alexander:** Good morning, good morning, good morning, good morning everybody, excuse my voice. Too much yelling for Villanova Wildcats- getting ready for some more. For those who don't know me I'm Mark Alexander, I'm the Dean here, the Arthur J. Kania Dean here at Villanova University Charles Widger School of Law and I'm very pleased to welcome you here to our Annual Moorad Symposium, The Age of the Empowered Athlete.

I love that we're here in person. It's so wonderful we get to gather together, we can see each other, talk to each other. I also welcome those of us who are joining through the livestream. I am also very pleased that we are able to do this because of the generosity of Jeff Moorad and the vision Jeff Moorad and the class of '81. He spent his career working in sports management, team management, individuals, development. The last 40 years plus since graduating law school he has been an exemplar of how to have a career that is well founded in the law and well founded in sports, so it's appropriate we are here at the Jeff Moorad Sports Law Symposium.

I also want to thank Morgan Lewis who are here sponsoring this. I also want to thank Andrew Brandt, the director of the Sports Law program. Most of all I want to thank the students who worked so hard. I see them every day working, running through the halls and I ask how Sports Law is doing. They're so enthused about what we do. They are indeed the future of where we're going when we talk about subjects like this. So I'm just very pleased to welcome everybody here today to have very, I think, exciting conversation, a very challenging conversation about topics like name, image and likeness. And I am pleased now to welcome to the stage my friend Jeff Moorad.

**Jeff Moorad, '81:** Thank you Dean, very nice it is great to look out and see a live audience, how 'bout that? In fact, I explained last night that I was counting the years and I realized this is the 11th annual symposium and then I kind of hesitated because I'm like well wait a minute we cancelled one of them does that mean it's the tenth annual? Well anyway, it's the 11th year the Sports Law center has been in place and I couldn't be prouder and every year I come

back and meet students and I meet the leaders of the Sports Law program and it give me great pride frankly. As a graduate of the school- not this particular building, kind of the older one across the parking lot- but it's a pretty special thing to come back to Villanova every year and experience this with some of you. Now I know none of the practitioners are here for CLE credit, that couldn't be your motivation. Make sure you sign up you might as well, you're here.

But most importantly when we created this center 11 years ago we did it with a vision toward educating young people, young students, young lawyers and ultimately practitioners in the sports field. And I think we not only accomplished that through Andrew Brandt's leadership but we continue to make strides forward in that regard every year. And that's a great thing. So I think everyone who's supported the program here and I thank you for being here today.

I now want to introduce Andrew Brandt who John Gotanda when he was the Dean of the Law School years ago, and I were looking for a leader of this program we kind of stumbled around and tried to think about who possibly could fit as someone ideally who had industry experience but also was academically inclined. We called a bunch of folks and a couple said, "Did you know that Andrew Brandt is back in the Philadelphia area?" I said, "No I had no idea!" So the more we talked about it the more it seemed like if we could convince him to come up to Villanova that it would be a really nice fit. Little did I know that almost ten years later he's not only the leader of the program but has developed a terrific platform for the program as well as himself. I couldn't be prouder than I am to have Andrew involved. So Andrew Brandt, welcome to the stage. Enjoy the program please and we'll see you all over the course of the morning! Thank you.

**Andrew Brandt:** First thing I'll say, "Go Cats!" We scheduled this on April 1st, and we said wait a minute "That's final four weekend, could we make it?" and we did we made it. So this is a great way to kick off final four weekend. I have a lot of gratitude as Jeff talked about. Gratitude to everyone who supports this. I talked to so many people this morning who said, "I come every year. I missed this." Gratitude to all our alums. We just had a young alum panel talking about their experience in sports. All our students were rapt with attention during that panel. Gratitude to all our students, especially our student leaders who have put this together. It's an incredible job that they've done. I get a lot of the credit, but it really goes to

the students; it's really all about the students. And gratitude to Morgan Lewis for sponsoring this program and giving us support as we put on these things.

As Jeff said we have not been here live and in color since 2019. It's so great to be back we had to cancel 2020 at the start of the pandemic and last year of course we went online. And had up to 500 people but again online is different.

So we've got a great program for you today. It coincides with our theme of "Go Cats" because it's a lot about name, image and likeness and the future of college sports. Name, image, likeness is kind of the topic in sports law for the year. On all of your seats is what we call the Brandt report. So every year our students, not me, our students put together a white paper on the topic of the year. This year was name, image, likeness which went into effect as you know July 1st where college athletes can now monetize. We'll be talking a lot about that. You can save your perusal of the report after. We haven't done this since we saw you last but year one was sports betting, year two was covid's effect on sports and year 3 as you see, name image likeness as you see, kind of being a definitive report where people can look around from all over the country. Sports law students, business students and practitioners in the industry can see a deep dive in a topic both historical legal, business, and practical that can really help you understand this topic. Which we'll try to help you understand all morning long. Thanks again for being here and we're going to start our program right now.

Q&A WITH SCOTT PIOLI, FORMER NFL EXECUTIVE AND FRONT  
OFFICE ANALYST FOR NFL NETWORK & CBS SPORTS

**Andrew Brandt:** Last year at this time during my class, because of course we didn't have any live events, I zoomed in Scott Pioli and when I zoomed him in for an hour of speaking to our class there were students who were completely touched and came to me and came to hi- which he'll talk about- but came to me and said, "That guy really made an impact on me."

Not talking about his titles with the Patriots, not football stuff but talking about life and sports and opportunities in sports. And one of those was Jackie Gillen, our Editor in Chief of the Moorad Sports Journal and she reached out, not me, she reached out and said, "Scott would you come down for a day and address our symposium?" Drop of a hat Scott's here no problem and so many other students have reacted to him. So thank you and thank you for your impact so far, even before today, on our students.

**Scott:** No, thank *you*. I appreciate Jackie and Lili and the other students who, you know who you are, who reached out. It was a really cool thing that last year I got to spend the time and people felt comfortable enough. Sometimes you say, “feel free to reach out here’s the number here’s the email,” and they did. I’m glad they did because I’m learning from all of you. As we had dinner last night, I continued to learn a lot from you so thank you for that.

**Andrew:** So I guess we’ll start with your background, and I think a lot of people know the football stuff which of course you can mention, it doesn’t hurt, but I think not a lot of people know growing up what shaped you, what made you into the person that you are and, of course, your success in the NFL.

**Scott:** Well I think as relative to this topic and we discussed we wanted to talk about in the class last year, the big question was asked was “You know you’re an old white dude, why is diversity and inclusion important to you? Why do you care about the advancement of women? Why do you care about the advancement of people of color, the black community in particular?”

I’ll give two quick stories, I’m a long-winded guy so put up with me please. I had some really interesting and important events very young in my life and I grew up in this town called Washingtonville, New York and it was a community that was founded because of white flight and my parents moved up from New York City. Dad’s from the Bronx mom is from Queens and they moved up to this town Washingtonville that was a relatively new community. And white flight is, for those of you who don’t know, when all the white people who were civil servants, you know city cops, firemen city workers, white people my parents age were getting away from New York City because quote unquote “the black people were ruining New York City.” And I was born a year later in 1965 and I grew up in this community of people who look like me, look like you Andrew. And it was a very nice but odd town at times.

And when I was 8 years old my third-grade teacher, Miss Cooper, was our first black schoolteacher in the entire community. In the entire school district. And to say there was a bit of an uproar would be an understatement. All these families, people and parents who had moved to find a better life for their kids, why was this happening in our town? I’ll save you all of this stuff I heard and listened to as a young child, 7, 8 years old and the words I heard used by adults towards this teacher who became, who still is to this day one

of my dearest and closest friends. Miss Cooper's now Mrs. Jackson. But when it happened those of us around my age, we used to get these letters two weeks before school started to tell us who our teacher was going to be and I remember the conversation between our dad and Mr. Benedetti- a lot of vowels in my hometown.

When the time came to let us know who our teacher was, I found out I had miss Cooper and initially to say my parents were not happy or pleased would be a safe thing to say. And there's this whole thing put in your head as a kid and you're learning still, 7, 8 years old and then when the day comes you've got to go to school and we've got to come to school and meet the school teacher we get off the bus we walk up and we get to the line where the teacher's holding their stack of papers their name, there was this woman who still to this day is one of the most beautiful women I've ever seen, with this enormous afro. It's 1973 she's dressed in colors that no one else in Washingtonville would ever wear. And as we walked up each one of us, she asked our name and gave us a hug and put us in line. For the next however many months every single day when we walked into that classroom she had strength, love, compassion, empathy, a physical touch, and I mean that in the kindest of ways, putting her arm around us, holding our hand. I would say behaved in a way that maybe some of us weren't getting at home. In a very blue-collar civil servant type of town.

And it was from that moment on from 7, 8 years old that I knew that my parents and many of the adults around me were wrong, that people are people. I'll cut it off there but from a racial standpoint I learned at 7 years old how wrong the world could be and how wrong adults could be and how wrong people could be. Because in that classroom every single day it was the safest place on the planet. It was the most loving place on the planet and everything that I had been led to believe up to that moment was wrong.

**Andrew:** How did you carry that into your aspiring career and career in football?

**Scott:** Well, I made this decision as a kid- right we all make these kinds of weird vows to ourselves. I felt and said at that point in time things are going to be different if I ever have an opportunity, I am going to be an agent of change and there were very difficult times. As you grow up and you become a teenager there's moments when you're still in this community where most of the people looked like me as they did in my community and the peer pressure of being

someone that looks like me to fit in with the 95% of the people who look like me. If you are an outlier and you're doing that work, you still kind of have to cover your tracks to fit in. When you're a teenage boy in particular, you don't know how to behave sometimes you laugh along with the stupid ignorant jokes, sometimes you make them again just to cover your tracks because you don't know how to handle being marginalized yourself.

So Andrew, there's these moments in life that we all have where we have to either do things to fit in or do things to stand up and do what's right. I'll sit here and I'll tell you- did I do everything right all the time? Did I behave as nobly as I wanted to and should have? No. I didn't. And I own that, and I continue to own that and keep trying to keep better.

So I carried that forward into my professional and work life- and I'm talking specifically about race right now, but I know the other thing we addressed in class last year was gender. I'll tell this story. . . I've got two sisters that are older than me and they are better than me in every way. They were smarter, better students for sure, they were better athletes they were better than me in every way. But growing up in this town where we grew up. And I say where I grew up, I'm not being tough on my town because my town is every town in the USA. And my sisters, again, were better than me in every way. One sister graduated in 1976 so Title IX had been enacted, but it's fifty years later and it's still not working right, so as we go through life, I see my sisters have challenges and have to do things different ways, to dream different way.

And as I was growing up, I always had two aces in the hole: my skin color and, quite honestly, an extra piece of the anatomy. So what that allowed me was to dream differently than my sisters. And, again, they were the total package in every way, but when you grow up like we did they never had the opportunity to dream like I did. I could dream wildly. I was getting bad grades, but I knew there was a chance at a football scholarship. I also knew I didn't have to behave as well as a lot of other people. So anyway, I wanted to tell that story, there's much more detail to it but I don't want to take too much time.

But those things in terms of race and gender opened my eyes at a very young age and made me make the decision that I was going to do things differently. So every step I went along the way, from the moment that I became someone in a position that could hire people, I very intentionally and knowingly made sure that I hired people who didn't look like me. Yes, I hired a lot of people that do

look like me but I also, before it was cool, was hiring people that didn't look like me and giving them opportunities. But it isn't just about giving opportunities. There's something going on now where people were opening doors and people saying, "we're going to give an opportunity to someone." But when we open the door to give someone an opportunity we need to mentor, we need to teach we need to be around for those people not just from a professional teaching and mentoring standpoint but from an emotional standpoint. Because a lot of people we bring into these places are minorities and they're not brought to dinner.

I had a conversation- Lili, I'm going to embarrass you, are you in the room? The conversation we had last night where we're just standing there talking and we observe the room and how naturally groups of people were getting together, and people weren't intentionally going out of their way to mix. And even though we provide opportunities, I encourage any of you when you get to that position or if you're in that position to hire people who don't look like you because I'm looking around the room and most people look like me. It isn't about just providing the opportunity. You have to help mentor people.

**Andrew:** Alright career part: how does a kid from your town end up with three Super Bowl rings with the Patriots?

**Scott:** Some of it goes back to opportunity. Again, same topic, when you look like I look you get to meet people in certain settings. I got to meet Bill Belichick when I was a sophomore in college. It was my second sophomore year. That's kind of a joke but not really, not if you ask my parents. You have opportunities to meet people. I met Bill as a sophomore in college, we connected, we talked, and I was afforded opportunities because of that. Now when I got done with college I went to Syracuse and was a graduate assistant coach, coached for a couple years and got my Master's. Then took a job in Murray, Kentucky and I'm not sure if you're familiar, you know Murray State because of the tournament, but I went to Murray which was quite the education.

But at the end of the day when Bill became the coach of the Browns, he was looking for people like me, he had gotten to know me. Now when I say people like me, I mean people who didn't care about money. I was 27 years old, took a pay cut down to 16,000 dollars a year to take a job with the Cleveland Browns and live in subsidized housing, I was a real grownup. And it's funny we just

moved and when I was unpacking boxes, I found this old receipt. I save little symbolic weird things along the way, and I found the check stub from where I received assistance from the city of Cleveland for paying for the heat for the winter and housing.

So how do you end up there? I think part of me wants to say pay attention, work hard learn do a lot of those things. Yes, I did a lot of those things, I worked really really hard but I also know a lot of people who worked really hard and without an opportunity, a proximity. Without some good fortune and God things don't work out. So I had a lot of good things happen in a strong order.

**Andrew:** And did you see what you have been talking about throughout your time with the Patriots and other team? Opportunities limited.

**Scott:** Oh, absolutely.

**Andrew:** And were you able to change that?

**Scott:** Absolutely, again, I think, I don't want to sound. . . I think I've done what I could do in my circle, in my sphere. Yes, I saw it all the time, it still exists. The first time I was in a position to hire somebody, actually the second time, the first person I hired was JoJo Wooden who was with the Los Angeles Chargers now. I just dated myself.

But yeah, I did and it's intentional and you have to be intentional because of the world that you're in, people are always bringing people to the table for you to hire and for the most part the people who are being brought to me and brought to others to the people who are in the positions of power. The people who have the proximity are people who look like me, so you have to do one of the most important words. I knew I was being intentional, but I didn't use the word. But ago I met someone who talked about the power of intentionality. To make sure you got out of your way to intentionally make yourself and others around you uncomfortable. There were times I was even called out by people that I work with, or worked with, that understood exactly what I was doing and why I was doing it and they actually tried to call me out. Those become very interesting conversations.

But the work can be so easy if you just pay attention. I was just telling someone last night this in conversation. They're talking about women that I've hired to bring into football, into direct football operations. And I don't know how many people know Katie

Sowers? Katie was a coach with the San Francisco 49ers. And you know Katie got into the NFL And was with the 49s during their Super Bowl run. Everyone knows that silly Microsoft commercial she did that I love to give her a hard time about. But Katie's path to the NFL, into coaching- she's someone who played football for much of her life. She was playing football at the time we hired her. And we found Katie because Katie was my daughter's fifth grade basketball coach.

And what happens is most of the time is that you're around people and give opportunities to hire people and bring people in. And, again, it's usually that circle of people that look like you and people don't generally bring you a woman that "Oh, she wants to be a football coach." So yeah, I've been doing it, I continue to do it even though I'm out of it now I have a lot of the connections that people are now starting to understand how ok it is and it's actually helping them by having a diverse workforce and diverse staff.

**Andrew:** You and I were talking last night, what you're doing it sounds great and everybody's applauding but behind the scenes it's tough because as you mention, the powers that be kind of like it the way it was. They like status quo. And you've run up to resistance in being forward thinking about race and gender with the hiring and with your issues.

**Scott:** Yeah, because it seems right now it's pretty cool for people to want to hire people and promote the optic that they have a diverse workforce or that they're doing it for all the right reasons, but the reality is this: people are human. And people in those roles of influence of power of control, they love the idea, most people love the idea, until it becomes uncomfortable for them. Until it becomes the moment where they have to sit there and think "Ok I like doing this. This is good. This is good for the culture. This is good for diverse thought. This is good for optics. It looks really good."

However at some point in time the rubber meets the road and you're hiring, or thinking about hiring, people who might take your job and you're starting to bring people to the workforce, to the pool that is possibly going to make it more difficult for you to have a job. And when you do that work, for some people it can become isolating because, again, people will want to say publicly that they believe and that they want it until they really find out how it's going to affect them and how it's going to affect my little pile of whatever it is I'm collecting or trying to pass down to my son.

**Andrew:** And I know from working in the NFL when women want to get involved, they are pushed to PR, communications, marketing, maybe finance never, in my experience football operations.

**Scott:** Scouting staff. . . which is the new term for admin assistant.

**Andrew:** Yeah. And even on the agent's side, women are pushed away from that because it's such a male bastion. I commend you you're changing that. You're changing the thought on that: women in football and other sports in primary positions rather than support.

**Scott:** Thank you. Everyone who is here again, you all, I can't see all of you but there's a clear. . . the audience is pretty dominant in one direction. There are different reasons that people want to do the work. I did it because I was so affected as a kid watching what happened to Miss Cooper and just how wrong that was. That has never left me. I do it because of my sisters and watching how wrong it was that they had to do so much more to even have an opportunity, but they never even got the opportunity, including the most important opportunity, which is the opportunity to dream.

So you can do this work for a couple of different reasons. You can do it because it's simply the right thing to do. But as I say that I want to openly pull those words back because when I say it's the right thing to do, I don't mean to paint you into a corner or make you feel less than or that you're not doing the right thing. But I do ask you to go back and check and ask yourself in your own personal quiet moment or in conversations ask yourself "Why does someone who doesn't look like me not deserve the opportunities I've had? Why did I win the genetic lottery? Why is that so?"

Then the other reason that people want to do it and it took a long time for me to struggle with because people say, "Oh that's a good business model." Yes, it's a good business model, so if you can't figure it out from a human standpoint and try to be on the right side of right try to think about the business model. And if you're going to do the work which I really hope some folks in here think about it and think about things a little bit differently. Understand that if you start doing the work it does become. . . it's going to take endurance, real endurance because the easy way is going to allow things to be the way it's always been.

**Andrew:** You and I were talking last night, and we both had similar feelings about sort of paying forward after our careers at the NFL.

Share with the audience, if you will, what it was like standing at that podium with people watching-

**Scott:** That was a private conversation but go ahead.

**Andrew:** Well it isn't now! Like I said with Bill Belichick with Tom Brady what goes through your mind at that point?

**Scott:** So the story I told Andrew last night was ever since I was a boy one of the things I wanted was a Super Bowl ring. I wanted to be a good enough player to make the NFL and get a Super Bowl ring. I prayed for it almost every single night as a boy. Then you find out you're not a good enough player. You lose to schools like Villanova, and you know you're not good enough, which I did while I was playing. I'm still mad at Coach Talley by the way, he better not be around.

And you have this dream, and you start figuring out "Ok the player path isn't going to work so I have to start doing other things." So I become a coach and then I get in the front office and there's all these years of praying. I was very very fortunate I was part of a team that won our first one. I was only 36 years old but it's all these years of dreaming but at the end of the game you get on the podium and the confetti is going and it's like this unbelievably cool moment that you think is going to be so fulfilling and it is in certain ways.

And then the next year we don't make the playoffs, but then the next year you make another Super Bowl. Two in three years then it's the 3rd Super Bowl in 4 years and by that time the gravity of that moment is really settling in. You know you're on the stage with these people. As you mentioned Robert Meyer, Jonathan Kraft, Bill, Tommy, Dion Branch who won the MVP that year. And you're up there and I was only 39 and it's this conflict now going on in my head because we had become this machine and we were doing so well we had figured a lot of things out. Not all of it, but we'd figured some things out and we were successful. And there was this moment in the third win where I'm looking up, watching the confetti and as I mentioned tens of millions of people watching this moment and you've prayed for this and yes, it's altered your life in certain ways. In other ways it's not. All of that.

And I told Andrew in that moment Tommy- Tom Brady- comes up to me and he's got these enormous hands. And Tommy's a really close talker. I don't know if you've seen him but when he talks, he's at times uncomfortably close. And he grabs my face and he's

close talking, he goes “Babe, isn’t this effing great.” And the words come out of my mouth the only thing that’s on my mind I say “Yeah. . . what’s next?” It was this moment at 39 years old- I mean I hadn’t lost my stinger, my competitiveness but it was this moment I was starting to think 3 Super Bowls in 4 years. I’m relatively still a kid in the industry and people think we’re better than we are, smarter than we are. But it was this moment of like “What’s next? What do you do with this? What’s the end game” And of course Tommy’s answer was “Another one! The next one!” And yeah, I was all down for that but there was also this element of “Ok what’s the chase for? What’s the drug you’re chasing here?”

We talked legacy last night at dinner, what is the legacy? And I’m actually going to encourage you to tell your story you told me now that you did me that way.

But there’s this moment about legacy. Is the legacy really about the number of rings? There’s a professional legacy and a human legacy. I’ll tell you this when my time is done, I don’t think I’ll be asked to check in with the big man with how many rings I’ve got or what kind of trophies or what king of pile of money I’ve got. The legacy is here, getting a chance to sit with this group. I will say this, I stopped myself a little because I was feeling I was starting to sound a little preachy so forgive me about that. I’ve got my values and my rules, but I encourage you to think about real life legacy.

You’re building your legacy when you’re 20 years old. We think it’s an old man or old lady thing, but no your legacy is your life and how you’re going to build and influence people We talked about professional legacy but what’s your real legacy? What’s the work you’re going to do here that’s going to matter to future generations? We’re here for a blip. We’re here for a blip. We all have these platforms, or all will have them. What are we going to do with it? Andrew, will you tell? I think it’s really important. They all know you as Professor Brandt but I know you as Andrew. Andrew’s an amazing guy. Professor Brandt, I don’t know.

**Andrew:** I told Scott, we were sharing stories like this, when I was in Green Bay I remember riding around, I was struggling with some contract or some salary cap thing or Brett Favre’s annual retirement situation or whether we’re going to move to Aaron Rodgers or whatever it was. And we’re just driving, and my two boys are in their car seats, they’re very young in the back seat and I say to my wife and she says “Why are you so anxious? So nervous” And I said, “There’s things going on with Brett and Aaron and legacy.” And she

said, “That’s not your legacy, your legacy’s sitting in the back seat, that’s your legacy.”

And it always continues to sit with me that what we do professionally, I get a lot of attention for what I’ve done professionally but you have to pay it forward. That’s what I’m hopefully doing here. And you have to pay it back. On your tombstone there’s not going to be “he worked all hours for the Green Bay Packers or the New England Patriots.” It’s going to be what kind of person, father, giver. So I think we share that.

**Scott:** And the thing is this. I hope I’m not saying this wrong, and I don’t want to be misunderstood. The pursuit of your on earth personal professional goals and going after those is important because there’s many different parts of your soul that need to be fed. And pursuing those things and having success and working hard and doing a really good job hopefully will give you a platform, but then what do you do with the platform and what do you do with those opportunities that you’ve worked so hard to get to. So there is a selfishness to that pursuit and that’s ok, but there can be a duality of purpose in life.

**Andrew:** And I have to ask you about the word you used, kind of double click on that. In talking about the Patriots you kind of threw out the word, maybe unbeknownst to you “machine.” And it was a machine and maybe it is a machine and Coach Belichick just seems like this ice and it’s all about the next as you said. Maybe he smiles twice a year maybe. And how do you reconcile the way you are- this is not something new for you- being in the machine with someone like that?

**Scott:** It was fine because Bill and I were personal friends before we worked together so I see a different side of Bill than the world sees. Before we worked together, before I worked for him in Cleveland, I knew a different side of him. Again, as I was just saying, life has different phases. Your goals in life. . . there’s different seasons in life and there was a time when I was completely totally 100% absolutely obsessed with success whatever that meant in my field. I’m still that competitive but as I got older, I was exposed to more things and exposed to different things. My background is different, and I think that’s diversity. People can look the same, but we all have different backgrounds, we all have different biases, we all have different upbringings.

Bill and I are, still, and were aligned on a lot of things professionally. How we do things, how we believe. Some of our idiosyncrasies are very much the same, just because you're very close friends with someone. All of us have very close friends where we're close to those people, we believe some of the same things, share values but the way we do things are different and the things we need to feed individually at different times and different phases can be different. I don't know if that answers the question. Bill and I are very similar in a lot of ways but also very different in a lot of ways but that's why it worked for those 17, 18 years.

**Andrew:** And if you had to define the secrets to that success. . .

**Scott:** It would start with focus, and it would be part of what, oddly, sounds like a contradiction but a greater good. Because Bill's had incredible success. A lot of that success that he had or has had, and we had together was all based on a greater good. It wasn't about personal achievement; it was about the team. That whole team things sounds corny and it sounds cliché. That was a real thing, you were there when we were doing that. And the focus was on winning a championship that would serve more than just the primary individuals. So I think that focus of everything that you do is done to be successful for a greater good. Not to be successful for narcissistic purposes.

**Andrew:** And I have to bring up again Tom, Tommy.

**Scott:** Yeah, I knew him when he was Tommy, I don't know this Tom guy

**Andrew:** They bring him up there [Boston accent] Tommy, Tommy. How do you not have a Boston accent all those years?

**Scott:** Yeah, I was a New Yorker.

**Andrew:** What did you see there? I mean it's interesting seeing Tom the past couple years the past couple years in Tampa. It almost seems, and check me if I'm wrong here, he just seems a little more free. He's all-over social media, he's playing with people on social media. Where in New England he was pretty buttoned up. You saw a different side of that.

**Scott:** Yeah, I saw a different side of that, I mean the non-buttoned up part. Because I knew him when he was a scrub, and I was part of

the group that drafted him. That's why he's just Tommy, just this guy. And life changes, celebrity changes but he's still the same person. It's like any workplace. He was more buttoned up because when you worked there, we collectively- Bill, myself, the Krafts, Ernie Adams, all the people, a million names you don't know that were so critical in terms of creating that culture.

When you work certain places those are the rules of engagement and part of the rules of engagement were that you never did anything that could possibly go against the team or harm the team or that was about yourself. And part of that was I think. . . the more opportunities you take to be public, to be in the media to be in social media there's a chance for a mistake to be made. And part of our culture was if you weren't doing something for the greater good there was really no reason to do anything.

As my minds going 100 mph, much faster than I'm speaking right now. There was something incredible about it but at the same time there's something borderline dysfunctional about it.

**Andrew:** Yeah, in working with Brett Favre it's a similar situation. There's a one focus intensity that can block out a lot of things and block out some other issues as well.

**Scott:** Yeah, and it's funny because you knew me during that time and during those years and you know you have to suppress, not because someone's telling you to, you just know for this greater good and to help other people, to help the team, to help the company, that you have to suppress certain selfish behaviors. And everything that you do, again, is for the greater good and you don't want to take the risk of compromising what's good for everybody else by doing anything selfish.

**Andrew:** So spinning to the present now you're on NFL network, people see you, you have a nice platform. You're obviously skilled at media and bringing insights from your past into media. What's your real goal? What do you want to do now? You talk about gender and race equity.

**Scott:** I want to educate. Not because I'm smart, I'm not- I'm experienced. You hit a certain age and people start to think because you have this experience, you're smarter than you are, and I don't kid myself because I know I'm not smart, but I've had a lot of experiences I've seen a lot of things. I've been blessed to see a lot of things that other people haven't seen. I've been blessed to see them

through a prism or lens that other people maybe haven't slowed down to take a look at.

The goal is to share a lot of these experiences, to talk with people to mentor people, to help people. I'm so hopeful. I've got an 18-year-old daughter and I'm so hopeful for people her age or younger and the people in here that your generation is going to be better than our generation. We all hope the next generation is better. So to talk a bit about- we talk about the successes here, but I've had some really epic failure too. I've sucked at my job sometimes; I've gotten fired and there's learning in that. I've done a lot of wrong things and taking those moments and just sharing them with people the end goal is to leave whatever little part of the world that I've been a part of and can be a part of a little bit better. That's my personal endgame.

**Andrew:** I rarely do this, but I know he's making a big impact with you guys out there. Questions: we'll take them.

**Question Asker 1:** This is kind of a diversity topic but earlier we were talking about involved the Rooney Rule which we can probably agree didn't pay dividends. So what is the next step for that? I kind of see it as you almost have to tell teams now to hire minorities and women and the only way to do that is to incentivize them. Because owners are not going to naturally do it, they're going to hire who they want to hire, and the Rooney Rule has always worked backwards from there because it gives them an excuse to hire more white people as long as they get a minority candidate in there right away.

**Scott:** The Rooney Rule, going back to it, I talk about the Rooney Rule from a historic perspective, and I encourage many of you in this room. It happened at the time because it was a reaction from a bunch of people who looked like you and I and for the moment they were in trouble. It was costing money; it was costing public image and/or good old fashioned guilt. So we rush out and create this Rooney Rule which is no different than Fair Housing Act. Historically our country and the leaders in this country if we go back and we look over every time in history including the 60s, we create laws, policy, programs that are reactionary to try to fix a problem that's there, but we put it in place we say, "Ok here's this great law, here's this great rule."

We put it in place and then we walk away. And we don't watch or choose not to pay attention to close loopholes when they're

found. Because there's always people out there finding loopholes, circumventing policy, doing things to undo the intent of the rule.

But the Rooney Rule really hasn't been readdressed for over 20 years. Maybe slight tweaks, but everyone knew what was going on, we chose to ignore it. Again I bring it up because you look at the government at this country, historically that's what this country does. We say we're going to help black people and change things, we're about equality. Whether it's voting or whether it's housing or whether it's women. I mean in 1974 women couldn't get a mortgage on their own in this country, that's in my lifetime. Some people in the 70s couldn't get their own mortgage they had to get their spouse or if they weren't married, they had to have their father take care of it. So we change things but then we don't continue to look at things.

The Rooney Rule is a perfect example of that. We created this rule the optics were great, here's what we're going to do but it didn't change anything. Any time we create a policy or rule or something to make a change we have to keep it living and breathing and checking on it and we chose not to do that.

**Question Asker 1:** If we do it know it could almost go into affirmative action. And I'm curious to know how you would feel having the NFL being like that. The public, the white public, may bristle against that.

**Scott:** I'm not going to speak for the NFL because I can't, but something's not working and what I feel we need to do is if we're going to say that we're going to make change and be about change let's really do it. But again change is hard and what happens is that people who are at the top making these changes that I was speaking about earlier. Everyone says they want change until the change affects them.

**Question Asker 1:** So what's the quick way to get there?

**Scott:** There is no quick way to get there because there's so much. . . if I had the answer to that I wouldn't be sitting here. The answer is staying on top of it. The only time I think that real, sustained change happens and comes is when you do it from the heart. Which is why I believe in trying to find ways to change people's hearts and the way we change people's hearts is through real understanding and real education and, honestly, confrontation with what the truth looks like. I think there's a lot of people out there that

have biases, they're either sexist or racist until they're confronted with what that truth in reality really really looks like. Because otherwise they live in this bubble, and they don't know what the outcome of their ignorance is. They either choose not to do it or they've never been confronted with the outcome of their ignorance.

**Question Asker 1:** So would you be in favor of rewarding a team with a favorable round draft pick? If they have a black head coach, black general manager.

**Scott:** Personally, no because I don't- and this is my personal feeling- the fact that we would have to incentivize people just to do what is humanly right quite frankly is a little sick. And I know that goes, and I'm going to hear from people in making that statement because I just found out by the way that this is being recorded and someone's going to be tweeting this. But that's me personally. Those are my values. I don't believe we should have to incentivize people to just do the right thing. To treat women with respect, to allow black people to have the same opportunity as me, we have to incentivize. Actually what you're doing by incentivizing is doubling down on your privilege. We're going to give you more privilege if you do the right thing. I mean that's warped in my opinion.

**Mike:** It is warped, in my opinion necessary.

**Scott:** I hope it's not, but we're already doing it.

**Andrew:** We'll take one more

**Question Asker 2:** You talked about the life changing successes but what were some of your most life changing failures?

**Scott:** This is why I circled back on having epic failure. I think the biggest failure was being fired from the Kansas City Chiefs. I'll be honest I've had more failures, or just as many failures as successes. Which one was like life changing? I'll say there's so many of them and they happened at much younger ages, but when I was younger, I was a little bit bullheaded and ignorant to why the failures were happening, so I had that mentality "fight through it, fight through it, fight through it." And that, in itself, was a failure. I think the failure in Kansas City was I think a pretty life changing failure.

There's much other ones that were a lot less public that I could sit here and explain but they probably wouldn't make sense because sometimes those failures can be so personal, just like some of

the successes can be so personal. But failing in Kansas City and the circumstances surrounding it when it happened, a little bit of what we talked about last night, made me fully stop and I think that's one of the mistakes that many people make, and I was making. I knew I was making mistakes, but you're trained as a former player and a football person, whether you become a coach or anything, keep fighting through those mistakes, acknowledge it and move on.

I think in Kansas City I took a full year of not working in football and really drilled down on some of the mistakes and failures. Communication- I was doing a good job communicating in some spaces with some people, a horrible job in other ways. There were so many things to that job that I feel like I wasn't doing well. Without boring you with the specifics I think it was communication. I think it was the enormity of the job. While I know I was micromanaging a lot of things. Because you get to these roles sometimes where you know that you're going to be held accountable ultimately. And you know part of the reason you got to the job was because you know you could do certain things. You find yourself micromanaging people in roles that you tried to empower. Yes, you've empowered them but then you meddle in their business which I was guilty of. There's a lot of little things there, I think. Trust had become an issue and that's a dangerous thing. And some of the trust issues I had were real and some were not. So I don't know if that answers your question at all, but I'm going to be around the rest of the day. I'm not being funny here, there are a lot of failures starting at a young age that I would be more than willing to share because there's a lot of growth in failure if you're choosing to own your hot mess.

**Andrew:** I have never met a highly successful person without a lot of failure. I think you just saw why Lili and Jackie and others said when we form a symposium let's get this guy. So much more than Super Bowl general manager. Let's give our appreciation to Scott Pioli!

#### PANEL 1: NAME, IMAGE, LIKENESS—A YEAR IN REVIEW

**Andrew:** We're going to start addressing the topic in Sports Law this year. It is something that has obviously become a focus point for sports lawyers, sports business people, agents and, most importantly student athletes. Their world has changed as hopefully everyone knows. And this all sort of accelerated July 1st. Right before July 1st as our law students know, as lawyers know, the Austin case in the Supreme Court that really took a slash at the NCAA, eliminated any

restrictions on education related benefits and where the NCAA had proposed guardrails for two years working up to July 1st for when some state laws were coming into play for NIL. The NCAA threw up their hands. They really left it up to conferences and schools and the states to regulate this. And what we've had as I'm sure both of our panels coming up will talk about is we've had the wild west. It's been all hands on deck for NIL, name image likeness in ways some of us probably never expected. And here we are. And our first panel to talk about this is some people I'm so happy to have here. I'll just give you their intros right up here.

On the far right my friend, Villanova Moorad Board member from Excel, Vice President of Golf, Kevin Hopkins is here. From Morgan Lewis, Don Shelkey. One of our top student athletes at Villanova who I'll introduce more later Lyam MacKinnon on the soccer team. And Cody Wilcoxson, graduate here just a couple years ago, 2018. Let's welcome our panel! And you don't want to hear from me all the time asking questions so this year I'm bringing up our students who have done so well at our Sports Law program who assist me helping me moderate this one is one of my stars. Austin Mio is here. Okay I'm going to start with you Kevin.

**Kevin:** Love it!

**Andrew:** Because that's what you get for being a board member.

**Kevin:** Perfect

**Andrew:** Excel was an agency that represented professional athletes until last year. Now you're an agency like all agencies representing college athletes. Talk about generally about the transition.

**Kevin:** It's been an interesting one for sure and I think we needed to make decisions at the beginning because we knew legislation was coming up and I think we learned pretty quickly you can't go one foot into it. If you're going to get into the NIL space, you need to be all in. So our core pillars at Excel from a sports perspective are golf, baseball, basketball, and football. And I think depending on who you speak with in each of those verticals some either love NIL, and I'll be on that, I've seen a positive side of that from a golf perspective which is where I work. And there are some that are probably frustrated with it if you talk to our NFL talent representation.

From a basketball representation side of things as well, it's changed, and it's changed quickly. I think when we decided to

jump in, we wanted to make sure we did it the right way which I'm super happy about. I don't know if AT is still here, but we actually hired one of your superstars here from the law school to head up our NIL legal practice and we needed it from the beginning just from a compliance perspective. Understanding the different laws and regulations from school to school and state to state.

So from my perspective what I would tell you is from the recruiting side of things where I represent golfers on the men's and the women's side it has moved our timelines up. We would previously wait until players were ready to turn professional, try to set the meetings with the coaches or influential people in their lives to pitch our business and our services. It's moved those timelines up and we're having to place resources well in advance. You're trying to project out as far in advance as you can to how successful can this player be, how marketable can this player be. And as the big bad agent on the panel here what I can tell you is I've also seen the successes of it. I think I've seen the warning signs and I think I've seen a few of the different groups who are involved where there's certainly caution for the student athletes in the world that I would certainly caution them. But I've also seen the good side of NIL and for the people that have been really harping on giving these student athletes the opportunity to capitalize on who they are and their talents.

**Andrew:** Thanks Kevin, and for those who don't know I undersold him. If you've watched the match starting with Tiger vs. Phil then Tiger and Tom vs Payton and Phil, here's the brainchild.

**Kevin:** Tom Brady's called me baby too, but he hasn't given me the hands on the face yet.

**Andrew:** The big hands.

**Kevin:** The close talking.

**Andrew:** And Don from a litigation point of view, from a legal point of view what are you working on with NIL? What issues come up?

**Don:** Yeah, I meant the deals that you're seeing out there are deals that have been around for a long time. They're effectively sponsorship deals but what you're seeing in new opportunity, people being aggressive in chasing down a lot younger and a lot more premature. I wouldn't say premature, that are at an earlier stage in their profes-

sional or athletic career. And you're seeing a lot of folks out there trying to push and make sure that those younger folks are protected. So there's the one side where they're protected but also the side making sure that they're still getting the economic benefits that are out there. So you're just seeing a lot of corporate activity that is interested in chasing these deals but wanting to do so responsibly I would say and certainly not in a way that would jeopardize eligibility and those type of things.

You're getting a lot of questions particularly from the corporate side in my practice. I'm a deal lawyer, a transaction lawyer so I write contracts for these types of things. The contracts themselves are very similar what you see, but the focus around the public awareness of it heightens the stakes if that makes sense.

**Andrew:** Thank you. Lyam, I'm going to say this and don't take offense, but Colin Gillespie was supposed to be in your chair.

**Lyam:** Eh, I heard about it.

**Andrew:** And you're right, they're a little busy this weekend. But welcome, and I undersold Lyam as well. Listen, this guy- I'm reading it here- he has produced the most goals by a Wildcat since 2015. That's pretty impressive. In one season. And you've got some NIL deals. Now you come in as one of top soccer players, all Big East. You hear about this name, image, likeness. Then what happens?

**Lyam:** Well at first it was a little surprising because as you mentioned it all happened really fast last summer and we didn't really get any warning about it. After my sophomore year nobody told me that was going to happen really. And when we heard about it, we had a meeting with our athletic director for soccer. So he kind of explained it to us that there wasn't any real legislation yet. At least it was made by the conferences and the states.

So I really didn't pay attention to it because, first of all as a soccer player in America I know the main focus is not on soccer. It's mostly football and basketball so I was more focused on our fall season coming up and I just thought that if deals were going to happen, they would just come to me and I wasn't really looking for it. And as we started doing well some deals came up and companies reached out but, again, it wasn't really a focus at first. It was just something that kind of surprised us all. And yeah, that's how I ended up getting some deals, but it wasn't the main focus at first.

**Andrew:** And I'll ask you about those deals in a minute. Cody Wilcoxson, star alum from a few years ago, I loved having you in my classes and you see what we've developed since you've been here. And now you're working in the space, you've been writing about Name, Image, Likeness in the space. I've been reading your work. So tell us what you've been doing in the space.

**Cody:** As NIL developed in the middle part of last year and moving into the fall, Blank Rome as a firm wanted to kind of figure out what our role could be, where a law firm is needed, so we just started asking questions. Talking to athletic directors, talking to athletes, talking to coaches, talking to agents and what we came to discover is that one of the great parts of the interim policy in each of the state laws is that student athletes are now allowed to have professional representation.

But by and large the deals were not significant enough economically for them to actually have that representation. Particularly at the localized level your nontraditional revenue sports, student athletes were signing deals without professional representation and in many of those cases those deals were signed without someone with a bar license ever looking at it. From the brand side you're talking about care dealerships local restaurants places like that, they're pulling an agreement off the internet. They're piecing them together. I call them Frankengreements because they're bits and pieces stuck together. And they contained a lot of inappropriate provisions. Even some of the big brands, they put together an agreement based on an independent contractor agreement that was not appropriate for a college athlete.

So we started with education pieces, trying to work with universities to educate their student athletes to empower them to review their own deals and know that if I see "exclusive rights" I need to put up a red flag. If I see "in perpetuity" I need to put up a red flag. Modification of their image, things like that where they need to be careful before they sign the deal and seek help whether that's from their athletic department and agent, an attorney.

That has transitioned to where we're representing some of the NIL marketplaces, collectives, brands, and advising them on the same issues. Making sure the deals that student athletes are signing are protecting them. We work with one of the marketplaces on reviewing their agreements to make sure that agreements that go through their portal are putting athletes in the best position to monetize their rights, protect themselves down the line. It's very

rewarding, but it's very education based with everything we're doing, with each of the constituents in the marketplace.

**Andrew:** The wild west.

**Cody:** The absolute wild west.

**Austin:** So Cody, you heard Lyam also talk about how NIL kind of came out of nowhere like July 1st and for a lot of student athletes it was a bit of a surprise. And obviously the interim NIL policy from the NCAA perspective only frankly came hours right before. But now it seems that many states are thinking about repealing or severely amending. We saw it in Alabama, Florida's considering it as well. So now the leaders that put the pressure on are kind of considering that it's not worth having an NIL law at all. So can you talk about the advantages and disadvantages of working in states with NIL Laws vs ones that don't have them at all.

**Cody:** Yeah, so obviously Maine sent their bill to their governor a couple days ago which I think would be the 29<sup>th</sup> state. Which is great and the original legislation starting with California, Florida, those states was really forward thinking. They wanted to provide these opportunities to the student athletes before Austin before the interim policy. So they felt if they put these laws in place they would be helping and providing a new benefit to student athletes. So interim policy goes in place. States that don't have legislation- those student athletes are virtually unregulated. That means the universities are unregulated in what they can do on behalf of their student athletes. Even a lot of the states have very loose provisions that don't put a ton of guardrails on universities.

Like Ohio State has a program where they actually have employees of their athletic department that are soliciting and working on NIL deals for their student athletes. Then you see a state like Tennessee. Here the Tennessee legislation says the university can't have any involvement. They can't solicit, they can't review it. So students at University of Tennessee, Vanderbilt University, East Tennessee State, they are on their own. That's a huge, huge disadvantage for one protecting your student athletes, but also from a recruiting standpoint. University of Tennessee athletes vs University of Alabama where they repealed their law. Alabama can kind of do what they want within appropriateness. You can't do pay for play, you can't hand over money, but they can work with their student athletes to make sure they're getting good deals, reviews deals.

So it's become a huge benefit to not have a state law or not have a very restrictive state law and it has created an uneven playing field across the country.

**Austin:** And Don, obviously you're an expert more on the licensing side of things, but Cody was touching on a couple state laws and I know Connecticut, for example, is very restrictive on what schools will allow in terms of their Wordmarks and their teams and stuff. It you just look at UConn the women's basketball team have a couple athletes in the final four this year that can't actually advertise themselves in their uniforms, they have to blank it out. So how is it navigating the space where there are certain laws where they can't have these word marks and stuff vs other ones where the schools pretty much give free reign to the athletes?

**Don:** Like a lot of things when you're a lawyer it really depends on who your client is and who you're representing because in some instances having the state law there is an advantage for major players coming into the market. There's a degree of certainty. They feel they can do longer-term deals. And this is just a counterpoint for another way of looking at the exact same thing. When you're looking at companies like Nike and Adidas, the purpose of these deals is to promote their brand. And negative publicity is not the best for that so what they want to do is understand these rules.

And so my suspicion, or my prediction is that those states that are following closely to the California law or following the one that's most developed, as developed as you can be in the wild wild west. Those ones will attract the most real corporate dollars coming into them. And it will create a balance to push the laws in the other states along and move the ones toward consistency. So I think what we are going to see is that, aside from a few outlier areas, you are going to see a general deregulation and a general stabilizing of this stuff as people try to catch up. They see what the big money's chasing and you'll see the laws follow that and these different things that are coming through. Because the questions I'm getting are largely from corporate sponsors that want to get in the space, not the schools answering, "How do we handle it?" They say how do we get into it some of the new technologies we'll talk about later in the presentation, that's what I'm saying.

**Andrew:** Kevin and Lyam, there's so much in the news about the big football and basketball deals. Even coach Wright has been texting me about all these deals that have been coming up for players.

But you're working golf and soccer, what are you seeing certainly on the recruiting side but on the maintenance side as well with your clients?

**Kevin:** I've been pleasantly surprised is what I would say. So I represent the top two female golfers in the world. A Girl name Rose Zhang, an 18-year-old girl, freshman at Stanford and her teammate Rachel Heck who is a sophomore at Stanford, ranked number one and two in the world. And I think anybody in this room, if you were to ask generally what you thought they were earning off their name, image and likeness, I think you would be shocked by what is actually happening.

And I think it's a combination of things. I think any time you've got the right talent, but also, I think the influx of support and spending women's sports contributes to that as well. I think the fact that tomorrow on NBC they're playing at Augusta National at their biggest amateur event of the year is part of it and I think it's somewhat of the sexiness of brands wanting to get into the NIL space right now to capitalize on it. Any time you see a deal that gets done it's on the front page of sports business journal and getting some headlines and attracting new social media.

So what I'll tell you is I've been really pleasantly surprised at seeing the success both from an endemic side of things with golf club manufacturer and apparel partners but the non-endemic space as well. They've got finance partners, they're ambassadors for asset management groups and Beats by Dre. I've been trying to get a Beats by Dre deal done in the LPGA space for 15 years and it wasn't until NIL came along where they were like, "Hey we'll create these custom headphones for both your girls to wear down in Augusta."

So it's also really cool and creative and for me, and different from what I've done over the past 15 years of representing talent. But you're starting to see brands figure out the right way to take advantage of it. So I've been pleasantly surprised there but I also think there's a difference between talent capitalizing on their Name, image, and likeness and some of the collectives we've seen that are basically glorified, which has happened over the past few decades of boosters who are doing things illegally or in the background. So I think there's kind of two sides to it and I'm happy to be on the side to see the athletes who are deserving of earning money now based on who they are vs an inducement to go play for a certain school which I think is what the latter is.

**Andrew:** Yeah, we're going to talk about directive, collectives, the booster side of things a little later though.

**Kevin:** Yeah, get your NIL bingo cards out.

**Andrew:** Lyam, tell us about your deals!

**Lyam:** So I have a couple real, concrete deals and right now I'm working on my third deal. I don't have an agent for it yet.

**Andrew:** Do or don't?

**Kevin:** Not yet Lyam.

**Andrew:** You're going to have a tough time getting out of here with all these aspiring agents.

**Lyam:** So what I can say about the two deals that I've had before. The very first one was with a company that's called vital proteins so it was basically just products they would send me- again social media posts- and I would get a part of the revenue that they would make from my promo code and that was basically it.

And the other one that was much more interesting for me was the performance meal prep deal which is a meal company for athletes. And I know there's two or three basketball players. I know Germaine has the same deal. And this company is really focused on making meals for elite athletes so basically everything is measured. Protein, carbs, and everything will be measured for the athlete. So I got a deal with that company and that was during our season and that really helped me because I was making maybe the same profit as with the Vital Proteins ones, maybe like a 20% or 15% of their sales with my promo code but the real benefit that I had with that deal was the meals. So that benefit was huge because I went from eating whatever at the dining hall or cooking at my apartment.

**Andrew:** Whatever.

**Lyam:** Whatever, to something that benefitted me on the field and boosted my performances and I think for sports like soccer, lacrosse, baseball that are not sports like football or basketball where the revenue is not going to be the main focus. I think for athletes the main focus should be get a deal where you're going to benefit from the products you're going to get. And it also gave me access to a lot of products that I would never purchase on my own. For exam-

ple I would never go by myself and target these brands to get a meal, or protein or supplements, organic supplements, I would never go out of my way to do that, and I think this is an underestimated value for these sports because I hear a lot of “NIL is just for basketball and football,” but there is also a big benefit for smaller sports in America today. So that was my first focus.

**Andrew:** And how did those deals come to you?

**Lyam:** Like I said, at first, I wasn’t really trying to get those deals. I wasn’t reaching out to any companies, and I remember after a game we had against Yale, we won the game at home 2-1 I was lucky enough to score a nice goal and I think 2 or 3 days after I got, I think, two emails and an Instagram message from companies and one of the emails was the performance meal prep company. And also, we can see that it’s a good way for athletes to transfer their performances to profit or at least benefit from these companies because I would say that before NIL, we were really dependent on the end of our college career. So like we could play great freshman year, sophomore year, junior year and then if your senior year something happens to you, or you don’t perform as well.

**Andrew:** Injuries. . .

**Lyam:** Yeah, injuries, if you disappear from the big picture, it can be kind of a wasted three years behind you if you don’t sign a pro contract so we’re really reliant on our last years especially. And I think that what NIL brings to student athletes is that even though we still want to get a pro contract at the end we can also benefit from good performances in freshman year, good performance in sophomore year. That’s how it happened at first.

**Andrew:** Now Cody, if he came to you with a contract, what are you looking for from the player’s side? What are you looking for from the brand side?

**Cody:** From the player side we are looking to make sure they are protecting their rights and you are talking about how well you played for two seasons or three or four seasons. There’s kind of two ways to look at it. There are deals that are multiple seasons, multiple years if you want to lock in your value, but we’re also counseling athletes to really restrict and limit the time periods of these deals. And many of them are social media related deals so it’s five posts or two posts or whatever that looks like. But now that there are spon-

sorship deals that are longer term and brands are looking to lock in student athletes, your value as a freshman team person is one thing but if you continue that directory what is your value the second year, what is your value the third year. Is your value going to continue to grow and did you leave money on the table? Did you leave opportunity on the table? So we're pushing to restrict deals to one competition season, one academic year, really define it in that way. Or if the value is right of course sign, but make sure that it is limited to your time as a college athlete. You're not giving up any professional opportunities; you're not entering into a deal that is requiring professional representation past your time in college. And then past that it's what I was getting into before about the provision about not giving up exclusive rights, not giving up rights in perpetuity.

Things like choice of law provisions that you learn about in contracts while you're sitting here. If a student athlete is 19 years old and they are sitting in Villanova, Pennsylvania signing a deal and the deal requires them if they want to contest any part of that they have to sue in Florida or California or somewhere else that's sort of a complete barrier to challenge the agreement. If you want to claw back some of your rights, if you want to terminate the deal, if you file suit in Pennsylvania it's going to get dismissed based on the choice of law provision. That's not really appropriate for college athletes. There are certain states in their state laws that require if your athlete is doing the NIL deal, they need access to the court system here. Same with arbitration provision. Arbitration provision stops you from going right to the courthouse and it going to force you to incur money to get that and when you're talking about a lower-level deal that gave away high-level rights it's really problematic.

Making sure the athlete is protected on that side and then, from the other side, we are counseling brands to put the best interest of the athlete forward. You talked about publicity and brands wanting good publicity. You know what's really bad publicity? A student athlete said we had a deal and they said, "Here's this contract, no." So just making sure it protects both sides, the rights are clean, termination is clean. Both sides should be able to get out with notice even if that requires paying back some of the money. But just that the rights are clean and protected. Well papered, well defined.

**Austin:** Kevin, representing golfers certainly is a little bit different than representing basketball players and football players. It seems

like there are a couple more natural sponsorship opportunities with clubs and apparel and everything. In terms of how Excel is kind of managing their talent do you find that managing golfers is very different than managing football players, basketball players, both with the acquisition of getting the talent to be the NIL representation and then getting them deals as well?

**Kevin:** 100%. Golf, I think, is uniquely situated to capitalize on NIL and I think for a few reasons. So the players who I represent are going to turn professional at some point. But even this summer they're going to play in high profile amateur events and professional events as amateurs. Where now, they can wear a hat and they can put a logo on a shirt, and they can represent an equipment brand and who knows they could go perform really well and it'll be on NBC or CBS. So you can go with a real pitch to a company to say, "Hey you're not just supporting these young women or men." But you also have the ability to have some high-profile branding opportunities there.

The other thing that golf give you is the ability to actually play with these players, right? So in most of the deals that I have for my two clients it includes a golf outing where these people can go. We've got a few deals with Stanford alums where they're going to have an outing at the Olympic club and bring in the number two and number one ranked amateurs in the world. And that's a selling point for them and they can do that at a much more cost-effective rate than going to do a deal with a PGA tour player yet get the same impact from it. So golf is unique in that aspect because from a basketball side Colin is one of Excel's clients, but Colin's not giving clinics or going out shooting hoops with any of the companies he's doing deals with. For the most part, they're mostly social meet and greets, things along those lines for what he can do. So golf is certainly different. We've been lucky to be able to capitalize on it and be at the forefront of it, but we've seen some serious value in being able to use the sport to be in front of brands and get them involved.

**Andrew:** Kevin, do you think your two women at Stanford are going to stay at Stanford longer because of NIL?

**Kevin:** So that's where I'll tell you are the benefits. Rose Zhang is the terminator, she's unbelievable at golf. She's the only player to go undefeated in her fall season in the history of men's or women's. Tiger went to Stanford; he didn't do that. She won the first four tournaments that she played. She's unbelievable. Without NIL, and

this is just me speaking knowing her, there's not much more she can win from an amateur perspective other than a national championship with Stanford and without NIL I think that everybody comes from different backgrounds, has different financial means. There wouldn't have been much more for her to win without her parents or somebody on her side saying, "It's probably time for you to turn professional." Whether after the fall season of your freshman year or after your freshman year. Rose has six figures in her bank account now and the pressures that you have of saying "I can compete out there against the best players in the world on the professional side of things" They're no longer there. So she would be one of those examples I Would say of a winner across the board.

It's a winner for Rose, a winner for the brands who are associated with Rose, it's a winner for Stanford because she is probably going to stay another year now. She will probably stay through her sophomore year because she loves the college experience. She's growing, she's making friends and now she doesn't have to worry about what she's potentially missing out on. And while the numbers when she does turn professional are going to be 4 times, 5 times, 10 times whatever it's going to be based on how good she is. There's not that immediate pressure for her to do that. So the benefits of that, if I'm Ann Walker, the coach of the Stanford's women's team I can now go to the next Rose Zhang, the 15, 16-year-olds that are out there who are potentially considering maybe turning professional early and say there's not pressure on that side. We have now seen success stories where you can come here, enjoy the college experience, learn what it's like to play on a team, but also be able to capitalize off of it off the golf course. So no doubt about it that Rose will be sticking around longer than she may have before that. And I think you'll see that across other sports, if they do a good job and do it with the right people.

**Austin:** Cody, earlier Kevin mentioned that the timeline for athletes is moving further and further forward, right? And now, one of the big issues particularly in the last couple months has been high school NIL. We saw Quinn Ewers go to Ohio State, leave Texas early because Texas didn't allow high schoolers to capitalize off their NIL. He's since has already transferred to Texas University and will be quarterbacking there after taking a few snaps at Ohio State. So High school NIL Legislation has not really caught up to it yet. Can you talk a little about if you think that market will change?

If you're going to see at college NIL the states are really repealing, but for high school NIL the states may actually have to legislate.

**Cody:** Yeah I think you're right, the high school legislation is greatly lagging behind, there's a lot of unknown. The states that have allowed it, high school student athletes are starting to profit. So I think the states are going to have to act but there's also what rights do you want. And not to say that they shouldn't but you're talking now about 17, 16, 15-year-old kids and the big shocking news in the NIL world the last couple weeks was the 8-million-dollar collective deal, Stuart Mendel's article in the Athletic that a high school junior signed a deal giving away all these exclusive rights through his college career, potentially worth up to \$8 million. That student, a high school student, is making their college choice based on this collective's actions and they're from a state that allows high school athletes to do that, and it has sort of created this recruiting mechanism. Now whether that's an acceptable thing or not is to be seen but that is going to become a thing. This was the first one to do it. It was stunning. Whether it's appropriate or not is definitely to be seen.

**Kevin:** It's not appropriate.

**Cody:** It's not.

**Kevin:** I mean, in my opinion that's against the spirit of what this policy was supposed to be and the Quinn example is- I mean I think it's a ridiculous loophole for someone to say "I'm going to end high school early, enroll at Ohio State, put the practice jersey on for six months, take two backup snaps and then go be where I really wanted to be at Texas and be a quarterback." And in the meantime make, I don't know, there were reports of hundreds of thousands or millions of dollars. It's an outrage. I don't think that's the spirit of what this should be, at least in my opinion.

**Cody:** It's not, it's absolutely not in the spirit of it. The 8-million-dollar deal that everyone's talking about is about as close to pay for play without calling it pay for play or an inducement. It's certainly a recruiting inducement without calling it a recruiting inducement. But as lawyers, as a litigator, it doesn't have to say it's a recruiting inducement to be one. If it walks like a duck, it quacks like a duck, it's a duck.

**Kevin:** I hope he goes to a different school.

**Andrew:** But how do we regulate that? And we're going to talk about this more at the next panel too- how do we regulate that? The NCAA has basically thrown up their hands. They're cowed by the Austin case; they're cowed by anti-trust. What do we do?

**Don:** I guess one question is "should we regulate it?" Just thinking of it, what you're seeing, like globally outside of sports, is an optimization of personal assets and talents. And you look at even something as simple as Uber and VRBO and all these places what they're doing is taking individual talents and assets and they're eroding the barriers for those to go to the public and to commercialize those. And what you're seeing is, we're talking about in an athletes' context, but there are 14-year-olds making six figures making slime videos out there as influencers.

**Andrew:** Sounds like someone bought them.

**Don:** So you think about them, and you think about what's going on and I guess it's not my personal view, is it's young people making those decisions that can dramatically- and I have four children so I understand the gravity of that, I'm not looking past it, but also there's a bubble that's going on. It is cool to do NIL deals, it's cool to do these kinds of deals and unless they see returns on these kinds of deals.

And you're also dealing with kids who will make bad decisions, they will make decisions like you said go to a different school. It won't take long before people change their minds and do these things before the market cracks. So we are in the wild wild west. I wouldn't want to see overregulation of something that's out there. You know you can't swim upstream against the trend that's happening. That's the point of this conference, it's about empowerment of athletes. But there's an empowerment of the individual movement that goes far behind this.

And the types of deals we are talking about for the athletes are effectively influencer deals that are just being ported into the athlete space. And what you're going to see is athletes leveraging their talents to become influencers and to do this and this could be career opportunities that maybe aren't necessarily in athletics. And so I would say that when we look at that deal going on and we think about in the context of athletics and competitiveness that's one thing but if it was a 14-year-old selling slime videos and you weren't the jealous type you'd say, "Good for her, good for him going out

there and putting that stuff together.” So I just wanted to add that layer on.

**Andrew:** So it depends on what your definition of college sports is. That’s a bigger discussion for the next panel. Where are we going with this? And should there be a difference between college and pro in terms of monetization for the talent pool?

**Cody:** Well I saw the other day Mac Brown was on the Rich Eisen show and he had a really interesting statement about it and Jay Bilas said something similar and he’s been a huge proponent of NIL and breaking it down. But essentially that amateurism as we see it, at least in college football and basketball, is dead. And so Mac Brown who by all reports has done things the right way, or at least tried to, is now up against it from a coaching perspective and a recruiting perspective because people are going into his office and saying, “I was told if I went to this school I’m going to make 7 figures.”

So one of the things that he said was, “How do we regulate this? And is there a salary cap and do we just not pretend at this point to do things the right way and just say alright we’ve got this amount of money that we’re going to be able to put towards it?” It was super interesting, I don’t know what’s right I’m glad I’m not in the football, basketball space right now because I feel like there’s probably a lot of moral lines being drawn and potentially crossed as well.

**Andrew:** It’s funny on the agents’ side, I mean football and basketball agents, we always got blamed but now it’s not us, it’s not us supporting these athletes.

**Cody:** So I talked to one of our partners at the firm who supports some of the most famous, Peyton and Eli, and Trevor Lawrence and all these others. And his view on it is that he was able to go build those relationships during their college careers but watch them for four years, or three years and see just how talented they were, were they going to get drafted in the first round. And from his perspective now is there are so many agencies and people who are going with briefcases and telling them when they’re 15 years old freshman sophomore junior in high school and, you know with Trevor Lawrence we were able to go 5, 6 months before he declared and was drafted number 1 overall. Explain what our services would be and why we would be the right fit for him and now it’s these people who are going in way early, trying to earn trust, probably won’t earn that

trust with kids who probably won't pan out to be the next Trevor Lawrence so it's a really interesting side from a recruiting perspective too.

**Austin:** Lyam, Kevin mentioned coaches, there are some people out there even in the space that are a bit critical of NIL and one of the concerns when this was first coming up was that it would be a distraction for athletes, particularly athletes in season. Can you talk about getting deals perhaps in season vs off season and how you manage that while also being a student athlete?

**Lyam:** So it can definitely be a distraction, especially if the brands are not targeted for the athlete, I mean don't target the benefit of the athlete. For example I remember when the NIL legislation came out and all the student athletes were allowed to have deals. I remember barstool came out with this huge statement "We're running a student athlete NIL agency. All D1 student athletes can sign up and get free merchandise."

It was just something that came out of nowhere and we were all like "Should we do it?" and then me and my roommates were talking about it, and we were like "Maybe barstool isn't the best look for a student athlete." And as we were looking, we saw all these athletes signing up and getting free stuff from barstool. And as it went, I would say maybe half of them just got out of it. And I think these kinds of deals can be a source of maybe worry during the season because if you're worrying about "oh my image is not what it should be" or maybe if I'm trying to get a pro contract after maybe that's not the best look. I think these are the biggest issues I would say. But managing a normal deal during a season is not too challenging. In my case it was only posts, so I don't think it's too hard of a job to post something on Instagram.

**Andrew:** Do you write the post or do they write it for you?

**Lyam:** That was one of the topics of discussion. When I signed my first deal with performance meal prep I wanted to dictate what I post. At first, they were like, "No, we want something this long where you say thank you whatever." I was like "No I want to say something that I would say" because I really didn't know how to shape my image at first. And when I was thinking about those deals, I was thinking "How do you make the most out of this opportunity without jeopardizing your image?" And obviously they didn't ask anything too crazy, but I was also thinking about other deals.

If I say, for example, in a post that they have exclusive rights on my image or whatever other companies can be like “Oh we’re not going to approach him.” And I wanted to really have a lot of power on what I post, when I post it. So that was maybe the only subject of negotiation and/or distraction. I would say it’s a pretty easy task as long as you don’t have too many. I only had two or three at the time but obviously if you have 15 deals at once, and before the game you have to post something, after the game you have to post something, it can be challenging for sure.

**Andrew:** And you say you have another deal in the works? Can you talk about it?

**Lyam:** I mean I haven’t signed it so I don’t know if I can but. . .

**Andrew:** Breaking news?

**Lyam:** No it’s nothing, I’m not Colin Gillespie obviously, so I don’t have any crazy news for you but it’s a supplement company that I was actually already a consumer and they reached out. I mean that was pure luck for me, but they reached out recently to ask me if I want to do some partnerships with them. I think also that that’s one element that’s really important. The previous deals that you have influence the future deals that you’re going to have. Because as I said, if you’re a barstool athlete. . . I know people who got hit up by alcohol companies, or vaping companies or whatever, all companies that are not I would say great looks for a student athlete, especially a division one athlete. But I was lucky enough to sign healthy deals, I would call them and right now I’m collecting the benefit of it because I’m getting offers from protein companies, supplement companies, all stuff that I’m going to benefit from, from an athletic standpoint.

**Andrew:** And we were making light of it earlier, but do you want or need an agent or are you comfortable doing this yourself?

**Lyam:** That’s the thing, I actually recall being at one of your conferences and asking you “What do you think about having an agent early on?” Because being from Switzerland, where soccer is our main sport, since I was maybe 13 or 14 I had agents calling my dad after games and so I was really educated in a way where my dad was always say, “No, wait. Do it yourself or don’t do it, but don’t let outside interests influence your career.” And right now being 22 I think I’m ready to have someone to take care of my deals. Also

because I just don't think I have the knowledge to control what I sign up for. That's why I'm limiting the amount of deals that I do, because I also want to limit the risk of making a mistake.

**Andrew:** You've done a great job. Let's give him applause, great job.

**Don:** Also, I was going to say sounds like a good opportunity for like a pro bono clinic for some student athletes to have some law students get versed in looking at those. That sounds like something that some law schools should look into for sure.

**Andrew:** And Don I want to ask you before we run out of time, we've talked a lot about one three letter acronym, NIL. You work on another one that is so popular right now: NFT. And for everyone, NFT is non fungible tokens. Can you talk about that maybe relating to this space?

**Don:** Yeah, I think it's important because- so what you're seeing is what NFTs allow you to do, in the sports world at least is share digital collectibles. And the key there is that there is a very low barrier to entry. If you look at the equivalent of like a baseball card, to get a baseball card made you need to reserve line time in the printing thing, you need color inks, it's expensive and there needs to be a large market to support mass production on the scale that is required to create those kinds of collectables. What NFT technology does is it allows you to create a digital collectible that anyone can really do for very very low dollar values, essentially a revenue share so there's very little up-front commitment other than signing up, for instance, players. And what it allows is for much smaller markets to compete in the collectible space. I would say for why people buy digital collectibles that's a different topic but trust me people do. As much as you think "why would they" they do and they spend a lot of money on them.

And what you'll see is, I think, is people leveraging the ease of use, the economics of creating NFTS and the economics of athletes and student athletes that are not in the number one college recruit in the country going to the pros, but at the team level, someone coming in and being able to sign up all the members of the team for a digital collectible that alumni would like, that would be a targeted audience for school fans and those types of things at a reasonable price. It's just too easy of technology for that not to happen and we've already seen folks doing that at the high school level creating these. For instance, parents buy them much like you would

your old coffee mug or you pin, things like that. So what I see is that type of things and what will likely happen is a series of consolidation and that type of thing before they get value. So I definitely see the NFT space being relevant for student athletes, particularly those student athletes that don't get those big deals because there will just be money to be made there and the economics work out.

**Andrew:** And Kevin, we have to bring up Colin. What kind of deals have you worked on for Colin? And I guess the question is how dependent is his performance in the final four on future deals?

**Kevin:** Well future deals from an NIL perspective, unless he has like 12th year eligibility at this point, I don't know what we'd be able to do. But you know it's been pretty cool because he's been going into the season, he was obviously going to be one of the projected players of the year. Obviously Big East player of the year and I think for us, while we were late when we signed Colin, he was still able to capitalize on it.

So I think we saw Outback Steakhouse, they did a pretty cool program in the fall, and I would say they're one of the brands that actually has done this the right way where they targeting "hey we're going to get teammates on both the men's and women's side." So we didn't just do an outback deal with Colin we did with Maddie as well on the women's basketball team. So they did a pretty cool teammates program, but he had a few other pretty good brands. He did something with Shake Shack as well, a few other local deals, I think a Great Clips deal.

So I don't think it's dependent on what he does tomorrow and Monday night. There are no performance incentives, you can't do the pay to play piece, but will it make him in the future depending on what his next steps are at the professional level I think those brands can help elevate who he is and let people know what's he's all about. So it's been pretty cool right at the start he's been able to capitalize on it. And hopefully it's something Jay can use moving forward too. For someone who wasn't a five-star recruit coming into the program for Jay to be able to sit in a living room talking to a mom or dad or aunt or uncle and share the success stories that he's had from a Villanova perspective in doing it the right way is a good thing.

**Andrew:** Kevin Hopkins, Don Shelkey, Lyam MacKinnon, Cody Wilcoxson, thanks to Austin, thanks for this great panel I could go all day on this.

## PANEL 2: FUTURE OF THE NCAA

**Andrew:** This is great stuff! We're going to continue our discussion. Again, the theme is final four weekend, the changing world of college sports, the age of the empowered athlete. We're going to continue with this star-studded panel to talk about what is ahead. We talked a lot about NIL last, we're going to continue to talk about name, image, likeness, and these things that we sort of mentioned briefly like directive, collectives, where it's going. The power of a college athlete that has changed so much in the last year. We're going to do that. Let's meet our panel.

From my side: Crystal Carey from Morgan Lewis thanks for being here.

Len Elmore, the co-chair of the Knight Commission on Intercollegiate Athletics. I grew up following Len Elmore from Maryland. He was a star basketball player for Maryland here he is, my childhood right here.

**Len:** Your Childhood!?

**Andrew:** Yeah, well, we're all old here. Maddie Salamone is somebody our students and I really wanted to be on our panel. She is an attorney and athlete advocate and, as you see, the former chair of the National Student-Athlete Advisory Committee, former athlete herself.

Kendall Spencer's here. He's a member of the NCAA Constitution Committee and Transformation Committee. Former NCAA Board member, former chair of the National Student-Athlete Advisory Council. Kendall, you've been on our radar quite some time, welcome

And Jason Stahl is here the executive director and founder of the College Football Players Association, that's interesting.

Let's welcome our panel!

I think since I embarrassed myself and you, I'm going to start with you Len. And we've talked before about this- where is the present and future of college sports as you see it? Pretty general question.

**Len:** Pretty general and relatively loaded too. Obviously, we see the college landscape now essentially is devoid of leadership. We have a situation where institutions are kind of in the wild west with regard to name, image, and likeness practices. We have an NCAA that's paralyzed by legal threats. We have special interest groups that are

really focusing college sports on revenue generation. Those are the areas that I think that certainly need to be solved if we're going to develop a future for college sports and a future of college sports that maintains the line of demarcation between pro sports and college sports.

I think that the legal and financial concerns that if you really are interested in what we are talking about go to KnightCommission.org because it outlines a lot of the proposals that we made. We made proposals that essentially address some of these issues. Governance is important. Getting independent voices on Boards like the CFP and NCAA as well as getting college athlete representation. There are no football players on the board of CFP to give voice to what they're doing. There are no athletes or few athletes in particular on the NCAA board of governance so that's important.

And then you have to definitely fix the financial element and if you're going to talk about an education mission and really be confident that people are going to believe in it you've got to focus on the education mission and that's not focused upon when the spending of the moneys of the revenues that are generated by sports go to lavish facilities go to extraordinarily crazy coaching salaries. So those are the things that certainly need to be fixed. When you talk about how the future goes, we don't have a future unless we find ways to solve these issues.

**Andrew:** Maddie, attorney advocate for athletes. Athletes seem to have more rights than they did certainly six months ago. Are we on the right path there?

**Maddie:** I mean I think in terms of NIL we've opened up a lot of doors. I think though there's a long way to go. I think there's a long way to go in terms of giving athletes a meaningful voice and a way of really organizing that their voice has an impact, right? Because I think I take my experience as chair of SAC, and I think we really tried to be representative of all athletes right and give athletes a platform where they're able to share their perspectives and all these other things. I think we run into a lot of trouble in terms of organizing athletes because there's an educational barrier. What we saw in SAC a lot of times is in giving athletes a platform is even having athletes educated enough on some of the issues that impact them to be able to advocate adequately.

I think when you talk about the way the NCAA is structured there isn't a sufficient platform for athletes really in having actual

power with their voice. I think that a lot of people talk about how important the athlete voice is and they want to hear from athletes and athletes can really express themselves, but I think what's given athletes the most power is through social media. What you're seeing is a lot of people sharing their stories in different ways that when I look back even to when I was in college, I think athletes were afraid to speak out in certain ways and I think it's been really cool to see this sort of new era of people speaking out more and really sharing their stories and seeing more people jump on board and want to support. And you've seen a lot of former athletes coming in, because I think what happens when you are a current athlete is a lot of them are afraid to speak out because of the repercussions of using their voice. There is power in numbers, and I think that is what social media has done is show they have those numbers backing them. But I think part of what they need is also former athletes coming back and sort of emboldening them and encouraging them along the way. So are we on the right track? I think in a sense yes, I think there is a movement to give athletes that voice but there's a long way to go I guess is the short answer to that.

**Andrew:** Yeah, we're going to talk about that. I was remiss in not introducing my co moderator, another one of my star students, and author of this report sitting on your chairs, Emily Rollo is here.

Maddie mentioned SAC national student Athlete Advisory Committee. A member of that is Kendall. When you listen to Maddie talk about student athletes and voice and how much things have changed or not, what are your thoughts, Kendall?

**Kendall:** So I think it's a great time to reflect sort of on how far we've come right? A little bit of background, Maddie was the chair when I was coming into SAC, and I became chair when she rolled off. And there was a great deal of difference between the experiences that both of us had. So when she rolled off, we were still advocating for more seats on tables where decision making was really taking place and that's one of the things that lead to adding student athletes on the NCAA board of Directors which was something that we were fighting for, that you were fighting for, for quite some time.

So in terms of what's changed it's a few things. We're seeing more athletes step up to the plate, we're seeing more responsibilities, and we're seeing more reasons for student athletes to be educated and really empowered on what's going on. We're living in a

space where now we have name, image and likeness, and there's a great deal of freedom here but there's also a great deal of responsibility. Because to have privileges that you cannot protect, that you cannot defend it then become a liability. If you're going to use your name image and likeness to monetize that, to profit off that well it's also very important that you understand how to protect it. What happens when someone misappropriates your NIL? Those are really important concepts and so we're seeing a lot of things change.

At the national level we're seeing student athletes step up, we're seeing more conferences and institutions really start to embrace student athletes. Which quite honestly, I don't know if anyone in here will disagree, this should have happened a long time ago, but we're moving in the right direction. And I think that as time goes on, we're going to see even more of this especially as times change, maybe as things start to decentralize a bit, we see the voice of the student athlete. And not just the voice but the real advocacy. Being at the table making some of these decisions and more importantly understanding what's really taking place. For a long time it was this belief that a student athlete or even a former student athlete shouldn't be at some of these tables because we couldn't contribute to the conversations. Now most of you all are in law school or have graduated from law school. Maddie and I have graduated from law school, as has Len and some of our other colleagues here. Just because we were competitive on the field that does not mean that we can't contribute to the discussions, or we can't think for ourselves. And I think that mantra over the years has been insulting at times. And I think now that things are changing, we're starting to see the guard change a little and we're starting to see things really progress in the right direction and I hope it continues.

**Maddie:** I would like to add to that too because I think Kendall and I both saw, we were very involved behind the scenes at the NCAA, and I think where I get concerned about it being a lot of rhetoric is that we're told over and over again "Your voice matters. Your voice matters," but when it came time to actually giving athletes the power of their voice we're left completely off the table. And I go back to when I was rolling off this chair at the last convention I was a part of, the 2014 convention, and it was the last time the NCAA was going through this restructuring of its governance process and in rolling out their plan they had this list of important individuals within college athletics and athletes were completely left off the

structure. And this was after I had spent an entire year as chair of SAC traveling up to all these meetings and talking to people and being told “Your voice matters,” but we’re left off this list. And at the time we had been told over and over again that we were more powerful without a vote which was complete nonsense.

So I think when it comes to empowering athletes, athletes have to be surrounded by people who are actually empowering them and putting them in a position where they can really use their voice fully. Sometimes when you talk about a structure within the NCAA it becomes really difficult for athletes to have that power because they’re reliant on the powers that be to really put them in the right rooms and in front of the right people to have that level of influence. I think that’s why you see so many of the changes be influenced by pressures from outside because I think as hard as athletes work within the structure, I left feeling really disheartened because of how much work our committee had put into changing things and at the end of the money spoke a lot louder and the athletes’ voice didn’t. So going forward I’m always mindful of that, that they need to have actual power and ability to speak out freely and not be worried about what they’re saying and have people around them who are telling them the truth and not kind of warping the narrative and giving them information about certain policies that isn’t necessarily reality and kind of manipulating what they think about certain things that come out.

**Andrew:** Interesting. Jason you’re organizing the sport with the most revenue, the most power in college sports. You’re organizing the players?

**Jason:** Yeah, we’re trying. Just to piggyback off these two comments, the huge issues I saw, I was an athlete advocate as a professor but to me what was so striking was that I felt the athletes were not having representation at the table in all these key decision-making processes. So yeah, it’s been a long road but that’s exactly what we’re trying to do is organize college football players past present and future.

Yeah, to piggyback off Maddie, the former athletes are going to announce a leadership committee next month. It’s current, former college football players. The ones who are two to three years out I think are the ones who are most exercised by creating this kind of external forced for change because I really think that’s what’s needed. I think there’s never going to be enough input on the in-

side of the NCAA for athletes or former athletes that I think having a new institution where leadership is going to take the form of guys who are two to three years out basically. Because I think they know exactly how they want to see the game reformed, how they want to see the student athletes experience reformed and to drive membership and then ultimately create a platform that says, "Yes these are the changes that we want to see in the game." I think that's the only way you're going to get to meaningful reform of college athletics. You have to create new institutions. You have to create new external pressure to bring about the change that I think athletes are best situated to say in terms of what is needed.

**Andrew:** And Crystal you worked on unionization and labor issues, now we have the general counsel saying college athletes should or would be treated as employees- what's your thoughts here?

**Crystal:** So a couple things. If I were here for the first time, I thought I was coming to do a business case analysis for an employer let's just say the NCAA hypothetically and I walked in and I heard what was just said I would say you're ripe for unionization. I'm a management side attorney. I worked for the LRB for 9 years, I worked for the general counsel. I was not surprised to see the memo that was issued. She was deputy during the time that the Northwestern case which I'm sure some of you are familiar with, if you've read about this at all and done any digging into what this panel was going to talk about, that came out of region 13. The now deputy general counsel is Peter Orr he was the regional director in region 13 that issued that decision in northwestern. I was not shocked at all that general counsel Abruzzo went in this direction. That this memo was one of the many memos she issued since she was the general counsel.

I think we're going to get into discussion a little more into what that actually looks like, how possible that is even during her term, or a term that follows that we're going to see a result or change. There's a lot of things that she didn't really go into details in, in this memo. She makes some sort of broad generalizations and some sweeping statement about how she would like to approach these types of cases as they come before her. Notably there's not been any petitions since this came out but again, I agree, and I sit here and I think- I'm a huge football fan, huge huge huge college football fan- and I sit here and I hear this and think if I were coming to look at your business and give me my advice is "You're going to get unionized if you don't do something about it."

**Len:** Andrew, just let me say that the participation of athletes is extraordinarily important simply just because this affects them most directly but they're not the only stakeholders in college sports and really what needs to be done is decisions need to be made. You look at revenue generation that's 3.5 billion dollars and how is that distributed, to whom is that distributed and how is it used? As I said, and this is not shameful self-promotion for the Knight Commission, but we came up with a model that is connecting revenues to the education mission. Remember, congress can step in, congress can create things such as an antitrust exemption to allow any body that is going to determine and govern college sports to allow them sort of an unfettered power to do the things that are right if they choose to do it, but they're not going to do it without a plan. And in many instances that plan may need to kind of mirror the model that we set forth that has transparency, independent oversight of finances etc. That focuses on gender and racial equity as well, that provides broad based sports opportunities which means create more sports and more opportunities for athletes to get a college education. And then the financial responsibility of distributing it for the athletes' education, health, and safety. You know those things are extremely important and it's going to take people from every part of the stakeholder environment to be able to make those decisions. So that's what's going to give us a future.

Like I said ultimately, maybe you're going to need government intervention because right now leadership in college sports is fragmented. The NCAA doesn't control football and its expenditures, but they pay for litigation costs and the costs of administration which is kind of imbalanced. The CFP on the other hand, they don't put any money towards rectifying some of the issues in regards to safety as well as diversity and inclusion. They don't put a dime. We've asked them on penny of the revenue of \$500 million and more that they're going to have in the future. Put one penny towards some of those issues and they haven't done it thus far, so you have a fractured and disintegrating leadership that needs to be pulled together from a governance standpoint in some way shape or form. If that's done, then I think college sports as we know it, that provides opportunities, that is parallel to the education mission, then we'll have something like that. Otherwise we're going to have something akin to pro sports and maybe even worse.

**Maddie:** And I think that's part of the biggest problem, that so much lip service is done to these issues. And I think it's interesting

to watch how NIL has taken off but really the biggest issue in sports is the mental health and safety of athletes. And it's the one thing the NCAA was established to do and it's the one thing they have never done anything meaningful towards. At best right now what you have in the NCAA are best practices, you don't have any rules, you don't have any rules controlling coaches' behavior or any of the things that really directly impact athletes. And whenever these conversations happen it's around money or fear of future litigation, it's never coming from a place of this is the right thing to do for athletes we care about. They talk a big game about it but that's absolutely not what the motivation is for some of these policies and it's a huge problem.

And I think when it comes to how change has happened, I think it's extremely unfortunate that it's taken litigation and millions and millions of dollars spent on hiring lawyers to fight athletes instead of putting that money towards actually helping hire extra people to help with mental health and other things that really concern athletes. Those are not the things that we see money being spent on. Over and over again if you follow where the money is going, it's towards avoiding liability for things and keeping more power in the hands of very few, but it's absolutely not put towards empowering athletes.

**Len:** Real quick example, I just read an article that was probably a little bit dated, but over the last 11 years 500, almost over \$500 million, a half a billion dollars of dead money is out there. Dead money meaning paying coaches who aren't working anymore, who have been fired. Imagine what you could do with a half a billion dollars to address some of the things that Maddie talked about, some of the other health, safety and education issues that present problems for student athletes and for institutions. But that's where we are right now, we're spending money on lavish facilities on exorbitant coaches' salaries and people don't seem to care and that's why more independent voices, more student athlete voices in governance are necessary.

**Emily:** Yeah so, you've all bought up some awesome points that I think we could talk all day about, but one thing that we did want to get to is, Crystal, you mentioned general Counsel Jennifer Abruzzo's memo stating that student athletes should be considered employees. So maybe Kendall or Maddie, you could start us off, but anyone can talk to this. So what do you think ramifications are for student athletes, if they are considered employees at the end of the

day? And then on the flip side of that too, why is the NCAA pushing against this? And is it going to threaten the integrity of college athletics? There is a lot of talk about all of this right now, so we'd love to hear your thoughts on these.

**Maddie:** So a lot of questions there I'll try to hit.

**Emily:** Sorry that was long winded.

**Maddie:** No, I think in terms of the employment status that's going to be a legal question that's going to be decided so whether we think it should happen or not it's inevitable that decision will be made, and I think it will be made first in the 3rd circuit where you have *Johnson v NCAA* right now. And I don't think it's going to happen from the NLRB any time soon or any other kind of path towards this. I think my issue with that is that if you make athletes employees tomorrow, if that status changes none of the underlying problems change. Like it doesn't fix what's really going on, it doesn't fix the representation problem, it doesn't fix the issues around mental health and safety. Those are things and systems that need to be put in place to change what is in many ways a broken system.

And I think it's really easy to feel like that's going to change everything and it's going to fix it but then it opens the door for a lot more questions. How much are athletes being paid? Is every athlete being paid the same? If they're being paid different amounts how about Title IX? How does that get determined? Who is speaking on their behalf? Because when you talk about even organizing it's very difficult to represent all athletes in all different sports in one group. You look at professional leagues you don't have these unions representing multiple sports with different interests. Within the NCAA you have different rules for different sports because there are different concerns, and different financial concerns.

So I think there are a lot of systems I'd like to see in place before that status changes because I don't think the current system supports that in any way and I think a lot of that has to be around how athletes organize and what that looks like. And whether it is a national body or if we're talking about organizing on different campuses. There are way more unanswered questions on that issue than we even have answers so to begin to address that problem, I think it's a major issue. When you look at the practical side, we know athletes spend 40+, even closer to 50 hours and there are many issues around even how countable hours look and all these other

concerns so there's obviously a strong argument for the fact that athletes are employees. They're treated like that and if their scholarships depend on how well they perform and whether they're on the team or not, so you know that issue alone there are a lot of systems that I think need to be put in place before we're in a position to really support that. But again that's something that is inevitable that's going to be decided so I think there needs to be a lot of proactive moments happening.

**Kendall:** Just really quickly when it comes to that situation of the employment status, this status of student athletes, for me the question turns on what is actually in the best interest of the student athlete. You know a lot of us have spoken at volumes today about the voice of the student athlete and the influence of the student athlete and getting a seat at the table and so on and so forth. In my opinion, I think we need to be really focusing on training all student athletes to be able to do these things themselves right?

Part of our problem over the year is we keep asking for power and a voice that we shouldn't have to ask for and a lot of people want to step up and represent on our behalf when the focus should really turn to training us to do some of these things ourselves. Because the football student athlete at the university of New Mexico is going to have one set of values and list of needs and set of demands. The football student athlete and the University of Alabama is likely to have a different one so trying to couch all of us in one bucket is a bit of a mistake in my opinion, and it actually kind of reinforces a lot of the problems that we keep continuing to see which is how do you get a seat at the table if you keep having to ask for one instead of being empowered to understand this issue in and of itself and being able to voice those issues in and of yourself?

So I think when it comes to the employment status Maddie is absolutely right. We have to look at the systems that are in place now and for me it is a question of what is actually going to be best for the student athletes. Why do we want to do it? Where does it go? What does it mean for things like Title IX? A lot of people talk about this future where college athletics is an open market right, free of a lot of these same restrictions. What happens to female student athletes right? What happens to athletes that are in gymnastics and that kind of thing? So I think what needs to happen is people need to get to and ask this question of "What do we want this structure to look like?" If we want a professional model ok, we have to deal with that and if we don't, we also need to deal with the

guard rails we put in place to make this actually work because again, we're still in college, we're trying to get a degree hopefully. So the idea is what are we putting in place, what's making the wheels turn and how do we put student athletes in the best position possible to be successful.

**Len:** If I could really quick, I was going to say that the difference when I played in the 70s and the difference now and there are very many improvements in some ways and many more problems, but the one thing we had is we were advocates for our own education and we knew that we could stand up to a coach and say something. Today it's a lot different, maybe the pressures of the game. So the point about being an advocate for your own education is extremely important.

The other thing, I think, is the inconsistencies that go across the board in regard to employer employee status. You have states that don't allow government employees to strike, so where's the bargaining power for people who play for state universities? And there's a ton of things that create more inconsistencies and more problems from calling student athletes employees than it would solve.

**Maddie:** And I think at the same time too it's important to remember why we're having this conversation in the first place because it didn't happen overnight and I think there are a lot of people, even among athletes, I don't think there's a huge push to completely upend this system. But we have to remember why we're having this conversation, which is since the 1950s the NCAA has used the term student athlete to avoid having to pay worker's comp for things like catastrophic injuries and things athletes go through, and if the NCAA had at any point had budged and kind of done anything that looked at least a little more fair along the way and was in the interest of athletes I don't know we'd be having the same conversation today.

I don't know if we'd be having the same conversation about NIL we're having today because if the NCAA had taken the initiative at any point along the way to do the right thing or to make things a little more fair you wouldn't have people at this point where we're screaming and looking around like "This is crazy. How much more do athletes have to go through and how much more of a gap do we need to see between the people at the top and the athletes and what is fair and what isn't?" That's where we've gotten

to that's why we're talking about this because the NCAA has not changed because it hasn't had to.

**Jason:** And I think too when you look at the case Maddie referenced earlier this is a student athlete who essentially is looking towards employment classification to remedy some of these problems that Maddie just brought up. So there is a way they want to see it as a solution, my concern is the same as the concern that has been suggested here, that I can see this being very much like what happened with NIL. It's kind of like a light switch where we go from one pole to the other pole. Where there is going to be no name image and likeness rights and then we're in the wild west where everything goes and you're just trying to figure out what happened.

My organization has not taken position on the employment classification because we want to hear what an active and engaged membership has to say on it before we take a position. My concern is that, if this does come and I think it's likely to come from that 3<sup>rd</sup> circuit case that it would, not an NLRB ruling, it would happen and if there's not systems and structures in place to ensure that athletes have a meaningful voice in this type of wholesale change, we could end up in a worse situation than we're currently in. I mean employment classification for instance without collective bargaining- I really worry about how collective bargaining would work when we have such a fractured system, state by state, divisions and everything else. So what we're trying to do at CFBPA is organize athletes in advance of this right? I think athletes aren't meaningfully organized in a collective to have a collective voice and get these changes implemented. I really, really really worry about the way in which something like employment classification could be exploited by administrators and others who want to take advantage of it in new ways.

**Crystal:** And I can think of a few ways from a management perspective, if you are going to the table and collective bargaining right? It's a whole different game than what you have right now, and we were talking about this in the back room. What does a collective bargaining agreement look like? Who is the unit? Who is recognized, is it all the football players, all the scholarship athletes? Who is it? Is it a conference, is it a region, is it the entire United States for Division I football? You don't know what it looks like number one, and number two when you get there what are the provisions. You look at typical collective bargaining agreements. How do you deal with things like someone gets injured? Do you have to go to

your second string? Do you have to go to your third string? Are you going by seniority? There are things that are typical in collective bargaining agreements that this won't work for. It's going to be a very unique situation if we ever get to that point.

Very quickly because I know it's way more exciting to listen to Maddie and Kendall but in terms of the NLRB itself, you also in addition to having this employee issue you also have jurisdictional issues for the NLRB. They can't go out and protect people who are working with these state institutions. This was one of the problems with Northwestern, where they refused to assert jurisdiction which is how they didn't have to get to the question of whether or not they were actually employees because they were able to say, "This isn't worth it. This will not help with promoting labor stability because this is one school out of I forget how many it was 14 or 17 in this conference and if anything this is going to make it worse."

So there's an additional step beyond whether or not they are employees, which like you said we are going to hear from the 3rd circuit and then there is going to be a disagreement between circuits although I would argue that the cases that we've seen in the 9th, and I forget the other circuit were a little different because they didn't name their schools as actual employers with the issues. But you're definitely going to have a disagreement between the circuits. You're not going to hear this from the NLRB any time soon, you may get a lower-level ruling by ALJ, but I would also remind everyone who looks at the Northwestern decision that was a 5-0 decision. 5-0 and guess what it was a democratic majority board.

**Andrew:** I think this all begs the question we sort of got into a little bit last panel of what's the future? I mean we had a two-year run up to NIL and I was asked by committees "How should we do this? The guard rails this and that." And then you hit July 1st, they threw up their hands like "We're not." NCAA's like "We're out, you guys handle it." And as we talked about the wild west and now with these collective and boosters it's this close to pay for play so is the NCAA out? I mean where do we go from here with regulation or not of college sports?

**Kendall:** I mean I guess I'll start right? And let me be very clear I do not work for the NCAA, I do not get a red nickel from those individuals. I just want that to be clear. But I will say, I think it's a great question right- where are we going from here? NIL, we've seen a lot of movement over the past two years, but the conversation has actu-

ally been going on much longer than that and I think what's happening now is there's a recognition that this is much bigger than college sports. And I think one of the things that Maddie touched on earlier is if movement happens sooner than you can sort of get more time to work some of the kinks out, right? I think for me my opinion is right now we're seeing a lot of movement, just outside of the NCAA we're talking all over the place when it comes to college sports. We're seeing a lot of movement, we're a lot of movement in the employment conversation, the NIL conversation, gender equity those types of conversations.

But I think a lot of people get this concept of movement confused with progress. Who was it, I think Denzel said "Don't confuse movement with progress. Just because you're doing more doesn't mean you're doing better." And I think what's happening now is we're doing more with NIL but we're not necessarily doing better. Student athletes are still trying to wrap their heads around what this means. College institutions are still trying to figure out what services we can provide to our student athletes without putting us in too much risk, right? We obviously all hear about this patchwork system of NIL state laws and how that gets dealt with at a national level or a divisional level. So I think moving forward and I can speak to this on these committees now because we're having these conversations I think even on Monday. Right now what we're trying to do is figure out how we're going to make this work in the best interest of the student athlete. It's not that people on this committee were throwing up our hands but one of our problems over the years is the NCAA has said it'll destroy intercollegiate athletics, and it won't! So what we're doing now is we're trying to figure out ok let's see how some of this plays out so we can create not just any type of guard rails but the type of guard rails that wouldn't restrict too much movement but would also protect student athletes. And I think one of the issues is I think with NIL is people think you should just let it go and we'll see what happens- that doesn't protect student athletes right? These types of issues are incredibly complex. NIL is playing out in college sports, but NIL is actually a societal issue. This is something that states are trying to grapple with, that's why you don't have a wide sweeping federal legislation on something like NIL. So you have to give individuals time to really deal with this, but you want to give institutions and states an opportunity to tinker with it and find out what actually works. But over the next couple months we're going to see a lot more movement.

**Len:** Real quickly one of the things that we're forgetting is, we keep talking about the NCAA but going forward decision making is going to be decentralized. Simply because of the litigation losses and the pronouncement about antitrust violation. No longer can you have a body essentially conspire to restrict the market so therefore you've got to decentralize, go to the conferences. They'll be making decisions, maybe we talked about it before. Constructing different bodies that are going to have control over different elements of sports. As the Knight Commission we talk about splitting off FBS football into its own conference to be administered by maybe the CFP or some kind of body, so you align like interests. And that's not the first time this happened, back in the 70s they broke the NCAA into three divisions because they wanted to align like interests and maybe something like that will ultimately occur. But overall that's the first place I think we're going to look at decentralized decision making.

**Maddie:** I think too what you have happening is just a complete lack of leadership in a lot of these things and I think you have a system where people don't really want to change. Like they're happy with the way things have been, at least the people in power. And you've had a system that's been very insulating. So any time that the NCAA makes a decision that isn't popular, the schools and conferences kind of wave their hands and say, "Well we're powerless to do anything about this." Same thing when it's the NCAA in the hot seat. "Well we're a member driven institution and we don't actually make any of the decisions."

And then you see something like what happens with NIL where that's the narrative for so long and then they have a loss in Austin where they realize there's no language they can cling onto to possibly hold onto the last breath and then all of a sudden the decision comes from the NCAA level and it's "Well we have this interim policy now on this thing that we kept saying we can't make any changes because we need all of these people to make decisions." And I think where there has been a lot of issues over the years are just how slowly things move and how reactionary the NCAA is, and they always talk about it and I think every time they talk about "fixing the problems."

They talk about being "more nimble" and not being reactionary and being progressive but they don't actually want to take any of the heat, and it comes back to this liability issue that they're so afraid to make decisions and actually be leaders and I think it can't

be an excuse that you might get sued all the time. Any organization is open to lawsuits that is the reality unfortunately, it's a litigious environment now but I think if you start to try to actually do the right things that's how you avoid liability. You don't avoid it by trying to cover up issues that are going on, you don't avoid it by avoiding addressing the issues and if you take a leadership position people can be behind it. But I think you have to be open to change and open to changing the way that you think.

And I just think the NCAA has gotten away with not having to do that for so long and relying on this idea that they had an anti-trust exemption, and they couldn't be sued. So they made a lot of bad decisions over time that became this mindset and this groupthink about "we're the authority on college sports and nobody can challenge us and if anybody does challenge us, we'll just respond with 'well they just don't know what's going on behind the scenes.'" So I think for me that's why when I was done being part of SAC, I started speaking out more because I was behind the scenes, I saw what was going on there. And I think more people who have been in those leadership positions need to be more vocal and need to be the ones who are leaders and not just going with the pack anymore. That mentality doesn't work, and they need to voice out what's really going on. So you are starting to see more of that and you're seeing more athletes be vocal. So I think in order for the NCAA to survive and be in that position and have the privilege of overseeing college sports they have to adapt and make some real important decisions and actually lead.

**Kendall:** I'll say this, and I absolutely obviously respect what you're saying. A lot of that I disagree with though because I think that while, one of the things the NCAA should have done a while ago is they should have come forward and said "listen we got some of this wrong. We got a lot of this wrong. And this needs to change immediately." But I also want to acknowledge that it is incredibly difficult to build a house if people keep throwing rocks at it right? And I think when you're looking at something like NIL. When you're looking at concepts like employment those are not issues that go away overnight and they've had time to deal with it. But now you're looking at a changing of the guard, you're looking at a new system where student athletes have more of a voice. I was one of the individuals, just two months ago I wrote into the NCAA constitution that a student athlete is going to be on the board of governors. It's brand new, it'll take effect in the next couple of months, right?

We have to acknowledge that there is going to be change and let some of that play out. I think there's a role for all of us to play in advocating for the change but then when we see the change happening being supportive and trying to find a way to make it work.

**Maddie:** I think too where I would agree with that in part is that especially with NIL now you are seeing a lot of changes happening. And so you're seeing people be more vocal and think differently. I think where I disagree is in giving too much time and giving too much weight and excuses and allowing those excuses to be made because I think that while moving forward really quickly with the employment side of things- and I would like to see how NIL shakes out there a little bit more before that change gets made- there are a lot of excuses that get made by saying "Oh these are really complicated issues these are this these are that." Yeah they are but at some point you've got to move forward and realize what's happening.

**Len:** I think we keep forgetting though that once again precedent is constraining the NCAA from making those hard decisions because of the idea of colluding. So that's why decision making is going to be decentralized. What we have to figure out though is that \$3.5 billion. How does that get distributed? That's going to create change and a lot of that change is not necessarily for just the revenue generating sports, it's for all sports. Revenue generating sports may drive the bus, but the other sports certainly have to have a say in the direction in which it's going. So the bottom line is there will be an administrative and a rule setting and maybe a conceptual development of what college sports has to be by the NCAA but again they are constrained by the antitrust losses that they've had. And I don't think that's going to change.

**Maddie:** I think that's also where schools need to be leaders too, right? Because schools wave their hands but these are academic institutions who realize that there are many issues including with the way that their athletes are being educated and they're not really motivated to fix those things because they're more motivated by money so it's more than just the NCAA it's all of the players involved that need to step up to the table and actually make those changes little by little.

**Andrew:** Our time has flown by. I can't believe how fast this hour went, but final question for Len which everyone is wanting to know

is college basketball analyst for CBS how do you like our chances against Kansas?

**Len:** Unfortunately you've got a point guard who is gone, second leading scorer, but you know it's always next man up and I've known Jay for a long time and guys get prepared. They've got a good chance to play as long as they control Temple, squeeze the clock, continue to play with some discipline, they've got a good chance.

### PANEL 3: MENTAL HEALTH AND SAFETY OF ATHLETES

**Andrew:** On the issue of mental health and sports, it's going to be an issue that's not talked about a lot up until recent times and we're happy that it is and it's something we thought we should deal with this year and our student leaders were very emphatic about including this topic in our symposium. So here we are, our guests include. Sharon Maling from Morgan Lewis, always appreciate Morgan Lewis being with us. Ari Miller from Vermont but now Johns Hopkins, right? A lot of background in dealing with mental health and performance. Dr. Alfiee, that's what I'm told to call her, Dr. Alfiee of the AAKOMA Project. She's a mental health whiz that has been all over social media. I follow her, you should too, and we'll talk about her project with Lady Gaga as well. And the man who needs no introduction, Brian Westbrook who's had a little bit of a career here in football and it's great to sort of again start Final Four weekend with someone like Brian. Go Cats, right Brian? And joining me is another of my star students Dani Bland to co moderate. Let's welcome everyone.

And Brian, I'll start with you because I just mentioned it. This is something that didn't get a lot of attention years ago and probably when you were playing and certainly when you were playing as a college athlete here at Villanova. Now it's a little bit more mainstream people are talking about it. We have Dr. Alfiee out there, we have mental health performance at colleges, that's good right? And you're seeing this from a different perspective as when you played.

**Brian:** Well you know, first of all thank you so much for allowing me to be here. It is totally different. Now I graduated from Villanova in 2001, which I don't know how many years is that? 21 years that's a long time ago now.

**Andrew:** You're still a baby.

**Brian:** So these grey hairs are earned! When I go back to college and think about what was mental health at the time, there really wasn't. Back in the day it was "Your job is to go play sports and no matter if you're healthy physically or mentally healthy your job was to go out there and play sports." If you didn't go and do your job, then "We'll just go find somebody else to go take your job." So there was never a consideration of, especially back then, of what is best for you mentally or quite honestly physically. And physically was a little bit more, they were more concerned with coaches and other players were a little more concerned physically because they can see you limping right? But the mental side was the part no one knew you were struggling with, that no one even considered. And when you compare it to today, we've come a very long way. Today, we have athletes that say "I need time out. I need time away from the sport."

This is the hard part about a sport. And I'll speak about the NFL and football and general. Really, it's all sports, but professional sports in particular, you're getting paid to do a job. And the only thing that they're concerned with is you showing up every single day and it's all about "what have you done for me lately." You had a great game last week, you had 200 yards rushing but if this week you only had 50 that means we're talking about trying to hire somebody else to take your spot. So that pressure, that stress every single day to perform, every single week to perform that just overcomes you. And at some point, you say ok, I have to overlook injury, physical injury as well as mental stress and injury just to go out there and perform. And in the NFL, unfortunately contracts are not guaranteed. So as soon as you stop performing, at that point, your lifestyle, your living, your money, your bank account all that's in peril.

And gladly today we have athletes that are willing to say "Enough is enough. I need a break. If you want me to play 17 games in the season, I need two weeks off just so I can mentally prepare for that. If you want me to play in the tennis championship I don't want to be stressed out, I don't want to be all these different things. I need some time away." And I'm just glad that our athletes have finally taken a point and said "Enough is enough. We want to take some of that power back so we can control not only our body but the mental side as well."

**Andrew:** Ari you're doing it on the college side, Brian just talked about the pro side. What are you seeing among college athletes?

**Brian:** Well certainly it's wonderful that this conversation is even happening, and I think the narrative is changing on all levels for all athletes and I think specifically for student athletes coming off of two years of the pandemic is sort of the biggest area that I'm working through right now. We're sort of processing all of the changes that happened in the last two years for student athletes around seasons getting cut off, being sent home in the middle of 2020 in the middle of a season, eligibility questions, anxieties that come from long breaks without playing or being removed socially from their teammates, from coaches. So I think the pandemic has certainly raised anxiety levels. It has increased social isolation. Now student athletes are readjusting to being back with teams and being back in competitive spaces and that's been challenging. I think certainly having professionals, having avenues to talk this through and get support is essential for student athletes. There were already plenty of pressures that student athletes were under from all angles to perform, to be at a certain level, at a very consistent rate. Now they're doing it as we've all sort of been challenged without lives over the last two years with this unexpected uncertainty they've been living with which I think I've seen an uptick in anxiety and just a lot of challenge around reintegrating into sport.

**Andrew:** Dr. Alfiee you keep nodding your head, this sounds very familiar to you, correct?

**Dr. Alfiee:** Yeah, I am listening to my colleagues and all of the things that they're naming that are specific to either being a college student athlete or a professional athlete and I'm also thinking about for our young people, everything that they bring with them outside of that, that impacts their mental health. So you have a lot of young people who are coming into college- I have a friend who runs a, he's not a good friend, but he's a great guy his name is Humble and he runs a sports agency out in LA and he says something to me a couple months ago, where for some of these young people- I hesitate to say men and women because we have non gender conforming folks and transgender folks who perform in college athletics as well- they're carrying the weight of their families' expectations. Because some of them already coming into college are set up as the breadwinners for their family and all the family is looking for them to do great things, right, so they can help lift everybody up right? Maybe not necessarily out of poverty but they can elevate the whole family. And I can't imagine having that kind of pressure on me and still having to perform.

I also think about, we talk about the context of the pandemic and within the pandemic we've had a lot of conversations around racial and social justice. So I think about young people of color who have watched some of these things unfold on television and heard about these things, and seen these things in their communities and had disproportionate impacts of Covid in their communities. And within the context of having to perform you're also carrying all of that.

And so I hear my colleague Mr. Westbrook with this idea that it's wonderful that we're now in a place where young people feel empowered to talk about it, but I also don't want to lose the recognition and importance of acknowledging all the people who fought for us to be in a place for them to be able to have that space to talk about these things right now. So I think about not necessarily athletes but people like Mary J. Blige who like 15 years ago was talking about being suicidal and, as a black woman, to say that what she did was sort of set the stage for the Naomi Osakas today and Simone Biles to say publicly "I don't want to do this because I'm not in the right headspace."

So I'm listening to this and I'm just thinking about I couldn't imagine what it would be like to be a college student in this day and age and the kind of additional pressures our young people deal with. So that's what a lot of the nodding was about just acknowledging and thinking about all the additional layers that our young folks are carrying with them nowadays.

**Andrew:** And Sharon you do a lot with workplace issues in this space, tell us about that.

**Sharon:** Sure, I mean I think that the parallels between people with mental health challenges in the workplace and student athletes and professional athletes dealing with mental health challenges in the sports context. There are a lot of parallels. I mean I've been doing disability rights work for 30 years now and when I first started HIV/AIDS and any sort of mental illness, those were the two most stigmatized disabilities by far. People did not acknowledge that they were struggling with mental health challenges, be it depression, be it anxiety, be it OCD, you could go on and go. And over the past 30 years, I think you're right, we have seen a total shift in terms of people feeling comfortable talking about what they are dealing with. You know there's a concept in the disability community called disability pride, similar to gay pride where people are talking about

their whole selves including their disabilities and what they need and asking for what they need.

So we're seeing that in sports, and I think that permeates to the workplace, it permeates to the education setting generally. If you have public persona who can come out and talk about what they're dealing with that will inspire other students and other people in the workplace to say "you know, I'm struggling with this too and I need these supports also." So I think sports plays a really important role not only for the athlete but basically everyone in society right now.

**Andrew:** Dani?

**Dani:** Yeah, so this is a question kind of for everyone- what are ways that we think our colleges or even professional teams can be doing for our athletes to prepare them for a transition outside of sports? And maybe some of the identity issues that come with being valued for such a long time on just what you do on the field. Because again, athletes are a full person, and they have all these other traits to them as Dr. Alfiee has pointed out. So how can we better prepare our athletes for some of the identity challenges they may face?

**Brian:** The first thing is how you start is you start having the conversation and if you don't have the conversation which, again back in the day the conversation was pushed to the back because we didn't want to acknowledge somebody's issues because we didn't want to have to deal with them. And you didn't want to have to deal with them because at some point you say that player, that person may not be available to go make money which is playing on the field. So acknowledging it is number one the biggest issue.

I'll never forget, this might have been my first or second year in the NFL. So we had this guy, we had the training room so we have tables all around and there was just this guy sort of walking around and kind of talking to people, but I didn't even know who he was. So I asked one of my friends "Who's this guy walking around?" He said "Well, he's the crazy doctor." He was actually a sports psychologist, but it was like "He's the crazy doctor," so if you're crazy you go talk to him. So through my 9 years in the NFL I never talked to him, but the reality is if you have these conversations about how to better yourself, you have these conversations about mental health, how to change things then athletes will at least start looking within like "Hey am I having this issue? Am I having these problems?"

I think back to some of the athletes that, and I say it all the time “you never know what someone else is going through.” And there are some many guys, one of my great friends Brian Dawkins, we played together for 8 years, and I never knew he struggled with mental illness, I never knew that. One of the best players in Philadelphia history, in NFL history, I never knew that, and I was his best friend on the team. That’s how hidden things were. That’s how people kept things inside of them because they didn’t let it out. And if you let it out, especially in a sport like football but really in all sports you’re the weak link and the last thing you want to be is the weak link.

So you have to be in the conversation somewhere. You also have to give these men, these young people, and these women as well the opportunity to express themselves. You have to give them time and that comes back to the coach side. The coaches have responsibility too. The mentality should be “I want the healthiest, Physically and mentally healthiest player on the field for me at all times.” In order to do that I might have to give up some of my time as a coach on the field to make sure they are getting the mental help, the physical help, the best they can possibly get. And unfortunately these coaches generally do not want to give up their time to make sure their kids or their adults are better and that shouldn’t happen anymore.

**Ari:** Well that example that you gave is sort of where this conversation has gone over the last decade or so around changing the overall feeling and destigmatizing mental health and mental performance services. I think panels like this, high profiles athletes being open and honest about their challenges that they’ve gone through have totally changed the playing field for access and understanding of what these services can look like for student athletes, professional athletes. That working with the mental health professional, talking about the mental side of sports actually can be a competitive advantage. It can help you sustain their career or help you process transitions like back from injury or the end of career, the beginning of a career. So it’s essentially entirely changing how we look at these types of support systems in that they are just one piece of the puzzle. You work with your strength and conditioning staff, you work with your training staff and then you work with a mental health professional because that is just one element of your overall sustainability and health as an athlete. It is drastically changing from “Only talk to that person if something really bad is going

on.” It’s now part of the full, sort of holistic approach to supporting athletes.

**Andrew:** Go head Sharon.

**Sharon:** So the department of labor just launched a whole campaign about mental health in the workplace and they have this rubric of the four A’s. And when I think about what can schools do and what can sports organizations do, I think it just provides a really nice framework. So they talk about awareness, just what we’ve been talking about. What are mental health issues? Mental health itself is a spectrum. Just because you need mental health support doesn’t necessarily mean you have a mental illness, but it may help to talk with someone. There may be resources. So there’s awareness.

There are accommodations and we can go into the whole legal analysis, but is a person entitled to a reasonable accommodation such as not having to talk to the media. Or not necessarily having like, Royce White having to fly to a game but getting to drive to a game instead. What are those accommodations that will allow the athlete to compete at their highest level?

They talk about assistance so again what are those resources? Putting people in touch with the resources they need, be it a training, be it a hotline.

And then finally access, access to mental health treatment because a lot of students don’t have that right now. A lot of professional athletes don’t have that right now. How do you hook people up with the mental health providers that can provide the support they need?

**Andrew:** Dr. Alfiee you talked about the big names Osaka and Simone Biles. So much in the public there was support out there, but as you know, some of it was not supportive. Some of it was like “How could they do this, what they can’t talk to the media for ten minutes?” Or “Simone Biles been doing this since age 3 and she can’t finish a performance?” So yes, we are destigmatizing everything but there is still that- how do we change that perception?

**Dr. Alfiee:** There’s a lot of it and so I think it’s the idea that we empower people with the tools, and we provide wrap around for people so when they do speak out publicly they feel they have support. The two people, the two names were already at the top of their game, so I think there’s a little bit more buffer for folks like that if they decide they want to come out. If Naomi Osaka given as

much money as she made last year, if she decides to sit out financially that's not necessarily going to be that difficult for her, right? For Simone Biles what else can the woman do? She literally has done everything you can do in that sport and so when you're at that level as my colleagues were talking, I was just processing that a little bit. It's not easy but they have a little bit more cushion.

I think our job is how can we empower young people, and not so young people, to know that if they decide they want to come out and speak on it, what kind of supports will they have? So for me some of those supports have to do with "Do we have a clear understanding about how different racial, cultural ethnic groups conceptualize mental illness?" Everybody don't look at it the same way. In many communities of color people don't think about these things as biological. We have all of these solutions, ok give them a pill. You'd be hard pressed to get many people in communities of color to take a pill because many of us- not all it's not a blanket statement- do not conceptualize mental illness in that way. We conceptualize it often as a weakness or failing. So in Black and Latinx communities you just have to pray a little harder. If you pray harder God will fix it. And I think we are not able to hold those concepts and share with people things like what I call, what we all call cultural competence which I have to say is not you know every single solitary thing about every single solitary culture, that's not what cultural competence is. It's about approaching and creating a welcoming space for every patient or person who comes and sits in front of you. That's cultural competence.

So I think if we can infuse those kinds of ideas into the conversation so that people, I always talk about people need to feel seen, they need to feel heard and to stay out of ablest language they need to feel valued. If we can make people feel like that, I think that creates the circumstances to allow people to feel like maybe I can lean on this person to share a little bit with the.

So I'll say quickly my brother played college football and he's a little bit older than you, so it was 25 years ago maybe. And I think had he had someone- not that he necessarily had any issues I'm just thinking about like his team and where he played, when to an HBCU so it was a whole different context- but if you have the right people in place in those settings. Someone who looks like, thinks like talks like, can relate to, I think it makes it a little bit easier for people to feel like this is a place I can go. Because access isn't just about money, what hours the place is open, do they come to you, or do you come to them access is also about what I get when I show up.

"Is this person going to understand me? Are they going to be able to relate to me? Am I going to have to explain my whole life story to them?" And so I think if we can create those kinds of, it's like a perfect stew. If you create the right stew the people will come, and I think some of our struggle is we don't have all the ingredients. We have pieces and we don't allow people to show up as what we talked about in my nonprofit as their full, authentic, and unapologetic self. So if we can create spaces for that I think that can ease a tiny bit of the burden and reduce some of the stigma so people feel they can come out and talk and speak about these issues without having to have the buffer of being rich and famous and successful in their sport.

**Andrew:** A question I have is, sports is such a cutthroat business as Brian knows even being one of the top players and as Scott and I talked about. So many players for so few jobs. So again, giving a team a reason to go to another play, I guess how do we get past that? How do we get past "Oh I can't tell them about my issues. I'll be benched. I won't get to play." Have you dealt with that and how do we break that barrier?

**Ari:** Well, I think it starts from a leadership perspective in that, within the college athletic space, having athletic directors, coaches, assistant coaches understand the landscape and be educated on the mental health spectrum that was mentioned before. I think there's so many incorrect messages around mental health and around what that really means that it's an education piece first and foremost, for coaches and administrators to understand the plight of the student athlete, what an 18- to 23-year-old is going through right now.

On top of that I think it's having the ease of access for student athletes and having them sort of organically discuss how that work benefits them. Where it's a slow burn a bit and it takes some time. This is the second program I've started at a university. I started it at University of Vermont and now I'm at Johns Hopkins and one thing I've seen is by embedding mental health professionals and limiting the barriers to entry the narrative around mental health and mental performance slowly changes. So we're talking about it differently we're articulating the value of it differently and I think over a long enough timeline with buy in from coaches and from leaders it starts to slowly move away from the idea that well "I'm not fit to compete, I'm not fit to be in this competitive space." You can simultaneously be working on your mental health, have challenges, and compete at a high level at the same time, and I think the more

we talk about it like that, and we sort of allow people to bring those thoughts and feelings to the surface, big picture that stigma will slowly dissipate.

**Sharon:** I think it's also just seeing what happens. So if someone does come forward and talk about their mental illness, are they kicked off the team? Are they supported? With each person that comes forward and is does not suffer harmful consequences, that will make the next person feel safe. So back to the role of the coach, creating an environment where people feel psychologically safe, where they feel like they can speak up, where if they do speak up, they are supported- that's going to make the difference and it's not an overnight process. It's going to be slow. It's going to be incremental change but given what we're dealing with right now where we're having so many athletes committing suicide, suffering from depression, suffering from anxiety, we need to create that culture. There needs to be support all across the board.

**Brian:** What's been interesting here, we've kind of seen it here in Philadelphia and I kind of think we haven't crossed that line yet- Lane Johnson and Brian Books. Two of the biggest guys you'll ever know, like literally big Lane Johnson is huge. And both of them sat out a bunch of games because they weren't mentally prepared to play. And here's the problem, they're started, they're pro bowl players, they're all pro type of guys. What if you're the 53rd guy on that roster? What happens to that guy? That's the question that really, we haven't crossed that bridge yet. If you're that last guy on the roster or you're teeter tottering whether the coaches like you or not do you get that opportunity?

And we need to get to this space, and I'll never forget I was talking to Andrew Reid just about philosophy. He said, "Listen I get on the guys all day long every single day throughout the week but on Sundays I don't say anything to the guys because I want the guys to be free." And I've been in spaces before where the coaches are talking to you and say, "I don't want the guys' minds to be jumbled up." Until we have coaches that understand to your point what mental illness is and just mental fatigue is, and they are able to put that on their players and allowed to understand what those players are going through, then we may never get to the point we need to be at. The coaches, the general managers, the owners, they all have to own part of this and if they don't then it can never trickle down to the position coaches, the trainers, and other players on the

team. So it starts at the top and of course it trickles down throughout that process.

**Andrew:** Dr. Alfiee I see you nodding.

**Dr. Alfiee:** I guess I'm just struggling with this idea of you know what my colleague here has just said. If you are at the bottom of the food chain and you're struggling where is your help? And so I start to think about what are some of the potential strategies and solutions. And some of it is the- I hate to say psychoeducation because I don't want people to sound like they're ignorant- but it's raising awareness, right? We have to help people understand what is that continuum. Everybody is somewhere on that continuum. So we may be looking at that third string running back or quarterback. My brother played linebacker so let me say third string linebacker, though he was a starter. And if you are that third string person or you're the person who's trying to get onto the team or God forbid you want to be a walk on in college and you're trying to get there, you're fighting to get there, where are the opportunities for things like prevention. Where do we start to talk to people about here are signs and symptoms so if you start feeling these things and it lasts for this period of time, you should talk to somebody.

Or where are the alternatives to going to see a mental health professional because again I come back to this idea, different cultural groups do not enter into the immediate idea "let me go talk to the psychologist, the clinical social worker, the psychiatrist." They may never get there so what are the other opportunities. So I have a, he's not a close friend but he's a good friend, Ryan Monday he played for the Pittsburgh Steelers. He has this whole new app and platform called Alchemy Health. Alchemy Health is all about mindfulness, meditation, sound baths and things like that. And so how do you provide those kind of tools and resources to young people so that you can help teach them how to self-regulate and manage before these things get out of control. And I think if we can even do those kinds of things, no it's not going to help the person who is in the throes of suicidal ideation in the moment, but it certainly can help the one where maybe there's a family history, they can start asking around in the family. "You remember Uncle Joe I remember some stuff was going on with him, what happened to Uncle Joe?" And they can be aware themselves so that when things start creeping up it doesn't catch them off guard.

And I think that's often what happens to young people, they start feeling this stuff and they don't manage it, they don't know what to do with it, they try to play through it. We hear about powering through stuff, my dad was a coach I used to hear it all the time "Power through it." And we have to stop telling young people that. We have to give them some tools to help them manage it so they're not feeling compelled to power through. And I think those kinds of other alternate forms of care. That's why I'm sitting here and nodding my head. Because everything is not you either don't go and you suffer, or you go to see the mental health professional. There's a lot of stuff in between that we never talk about. That's kind of just what I was nodding my head about.

**Dani:** So you've spoke a little about raising awareness and having conversations, but when you do have these athletes who do come out and do share their stories, how do we help them deal with some of the feedback and criticism they'll get on social media over that? Because you know that Simone Biles, unfortunately, for as many supporters as she had when she spoke out, she also had a million people saying, "You're a quitter, you let your team down," and things like that. So how do you support athletes through telling their stories? Even if it's just on the small team level how do you support them?

**Dr. Alfiee:** Don't read the comments! Don't read the comments. There's a button called "mute" and "restrict" and blocking is your friend. I'm quick to block people. And so I think, especially for Gen Zers in particular, maybe younger millennials and Gen Zers there's this idea that everything exists, exists because of social media, or my whole world is in social media. It's not IRL, I think that's what people say. It's in social media. And so I think a part of it is us teaching and sharing the message that we have to have some restraint. So I believe I went on my first social media break ever last week and it was supposed to last a week, I think it's going to last a month because it was such a relief to not be bothered with any of it. Checking likes, checking views, I was just so happy to not have to deal with it.

So I think there are healthy ways to use social media. And one of the things that I really like is in the Big East every year they do a mental health training with the male and female basketball players. And one of the things they talk about is social media management. How do you respond to people when you see that stuff? And I don't know why people don't do that everywhere. That is something all athletes, all young people should get that, older people too. So I

think part of it is teaching people behaviors and having them practice behaviors so that they understand there is something that you can do. I had to have somebody tell me you could put people on mute, I knew how to block that's easy. But I think if it can start there, and we can teach people something. y daughter taught me about this idea of taking all the apps off your phone for a period of time. Of course you can do it, but you never think about doing things like that so at the age of 16, 17 she just took it off her phone for a year. And I think if we can teach people, maybe not that drastic but little things like that. I feel like it's not enough to say stay off social media, not enough to say, "Don't read the comments." You have to give people the tools for how to do it and I think those are some of the ways that I try to share with people that I try to follow myself for managing that. But it's not easy.

**Andrew:** Yeah, Ari you must see the impact of social media directly with your clientele.

**Ari:** Absolutely and this is a pretty common conversation that I have in my individual sessions, in my team sessions, in groups or even as I consult with coaching staff around the changing landscape with social media and how it influences student athletes. I think, unfortunately, with a space that is so uncontrolled and there's so much information funneling in and out of it you are going to come in contact with things that are difficult for you to see about yourself or that raise your anxiety level and put you into a very ego involved mindset where you're deriving your sense of self-worth through your comparison to other.

And I use that as sort of a jumping off point for a lot of my individual work with student athletes around understanding your motivations. What's intrinsic, what's extrinsic, how can you define your motivators and from a more task involved mindset where you are focusing on what you can control and being aware of the emotional response that comes from checking Instagram and seeing the number of likes positive and negative? I think it raises, there's plenty of conversation to be had about how that affects us emotionally in both directions.

So in terms of your question around sort of the exposing openly what you've gone through I always try to support student athletes if that's something they want to do and help them articulate and effectively communicate that message whether it be just to their team, just to their coaches or if they want to do it publicly and

then work with them on whatever the challenges are and give them a safe and open space to talk through how it feels to be that vulnerable. And I think the more that we can promote vulnerability, even if the aftermath of it is challenging, we're going to give people a chance to be their true selves more often than not and I think that's a good step in the right direction.

**Andrew:** Brian, I'm sort of reminded, we've had these same conversations 6, 7, 8, 10 years ago about another topic: Concussions. Like no one wanted to come forth about concussions and they were the silent injury. You don't see people limping around the field, it's silent. And players bombing their baseline test in order to be able to play and we progressed on that. And concussion awareness is way past that and people are reporting concussions and staying out longer, no repercussions, no stigmas. So maybe that's a guide, maybe that's a guide to where mental health goes.

**Brian:** I sure hope so. It's unfortunate that it has happened this way, but I think that's just the way the sports world has happened. When the stars of our sports start to go through things like mental illness, concussions, that's when the whole sports landscape takes notice. And unfortunately, we live in a society that says "You suffer from that and since I don't suffer from that I'm judging you and I'm looking down on you."

You know I'm raising 3 kids and my oldest is 8, 5 and 3. My 8-year-old she thinks that world you're talking about in social media, that's the real world. So it's my job as her dad to teach her that's part of the world, but it's not the real world though. And let me explain it to you and I think as we continue to raise these children, continue to try to help these young athletes and older athletes we have to explain that to them too. And part of that is saying, you're right, unplug from social media, unplug from other people's opinion.

At some point I was, and you know I played a while ago now which is weird to say, I didn't really care about anyone's opinion because I knew. And I'll give you an example. In Philadelphia we used to have writers who used to get after the coaches get after the players, it was dog eat dog. Les Bowen used to come here, I hated Les because he would always talk, I felt like he would try to separate the team from the players and at some point you build this callous that says "I don't really care what that person says, but this is what I do know, I know how I play because I can watch the film and I'm

the one playing.” So he can’t tell me something about myself or my game that I don’t already know.

Our children and our young adults need to understand that too. You can’t tell me who I am, I know who I am. There’s a self-awareness issue that our kids need to continue to build upon and that’s work. The kids need to put in the work and parents need to guide them through that work and sometimes that’s hard to do because we guide them through a whole bunch of stuff. I’m thinking about my kids now, I’m guiding them through a whole bunch of stuff, a lot of stuff that I didn’t have to worry about that they’re trying to figure out right now in their world. And this is an 8-year-old, a 5 year old and a 3 year old and you’ve got a 42 year old dad, I don’t even know how to do the damn third grade math and I can’t help you with anything else and so it’s a struggle. But it’s part of life and that’s what I think, as we continue to get better, as all of us continue to get better, we’ll have better children, a better society because of it.

**Andrew:** Dr. Alfiee, what did you do with Lady-

**Dr. Alfiee:** I keep hesitating because I feel like easily- you all can tell I don’t like to talk- but I could easily just take over the whole conversation so I’m just trying to pace myself and be good and behave. And as you’re talking what I’m thinking about is sometimes it’s hard for parents and caregivers to do that guidance for their kids because they haven’t done it for themselves. I’m Gen X so we think about Gen Xers and older, these were definitely not conversations that we had. So how do we have these conversations with our kids when we haven’t had the conversations? So I think so of it is building the capacity to, pardon the phrase, teach an old dog new tricks. How do we build the capacity for folks who have never been taught about these things or never been made to feel these conversations are okay.

So I’ll give one example of how the conversations aren’t ok and the messages Gen X people and older people get. And those conversations are, we did a study a long time ago, probably like 30 years ago, and this woman said, in response to a question about why is there so much stigma against mental health in the black community. She said, “I’m already black, I’m already a woman, I don’t know if I’ll need to be crazy.” And I think that’s people’s attitudes. The more identities you lay on a person the more people feel pushed out to the margins and I’m always talking about what can

we do to bring people back to the center and part of it is I've heard everybody say up here normalizing the conversation. And how do we normalize the conversation by watching some of these, like you said, the big stars, when it impacts them then it feels a little safer for the rest of us?

But in the interim, it is also demonstrating like you all have also said that the president down to, we used to call them, environmental services when I was on faculty at Duke, that everybody has to be made to feel like they say, "It's ok to not be ok." And we have to put our money where our mouth is in terms of making sure that people have culturally relevant, culturally competent, diverse sources to go to when they need the help. It can't be that we have one team psychologist, one performance professional and you've got a team that's very diverse and that person they ain't diverse, because they not going. So I think if we really want these things to change it is doing what all these amazing students and faculty and staff, and you as the director have done here today, allowing us to have these conversations. Because somebody will walk out of here thinking "She said something about diversifying the staff, we need to go recruit." Or somebody else heard "We'll give the athletes an opportunity to be with each other and teach them how to have peer lead conversations about mental health because they'll listen to each other. We don't need to be in the room all the time." So I think it's little things like that if we can do those kinds of things on a regular basis.

The final thing I have to say is we have to fund this stuff. We have to find money to give these kids opportunities to have these. So simple things like having a budget- a have a girlfriend who is the senior, I don't know her title, but she's the senior mental health lead at Temple and they have a budget where they can provide food and stuff for the young people to sit and have the conversation. Or they can offer the space. They have these sleep pods, the coolest thing they have these chairs like an egg, and you can go in the pod and chill out, block out all the noise. When you create that kind of environment what you're telling people is your physical space is set up for you to know that we care about your mental health. And if we don't do those kinds of little things, I think it's harder to sell the message that we care about our student athletes and our young people's mental health. So that is what I was sitting here thinking about.

**Sharon:** Can I add one other point, because we're sitting here in this beautiful law school? We can't forget the role of law, in particular the Americans with Disabilities Act in terms of how do you change things. There is attitude, there is culture, but the law has played a role also. Where athletes now are standing up for their rights, they're asserting their rights under both section 504 and the ADA. We're talking confidentiality we're talking the right to accommodations. For those of you who might remember the Casey Martin case where was it a fundamental alteration to use a golf cart in the PGA tournament and the court ruled no it wasn't. That was premised on the ADA. That was an athlete standing up for his rights, taking on a big organization and saying, "You know the law supports me." And so I think another resource in terms of education is also about what are athletes' legal rights. And I think with this focus on mental health we're probably going to see more in the legal sphere start to develop with respect to mental health.

**Brian:** You know I think that's so important because I'll give you one quick example. There's this ride share deal for the NFL, I'm sure the NBA has it to. So let's say that players are out on Tuesday night, they're drinking, they can call this number, app whatever it is and get a ride home for free no problem. The issue is none of the players use it because-

**Andrew:** The management would find out?

**Brian:** Yeah, the team would be like "Oh shit he's out on Tuesday, every Tuesday night he's out drinking," so none of the players use it. And that's almost like the mental health side. The players don't want to use some of the things they have in house to help them because they're feeling like at contract time the first thing they're going to bring up is "you know you have this mental health issue," or "you have this drinking issue, every Tuesday night you need this ride home." And that's a huge issue for athletes where you have a ten year window to make all the money you can. That's a huge fear.

**Andrew:** Once again time has flown, we're out of time. Thank you so much!

#### CLOSING REMARKS

**Jackie Gillen:** Hi everyone, thanks so much for your attendance today at the 2022 Jeffrey S. Moorad Sports Law Journal Symposium specifically speaking on the Era of the Empowered Athlete. Wrap-

ping up there are a few people I would like to thank for the success of this event and our program this year. First, thank you Jeff Moorad for funding and supporting the Moorad center. With your generosity you've given students like myself and many others in this room and opportunity to dive deeper into Sports Law and to develop leadership and professional skills. We're all very grateful.

Next I'd like to thank Morgan Lewis for your generosity and your sponsorship of the event and the panelists that you had come today. You were fantastic.

I'd like to also thanks all of our Villanova staff and students for helping coordinate and put on this event. Starting with Dean Alexander, and our administration. Thank you so much for your continued support in hosting this event every year.

Professor Brandt, our executive director, thank you for your guidance and your mentorship this year, it's been a wonderful pleasure working with you.

Nicole Garafano, your help and the help from the event planning team has been instrumental in putting this event on and I'm convinced there is no challenge you guys can't overcome in event planning. You guys have been amazing to work with.

I'd also like to thank Lili Flores. She's our managing editor of symposia. She's taken on the lead role of planning the event. Completing this feat on top of other law school activities is impressive at the very least and I just want to say we're all so appreciative of the work you put in. Thank you Lili.

I'd also like to say thank you to all our student volunteers, you guys have all been around today. You've all been helpful in making sure everyone is where they need to be and I'm very appreciative for all the work you put in today.

Lastly, I'd like to thank our panelists. Thank you for coming from all over the country and speaking on these sports law topics. Your panels were absolutely incredible today. And for members in the audience if you have not seen, our panelists have also sent items for further reading that is linked on the Eventbrite. Thank you and go Cats!