



Corky Klett Discusses Name, Image and Likeness in South Carolina Lawyers Weekly

Firm News
08.17.2022

Charleston-based William “Corky” Klett III was quoted extensively in an August 16, 2022, article in South Carolina Lawyers Weekly highlighting the fast-moving legal landscape of name, image and likeness (NIL) rules for college athletes.

The U.S. Supreme Court reviewed a case, *NCAA v. Alston*, on NCAA policies on student-athlete compensation last year and issued a ruling that was limited in scope but continues to have broad implications, including as it relates to athlete’s ability to profit off of their own fame.

“Because of the way that the decision was interpreted, it led everyone to kind of jump to this conclusion that the NCAA doesn’t have the same powers to regulate individual student athletes’ commercialization of their name, image and likeness,” Klett said.

Included in the Alston ruling was commentary from Justice Kavanaugh that “businesses like the NCAA cannot avoid the consequences of price-fixing labor by incorporating price-fixed labor into the definition of the product.”

“Justice Kavanaugh’s concurring opinion gave everyone the impression that the business model of the NCAA was probably not valid, and the whole concept of amateurism and not allowing athletes to be paid or commercialized or anything like that was probably not a good business model,” Klett said.

Outside of the NCAA’s evolving guidance, state laws announced even before the NCAA’s rules aimed to give some leeway for students to profit but have often fallen into their own problems. South Carolina’s 2021 law, for example, included a provision that kept student athletes from using the logos of their team.

“That didn’t really seem to work or make sense because the very reason that people would pay money was the association between the university and athlete, Klett said.

“As we all know, particularly with college football, you don’t want to put your school or your state at a competitive recruiting disadvantage,” he added. “By being one of the states that tried to get out in front with a state statute, it was actually detrimental to the process. The states that didn’t do that,

Corky Klett Discusses Name, Image and Likeness in South Carolina Lawyers Weekly

the universities were able to make up their own rules.”

“Our firm is closely watching the legislative process with regards to whether or not it is going to be introduced during a certain legislative session,” Klett noted. “We do know that there have been some senators here who have advocated for this to be brought to the senate floor. We’re just waiting on that to happen.”

“There are top-tier athletes that can barely feed themselves in many instances,” Klett concluded. “This now allows them an opportunity to create some financial independence for themselves while also still being able to perform at the highest levels.”

For the full article, please [click here](#).