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The Wild Lives of Professional Athletes and Forensic Accountants

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Maybe you don't think a forensic accounting firm from Des Moines can get mixed up in the high-profile lives of professional athletes. The glitz. The glamour. The parties. The celebrities. Well, think again. Cremers, Holtzbauer & Nearmyer is becoming a regular invitee to events attended by professional athletes (albeit, not always at their request).

Before we explain, let us give a little example about worker's compensation (we think you'll make the connection).

John Smith is an ordinary guy. He gets up every morning, pulls on his steel-toed boots, kisses the wife and kids goodbye and sets off to his job on a construction crew.

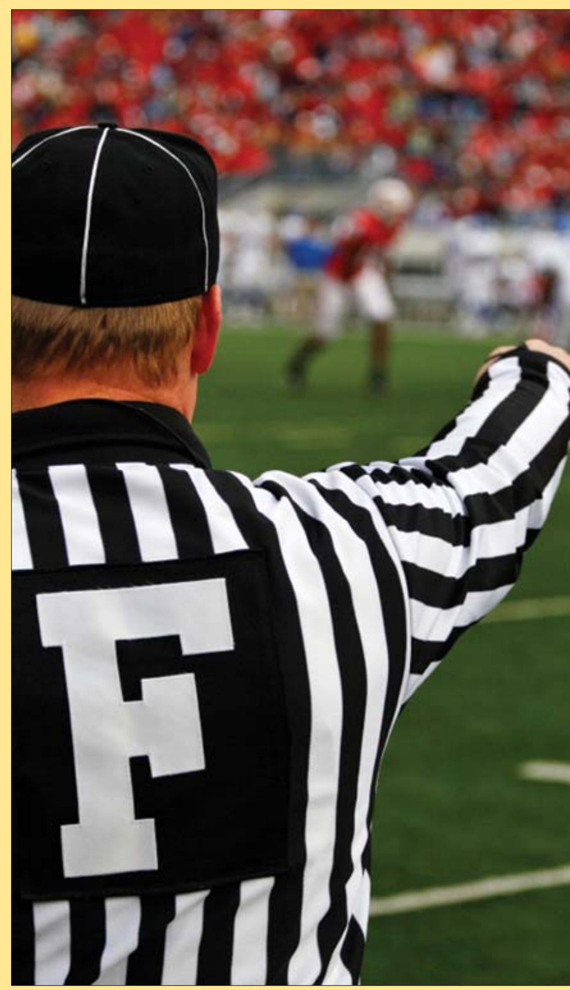
Unfortunately, John injures his back while on the job. Doctors tell him his injured back won't allow him to go back to work. John files for and receives worker's compensation as a result of the injury, providing him with an income to help him support his family while he is unable to work.

For John, worker's compensation acts as a safety net. It protects him and his family when he becomes disabled and isn't able to earn an income as a result of an injury. In concept, the idea seems great. In reality, there will always be people who figure out a way to manipulate the system.

Professional Athletes Milking the System?

It's no secret that professional athletes are often paid more than people in other jobs. Make it as a rookie in the NFL and you're guaranteed a minimum salary of $285,000. Rookies on a major league baseball team bring home at least the league minimum of $380,000. NBA rookie? You can expect a minimum of $413,000.

Granted, with few exceptions, the window of opportunity of a professional athlete to earn this kind of money is limited - by injury, longevity, talent, etc. Most are finished with their professional careers before they hit 30 to 40 years old - the prime earning years for most people. If these athletes and their agents are smart, they've planned ahead for a day when the rich income stops. Many invest their money in new startup companies so that they have income when they retire from pro sports.



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CASEWORK EXPERIENCE

FASNA member casework includes, but is not limited to, cases involving:

- Inventory/property loss
- Employee dishonesty
- Business income loss
- Personal injury or wrongful death claims
- Truth in lending/truth in leasing
- Post judgement matters/ calculations
- Loss of income/earnings
- Divorce and fidelity claims
- Business valuation
- Expert testimony
- Fraud

INDUSTRY EXPERIENCE

FASNA member experience includes, but is not limited to cases involving:

- Auto dealerships and transportation
- Colleges and universities
- Construction, contracting, and engineering
- Financial/money management, trust, and estate
- Healthcare
- State and Indian tribal government
- Insurance claims
- Manufacturing
- Real estate
- Restaurant and hotel industries
- Retailing/wholesale

The Wild Lives…continued from cover

FASNA members have experience in cases involving complicated worker's compensation claims. We can help determine the actual economic loss to the claimant.

But what happens when that athlete puts in a claim for worker's compensation when they retire - as a result of injuries from their playing days. The short answer? It depends.

Even though these athletes may have made millions during their playing days, they are still entitled to the same worker's compensation benefits as "John Smith." But they are also required to qualify under the same rules as well. And that's where things can get messy. It's also where we're invited in to help sort things out.

The Gray Area

Investment income is not considered working income under worker's compensation rules. Neither are royalties. That means if a former athlete writes a book, does his earnings from the book or use of his name count against his worker's compensation claim? It also means that if the athlete has socked away millions in stocks or mutual funds and plans to live off those investments, can he still file a legitimate claim for worker's compensation? Did the athlete attempt to be gainfully employed after their playing days?

However, if the athlete is involved in a company beyond just being a passive investor, things can get even more complicated. Our job then becomes to determine if the former player is involved in the day-to-day operation of the company - and if the company should or could be paying him for those services. This is not always easy to determine without some investigation of both the athlete and the company.

In these cases, there are really two questions we ask:

1) Is the athlete more than just a passive investor? Does he have any influence or management over the day-to-day activities of the company? Is he being paid to perform any tasks for the company that would extend beyond what would be expected of a passive investor?

If so, the athlete is generating an earned income from the company. This is usually fairly easy to determine with a look at financial documents and tax returns from each party. However, in some cases, the athlete may elect to forgo being paid for these services - opting instead to receive payments for worker's compensation so that the company can keep the funds it should be paying to the athlete in the company itself. In that case, we ask …

2) Should the company be paying the athlete going market value for these services? It's a little more difficult to determine if a company and athlete have agreed to a deferred compensation arrangement or some other kind of "non-traditional" arrangement. But if we can determine that the company should be paying for the services that would normally be paid for, the worker's compensation claim should be adjusted accordingly.

Worker's compensation claims can be tricky. Your local FASNA member has developed expertise in determining actual economic loss as a result of a claim, including complicated claims involving professional athletes, professionals and business owners.

If you're looking for forensic accounting support to help you determine the actual economic loss in a claim, please give us a call.

The professional analysis and credibility of an experienced forensic accountant can be important in resolving difficult claims where facts and details aren't always black and white.

File #322

THE CASE OF THE *MIXED-UP* PRODUCT MIX

Has your client somehow managed to jump from the frying pan into the fire? A wise insurer enlists the aid of a forensic accounting expert to quantify both fire damage and details regarding the frying pan.

So it was with *The Case of the Mixed-Up Product Mix.* Fire damaged a new building under construction at a manufacturer of Branded and OEM construction equipment. The damage was compounded when the fire spread to part of the existing manufacturing facility.

During the repair period, the manufacturer was forced to rework the remaining production area. Its ability to simultaneously produce multiple product lines was impaired, and considerable efficiencies were lost. As a consequence, the company claimed a significant loss of sales.

Company management proposed to calculate the value of the lost sales by computing the difference between the company's forecast and year-to-date sales (plus fire-related expenses), since the company had very detailed records and an excellent track record of meeting budgeted sales. Its early forecast was a loss of between $400,000 and $500,000 plus extra expenses.

FASNA member, Cremers, Holtzbauer & Nearmyer was hired by the insurer to assist in determining the actual loss. However, their careful analysis revealed a different revenue problem that had perhaps been obscured by the fire. It was true that overall sales dollars were down, but the number of units sold was actually on forecast.

In fact, the culprit was a change in the sales product mix: Branded machines sales versus OEM sales were virtually reversed compared to the budget. As OEM sales margins were lower, overall gross profit was down. They recalculated the firm's actual unit production in a manner consistent with their original budget forecasts to demonstrate their findings.

The shift to lower margin sales caused much of the loss compared to forecast, but their analysis also quantified the manufacturing inefficiencies and significant additional costs of manufacturing that were caused by the fire. As a result, the net profit from those lower gross profit units was even further decreased.

Their analysis projected an actual loss of only $273,000, a total figure approved by both the claimant and the insurance company. The claim was expedited, and a positive relationship continued between all parties involved.

Situation

Due to a fire, a manufacturing company lost its ability to simultaneously produce multiple product lines. Management submitted a significant claim for lost sales and additional expenses.

Objective

- Review actual and historical sales records to determine the level of lost sales.
- Help quantify increased manufacturing costs incurred because of the fire.

Our Determinations

- Much of the decrease during the period in question was a result of a coincidental and not fire-related shift of sales to a lower margin product mix.
- Significant additional expenses were incurred in reworking the remaining production area and loss of productivity.

Results

- An expected claim of more than $500,000 was calculated and actually settled for $273,000.
- The resulting claim was agreed to by both parties, settled promptly, and a good business relationship was preserved.

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