

Sports Litigation Alert

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Influential Sports Law Attorney Mary K. Braza Charts Ambitious Path: A Profile

By **Melissa Kaplan-Pistiner**

The office was paradoxical, not your average corner office. Well suited to Foley & Lardner, LLP, the room was decorated stylishly and with a touch of grandiosity; besides floor-to-ceiling windows, it housed an impressive desk and a fancy round table. Interestingly, though, that desk was home to professional-athlete-themed Beanie Babies, and, between the table and the windows, an artful pedestal displayed a large, cartoonish figurine of a professional baseball player. This was the office of Attorney Mary Kathryn Braza.

I suppose that this office accurately reflected the nature of sport law, a formal approach and understanding of America's favorite casual pastime. For sport lawyers, perhaps, mixing business with pleasure is inevitable.

This is certainly the case with Braza, litigator and partner at Foley, and the legal representation of both Major League Baseball (MLB) and Major League Baseball Advanced Media (MLBAM), as well that of the Milwaukee Brewers and the Chicago Cubs.

Originally from Ithaca, New York, Braza entered the working world at the ripe age of sixteen, employed by the local Kentucky Fried Chicken restaurant. She eventually transitioned from the fast-food industry, however, and found her way to Cornell University, followed by Cornell University Law School, from which she graduated magna cum laude in 1981. After graduation, Braza accepted a job offer as a litigator at Fulbright and Jaworski, LLP in Houston, Texas.

After being inducted into the State Bar of Wisconsin in 1982, Braza joined Foley, attracted by its "na-

tional practice" and its willingness to provide "a lot of hands-on experience."

Decades later, she doesn't regret her decision to live in a Milwaukee, a relatively small market. "I love the city," said Braza, noting there are plenty of sports law opportunities (For example, the city is home to professional sports franchises like

the Brewers, Bucks, Admirals, and Wave). Another attraction for her practice, Braza confessed, is sharing an elevator bank with the Commissioner of Baseball, Bud Selig.

Despite her obvious success within sport law, her interest in the field was not necessarily predisposed, but rather predestined, fated onto her by Attorney Bob Dupuy. While she was an associate and young partner with Foley, Dupuy served as a mentor for Braza, and, though Braza began with general commercial litigation, Dupuy soon funneled her into sport law.

"Overtime, [Dupuy] began representing Major League Baseball, and he pulled me into that relationship," Braza explained. Dupuy left Foley in 1998; along with Attorney Jim McKeown, fellow partner at Foley and antitrust specialist, Braza took over the representation of and relationship with MLB. She described this overtaking as "fortuitous" because "at that point in time, Major League Baseball was undergoing a business transformation." Braza elaborated: "[MLB] had decided to restructure the league, put everything into a single league office, and consider a whole bunch



MARY KATHRYN BRAZA

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of new business opportunities. So, while each of us, Jim and I, had done work for baseball, the nature of that work began to change.” Specifically, in 1999, Braza and McKeown’s work shifted from defense litigation to the establishment of a league-owned Internet company.

“It was all brand new stuff,” and she reiterated, “It was just a great opportunity for both of us.” In this new venture, Braza and McKeown worked not only with the league, but also inside the league, both with lawyers and with business advisors. Additionally, Braza noted, “We would also bring in intellectual property lawyers and patent lawyers, as well as lawyers to handle licensing and commercial issues; we would just help them out as the company was growing.” The MLB-owned Internet company, to which all MLB teams contributed their Internet rights, became MLBAM, referred to as “BAM.”

In the creation of BAM, Braza and McKeown were worried about possible antitrust issues because, as she explained, “Anytime you collectively take teams’ assets and put them into one entity, you worry about that.” Their concern was eased, however, by two factors: that baseball had avoided breaching anti-trust laws in its creation of Major League Baseball Properties, and that BAM’s purpose and execution were always pro-competitive. According to Braza, BAM has allowed MLB teams to collectively pool their resources, which has enabled them, in terms of media, to accomplish much more than they could have separately.

Braza Sees Relevance Between American Needle Decision and MLBAM

Acknowledging that parallel issues arose in the creation of BAM, Braza discussed the recent American Needle v. National Football League (NFL) et al. decision, “The NFL had a good shot at the single entity theory, but the opponents effectively pointed out where that analysis could take you and the dangers of adopting a single entity.” Further, she believes that, under the Rule of Reason, the NFL could prove that treating the NFL teams as a single entity makes sense.

Beyond working toward the creation of MLBAM, Braza spent much of her career working with the office of the Commissioner of Baseball. Specifically for Braza, much of the late 1990s and early 2000s was devoted to the failing Montreal Expos, which later became the Washington Nationals. Then, in 2001, when base-

ball voted to drop a few teams from the league, Braza had yet another undertaking. From this election, “rose a piece of antitrust litigation that was fought in Florida, concerning whether the state of Florida could investigate the need for antitrust violation,” Braza stated. In this case, MLB v. Crist, which tried at the eleventh circuit, Braza represented MLB; the Court ruled in favor of MLB, further establishing baseball’s long-standing court-based exemption from state antitrust law.

For Braza, representing a league in court is anything but boring, and it is not always friendly. She described sport law as a very unique area of law, one with unavoidable complications. One such complication for a sport lawyer is avoiding conflicts of interest while representing various players, teams, leagues, and corporations; on the outset of creating relationships and contracts with different clients, such as with MLB and the Brewers, Braza and McKeown must design waivers and other agreements so as to best represent all clients’ interests. The principal challenge of sport law and of representing a major sport league, however, is the unavoidable preconceptions of those in the courtroom. After all, “everyone has opinions about sports,” said Braza. She elaborated, “With a sport team or league, you take those issues into court with you. They [judges] read the sports pages; they have a viewpoint.”

In spite of these obstacles, Braza’s career is replete with triumphs, which, her skills as an attorney aside, are likely owed to both the successful sport law practice group of Foley and the close relationship between the firm and the Commissioner of Baseball. The sport law practice group, which Braza chairs, consists of 40 attorneys with various specialties within the sport law field; this is one of the largest sport law practice groups in the country. Foley is able to devote such focus to an area of law often overlooked due to its broad practice and wide array of attorneys with distinctive specialties, according to Braza. She also attributed the firm’s efforts to sport law to its long-standing relationship with baseball, as well as that with the University of Wisconsin, Madison.

Braza gave a reason for her firm’s close relationships with MLB and Bud Selig, “We have proven to them that we understand how their business works.” Due to her multitude of work with both MLB and BAM, this clearly applies to the relationship not only between baseball and Foley, but also between baseball and Braza herself. Braza and Selig have been working

together since the late '90s, and she described that relationship as "professional and friendly." There is a certain advantage of a strong, continued attorney-client relationship, and it is one that surpasses that of having a friend in the elevator. Braza explained that, when an attorney has a close relationship with a client, he or she "can see issues coming, can anticipate legal issues, and can be proactive in regard to those issues."

Though Braza admits that her work is likely 95 percent sport law, the nature of her work has, yet again, changed. She described her depart from work with BAM and antitrust litigations, "Recently, my legal work has taken another twist; I have gotten involved in representing people who want to buy baseball teams. So, I worked with a group of lawyers in helping the Rickett family buy the Chicago Cubs last year, and I am currently representing Nolan Ryan and his partners in an attempt to buy the Texas Rangers." She continued, "[representing those buying professional sport teams] is very interesting for a litigator because it requires being on the business side of a transaction. It has been a total shift in my career."

As her career evolves, Braza increasingly values her prior experiences. While the legal matters of establishing MLBAM clearly differs from those of purchasing MLB teams, her experience in the former proves helpful in her efforts of the latter. In her work with MLB, especially in that to establish BAM, Braza gained an extensive understanding of the business and league, an understanding that she, uniquely, brings to her representations of those buying teams. She elaborated, "I know a lot about how the league operates and a lot about team economics. Once one has that insider's perspective, one can provide some very helpful advice."

In the past five years, Braza has also embarked upon another facet of sport law: teaching. Braza loves teaching, and she appreciates law schools' efforts to adapt sport law classes and programs. Currently, she teaches sport law at both a seminar at Marquette University Law School in Milwaukee, Wisconsin and a course at The John Marshall Law School in Chicago, Illinois.

While Braza teaches young, aspiring sport lawyers, her advice to those aiming to practice sport law is not to immediately and solely focus on sport law, but rather to obtain a broad experience and knowledge of the law. She admitted, "Sport law is a difficult area of law to

embark upon," and "it is hard to start out just focused on sport law." Instead, she advised, "Start by getting to be a good lawyer in some area, and then read, read, read." In a business as ever changing as sports, especially in its direct relationship with the fluxes in media, it is crucial for a lawyer to stay current on all issues within the industry. That said, she suggested, "The business of sports is in the sport pages."

As for the future of sport law, Braza believes the industry will continue to both grow and change, and sport law must evolve in accordance with the sport industry. Particularly, sport law will have to adapt to the transformations in sport broadcasting. Braza explained one such change, "Unlike the past, teams now own their own sport networks and are thus in charge of their own media." Also, the recent breaking up of the Big 12 Conference calls for additional changes in broadcasting, and, consequently, changes in sport law.

The sport law work of Foley, according to Braza, will entail increased work with athletic facility development, specifically on the West Coast. Braza foresees her career to continue to evolve as well. While she plans to continue both as a litigator and a professor, she would additionally like to expand her work to that with colleges, specifically with colleges' business and legal issues within sports; moreover, Braza is interested in representing more clients buying teams and additional broadcasting clients for other leagues.

Thus, as one of the most successful and accomplished sport lawyers in the country, Braza continues her career as a litigator and baseball industry expert. Although she did not initially plan to practice sport law, Braza has not only excelled in the field, but also embraced it. Baseball has taken a significant role in her life, whether it is the client she represents, the game she attends while traveling, the Brewers games she never misses, or the décor of her corner office. One's professional life is not ordinarily so entwined with one's hobby, but, clearly, Braza is not just an ordinary attorney.

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