

Chicago Daily Law Bulletin

Volume 155, No. 81

Saturday, April 25, 2009

Fifty-two pages in two sections

\$2.50

He started conference to tackle unique issues in sports medicine law

By Melissa Birks

It was at the very first conference on controversies in sports medicine law that Eric F. Quandt, a practicing lawyer since 1976, was called a “doctor.” And not in the nicest sense of the term.

As Quandt recalls, a distinguished West Coast team physician opined during a panel discussion that “if college athletes with medical conditions wanted the opportunity to play and take certain risks, they should have that opportunity. We had a lot of discussion about that. And then I started talking about litigation. She looked up at me and said, ‘You are Dr. Doom and Gloom.’”

In responding, Quandt drew on his experience as a pioneer in the nuanced and expanding field of sports medicine law.

“Let’s say something untoward happens to this player, for whatever reason,” he told the panel. “There’s a great probability that that great relationship you had with the family is going to be reduced to a conversation with one of the parents and an attorney. And I’ll tell you right now, that’s not going to be a fuzzy, huggy conversation.”

Indeed, Quandt’s message — that sports medicine practitioners at any level should be familiar with the widening litigious landscape — is one reason he had collaborated with colleagues to launch that conference in 2005. Subsequent conferences were held in 2006 and 2007, and Quandt plans to organize another next year.

“This was the first time, and it really was Eric’s idea, to recognize an integrated study of this — all facets of the sports medicine side and the lawyers jointly discussing these issues,” says Matt Mitten, a professor of sports law and director of the National Sports



Eric Quandt, organized an effort to bring lawyers and sports medicine practitioners together through the Institute for Sports Medicine and Sports Law.

Law Institute at Marquette University who has been a faculty member at each conference.

To Quandt’s knowledge, the conferences remain a unique approach to sports medicine law, attracting top-flight doctors, lawyers, even members of the media, such as Sports Illustrated, to Chicago. They’ve tackled issues ranging from player contracts, to the trend toward athletes seeking second opinions, and even cheerleader injuries because, as Quandt explains, “you start throwing young girls 20 and 30 feet in the air, you better have good plans for the landing.”

Dr. Michael Schafer, chairman of the

Department of Orthopedic Surgery at Northwestern’s Feinberg School of Medicine, former orthopedic physician for the Chicago Bears and a consultant to the Bears and the Cubs, has known Quandt for nearly 20 years. Like Mitten, Schafer helps organize and participates in the conferences.

“Where we’re really talking about Eric making a significant contribution is his energies in bringing together medicine and the law in terms of sports medicine, mixing the two disciplines,” Schafer says. “In medicine, you develop a hypothesis, set up an experiment to prove it. His hypothesis was

that we needed to have better communication between sports and law.”

Sports medicine law may seem worlds away from, for instance, defending Union Carbide in the aftermath of a pipe explosion, but Quandt navigates the disciplines with ease.

Quandt, 57, has been involved with medical cases throughout his career; he “cut his teeth” defending pharmaceutical and medical device manufacturers, which he still does today as a partner at Pugh, Jones, Johnson & Quandt P.C. He also focuses on product liability defense and medical malpractice, particularly in challenging cases regarding babies born with brain injuries. He has won back-to-back defense verdicts on such cases and has another coming up in October.

Quandt’s involvement in sports medicine law occurred due to the domino effect that happens in long careers: meeting people and handling cases.

In 1995, he represented Northwestern University, and, along with Northwestern’s inside counsel, led a defense team in a case that ended with a successful appeals court decision that’s still cited today.

Nicholas Knapp, a highly regarded high school basketball star, suffered a cardiac arrest at the age of 17, just after signing a letter of intent to play basketball at Northwestern in 1994. He was fitted with a defibrillator, which monitors heart rhythm and delivers shock therapy if needed.

Northwestern’s physicians declared Knapp medically ineligible to play, even though he could keep his scholarship. He sued under the Rehabilitation Act of 1973, which prohibits discrimination against an athlete who is disabled. The act requires an athlete to show that he or she has a disability that “substantially limits major life activities.” By using the act, Knapp argued that playing college basketball is a “major life activity.”

“It was a major case, because it was a very novel case under the Rehabilitation Act. It was a significant case insofar as Nick was a phenomenal athlete, a great student, and

Northwestern was presented with a difficult situation, and I think they handled it precisely right,” Quandt says.

A federal court agreed that Knapp was disabled under terms of the act and medically eligible to play basketball. Northwestern appealed.

In 1996, the 7th U.S. Circuit Court of Appeals reversed the district court’s decision, saying that “playing intercollegiate basketball obviously is not in and of itself a major life activity, and it is not a basic function of life....” The appeals court also said that decisions about eligibility to play competitive sports should be the domain of team physicians and schools, not the courts.

Mitten met Quandt during that case, when Mitten filed amicus briefs on behalf of two medical groups supporting Northwestern’s positions.

“There’s not a lot of well-defined precedent. Sports medicine law is more of an art than science,” Mitten says. “You can’t do controlled experiments on people like Nick Knapp.”

Experts with whom Quandt collaborated, including Mitten, recognized the uniqueness of the case and encouraged Quandt to contribute to an article about it for the prestigious *New England Journal of Medicine*. In 2001, Quandt addressed team physicians, trainers and management at the NFL’s annual combine — the first lawyer, he believes, to do so.

Then, in 2004, Quandt wrote a memo in which he envisioned a “think tank” that would bring together experts in all backgrounds of law and sports. The “think tank” became the Institute for Sports Medicine and Sports Law, which jointly sponsors the conferences with the Division of Sports Medicine, Department of Medicine; Northwestern’s Feinberg School of Medicine; and the National Sports Law Institute at Marquette.

Hoping to tap into Chicago’s dreams of hosting the 2016 Olympics, Quandt envisions the 2010 conference focusing on international

issues of sports medicine law. “Not just on the Olympic level, but how do high schools in Spain or Italy deal with these issues? How do respective colleges and universities deal with issues that arise?”

Quandt calls himself the catalyst, working with Schafer; Mitten; Dr. Stephen Adams, team physician for the Chicago Cubs and a faculty member at Northwestern; and Dr. Gordon Nuber, the Bears’ current team physician, to make the Institute a reality. In particular, he and Adams organized the agendas and speakers and have been the course directors at all three conferences.

“He carried me along; his enthusiasm was infectious,” Schafer says. “He wanted to make it a go, something that could be a contribution to his profession.... He took this and ran with it. When he gets a problem like this, he has the ability to let his enthusiasm take over and that makes it easier for him to think outside the box.”

Briefly studying pre-med before majoring in math at the University of Wisconsin, Quandt enjoys the “logic and understanding” demanded in pharmaceutical medical cases. And while his serious involvement with sports was playing tennis in college and being a basketball “fanatic” today (he picked North Carolina to win the national championship), he’s more than ready to bring that logic and understanding into real life.

Standing 6-feet-5, Quandt recently found himself in the last row in a flight from Los Angeles to Chicago. When the passenger in front leaned the seat back, into Quandt’s folded knees, Quandt calmly but firmly reported: “Listen, I took a course in physics, and this isn’t going to work.”

To Learn More: The Institute for Sports Medicine and Sports Law, www.ismsl.org.