

10-1-1993

Antitrust: Piazza, et al. V. Major League Baseball, et al., 836 F. Supp. 269 (e.d. Pa. 1993)

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Recommended Citation

Antitrust: Piazza, et al. V. Major League Baseball, et al., 836 F. Supp. 269 (e.d. Pa. 1993), 11 U. Miami Ent. & Sports L. Rev. 204 (1993)
Available at: <http://repository.law.miami.edu/umeslr/vol11/iss1/11>

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film would not have been shown during school hours, would not have been sponsored by the school, and would have been open to the public, permitting the Church to show the film would not constitute an establishment clause violation. Reversed.

S.G.

ANTITRUST

PIAZZA, ET AL. V. MAJOR LEAGUE BASEBALL, ET AL., 836 F. Supp. 269 (E.D. Pa. 1993).

Major League Baseball ("MLB") moved for an order to certify for immediate appeal to the United States Court of Appeals for the Third Circuit the denial of their motion to dismiss antitrust claims. On August 4, 1993, the District Court granted in part and denied in part MLB's motion to dismiss plaintiff's complaint, which left many antitrust claims. MLB has proposed the following questions upon which certification is sought: 1) Is baseball's exemption from antitrust law limited to the reserve clause; and 2) If not, does the reserve clause encompass relocation and/or ownership issues?

Held: Pursuant to 28 U.S.C. §1292(b), federal law permits immediate appeals of otherwise unappealable orders, such as a motion to dismiss, only when the district judge believes such an order involves a controlling question of law as to which there is substantial ground for difference of opinion (i.e. whether the antitrust exemption extends beyond the reserve clause and that the ownership and relocation issues constitute the "business of baseball"), and that an immediate appeal from the order may materially advance the ultimate termination of the litigation. All three factors in §1292(b) must be met.

The court cited several factors relevant to the determination of whether certification would materially advance the ultimate termination of the lawsuit. First, it is likely that the case would be ready for trial regardless of the disposition of the antitrust claims. Second, the effect on discovery would be burdensome and unfair to the plaintiff, and would nonetheless continue even if the antitrust case need not be tried. Also, any stay of trial could possibly result in a second appeal which would be a considerable waste of time and resources. Last, the court specifically discourages piecemeal appeals, in order to have the entire controversy presented to it at one time, on a full record from which it can make a final determination of the issues in the case. Denied.

E.A.W.