

Sports Litigation Alert

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Practical and Legal Considerations in Organizing Nostalgic Athletes into Revenue-Generating Enterprises

By Edward H. Schauder

Few moments in sports history have captured the imagination of the public like the 1980 U.S. Olympic Hockey Team’s “Miracle on Ice” or the 1969 World Champion New York Mets. Decades later, fans still want to relive those championship moments — through memorabilia, appearances, documentaries, licensing programs, and special events.

But as time passes, former teammates are geographically dispersed, represented by different advisors (or none at all), and often lack a unified structure to protect and monetize their collective intellectual property.

When properly organized, nostalgic championship teams and retired athletes can transform shared history into sustainable, compliant, revenue-generating enterprises.

Below are key legal and practical considerations when structuring these programs.

1. Protecting Publicity and Intellectual Property Rights

Former athletes retain valuable rights of publicity in their names, images, likenesses, and personal brands. However, without collective organization, those rights are often:

- Under-licensed
- Inconsistently licensed
- Or exploited without authorization



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In *Shamsky v. Garan Inc.*, members of the 1969 Mets successfully asserted their rights against unauthorized commercial exploitation of their likenesses. The case reinforced that even when team imagery is used collectively, individual players maintain enforceable rights of publicity.

Today, these issues are even more complex. The expansion of digital media, streaming content, online marketplaces, NFTs, and social media marketing has significantly increased both opportunity and risk.

A properly structured entity allows athletes to:

- Centralize licensing authority
- Enforce rights efficiently
- Negotiate from a position of collective strength
- Prevent fragmented or unauthorized exploitation

2. Choosing the Appropriate Legal Structure

There is no “one-size-fits-all” model. Structures may include:

- Limited liability companies (LLCs)
- Corporations
- Special purpose licensing entities
- Joint ventures with franchises

Key considerations include:

- Federal and state tax implications

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- Securities law considerations (if equity interests are issued)
 - Existing endorsement or exclusivity agreements
 - Governance and voting rights
 - Opt-in/opt-out flexibility for individual players

Careful structuring ensures the program enhances — rather than disrupts — existing post-career opportunities.

3. Revenue Streams: Beyond Appearances and Autographs

Well-structured nostalgic athlete programs may generate multiple revenue streams, including:

- Licensing and merchandising
- Corporate sponsorships
- Digital content monetization
- Fantasy camps and clinics
- Charity events and fundraising initiatives
- Documentary and streaming collaborations
- Settlements for unauthorized exploitation

In today's environment, digital engagement — including exclusive online content, virtual events, and subscription-based offerings — presents new opportunities for retired athletes to connect directly with fans.

The critical point remains: there is strength in numbers. A unified entity negotiating on behalf of multiple players shifts leverage in favor of the athletes.

4. Franchise Collaboration and Joint Ventures

Franchises are often uniquely positioned to collaborate with alumni and championship teams. They hold valuable intellectual property, established sponsorship relationships, and direct communication channels with former players.

A cooperative model between alumni and franchises can:

- Create additional revenue for both sides
- Enhance fan engagement
- Avoid sponsor conflicts
- Ensure compliance with league licensing rules

Proactive coordination with governing bodies — such as Major League Baseball or USA Hockey — is

essential before launching any program.

5. Governance and Revenue Allocation

Before launch, programs must clearly address:

- Which team members are eligible to participate
- How deals are approved
- Whether majority vote or committee governance will apply
- How revenue is divided
- Whether certain members may opt out of specific transactions

Transparency and careful documentation at the outset reduce disputes later.

6. Startup and Ongoing Costs

Startup costs are generally modest relative to the potential upside and typically include:

- Entity formation
- Licensing and rights agreements
- Trademark filings
- Branding and marketing materials
- Website development

Ongoing costs may include accounting, legal compliance, and marketing services. In many cases, advances from licensing partners or sponsors can offset early expenses.

7. Estate Planning and Legacy Considerations

As athletes age, estate planning and legacy management become increasingly important. Organized programs provide:

- Structured control over posthumous licensing
- Consistent brand stewardship
- Long-term revenue continuity for families and heirs

The recent formal integration of Negro League statistics into Major League Baseball records illustrates how historical recognition can create new licensing and commercial opportunities decades later. Proper legal structuring ensures estates are positioned to benefit from such developments.

Conclusion

Championship moments may last only a season — but their commercial and cultural value can endure for generations.

By forming properly structured entities, nostalgic athletes can:

- Protect their intellectual property
- Preserve their collective legacy
- Generate meaningful revenue
- Support charitable causes
- And reengage with fans in a coordinated, compliant manner

With careful planning and experienced legal guidance, shared history can become a sustainable

enterprise.

Edward H. Schauder is Special Counsel at Nason Yeager. With more than 35 years of experience in corporate transactions and the sports and entertainment industries, he advises athletes, estates, brands, and businesses on intellectual property, licensing, sponsorship, and complex commercial matters. Mr. Schauder is admitted in New York and is available to counsel clients on matters involving New York or federal law.

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