

STEPHEN F. ROSS
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Professional History

Professor of Law and Director, Penn State Institute for Sports Law, Policy, and Research, The Dickinson School of Law, 2006 through present, Lewis H. Vovakis Distinguished Faculty Scholar, 2008-present. Courses taught: Comparative Constitutional Law (U.S./Canada), Sports Law, Sports & Public Policy, Statutory Interpretation, Special project in Baseball Salary Arbitration

Visiting Professor, Cass Business School, City University of London, 2009-10. Courses taught: Sports Business

Visiting Professor of Law, University of British Columbia Faculty of Law, 2000-09
Course taught: Comparative U.S./Canadian Law (via teleconferencing to American and UBC students)

Professor of Law, University of Illinois College of Law, 1986-2006 (Associate Professor, 1989-91, Assistant Professor, 1986-89). Courses taught: Antitrust, Advanced Antitrust, Antitrust & Intellectual Property (both U.S. and Comparative U.S./ Canadian/ European), Canadian Competition Law, Comparative Constitutional Law (U.S./ Canada), Government Regulation, Legislation, Real Property, Sales, Sports Law, Sports Law & Economics, Statutory Interpretation (Voting Rights Act), Statutory Interpretation (Welfare Legislation). Seminars and projects supervised: Appellate Advocacy, Baseball and Antitrust, Baseball and Public Policy (undergraduate course), Baseball Salary Arbitration, Canadian Constitutional Law, Legislative Drafting, N.C.A.A. Rulemaking

Visiting Professor of Law, University of New Brunswick Faculty of Law, 2005
Course taught: Canadian Competition Law

Senior Fellow, American Antitrust Institute, 2004-present

Visiting Scholar, University of British Columbia Faculty of Law, January-June 1999

Contributing Editor, Antitrust magazine of the Section on Antitrust Law of the American Bar Association, 1991-99 (founding Editor-in-Chief, 1986-91)

Minority Counsel, Committee on the Judiciary, United States Senate, 1983-85

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Professional History, cont'd

Attorney, Appellate Section, Antitrust Division, United States Department of Justice, 1981-83

Law Clerk, Judge Ruth Bader Ginsburg, United States Court of Appeals for the District of Columbia Circuit, 1980-81

Attorney, Office of General Counsel, Federal Trade Commission, 1979-80

Education

J.D., 1979, Boalt Hall School of Law, University of California (Berkeley)

Associate Editor, California Law Review, 1977-79.

Member, Order of the Coif.

American Jurisprudence Awards in Crimes, Constitutional Law, and Evidence.

Finalist, Jamison Award for Law and Advocacy.

A.B., 1976, cum laude, University of California (Berkeley) (departmental honors in political science)

Academic Publications

Radical Reform of Intercollegiate Athletics: Antitrust, Title IX, and Public Policy Implications,
Tulane L. Rev. (forthcoming symposium 2012)

The Supreme Court's Renewed Focus on Inefficiently Structured Joint Ventures, U. Pa. Bus. L.
Rev. (forthcoming 2012)

Handbook of International Sports Law (co-edited with James A. Nafziger) (Edward Elgar
Press (2011)

Sports and the Law, 4th ed. (co-authored by Paul C. Weiler, Gary R. Roberts, and Roger I.
Abrams) (Thomson/West 2010)

The Story of Flood v. Kuhn: Dynamic Statutory Interpretation, At the Time, in **Statutory
Interpretation Stories** (William Eskridge, Philip Frickey, and Elizabeth Garrett, eds.
Foundation 2010)

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Academic Publications, (cont'd)

Fans of the World, Unite! (with Stefan Szymanski) (Stanford Univ. Press 2008)

Statutory Interpretation as a Parasitic Endeavor, 44 U.S.D. L. Rev. 1027 (2008) (symposium)

The Concept of the Residual Claimant and Sports League Governance in **Governance and Competition in Professional Sports Leagues** (Placido Rodriguez Guerrero, Stefan Kesenne, Jaime Garcia, eds.) (Univ. of Oviedo Press 2007)

Governance and Vertical Integration in Team Sports (with Stefan Szymanski), 25 Contemporary Econ. Pol. 616 (2007)

Antitrust and Inefficient Joint Ventures: Why Sports Leagues Should Look More Like McDonald's and Less Like the United Nations, 16 Marquette Sports L.J. 213 (2006)

The Effect of Baseball's Status as a Legal 'Anomaly and Aberration', in **Legal Issues in Professional Baseball** (L. Kurlantzik, ed.) (Academic Press, 2005)

Player Restraints and Competition Policy Throughout the World, 15 Marquette Sports L. Rev. 49 (2004) (symposium on international sports law and business)

The NHL Labour Dispute and the Common Law, the Competition Act, and Public Policy, 37 U.B.C. L.Rev. 343 (2004)

Some Outside Observations on Overly Restrictive Agreements and the *Souths Rugby Case*, 12 Australian Consumer & Comp. L. J. 83 (2004)

Competition Law as a Constraint On Monopolistic Exploitation by Sports Leagues and Clubs, 19 Oxford Rev. of Econ. Policy 569 (2004)

Antitrust, Professional Sports, and the Public Interest, 4 J. Sports Econ. 318 (2003) (symposium on baseball and economics)

The Political Economy of the Efficiency Defence, 21 Canadian Competition Record 89 (2003)

Some Useful Charter Insights for American Equality Jurisprudence, XXI Windsor Yearbook of Access to Justice (2003) (symposium on 20th anniversary of the Canadian Charter of Rights and Freedoms)

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Academic Publications (cont'd)

Location and Limits of Dynamic Statutory Interpretation in Modern Judicial Reasoning, Issues in Legal Scholarship (Boalt Hall faculty journal) (2003) (symposium on dynamic statutory interpretation), *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=420500

Light, Less Filling, It's Blue Ribbon!, 23 Cardozo L.J. 1675 (2002) (symposium on legal issues in baseball)

Open Competition in League Sports, 2002 Wisconsin L. Rev. 625 (with Stefan Szymanski)

Antitrust Options to Redress Anticompetitive Restraints and Monopolistic Practices by Sports Leagues, 52 Case Western L.J. 133 (2001) (symposium)

Promotion and Relegation, 2 World Economics 179 (2001) (with Stefan Szymanski)

Network Economic Effects and the Limits of Efficiency, 68 Antitrust L.J. 945 (2001) (symposium)

Myths, Realities, and Creative Approaches to Antitrust and Franchise Relocation Issues, 14 Antitrust 57 (Spring 2000)

Legalizing Merger to Monopoly and Higher Prices, Antitrust 71 (fall 2000)

Necessary Restraints and Inefficient Monopoly Sports Leagues, 1 Int'l Sports L. Rev. 27 (2000) (with Stefan Szymanski)

Statutory Interpretation in the Courtroom, the Classroom, and Canadian Legal Literature, 31 Ottawa L. Rev. 39 (2000)

Myths, Realities, and Creative Approaches to Antitrust and Franchise Relocation Issues, 14 Antitrust 57 (Spring 2000)

Anti-competitive aspects of sports, 7 (Australian) Competition & Consumer L.J. 125 (1999)

Restraints on Player Competition that Facilitate Competitive Balance and Player Development and their Legality in the United States and Europe, in **Competition Policy and Professional Sports** (C. Jenrenaud & S. Késenne, ed.) (International Center for Sports Studies, Neuchatel, Switzerland 1999).

The Modern Parol Evidence Rule and its Implications for New Textualist Statutory Interpretation, 87 Georgetown L.J. 195 (1998) (with Daniel Tranen)

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Academic Publications (cont'd)

“Pro-Competitive Executive Compensation” as a Condition for Approval of Mergers that Simultaneously Exploit Consumers and Enhance Efficiency, Canadian Competition Record (spring 1998) (with Ian Ayres)

Why Highly Paid Athletes Deserve More Antitrust Protection than Unionized Factory Workers, 33 Antitrust Bulletin 641 (1997) (with Robert B. Lucke) (symposium on sports/antitrust))

The Misunderstood Alliance Between Sports Fans, Players, and the Antitrust Laws, 1997 Univ. of Illinois L. Rev. 519

Lessons from the "True North Strong and Free", 65 Antitrust L.J. 467 (1997) (symposium on Canadian competition law)

Did the Canadian Parliament Really Permit Mergers that Exploit Canadian Consumers So the World Can be More Efficient?, 65 Antitrust L.J. 641 (1997) (symposium)

The Evolving Tort of Conspiracy to Restrain Trade Under Canadian Common Law, 75 Canadian Bar Rev. 193 (1996)

Reconsidering Flood v. Kuhn, 12 U. Miami J. Ent. & Sports Law 169 (1995)

The Limited Relevance of Plain Meaning, 73 Washington U. L. Q. 1057 (1995) (symposium)

Justice Breyer and the Fault Lines of Antitrust, 40 Antitrust Bulletin 169 (1995)

Principles of the Law of Antitrust (Foundation Press 1993)

Where Have You Gone, Karl Llewellyn? Should Congress Turn Its Lonely Eyes To You?, 45 Vand. L. Rev. 561 (1992)

Comment on Spulber & Besanko's Delegation, Commitment and the Regulatory Mandate, 8 Journal of Law, Economics, and Organization 155 (March 1992) (symposium)

Break Up the Sports League Monopolies, in **The Business of Professional Sports** (P. Staudohar & J. Mangan, eds.) (Univ. of Illinois Press 1991)

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Academic Publications (cont'd)

An Antitrust Analysis of Sports League Contracts with Cable Networks, 39 Emory L.J. 463 (1990)

Reaganist Realism Comes to Detroit, 1989 University of Illinois L. Rev. 399

Monopoly Sports Leagues, 73 Minnesota L. Rev. 643 (1989)

Legislative Enforcement of Equal Protection, 72 Minnesota L. Rev. 311 (1987)

Student Publications

Comment, Exclusionary Zoning in California: A Statutory Mechanism for Judicial Nondeference, 68 Calif. L. Rev. 1154 (1979) (with Edward G. Weil)

Note, Bordenkircher v. Hayes: Ignoring Prosecutorial Abuses in Plea Bargaining, 67 Calif.L. Rev. 675 (1978)

Other Publications

A Roundtable Discussion for the Digital Age: Brady v. NFL, 29 Ent. & Sports Lawyer 1 (Summer 2011) (with numerous co-participants)

Judicial Review of Nfl Drug Cases: Backgrounder on the Minnesota Vikings steroids case and Judge Magnuson's injunction against discipline, *available at* http://law.psu.edu/academics/research_centers/sports_law/topical_discussion

Exploiting Kids: The Scandal in Agent Recruiting of Athletically-Gifted Teens (with Raynell Brown and S. Douglas Webster), Policy Paper for Penn State Institute for Sports Law, Policy and Research (June, 2009), *available at* http://law.psu.edu/academics/research_centers/sports_law/topical_discussion

Interpreting the Canada Pipe Decision (roundtable for American Bar Association Sherman Act Section 2 Committee Newsletter, Fall 2006)

A Framework for Policymakers to Analyze Proposed and Existing Antitrust Immunities and Exemptions (with Darren Bush & Gregory K. Leonard), Antitrust Modernization Commission, October, 2005

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Other Publications, cont'd

English Cricket: Lifting Cricket's Fortunes, The Sports Nexus Report 2004 (with Oliver Hylton, Philip Snape, Philip de Nahlik, Ian Preston, and Stefan Szymanski)

The Baseball Antitrust Exemption Lives, But with Criticism, in the Eleventh Circuit, American Antitrust Institute Website, May 31, 2003 (www.antitrustinstitute.org)

Legalizing Merger to Monopoly and Higher Prices: The Canadian Competition Tribunal Gets it Wrong, Antitrust magazine (2001)

Fan-friendly competition is open competition, Sports Business Journal (July 17-23, 2000)

Verbot der zentralen Vermarktung bringt nur Vorteile (The Prohibition of Centralized Marketing Brings Advantages), Frankfurter Allgemeine Zeitung, January 3, 1998

Losing the Football Game, Legal Times, July 29, 1996

Consumers lose in recent sports labor exemption cases, Antitrust magazine (summer 1995)

A Solution to return to the ballpark, Indianapolis Star, Aug. 28, 1994

After McNeil: How About Plan "F" (For Fans)?, For the Record (Marquette Univ. Nat'l Sports Law Inst.), Oct./Nov. 1992

Recent Sports Antitrust Developments: Another Perspective, The Sports Lawyer, Mar.-Apr. 1992

Notre Dame's maverick deal demands action, The National Sports Daily, Mar. 12, 1990

Court to Review Dealer Termination Agreements, Antitrust magazine, fall 1987

Standards for Judging Allegedly Anticompetitive Agreements Between Leagues and Players, Antitrust magazine, summer 1987

Power Play: The NFL Wins, Arizonans Lose in Antitrust Case Brought By USFL, Arizona Republic, August 10, 1986

Works In Progress

Competition Law and Labour Restraints in North America and Europe

Joint Control of Essential Facilities Under US, EU, and UK law

Judicial Review of NCAA Decisions: Evaluation of the Restitution Rule and a Call for Arbitration (with S. Baker Kensinger)

Original Teaching Materials (including fully-edited cases and accompanying notes and questions)

Comparative Canadian/U.S. Law (2000-present)

Interpreting the Voting Rights Act [1st year statutory interpretation elective] (2001-05)

Interpreting Welfare Legislation [1st year statutory interpretation elective] (1996-98)

Comparative Canadian Competition Law (1997)

Sports Law (1989)

Electronic Discussion Papers (not otherwise/ yet published)

Seizing the Moment: A Blueprint for Reform of World Cricket (with Ian Preston and Stefan Szymanski): <http://www.ucl.ac.uk/~uctp100/bluprint.pdf>

Invited Expert Testimony

If it Walks Like a Duck and Quacks Like a Duck, It's Not a Goose: Why North American Sports Leagues Should Be Single Entities, But They Are Not Now, House Subcommittee on Courts and Competition Policy, January 2010

Crisis and Competition Policy, Turkish Competition Authority, March 2009

Restoring the Market for Out-of-Market Baseball, Senate Committee on Commerce, Science and Transportation, March 2007

A Framework for Policymakers to Analyze Proposed and Existing Antitrust Immunities and Exemptions, Antitrust Modernization Commission, December, 2005 (with Darren Bush and Gregory K. Leonard) (*available at* www.amc.gov/commission_hearings/statutory_immunities_exemptions.htm)

Options for Amending the *Competition Act*, Canadian Competition Bureau, September, 2003

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Invited Expert Testimony (contd)

Competition Policy for Ordinary Canadians, Not Economists, Canadian House of Commons Standing Committee on Industry, Science, and Technology, April 2003

An American Perspective on Canadian Competition Law Reform, Canadian Bureau of Competition, May, 2000

In the Matter of An Agreement Between the Football Association Premier League *et al*, British Restrictive Practices Court (1996 No 1 (E&W)), October, 1998 (testimony on American sports and antitrust jurisprudence applicable to sports league sales of television rights)

Competition Policy toward Joint Ventures, Federal Trade Commission, October 1997 and March 1998

Protecting Fans and Taxpayers Against Exploitation by Monopoly Sports Leagues, House Committee on the Judiciary, February, 1996

Franchise Relocations by Monopoly Sports Leagues, Senate Committee on the Judiciary, Subcommittee on Antitrust, Business Rights, and Competition, November, 1995

Repealing baseball's antitrust exemption, House Committee on the Judiciary, Subcommittee on Economics and Commercial Law, March, 1993 (together with supplemental testimony concerning the effect of the baseball exemption on minor league baseball)

Antitrust Implications of Compulsory License Repeal for Sports Broadcasting, Senate Committee on the Judiciary, Subcommittee on Patents, Copyrights and Trademarks, April, 1992 (together with supplemental testimony concerning abuses of the antitrust exemption by Major League Baseball)

The Attack on Legislative History as a Tool for Statutory Interpretation, House Committee on the Judiciary, Subcommittee on Courts, Intellectual Property, and the Administration of Justice, April, 1990

Antitrust and Policy Implications of Increased Cablecasting of Sports Programming, Senate Committee on the Judiciary, Subcommittee on Antitrust, Monopolies, and Business Rights, November, 1989

Sports Broadcasting, Antitrust, and Public Policy, Senate Committee on the Judiciary, Subcommittee on Antitrust, Monopolies, and Business Rights, October 1987

Judge Bork, Judicial Activism, and Antitrust, Senate Committee on the Judiciary, 1987

Conference & Workshop Participation (not listed as publications)

- “Radical Reform in Intercollegiate Athletics”, Tulane Law School, February, 2011
- “Fans of the World, Unite!”, University of California, Boalt Hall School of Law, Sport and Entertainment Law Journal, February, 2010
- “Bodyline and ‘Cheating’ in Sports and Constitutional Law,” University of Sydney Faculty of Law, August, 2009
- “Joint Control of Essential Facilities under English Competition Law,” City University of London Faculty of Law, May 2009
- “The Concept of the Residual Claimant in Sports: Why Sports Leagues Should Resemble McDonald's Rather than the United Nations”, Bocconi University, May 2009
- “The Role of the Academic as an Advisor to Sports Entities,” C5 Conference on Sports Law and Business, London, April 2009
- “A Trans-Atlantic Conversation: What Americans can Learn from European Sport, and Some Outsider Observations About European ‘Football’”, Birkbeck College Sports Management Lecture Series, March, 2009
- “How Australian Law Teaches an American Law Professor How To Advise a British Sports Manager Helping Build an Indian Sports League”, University of Melbourne Sports Law Centre, May 2008
- “MLB/DirecTV as a Case of Anti-consumer Exclusive Dealing Without Foreclosure,” Federal Communications Bar Ass’n and Stanford Institute of Economic Policy Research, April 2007
- “New Frontiers in International and Comparative Sports Law,” Association of American Law Schools Sections on Law and Sports and Comparative Law, January 2007
- “The Antitrust Modernization Commission at Mid-Course,” American Bar Association Section on Antitrust Law, June, 2006
- “*Dagher* and *Illinois Tool Works*: The Supreme Court Steps In,” American Bar Association Section on Antitrust Law, March, 2006

Conference & Workshop Participation (cont'd)

"Robinson-Patman Act Reform," American Bar Association Section on Antitrust law, May 2005

"Competition Policy and Sports Leagues," University of British Columbia Division of Strategy and Business Economics, February 2005

"Sports League Restraints and the *Clarett* care", AALS Annual meeting, January 2005

"A Statutory Charter for Social and Economic Rights," University of British Columbia Faculty of Law, September, 2004

"The Limits of Efficiency," Ass'n of American Law Schools Annual meeting, January, 1999

"Interpreting Different Texts," Ass'n of American Law Schools Annual meeting, January, 1999 (organizer, moderator, and author of discussion materials)

"The Labor Exemption and Professional Sports," Sports Law Conference sponsored by the Association of American Law Schools Section on Sports Law and the National Sports Law Institute of Marquette University, November, 1998

"Current Issues in Professional Sports," American Bar Association Forum on Entertainment and Sports Law, October, 1998

"Fan Oriented Enforcement Initiatives by State Attorneys General," National Association of Attorneys General Sports Summit, November, 1996

"Textualism and the 104th Congress," Ass'n of American Law Schools annual meeting, January, 1996

"The Unreasonableness of Sports League Salary Caps under Antitrust Statutes and the Common Law," New York Bar Ass'n Section on International Law, October, 1995

"Franchise relocation and antitrust", ABA Section on Antitrust Law, April 1995

"Inferring conspiracies under the Sherman Act," Conference Board Antitrust Seminar, 1993

"Myth of Amateurism and the Reality of the Cartel," Chicago Bar Association Antitrust Section/University of Illinois Alumni Association, February 1992

"Distinguishing price and non-price restraints," Conf. Bd. Annual Antitrust Seminar, March 1991

University Service

Member, University Committee on Promotions & Tenure, Penn State University, 2009-present

Chair, Sports-Interested Interdisciplinary Faculty Group, Penn State University, 2007-present

Chair, Professional Sports Counseling Panel, University of Illinois, 1990-2006

Member, University Senate, University of Illinois, 1987-89, 1994-96

Member, University of Illinois Athletic Board, 1988-93 (Chair, Committee on Athletic Progress and Eligibility, 1989-91)

Member, various doctoral and masters committees, Institute for Labor and Industrial Relations, University of Illinois, 1988-2004

Member, University of Illinois Senate Committee on Admissions, 1987-88

Professional Activities

American Association of Law Schools, sections on Legislation, Antitrust, and Sports Law
Sports Law Section Executive Committee, 1988-90, 2007-present
Antitrust Section Executive Committee, 1993-96
Legislation Section Executive Committee, 1994-2000

American Bar Association, Section on Antitrust Law
Member, Monograph Committee, 1989-93
Member, Task Force on Robinson-Patman recommendations for the Antitrust
Modernization Commission Committee, 2005-07

American Antitrust Institute
Member, Advisory Board, 1998-present
Chair, Sports and Antitrust Task Force, 2000-present
Senior Fellow, 2004-present

Sports Lawyers Association

Marquette University National Sports Law Institute
Member, Advisory Board, 2002-06

Public Service Activities

Consultant, Canadian Competition Bureau, November 2002 (with regard to role of efficiencies in merger litigation)

Consultant, United States Department of Justice, November 2002 (with regard to antitrust policy re professional and college sports)

Consultant to Antitrust Modernization Commission re immunities and exemptions, 2005-06

Counsel for amicus curiae Consumer Federation of America, Chicago Professional Sports Ltd. Partnership v. National Basketball Association, No. 91-1434 (7th Cir.) (pro bono)

Counsel for amici curiae American College of Nurse-Midwives and American Medical Students Association, National Organization for Women v. Scheidler, No. 91-2468 (7th Cir.) (pro bono)

Counsel for amici curiae Consumer Federation of America and Sports Fans United, Butterworth v. National League of Professional Baseball Clubs, No. 82,287 (Fla. S.Ct.) (pro bono) (challenge to baseball's antitrust exemption)

Counsel for amici curiae Consumer Federation of America and Sports Fans United, National Basketball Association v. Williams, No. 94-7709 (2d Cir.) (pro bono) (challenge to salary cap and other labor market restraints)

Counsel for amici curiae Antitrust Law Professors, NYNEX Corp. v. Discon, Inc., No. 96-1570 (U.S. S.Ct.) (pro bono) (antitrust standard for vertical exclusionary conspiracies)

Counsel for amici curiae Consumer Federation of America and FANS, Inc., Minnesota Twins Partnership v. State of Minnesota by Humphrey, No. C9-98-890 (Minn. S. Ct) (pro bono) (challenge to baseball's antitrust exemption)

Counsel for amicus curiae Consumer Federation of America, State of Minnesota by Hatch v. Minnesota Twins Partnership, No. 99-414 (U.S. S. Ct.) (pro bono) (same)

Counsel for Appellant, South Austin Coalition Community Council v. SBC Communications, Inc., No. 00-3864 (7th Cir.) (pro bono) (challenge to phone company merger)

Counsel for amici curiae Consumer Federation of America and American Antitrust Institute, Major League Baseball v. Butterworth, No. 02-10333-C (11th Cir.) (pro bono) (challenge to baseball's antitrust exemption)

Public Service Activities (cont'd)

Consultant to counsel for respondents, News Ltd. v. South Sydney District Rugby League Football Club, No. S34 (High Ct. of Australia) (2002) (pro bono) (challenge to rugby league contraction that excluded respondent club)

Co-author on behalf of American Antitrust Institute, In the Matter of Nestle Holdings; Dreyer's Grand Ice Cream Holdings, Inc., Docket No. C-4082 (Federal Trade Commission) (2003) (pro bono) (comments on proposed consent decree in merger case)

Counsel for amicus curiae American Antitrust Institute, Texaco, Inc. v. Dagher, No. 04-805 (U.S.) (pro bono) (antitrust review of joint ventures)

Counsel for amici curiae American Antitrust Institute and Consumer Federation of America, American Needle, Inc. v. National Football League, No. 08-661 (U.S.) (pro bono) (whether sports leagues are 'single entities' for antitrust purposes)

Counsel for amicus curiae Sports Fans Coalition, Brady v. National Football League, No. 11-1898 (8th Cir.) (pro bono) (whether lockout of decertified union can be enjoined)