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**Athletes as Television Celebrities:
Why We Watch; How They Benefit; Must They Be Responsible**
Sherri Burr*

I. Introduction

Celebrity status can accrue to an individual for a myriad of reasons. Indeed, there appears to be a continuum of types, from those who become famous for being famous (the no-talent types like Zsa Zsa Gabor and Paris Hilton) to those who accomplish monumental feats. Celebrity athletes fall into the latter category for the most part. We know them because they achieve beyond the expectations of ordinary mortals. The exceptions for athletes, such as an Anna Kournikova who became famous for her looks without winning a tennis tournament, are rare. Even when fame is suddenly thrust upon athletes, as it was to the Rutgers Women's Basketball team in April 2007, usually they first attracted attention due to their on-court achievements.

Television popularizes sports competitions, bringing football, basketball, baseball, and tennis into our homes and permitting us to watch superstar athletes performing at their highest levels. We vicariously experience the thrill of victory and the agony of defeat as individuals who dream the impossible dream make their visions realities or fail in their quests.

This chapter addresses a number of issues associated with athletes acquiring celebrity status based on their television performances. It first discusses what draws the public to watch sports on television and follow the lives of athletes. Second, this chapter highlights the benefits and burdens that athletes receive and endure from the public participation in their sports as observers on the field and off. This section will also highlight athletes' rights to privacy and to publicity. Finally, this chapter addresses the responsibility of athletes, both amateur and professional, to behave in a responsible manner both on and off the court.

II. Why We Watch

In an interview with sports commentator Ian Martin (610 "The Sports Animal," Albuquerque, New Mexico), I asked him, "Why do people watch sports?" He answered that there were three primary reasons: (1) athleticism; (2) athlete's heart; and (3) entertainment value.¹ Let's examine each in turn.

A. Athleticism

The *New York Times* ran an article in March 2007 called "How to Grow a Super-Athlete."² The author Daniel Coyle asked "What is talent?" and concluded that hours of repetitive

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¹ Interview with Ian Martin, Sports Commentator, in Albuquerque, New Mexico (Apr. 11, 2007).

² Daniel Coyle, *How to Grow A Super-Athlete*, THE N.Y. TIMES SPORTS MAGAZINE, Mar. 4, 2007, at 36.

practice wraps mirror neuron myelin around nerve fibers and that with each layer the athlete gains an infinitesimal bit more skill and speed.³ Practice does indeed lead to perfection. I once observed Pete Sampras, the male tennis star who had won the most Grand Slam Tennis tournaments as of 2007, win a match and then go out to practice. I remember feeling impressed as most people practice to correct mistakes (like Jonas Björkman, a player Sampras frequently defeated), but Sampras worked to perfect skills.

Scrutinizing athletes who achieve beyond what seems humanly possible inspires ordinary mortals to dream big and expand beyond their potential. Sports commentator Ian Martin says that we watch athletes “do things that we can’t.”⁴

The public adored observing Michael Jordan soar through the air to a basketball championship, Peyton Manning lead his Indianapolis Colts to a Super Bowl victory, Tiger Woods overcome historical odds to win the Masters Golf tournament, and Serena and Venus Williams win Grand Slam tennis championships. These individuals perform at a level that escapes the ordinary person. In the 1970s, a quarterback/place kicker named George Blanda for the Oakland Raiders became a legend for throwing touchdown passes and kicking long field goals. Blanda’s athleticism was a feast for the eyes.

Jordan led the Chicago Bulls in points and steals for many seasons. He would rack up amazing totals rarely before seen in basketball games. He was also known as the “king of steals.” An opponent would be coming toward him, dribbling, as they headed toward their half of the court and then we would next see Jordan dribbling the ball toward his half of the court. He would have stolen the ball with such effortless ease that the opponent was still making the dribbling motion while Jordan was stealing the basketball. We the public love observing such accomplishments.

The Williams sisters were the first female tennis stars to regularly place 120 mile-per-hour serves in play, besting the records of over half the players on the men’s tour.⁵ Steffi Graf became known as “Fraulein Forehand” for the extraordinarily accurate, un-returnable placement of her tennis forehands. Andre Agassi mastered the tennis return game and Pete Sampras possessed an amazing serve. Then Swiss player Roger Federer came along with a superb mental game to accompany his all around shot-making excellence. He would exceed Sampras’ grand slam record when he won his 15th title at the 2009 Wimbledon championships.

We also want the athleticism to be real, such as when Tiger Woods conquers golf courses posting all time records under par, and not enhanced by steroids or human growth hormone.⁶ Some sports, like tennis, actively police the prohibition of performance enhancing drugs. The 1999 baseball season impressed the nation as Mark McGuire, Sammy Sosa, and Barry Bonds

³ *Id.* at 38.

⁴ See Interview with Ian Martin, *supra* note 1.

⁵ See John Branch, *Williams Sisters Headline Wimbledon Drama*, N.Y. TIMES, July 3, 2007, available at <http://www.nytimes.com/2007/07/03/sports/tennis/03tennis.html>.

⁶ See Hector Del Cid, *Winning at All Costs: Can Major League Baseball’s New Drug Policy Deter Kids from Steroids and Maintain the Integrity of the Game?*, 14 SPORTS LAW. J. 169 (2007).

hit home run after home run. The public marveled as they brought their sport to new heights. The subsequent revelation that these athletes were taking performance-enhancing drugs disappointed many fans. For some it was the equivalent of finding out that their favorite concert performer was lip-synching. Were the muscles created in a gym or laboratory? When Marion Jones pled guilty in 2007 to using performance-enhancing drugs before the 2000 Olympic Games, she was required to relinquish three gold and two bronze medals.⁷ The quest is for sports successes that are accomplished with integrity and not elevated by drugs.

The consequences for athletes who violate their sports' doping rules can be severe. Floyd Landis was stripped of his Tour de France title after tests revealed elevated testosterone levels associated with performance enhancing drugs.⁸ Several tennis players have been suspended for a year from the tour. As disappointing as these results may be, the fans would prefer true athleticism that astonishes because it is based on real accomplishment.

B. Athlete's Heart

Often you will see an athlete hit his chest when he wins a point or overcomes a particular challenge. This indicates that he relied on his heart to get him through the difficulty.

How much does the athlete want to win? Often, there is a pivotal point or game within a match that shows who wants it more. I've noticed in tennis matches, whoever wins the pivotal point or game wins the match. If a player held serve through a 24-point game, he will often break the opponent's serve in the next game. Conversely if a player loses his serve during such a game, the opponent will hold serve in the next game and win the set and match.

Michael Jordan demonstrated this will to win when the Chicago Bulls faced the Utah Jazz for the 1999 basketball championship. Jordan became visibly ill from food poisoning and vomited on court. Yet through sheer determination, he led the Bulls to victory in that game and the championship. Similarly, tennis star Pete Sampras became visibly ill and vomited during a United States Open quarterfinals match against Alex Corretja. Sampras fought on to win the match and became that year's U.S. Open champion. If Michael Jordan and Pete Sampras can stay on the court when ill, then surely we can face our commonplace challenges.

The public is drawn in by watching athletes overcome emotional tests in order to win. Watching siblings play each other can be inspiring, yet painful at the same time. Indianapolis Colts quarterback Peyton Manning defeated his brother Eli Manning's New York Giants 26 - 21 in an early 2006 - 2007 season contest. Peyton Manning said afterward that all he felt was "relief and pride," relief that the much-hyped battle of the brothers was over and pride in the way they handled it.⁹ According to The Associated Press, there was "no

⁷ Associated Press, *Jones Returns Five Metals from 2000 Sydney Olympics*, ESPN.COM, Oct. 8, 2007, <http://sports.espn.go.com/oly/trackandfield/news/story?id=3054706>.

⁸ *Landis Stripped of Tour Title for Doping, Unsure on Appeal*, ESPN.COM, Sept. 21, 2007, <http://sports.espn.go.com/oly/cycling/news/story?id=3029089>.

⁹ Associated Press, *Peyton, Colts win Manning Bowl: Older Brother Performs a Bit Better Than Eli as Giants Fall 26-21*, NBCSPORTS.COM, Sept. 11, 2006, <http://nbcports.msnbc.com/id/14777338/site/21683474>.

gloating, no giddy post game interviews, no big scene as the two met when it was over.”¹⁰ “I told him I loved him,” Peyton Manning said. He subsequently led the Colts to the 2007 Super Bowl Championship. The next year, his brother Eli Manning won a surprise 2008 Super Bowl victory over the New England Patriots.

As children playing on the courts of Compton, California, the Williams sisters dreamed of playing each other for Grand Slam tennis tournament titles. When the dream became a reality, they often produced their worst tennis against each other.¹¹ Sometimes the matches were so dreadful that some commentators thought their father staged them.¹² The emotions that flitted across their faces displayed the hardship of vanquishing a sibling as if she were just another opponent. By the time they met for their 21st match in the finals of the 2009 Wimbledon championships, they had matured significantly to play to the best of their abilities.

The Cinderella story of Rutgers’ Scarlet Nights basketball team presents another example of athlete’s heart demonstrated both on and off the court. This ladies’ basketball team dropped three of their first four games before pulling it together to play for the national championship. Although they were student-athletes in the best sense of these words (a valedictorian, a pre-med student, and an accomplished pianist among many achievements), they were disparaged on the Don Imus show. Their dignity off the court proved they were anything but the reprehensible words Imus used to describe them. They won fans beyond their sport for the graciousness with which they explained their hurt, agreed to meet with Imus, and accepted his apology.¹³

C. Entertainment Value

In 2004, the Nielsen Media Company made a substantial effort to increase statistical sampling in African American and Hispanic homes. The Nielsen Media Co. breaks down scores of the general population to indicate what different ethnic groups are watching. During the fall 2004, the show that African Americans watched most in common with the general public was Monday Night Football. The rest of the top 10 for African Americans were often found on the CW network, which resulted when the former WB and UPN networks merged.¹⁴ Caucasians are more likely to watch shows on the major networks like ABC, CBS, and NBC.

¹⁰ *Id.*

¹¹ See Christopher Clarey, *Williams Rivalry is Close and Compelling, if Not Classic*, N.Y. TIMES, July 5, 2008, available at <http://query.nytimes.com/gst/fullpage.html?res=9C00E4DA123CF936A35754C0A96E9C8B63&sec=&spon=&pagewanted=all>; see also Valerie Gutierrez, *Williams Sisters Open Doors, Straight Out of Compton*, L.A. TIMES, Jul. 7, 2000, available at <http://articles.latimes.com/2000/jul/07/sports/sp-48964>.

¹² See Clarey, *supra* note 11.

¹³ See Associated Press, *Rutger’s coach, players accept Imus’ apology*, NBCSports.com, Apr. 16, 2007, <http://www.msnbc.msn.com/id/18089620/>.

¹⁴ The “C” in CW network presumably stands for CBS and the “W” stands for Warner Bros according to Blogcritics Magazine. See *UPN + CW = The CW*, BLOGCRITICS.ORG, Jan. 25, 2006, available at <http://blogcritics.org/archives/2006/01/25/041543.php>.

By the spring 2007, in contrast, the two groups shared more shows in common, such as *American Idol*, *CSI*, *Without a Trace*, and *Dancing with the Stars*. All these shows have African American participants or major characters. The networks learned from the 1999 debacle when they produced a season with no African, Hispanic, or Asian American characters in major roles. Once minorities were covered in significant numbers in the statistical samplings of who watches television, the networks had more incentives to appeal to their tastes.

Sports appeal to a multitude of groups. Commentator Ian Martin thinks athletic competitions possess universal appeal because you do not need to know a particular language to watch. Once you know the rules of the game, you can follow the sport even if the commentator is speaking German or Swahili.

Some athletes are more entertaining than others. They develop universal appeal. People who normally did not watch basketball or tennis tuned in to watch Jordan go airborne or Andre Agassi hit tennis balls over his shoulder or between his legs for winners. Even in your home, you rise to give standing ovations at such magnificence. We love those who go where no person has gone before in their sport.

Because we watch, an athlete's fame can supersede his sport, crossing over from talented individuals to becoming celebrities. This brings both benefits and burdens.

III. How They Benefit

Obtaining national and global eminence brings advantages and disadvantages to sports figures in their roles as entertainers. This prominence blesses them with access to more resources. They can capitalize on their names and images by exploiting their right of publicity. Some athletes use their stature to run for political office or advance a social agenda. Others capitalize on the sudden availability of ordinary individuals seeking sexual relations with them. Sometimes they pay a price for their excesses in paternity suits or criminal actions brought against them. Several athletes have mismanaged their wealth and wound up bankrupt, while others became dissatisfied with their level of abundance, succumbed to greed, and ultimately landed in jail. This section explores the benefits and burdens that accrue to athletes once they achieve celebrity status.

A. Opportunities

Becoming a celebrity in this era of history generates economic rewards and fame where, to quote the Cheers theme song, "everyone knows your name." Often, celebrities are given the best table in a crowded restaurant, free food, and numerous gratuitous items.

Several athletes have used their fame to fulfill political ambitions, rising to become mayors of cities, governors in the states of Minnesota and California, congressmen, senators, and even president of the United States. The 1987 film *The Running Man*, based on a Stephen King novel, was the first movie to feature two future governors, former wrestler Jesse

Ventura and former body builder Arnold Schwarzenegger, in a fight scene.¹⁵ The future governor of California won.

B. Publicity Rights

If the athlete becomes enough of a star, they will be sought after to endorse products. These endorsement opportunities may be quite lucrative as they can potentially extend beyond their playing days.

It is the legal right of publicity that permits athletes to capitalize on their names and images by endorsing products. The right of publicity survives the athletes' demise and descends to his or her heirs at law by intestate succession or by any person or entity the celebrity chooses to designate in a will or trust.¹⁶ California Civil Code Sec. 3344(a) prohibits any unauthorized use "on or in products, merchandise or goods." It provides that:

Any person who knowingly uses another's name, voice, signature, photograph, or likeness, in any manner, or in products, merchandise, or goods, or for purposes of advertising or selling, or soliciting purchases of, products, merchandise, goods or services, without such person's prior consent ... shall be liable for any damages sustained by the person injured as a result thereof.¹⁷

Sports stars find their achievements magnified by television. Consequently, many can make more money from their endorsement contracts than from playing their respective sports. Protecting their trademark names and right of publicity is important to both unsuccessful and successful athletes. Anna Kournikova, who never won a tennis tournament during her short-lived career, earned millions of dollars from advertising endorsements that took advantage of her attractive looks. Her Russian compatriot Maria Sharapova was able to make even more money from endorsements after winning the 2004 Wimbledon and 2006 U.S. Open tennis championships.

Sometimes athletes have to sue to keep others from commercializing their name and image without permission. Basketball legend Kareem Abdul-Jabbar sued General Motors Corporation for using his birth name Lew Alcindor to advertise an Oldsmobile. In *Abdul-Jabbar v. General Motors Corporation*, Abdul-Jabbar argued GMC's use of his birth name falsely implied that he had endorsed its products.¹⁸ GMC countered that Abdul-Jabbar had abandoned the name Lew Alcindor when he recorded the Abdul-Jabbar name under an Illinois statute.

In reversing the District Court's grant of summary judgment for GMC, the Court of Appeals observed that because a birth name is an integral part of identity, it is not bestowed for commercial purposes and thus cannot be deemed "abandoned" when its possessor

¹⁵ THE RUNNING MAN (TriStar Pictures 1987).

¹⁶ See *Abdul-Jabbar v. Gen. Motors Corp.*, 85 F.3d 407 (9th Cir. 1996).

¹⁷ CAL. CIV. CODE § 3344(a).

¹⁸ *Abdul-Jabbar*, 85 F.3d at 407.

discontinues using it.¹⁹ The court said, “California’s common law right of publicity protects celebrities from appropriation of their identity not strictly definable as ‘name or picture.’”²⁰

Courts must sometimes balance the right of publicity with the First Amendment right of freedom of expression. Professional golfer Tiger Woods sued the Jireh Publishing Company and artist Rich Rush for reproducing artwork that included his image and used his name to identify the work. In *ETW Corporation v. Jireh Publishing, Inc.*, Woods claimed that the company violated his trademark “Tiger Woods” and his right of publicity.²¹ The Court of Appeals disagreed with Woods. It noted that “[a] celebrity’s name may be used in the title of an artistic work so long as there is some artistic relevance.”²² In this instance, the court said that the “use of Woods’ name on the back of the envelope containing the print and in the narrative description of that print are purely descriptive and there is nothing to indicate that they were used other than in good faith.”²³

The court was also careful to distinguish Woods’ name as a valid trademark from his image, which is not protected as a trademark when it does not distinguish and identify the source of goods. As a general rule, the court said, “a person’s image or likeness cannot function as a trademark.”²⁴

Further, a person cannot protect his image as a publicity right if to do so would run afoul of another person’s First Amendment rights. For example, a person’s name and likeness can be used in news reporting.²⁵ The court noted that Woods’ 1997 Masters Victory was an historic event in the world of sports, and art “communicates and celebrates the value our culture attaches to such events.”²⁶ The court found that Rush’s artwork was “entitled to the full protection of the First Amendment. . . . Through their pervasive presence in the media, sports and entertainment celebrities have come to symbolize certain ideas and values in our society and have become a valuable means of expression in our culture.”²⁷

C. The Women: Benefit or Burden?

If you were to tell a regular guy that if he became a famous athlete, he would never need to chase women again, most likely he would say, “Sign me up.” Most guys would consider having women lining up to have sex with them to be a compliment and a situation to be desired. The 7’1”, 275-pound Wilt Chamberlain bragged that he slept with over 20,000 women, sometimes more than 20 in a single day, during the course of his 14-year basketball career.²⁸ While he was racking up the points to become the league’s leading scorer at that time, he similarly succeeded in enticing women to his bed.

¹⁹ *Id.* at 408.

²⁰ *Id.* at 415.

²¹ *ETW Corp. v. Jireh Publ’g., Inc.*, 332 F.3d 915 (6th Cir. 2003).

²² *Id.* at 920.

²³ *Id.*

²⁴ *Id.* at 921.

²⁵ *Id.* at 930.

²⁶ *Id.* at 936.

²⁷ *Id.* at 937.

²⁸ See WILT CHAMBERLAIN, *A VIEW FROM ABOVE* (1991).

While this issue can arguably be seen as benefiting celebrities like Wilt Chamberlain, it might also be characterized as a burden. Sports stars seem particularly vulnerable to the hordes of women who lie in wait after their games or in the lobby of their hotels seeking sexual relations with them. At least one woman claimed her sexual interactions with Los Angeles Laker Kobe Bryant were not consensual. He was charged with rape though those charges were subsequently dropped and the following civil case eventually settled.²⁹

More often, however, women with dollar signs dancing behind their eyes play the pregnancy game. They entice sports stars into sexual encounters in hopes of having a baby. Women have filed paternity suits against basketball stars Larry Bird, Patrick Ewing, Jason Kidd, and Scottie Pippen. Shawn Kemp allegedly fathered seven illegitimate children, only to have their mothers file claims for support worth millions of dollars.³⁰

Tennis star Boris Becker was hit with a paternity suit while still married to his pregnant wife Barbara. The result was costly. At a posh London restaurant, Becker dallied in a broom closet with Russian model Angela Ermakova. The result was a baby linked to Becker through a DNA test. At trial, he claimed that the model was hired to hold him down and steal his sperm.³¹ The judge awarded the model \$1.5 million to care for the child.³² Becker also paid his wife Barbara \$14.4 million to settle their divorce. In addition to nearly \$16 million to settle these cases, Becker had to pay court cost and legal fees.

Dalliance can be deadly. On July 4, 2009, retired NFL quarterback Steve McNair was shot twice in the head and the chest as he slept on a couch in the living room of a condo he shared with a friend. His 20-year-old mistress was found nearby with one gunshot wound to the head. Police termed it a murder-suicide. McNair left behind a wife and four sons.³³

Sports stars and organizations have noticed this trend and taken action. Some basketball stars are known to mentor their younger brethren to urge them to avoid ensnarement with women seeking to have their children. The National Football League currently provides its rookies with a life talk during training camp to counsel them on adopting methods of self protection.

D. Other Burdens

²⁹ See Gary Tuchman and Brian Cabell, *Kobe Bryant Charged with Sexual Assault*, CNN.COM, Dec. 16, 2003, <http://www.cnn.com/2003/LAW/07/18/kobe.bryant/index.html>; see also Patrick O'Driscoll, *Kobe Bryant, Accuser Settle Her Civil Lawsuit*, USA TODAY, Mar. 2, 2005, available at http://www.usatoday.com/sports/basketball/nba/2005-03-02-bryant-settles_x.htm.

³⁰ See Grant Wahl and L. Jon Wertheim, *Paternity Ward*, SPORTS ILLUSTRATED, May 4, 1998, available at <http://vault.sportsillustrated.cnn.com/vault/article/magazine/MAG1012762/index.htm>.

³¹ Sherri Burr, *Courts hear new angle on the law of sex: Sperm Theft*, ALBUQUERQUE TRIB., Aug. 30, 2001 at C.1.

³² See *Model Wins Boris Becker Paternity Suit*, ABC News, available at <http://abcnews.go.com/International/story?id=80795&page=1> (last visited July 21, 2009).

³³ See *Police: Shootings a murder-suicide*, ESPN.COM, July 9, 2009, <http://sports.espn.go.com/nfl/news/story?id=4313821&campaign=rss&source=ESPNHeadlines>.

Celebrities can also experience disadvantages when they become nationally prominent. Jon Moritsugu directed the 1999 film *Fame Whore* to challenge, he said, “a naïve view that once you’re famous... everything will fall into place. Fame can be a particularly deadly drug.”³⁴ Moritsugu’s film depicted a tennis star who sought fame only to become overwhelmed as rumors surfaced about his sexual identity.³⁵

1. Violations of Privacy

Stardom and superstardom can bring a sudden and dramatic loss of privacy. Some overnight celebrities resort to shopping for the necessities of life at midnight when they are unlikely to be disturbed at their neighborhood grocery store. If substantial wealth accompanies their fame, then they can hire individuals to shield them from people who want to invade their privacy or bring them down.

While all individuals have a right to privacy, celebrities trade a measure of their rights for fame and thus what others can say about them is broader than for ordinary people. For example, there is no First Amendment protection of the media to publish defamatory statements about public officials and public figures with actual malice, “either with knowledge of their falsity or reckless disregard for the truth.”³⁶ A private individual, however, can sue for defamatory statements published with negligence.

State law protects the right of privacy. Dean Prosser describes it as four distinct torts: (1) intrusion upon the plaintiff’s seclusion or solitude, or into his private affairs; (2) public disclosure of embarrassing private facts about the plaintiff; (3) publicity which places the plaintiff in a false light in the public eye; and (4) appropriation, for the defendant’s advantage, of plaintiff’s name and likeness.³⁷

The right of privacy expires upon death and cannot be evoked on behalf of the deceased by his survivors. In *Maritote v. Desilu Productions, Inc.*, the Court of Appeals said, “It is anomalous to speak of the privacy of a deceased person.”³⁸ In *Maritote*, the widow and son of mobster Al Capone claimed that Desilu Productions violated his privacy right by exploiting his image for commercial advantages when it produced a two-part drama and television series called *The Untouchables*. The court stated, “What a man does while alive becomes a part of history which survives his death.”³⁹ According to the court, deceased people do not possess privacy rights, and it refused to enjoin Desilu’s use of Al Capone’s name and image.

2. Fighting Actions

³⁴ Interview with Jon Moritsugu, Film Director, ARTS TALK, in Honolulu, Hawaii (Olelo Cable Broadcast 1999).

³⁵ *FAME WHORE* (Apathy Productions 1997).

³⁶ *Eastwood v. The Super. Ct. of Los Angeles County*, 149 Cal.App.3d 409, 424 (Cal.App. 2 Dist. 1983).

³⁷ *Id.* at 416.

³⁸ *Maritote v. Desilu Prods., Inc.*, 345 F.2d 418 (7th Cir. 1965).

³⁹ *Id.* at 420.

Athletes have found that their fame brings trust problems. Who can they count on? Their old buddies or posse? Or the new friends? People fawn over them, but unfortunately seek something other than becoming their friends.

Chicago Bears linebacker Brian Urlacher spoke to sports commentator Ian Martin about being accosted by men when he goes to bars. They have knocked drinks out of his hand and deliberately stepped on his toes in attempts to pick fights. They aim to have Urlacher punch them so they can sue him for millions of dollars.⁴⁰ Celebrity athletes soon learn that if they respond to such provocation, they lose. In addition to the lawsuits, their name gets bandied about as the out-of-control star. They may be suspended from court play based on off-court behavior.

This explains why 6'4", 258-pound athletes, like Brian Urlacher, hire bodyguards, not because they cannot successfully defend themselves in a fight but to keep others from starting them. Mike Tyson, on the other hand, hired bodyguards to keep him from provoking fights. The Japanese have a saying, "If you've begun to fight, you've already lost." This is certainly true for celebrities.

3. Financial Difficulties

Managing money poses particular difficulties when the time period of prime earning power may be short. In the NFL, for example, football players are known to have a half-life of three and a half years, meaning half of them are gone within three and a half years. Unfortunately, the NFL requires them to put in five years in order to obtain a full pension. If they do not get financial help soon after joining the NFL, many will find themselves living large and spending as if those high salaries will last forever.

Some athletes spend themselves into bankruptcy. When Mike Tyson filed for chapter 11 reorganization, he revealed that over \$150 million had slipped through his hands during his career.⁴¹ Tyson spent over \$300,000 renting stretch limousines.⁴² He would have been better off buying two limousines and hiring drivers to transport them from place to place to meet him.

Some athletes resemble lottery winners whose sudden riches lead over 90% into worse financial shape five years after receiving their unexpected windfall. Tyson would have benefited from financial counseling early on. Those who follow a path that includes financial counseling, like former Utah Jazz basketball player Karl Malone, can create a beneficial financial situation. Malone invested in car dealerships, which continue to compensate him

⁴⁰ See Interview with Ian Martin, *supra* note 1.

⁴¹ See Richard Sandomir, *Tyson's Bankruptcy is a Lesson in Ways to Squander a Fortune*, N.Y. TIMES, Aug. 5, 2003, available at <http://query.nytimes.com/gst/fullpage.html?res=9C0CE3DA1E3EF936A3575BC0A9659C8B63&sec=&spone=&pagewanted=1>.

⁴² *Id.*

long after his playing days have ended.⁴³ Andre Agassi's manager sold his jet and invested his endorsement earnings into lucrative deals.

Another financial risk concerns identity theft. Frank Abagnale, author of *The Art of the Steal* (2001), terms identity theft "the mother of all scams, because it steals everything, a person's very being."⁴⁴ The Internet makes successful athletes vulnerable because con artists can discover information about them through publicly available sources. Thieves seek to capitalize on the wealth associated with a famous name by stealing the person's credit cards and personal information. They then impersonate the person, using their identifying factors such as social security and driver's license numbers to buy clothes, furniture, cars, and real estate. Abagnale published the book *Stealing Your Life: The Ultimate Identity Theft Prevention Plan* (2007) to bring even more attention to the hazards of the crime.⁴⁵

On July 15, 2004, President George W. Bush signed the Identity Theft Penalty Enhancement Act, which adds two years to prison sentences for criminals convicted of using stolen credit card numbers and other personal data to commit crimes. "Like other forms of stealing, identity theft leaves the victim poorer and feeling terribly violated," Bush said. "The criminal can quickly damage a person's lifelong effort to build a good credit rating."⁴⁶

IV. Must They Be Responsible

This section addresses what, if anything, student and professional athletes owe fans for their adulation and emotional and financial support. Fans place athletes on a pedestal where seeming role models can do no wrong. They adore them, and provide emotional backing when they experience tragedies in their families. When Michael Jordan's father was killed, there was an outcry and he received hundreds of letters of condolence.

Without fans buying tickets to their events and responding to their product endorsements, celebrity athletes would experience significantly less wealth. Tennis star Maria Sharapova, for example, made \$23 million from endorsements in 2006, which significantly eclipsed her \$2 million tennis earnings. Essentially, all athletes would have amateur status were they not to receive revenue from exploiting their talent.

The issue is whether gifted athletes are entitled to all the benefits that flow from their celebrity status or whether they owe their fans anything in return and must be responsible for their behavior. University athletic programs and professional associations think they do owe something to their fans. They have adopted codes of conduct and require their athletes to sign them. Those who violate these codes can suffer consequences on the courts for their inappropriate behavior off the court or field and even sometimes in the offseason. Similarly,

⁴³ See "The Mailman" Now Delivers Eggs and Bacon: NBA Star Karl Malone to Open Huddle House Franchise in Home State Louisiana, THE FRANCHISE MALL, Aug. 24, 2006, available at <http://www.thefranchisemall.com/news/articles/16464-0.htm> (last visited July 14, 2009).

⁴⁴ FRANK ABAGNALE, THE ART OF THE STEAL: HOW TO PROTECT YOURSELF AND YOUR BUSINESS FROM FRAUD, AMERICA'S #1 CRIME (2001).

⁴⁵ FRANK ABAGNALE, STEALING YOUR LIFE: THE ULTIMATE IDENTITY THEFT PREVENTION PLAN (2007)

⁴⁶ David McGuire, *Bush Signs Identity Theft Bill*, WASH. POST, July 15, 2004, available at <http://www.washingtonpost.com/wp-dyn/articles/A51595-2004Jul15.html> (last visited Feb 23, 2008).

corporations have added moral clauses to endorsement contracts, which permit them to monitor athletes for inappropriate behavior and to end associations with athletes whose damaged reputation could tarnish the products they represent or the teams they play for. Below, this chapter examines this issue from the perspective of amateur athletes, professional associations, and corporations.

A. Amateur Athletes

The NCAA adopted a principle of “sportsmanship and ethical conduct.” This principle requires student-athletes, coaches, and all others associated with athletic programs to “adhere to such fundamental values as respect, fairness, civility, honesty, and responsibility.”⁴⁷

In addition to the national association, several colleges require athletes to sign a student-athlete code of conduct. California State Fresno, for example, considers its student athletes to be ambassadors of the university. As such, they are required to behave with dignity and conduct themselves appropriately both on and off the court. They should not demean their opponents, game officials or fans.⁴⁸

The University of Minnesota, Duluth proclaims that their student-athletes are public figures and must represent the University in a positive way.⁴⁹ They require athletes’ behavior to be exemplary at all times and benefiting the expectations of their teammates, coaches, the University, and community. Inappropriate behavior may lead to a written warning, probation, temporary suspension, permanent suspension, expulsion from the team, and withdrawal of financial aid.⁵⁰

Catawba College in Salisbury, North Carolina, tells its student-athletes that their membership on a team is considered “a privilege, not a right.” They are expected “to demonstrate good sportsmanship, honesty, integrity, and abide by the Athlete’s Code of Conduct at all times.”⁵¹ Athletes must sign this code of conduct to participate on a team.

These are but a few examples of a national trend to encourage athletes to behave in a professional manner when they are representing their team. After encountering such standards at the collegiate level, athletes should be prepared to enter the professional sport as a seasoned athlete both off the field and in the manner in which they carry themselves.

⁴⁷ The National Collegiate Athletic Association, NCAA Student-Athlete Welfare, 2.4 The Principle of Sportsmanship and Ethical Conduct, *available at* <http://www.ncaa.org/wps/ncaa?ContentID=3130> (last visited July 21, 2009).

⁴⁸ California State University, Fresno, *Student Athlete Code of Conduct*, Policy No. E-04.1, Aug. 1998, *available at* <http://www.csufresno.edu/humres/MAPP/II/E/E-04.pdf>.

⁴⁹ University of Minnesota Duluth, Student-Athlete Code of Conduct, *Student-Athlete Conduct Policy Regarding Involvement in Internet-Based Social Networking Communities*, *available at* <http://www.citmedialaw.org/sites/citmedialaw.org/files/student%20athlete%20conduct.pdf> (last visited July 20, 2009).

⁵⁰ University of Minnesota Duluth, *Student Conduct Code*, *available at* http://www1.umn.edu/regents/policies/academic/Student_Conduct_Code.pdf (last visited July 21, 2009).

⁵¹ Catawba College, *Athlete Code of Conduct*, *available at* <http://www.catawba.edu/academic/physicaleducation/pdfs/new/CodeConduct.pdf> (last visited Dec. 14, 2008).

B. Professional Associations

Professional Associations have started to make their expectations of professional behavior clearer to their players by adopting dress codes. They have also searched for more mature players by enacting age floors.

1. Dress Codes

The NBA adopted a Player Dress Code that requires players to “wear Business Casual attire whenever they are engaged in team or league business.”⁵² Business casual attire is defined as a dress shirt (long or short sleeves), dress pants, and appropriate shoes and socks, but not sneakers, sandals, flip-flops or work boots. Players who attend games but are not in uniform additionally have to wear a sport coat. They are not permitted to wear sleeveless shirts, shorts, t-shirts, head gear, chains, headphones, and sunglasses while indoors.⁵³

While the NBA views this as an attempt to remind players that when they are representing the league they should dress accordingly, some commentators have declared the dress code to be racist.⁵⁴ These commentators argue that because the dress code requires athletes to wear western clothes, it negates the athlete’s chance to expose their individuality in the clothing they choose. While it is not clear whether the dress code would prohibit the athlete from wearing a dashiki (an African print shirt) accompanied by matching pants, it discourages ethnic clothing.⁵⁵ The NBA Dress Code presumably levels the playing field. Critics have argued that the Dress Code promotes discrimination and legislates adherence to white male norms.⁵⁶

2. Age Floors

The National Basketball Association, the National Football League, the Professional Golf Association, Ladies Professional Golf Association, NASCAR and the World Tennis Association have all adopted age limits. The NBA now requires players to enter college and play at least one year of amateur basketball before being drafted by the NBA. They have done this in reaction to players who have entered the NBA at the age of 18 and have arguably burned out quickly.

The NFL similarly requires players to play college football for three years before entering the professional ranks. According to Professor Michael McCann and his co-author Joseph S. Rosen in their article *Legality of Age Restrictions in the NBA and NFL*, the NFL eligibility rule is premised on four core beliefs about young players: (1) they lack the requisite mental or physical maturity to play in the NFL; (2) they are uniquely prone to injury; (3) they would damage the league product and repel fans; and (4) if eligible for the NFL draft, they would be

⁵² NBA Player Dress Code, available at http://www.nba.com/news/player_dress_code_051017.html (last visited Dec. 15, 2008)

⁵³ *Id.*

⁵⁴ See Andre Smith, *Describing Racism as Asymmetrical Market Imperfections, or How to Determine Whether the NBA Dress Code is Racist*, *infra* Chapter ____.

⁵⁵ See *id.*

⁵⁶ See *id.*

more likely to use steroids.⁵⁷ Although these four beliefs were rejected in *Clarett v. National Football League*,⁵⁸ McCann and Rosen maintain they remain the rationale for the NFL age eligibility rule.⁵⁹ McCann and Rosen argue that instead the age rules promotes the economic interest of colleges and universities seeking to keep prized recruits from jumping straight to the professional leagues.⁶⁰

Another argument against age restrictions is that it deprives young people from earning a living during the peak of their athleticism. If someone can be drafted to fight in a war at 18 or an earlier age, why not permit them to play a professional sport and earn a high living at the same age? In the former instance, the youths face death for their country, while in the latter they tackle high-earning opportunities.

The PGA, LPGA, and NASCAR have restricted entrants to age 18. The LPGA permits adolescents to petition for permission to enter the ladies golf tour at an earlier age. Michele Wie petitioned to enter the pro circuit before she had turned 18.

The tennis world provides for graduated age restrictions. No one under 14 can play on either the women's or men's professional circuit. Between the ages of 14 and 15, a player is limited to seven WTA events and eight ATP events. Between the ages of 15 and 16, girls can play nine WTA events and boys 12 ATP events. The ATP lifts restrictions at age 16 and WTA does so at the age of 18. These restrictions were imposed after high-profile athletes like Jennifer Capriati started playing at age 12 only to become a drug abuser before she turned 18. She proved that while she could earn a living at an early age, she was not adult enough to handle the pressure accompanying becoming a professional athlete.

3. Corporate Endorsements

As mentioned earlier, corporations frequently add moral clauses to endorsement contracts to permit them to monitor athletes for inappropriate moral behavior and to end associations with athletes whose damaged reputation could tarnish the products they represent or the teams they play for. Consider Kobe Bryant's situation. When he was arrested for rape in Colorado, several corporations abandoned him as a sponsor for their products. They did so in order to avoid having their brand associated with someone who could potentially be convicted of rape. Similarly, professional football player Michael Vick was stripped of his endorsements after pleading guilty to felony charge of conspiracy in connection with a dog fighting ring on his property. While superstar athletes may feel entitled to endorsement contracts, the corporations do not wish to have representatives whose conduct could tarnish their brands by association.

V. Conclusion

⁵⁷ Michael McCann and Joseph S. Rosen, *Legality of Age Restrictions in the NBA and NFL*, 56 Case W. Res. L. Rev. 731, 732 (2005-2006).

⁵⁸ *Clarett v. National Football League*, 306 F.Supp.2d 379, 408-409 (S.D.N.Y. 2004).

⁵⁹ McCann and Rosen, *supra* note 57, at 732.

⁶⁰ *Id.* at 733.

As someone long ago said, “With great power comes great responsibility.” Celebrity athletes benefit significantly from their status and should behave conscientiously.