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Monday, May 12, 2008

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Sports agent work is a long shot for lawyers

While one sees client get drafted, another goes back to regular law practice

By Andy Peters, Staff Reporter

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(Zachary D. Porter/Daily Report)

Von DuBose was encouraged by an ex-athlete to work as an agent. "I realized that my skill set as a commercial litigator could be very beneficial," he says.

Although a sports agent's work can touch on everything from contracts to criminal procedure, the handful of Atlanta lawyers in the business say it's difficult for practicing attorneys to break into the cutthroat field.

The recent experiences of three Atlanta attorneys who have attempted to generate new practices as sports agents show how tricky the business can be.

Starting in January and culminating with the National Football League draft last month, Bondurant, Mixson & Elmore partner Von A. DuBose pounded the pavement on behalf of his client, Michigan State University defensive end Ervin Baldwin. DuBose traveled across the country to watch Baldwin practice and play, pitched team scouts on Baldwin's skills and counseled Baldwin on how to handle media interviews. The work paid off when the Chicago Bears drafted Baldwin in the seventh round.

Since being hired by cornerback Adam "Pacman" Jones to defend him against an assortment of criminal charges, attorney Manubir S. "Manny" Arora arranged interviews between Jones and sports-talk radio shows to try to improve Jones' public image. The goal was to drum up interest in Jones, whose troubles had his team, the Tennessee Titans, looking to get rid of Jones one way or another. Arora hit pay dirt last month when the Titans traded Jones to the Dallas Cowboys.

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- [NFL Players Association regulations for agents \(pdf\)](#)

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"It takes a lot of money to recruit athletes, a lot of upfront money to get them trained," Davis said. "Until you get to a certain level, if you don't have the capital, it's hard to break into it."

Davis' experience illustrates the obstacles that face attorneys who want to develop relationships with professional athletes and represent them as agents, said Locke Lord Bissell & Liddell associate Brandon J. Witkow, who represents sports agents in certification proceedings with professional players' unions.

"There are a lot of areas where you've got to get up to speed," said Witkow, who works from the firm's Los Angeles and Atlanta offices.

Among the obstacles, according to Witkow, are high startup costs, avoiding conflicts with other legal clients and learning each league's arcane rules for players' salaries.

A lawyer thinking of adding agent work to his practice should not expect the glamour of Tom Cruise and Renée Zellweger in the 1996 movie "Jerry Maguire," said Drew Eckl & Farnham partner and sports agent John P. "Jack" Reale.

"It's not the sexy practice that sometimes it's portrayed to be," said Reale, who represents Atlanta Falcons kicker Jason Elam and Denver Broncos cornerback Champ Bailey. "It's not 'Jerry Maguire' in real life, or at least it shouldn't be."

Big firm economics

But the field does attract lawyers, as many sports agents have law degrees, even if many of them don't actively practice, Witkow said. Very few agents work for the firms in the Am Law 200, the list of the highest-grossing firms compiled by The American Lawyer, a Daily Report affiliate.

"Being an agent doesn't work with big firm economics," said Witkow.

Big firms bill by the hour, but the vast majority of sports agents receive a percentage of their clients' salaries, Witkow said.

Also, a big firm lawyer working as an agent can't bill for the countless hours he'll spend doing tasks that are standard agent fare.

"You incur a lot of time as an agent preparing pitch packets for clients, traveling to meet team general managers and to summer camps," Witkow said. "Those are costs that can't be directly passed on to the client."

A search of the NFL Players Association's database reveals that only a small handful of the "contract advisors" certified by the NFL players' union works for Am Law 200 law firms. Among the firms are Bryan Cave, Dow Lohnes, Frost Brown Todd and Stinson Morrison Hecker. The NFL players' union calls agents "contract advisors."

The Washington law firm Williams & Connolly has a significant practice representing professional baseball and basketball players, including Atlanta Hawks players Josh Childress and Marvin Williams. But Williams & Connolly has a history of only representing established veteran players who are looking to sign new free-agent contracts and not rookie players, Witkow said.

The sports-agent field has traditionally been dominated by small shops or solo practices. The title character in the movie "Jerry Maguire" was reportedly based on California agent Leigh Steinberg, head of Leigh Steinberg Enterprises. Many of the other leading sports agents also operate small practices, including Eugene Parker's Roanoke, Ind.-based Maximum Sports Management, Ian Greengross' Chicago-based Greengross Athletic Management Enterprises and Pat Dye Jr.'s Atlanta-based ProFiles Sports.

There does appear to be some consolidation in the agent industry, however, although big law firms are not the ones filling the void. Instead, Hollywood-based talent agencies are getting into the act. Among the top 31 players in this year's NFL draft, Creative Artists Agency (CAA) represented the most players, counting six as clients, including the Atlanta Falcons' first-round draft picks Boston College quarterback Matt Ryan and Southern California offensive tackle Sam Baker.

It makes little sense for an attorney at an Am Law 200 law firm to get into the business of representing athletes, Witkow said. Corporations are the bread-and-butter clients of those firms, and if some of their attorneys start representing individual athletes, it presents a greater chance for a conflict to arise.

"In the big-firm environment, they'd love to represent leagues and individual clubs, or if they're also doing marketing work, they'd also love to represent the music studios or Nike," Witkow said. "If you are representing the player, you're conflicting yourself out of being able to represent the big corporate entities."

Instead of advising players, many Am Law 200 firms represent professional sports leagues or the teams themselves. Covington & Burling partner Gregg H. Levy is principal outside counsel for the NFL, and the law firm also employs former NFL Commissioner Paul Tagliabue as senior of counsel. Proskauer Rose is outside counsel for the National Basketball Association on labor issues. King & Spalding is the primary outside law firm for the Falcons.

Breaking into the business

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Bondurant Mixson's DuBose, who maintains a separate commercial-litigation practice, said he didn't set out to become a sports agent.

"After working with a retired athlete on a general business litigation matter, I realized that my skill set as a commercial litigator could be very beneficial to current athletes," he said. "I was told point blank by several retired athletes that 'we need guys like you to represent players while they are still playing.'"

He doesn't think he could pursue a sports-agent practice if he worked for a bigger law firm. But because Bondurant Mixson has a great deal of experience with fee-contingency cases on behalf of plaintiffs, the firm's partners understood and were comfortable with a sports agent's business model, DuBose said. DuBose's athlete clients are "businesses in and of themselves," he said.

"Any law firm that does contingency work is going to have a big financial outlay up front, and the recovery on the end," said DuBose. He said he is paid typically 3 percent of his clients' contracts.

Bondurant Mixson's partnership decided to let DuBose pursue the agent work because it's an area where he has talent, said the firm's managing partner, H. Lamar "Mickey" Mixson.

"It's a little different than some of the stuff we've done before," Mixson said. "We don't think it's inconsistent with our practice."

Although DuBose compared some aspects of agent work to the preparation for a litigation matter, much of the agent work doesn't resemble typical lawyer duties.

DuBose traveled to El Paso, Texas, and Mobile, Ala., to watch Baldwin practice for and play in all-star games. These games take place after the college football season is complete and allows scouts to watch prospects' week-long practices and meet the players in person. They also give agents a chance to have face time with the teams that are considering selecting the agents' clients in the draft.

DuBose also tried, unsuccessfully, to secure for Baldwin an invite to the NFL's yearly workout combine in Indianapolis. The combine hosts many of the year's top prospects, all of whom expect to be selected in the upcoming draft. Players like Baldwin, who aren't necessarily locks to be drafted, want to secure an invite to the combine to secure an audience with multiple teams simultaneously.

As he would for a litigation matter, DuBose relies on Bondurant Mixson to supply funding for his clients' athletic training, travel and other expenses.

"It's just like any expense involved with litigating a case," he said.

Other tasks that DuBose performs on behalf of his athlete clients are more similar to legal advice. DuBose said he likes to host in-person sessions with his clients at his One Atlantic Center office to discuss how to establish trusts or set up the structure for a new business.

"I tell them that if they want a business career after their playing days are over, it's too late to start after you finish playing," DuBose said. "You've got to start now."

DuBose also negotiates his clients' contracts with their teams. However, most NFL contracts are "boilerplate" he said and vary little except for the amount of an individual's signing bonus.

Arora didn't have a boilerplate contract to negotiate on behalf of his client Pacman Jones. The NFL had suspended Jones for a year because of his alleged involvement in off-field criminal activities. That made the negotiations surrounding Jones' playing status highly unusual. When Jones was traded to the Cowboys, it was the first time in NFL history that a suspended player was traded and signed a contract with a new team, Arora said.

"[Cowboys owner] Jerry Jones said that, in his 20 years of being an owner, this was the most complicated contract he ever negotiated," said Arora, who is billing his sports clients by the hour.

Primarily a criminal-defense attorney, Davis tried to generate a practice representing basketball players. Davis unsuccessfully recruited University of Georgia swingman Damien Wilkins, who was not drafted but signed with the

Seattle SuperSonics and has developed a solid career.

Without a client to build on, the large amount of funding needed to continue to pursue clients made it difficult to continue, Davis said.

Then there is the perception that some young athletes have, according to Davis, that the large Hollywood talent agencies can better serve pro athletes than lawyers who operate solo agent practices.

"The big-time athletes are going to the full-service sports agencies, so they can get the marketing and endorsement contracts, and all those other services," Davis said.

Dubose, Arora and Davis are not alone in their interest in sports agent business.

Sutherland Asbill & Brennan associate L.J. Paul Lutz works in the firm's mergers and acquisitions practice group, but he's also a registered NFL agent. He's not listed on the NFL Players Association's Web site as having negotiated a contract on behalf of an active player. Lutz didn't return calls seeking comment.

Other Georgia attorneys who are registered NFL agents are Daley Koster & LaVallee partner Matthew R. LaVallee, Weinstock & Scavo partner Michael Weinstock and Locke Lord Bissell & Liddell associate Eduardo Waite.

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