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Sporting Judgment

Noah held to standards in uniform player contract

By Amanda Robert
Law Bulletin staff writer

When a professional basketball player like Joakim Noah signs the NBA uniform player contract, he gives both the league and his team the power to punish him for future misbehavior.

"It has some very broad language in there that not only seeks to regulate the behavior of an athlete from just general public standards, but there is the idea that you shouldn't do anything that is materially detrimental to the best interests of the team, as well as the league," said Timothy L. Epstein, a partner at SmithAmundsen LLC and chairman of the firm's sports law practice group. "So, making a derogatory comment about someone's sexual orientation certainly could fall under that category."

Chicago Bulls center Noah directed an anti-gay slur toward a Miami Heat fan during the first quarter of Game 3 of the Eastern Conference finals on Sunday. Television crews caught his comment, and on Monday, NBA Commissioner David Stern fined him \$50,000.

As part of collective bargaining between the NBA and the NBA Players Association, players agree to uphold specific conduct standards that are outlined in the uniform player contract.

According to the contract: "The player agrees: (i) to give his best services, as well as his loyalty, to the team, and to play basketball only for the Team and its assignees; (ii) to be neatly and fully attired in public; (iii) to conduct himself on and off the court according to the highest standards of honesty, citizenship and sportsmanship; and (iv) not to do anything that is materially detrimental or materially prejudicial to the best interests of the team or the league."

Players also agree to accept fines from the league commissioner for conduct violations. Noah received the maximum fine for his misbehavior.

"The commissioner can step out right away and say, 'I don't like this, a \$50,000 fine for what you said,'" Epstein said. "The player has the option to attempt to appeal that, but if it's something the player can afford, he got caught doing it, there is a precedent for people paying it out and he doesn't want to drag it out and hurt his public image, it's probably best to pay the fine and move on."

Los Angeles Lakers star Kobe Bryant

received a \$100,000 fine for directing a similar anti-gay slur toward referee Bennie Adams earlier in the NBA Playoffs.

Bryant received a harsher penalty than Noah since he made his comment to an official and not a fan, Epstein said.

Steve Wright, the director of sports marketing for Houston-based McClaren Sports, who represents New Jersey Nets point guard and University of Illinois graduate Deron Williams, called Noah's situation "unfortunate."

"He's a nice guy, and he slipped," Wright said. "He said something in the heat of the moment that shouldn't have been said."

Wright said he encourages his clients to avoid these situations, but if something happens, he advises them to be honest and quickly apologize.

"It's understanding that a mistake has been made," he said. "Problems arise when guys make it an issue in the media, and they lie about it or they're not remorseful."

While Wright couldn't say if Noah's fine was fair or if the NBA was sending a message with the discipline, he pointed to Andrew Bynum's situation as one that "set an extreme point."

L.A. Lakers center Bynum was ejected for a flagrant foul against Dallas Mavericks reserve guard J.J. Barea earlier in the playoffs. He received a five-game suspension for next season.

"When you're suspended like that, you're suspended without pay," Wright said. "It cost you a lot more than a fine back to the NBA."

The NBA uniform player contract not only permits the league to penalize players, but it also allows teams to hand out punishment.

While Epstein said it's unlikely the Bulls will further penalize Noah, the team has the power to suspend him, give him additional fines or terminate his contract. However, with the collective bargaining agreement in place, Noah would have the right to file a grievance and attempt to appeal those actions.

For example, he said, Latrell Sprewell, who played for the Golden State Warriors, was able to overturn his team's move to terminate his contract for choking coach P.J. Carlesimo during a practice in 1997. He instead received a 68-game suspension.

"Making a derogatory comment toward a fan who is instigating you during a game

versus choking your coach — I think that shows you what precedent is in place for being allowed to actually terminate someone's contract," Epstein said.

Lester E. Munson, a senior writer and legal analyst for ESPN.com, said that if Noah had used the anti-gay slur in the regular season and not in the Eastern Conference Finals, it would have been "an incident of considerably lesser importance."

In his opinion, Noah will not see any lasting effect on his standing as an NBA player, he said.

"Noah was playing brilliantly until that night," Munson said. "Compare him to Tank Johnson — Tank Johnson was a repeat offender and the Chicago Bears released him.

"Tank Johnson is the kind of miscreant where you worry about morality clauses, but not for this kid. He's a second-generation professional athlete. He understands this stuff and we all make mistakes."

Epstein contended that athletes who engage in inappropriate behavior can also be hurt where they make their money — through endorsement deals.

Most endorsement contracts contain morality clauses, which are in place to ensure that talent such as athletes, models or movie stars who endorse a brand don't do anything to damage that brand.

A significant endorsement deal for Noah that could be affected is his six-year contract with French athletic brand, Le Coq Sportif, he said.

"You have to imagine there is some morality clause in there where they could potentially terminate his contract, financially penalize him or reserve services for a later date," Epstein said.

Pittsburgh Steelers running back and University of Illinois graduate Rashard Mendenhall received criticism in early May for posting comments about Osama bin Laden's death on Twitter and while the league and his team could disagree with his stance, they couldn't punish him for making political statements, he said.

However, Mendenhall did lose his endorsement contract with Champion.

"Champion says, 'Your comments are detrimental to the brand. I can't use you as an endorser, because people don't like what you said. You're not helping me move products,'" Epstein said.