

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT
IN AND FOR ORANGE COUNTY, FLORIDA

JIM EVANS ACADEMY OF
PROFESSIONAL
UMPIRING, INC., a Florida corporation

Case No. 48-2012-CA-13001-O
Complex Business Litigation

Plaintiff

v.

THE NATIONAL ASSOCIATION OF
PROFESSIONAL BASEBALL LEAGUES,
INC., A Florida not-for-profit corporation, and
PROFESSIONAL BASEBALL UMPIRE
CORPORATION, an Indiana corporation

Defendants

ORDER DENYING DEFENDANTS' MOTION TO DISMISS

THIS CAUSE came before the Court on February 14, 2013 at 9:30 a.m. on the Motion to Dismiss filed by the Defendants, THE NATIONAL ASSOCIATION OF PROFESSIONAL BASEBALL LEAGUES, INC. and PROFESSIONAL BASEBALL UMPIRE CORPORATION [collectively "MiLB"]. The Court, having reviewed the motion and memorandum in support thereof, the response in opposition to the motion to dismiss filed by Plaintiff, JIM EVANS ACADEMY OF PROFESSIONAL UMPIRING, INC. [the "Academy"], and MiLB's reply, having heard argument of counsel and being otherwise fully advised in the

premises, it is hereby ORDERED AND ADJUDGED that the Motion to Dismiss is DENIED for the following reasons:

1. The Academy filed a three-count complaint. Count I alleges illegal monopolization under the Florida Antitrust Act, Fla. Stat. § 542.19. Count II alleges a contract, combination, or conspiracy in restraint of trade under the Florida Antitrust Act, Fla. Stat. § 542.18. Count III alleges a violation of the Florida Deceptive and Unfair Trade Practices Act, Fla. Stat. § 501.024(1) *et seq.*

2. MiLB moved to dismiss the complaint, claiming: (i) baseball is exempt from both state and federal antitrust laws pursuant to the court-created baseball antitrust exemption; (ii) state antitrust laws are preempted by that antitrust exemption; (iii) the Academy did not sufficiently alleged “antitrust injury;” (iv) MiLB’s refusal to deal with the Academy was an independent refusal to deal that cannot form the basis of an antitrust claim; (v) the conspiracy allegations in Count II are conclusory and do not plausibly suggest a conspiracy; and (vi) the Academy’s Florida Deceptive and Unfair Trade Practices Act count does not allege any conduct covered by the Act, fails to adequately allege causation, and is merely a repetition of the antitrust claims.

3. With respect to grounds (iii) through (vi) in Paragraph 2 above, the Court denies the motion. The allegations of the complaint meet the necessary pleading requirements for those claims. A reasonable person can respond to the allegations, and any perceived deficiencies can be addressed through discovery.

4. With respect to the grounds asserted by MiLB based on the baseball antitrust exemption described in *Federal Baseball Club of Baltimore, Inc. v. National League of Prof'l Baseball Clubs*, 259 U.S. 200 (1922), *Toolson v. New York Yankees, Inc.*, 346 U.S. 356 (1953), and *Flood v. Kuhn*, 407 U.S. 258 (1972) [commonly called the “baseball exemption trilogy”] and the claimed federal preemption of state antitrust laws, the Court writes to express its rationale for denial of the motion to dismiss in more detail.

5. As a Florida circuit court, this Court is bound by the holdings of the Fifth District Court of Appeal, by the holdings of other Florida Courts of Appeal if no Fifth District precedent applies, and by the holdings of the Florida Supreme Court. *Pardo v. State*, 596 So. 2d 665, 666 (Fla. 1992) (“[t]he decisions of the district courts of appeal represent the law of Florida unless and until they are overruled by this Court”) (quoting *Stanfill v. State*, 384 So. 2d 141, 143 (Fla.1980)). As a trial court of general jurisdiction, it is not within this Court’s prerogative to disagree with the holdings of superior state courts.

6. With respect to trial and appellate courts in the federal system, other than the United States Supreme Court, the opinions of those courts are persuasive only. *Mora v. Abraham Chevrolet-Tampa, Inc.*, 913 So. 2d 32 (Fla. 2d DCA 2005) (“in the realm of federal statutory law, decisions of federal circuit courts are persuasive, but we are bound only by decisions of the United States Supreme Court.”). Here, as described below, the defendants offer as binding precedent

principally the Eleventh Circuit's decision in *Major League Baseball v. Crist*, 331 F.3d 1177 (11th Cir. 2003).

7. To grant MiLB's motion to dismiss based on the baseball antitrust exemption described in the baseball exemption trilogy would require this Court to hold that the baseball exemption trilogy establishes an exemption from both state and federal antitrust laws that is so broad that it applies to the business of professional baseball at every level of professional baseball, including the minor leagues, and to all aspects of that business of baseball inclusive of dealings with private third-party suppliers of services related to baseball. In this Court's view, that broad proposition is foreclosed by the opinion of the Florida Supreme Court in *Butterworth v. National League of Professional Baseball Clubs*, 644 So. 2d 1021 (Fla. 1994).

8. In *Butterworth*, the Florida Supreme Court specifically, clearly, and unequivocally held that baseball's antitrust exemption was limited to the "reserve system" by which major league baseball bound players to teams and did not apply to the entire "business of baseball." *Id.* at 1025. The *Butterworth* court examined the applicable federal precedent in the baseball exemption trilogy and its progeny, including *Professional Baseball Schs. & Clubs, Inc. v. Kuhn*, 693 F.2d 1085, 1086 (11th Cir.1982) (concluding that business of baseball, including franchise location system, is exempt from antitrust laws). The *Butterworth* court described the Eleventh Circuit's decision in *Kuhn* as one that had "interpreted the scope of the

exemption broadly.” 644 So. 2d at 1023. The *Butterworth* court rejected the Eleventh Circuit’s decision in *Kuhn*, and those of other federal courts of appeal. The court found more persuasive the “extensive analysis” in *Piazza v. Major League Baseball*, 831 F. Supp. 420, 441 (E.D.Pa.1993). 644 So. 2d at 1024. The Court compared the decisions in the following terms:

There is no question that *Piazza* is against the great weight of federal cases regarding the scope of the exemption. However, none of the other cases have engaged in such a comprehensive analysis of *Flood* and its implications. In fact, many of the cases simply state that baseball is exempt and cite to one or more of the baseball trilogy without any discussion at all.

Id. at 1025. The *Butterworth* court viewed the final case in the baseball exemption trilogy, *Flood v. Kuhn*, 407 U.S. 258 (1972), as supportive of the *Piazza* decision, and therefore supportive of its conclusion that the baseball antitrust exemption was limited to major league baseball’s reserve system.

9. MiLB suggests that this Court should not follow the *Butterworth* decision because of a subsequent Eleventh Circuit decision in *Major League Baseball v. Crist*, 331 F.3d 1177 (11th Cir. 2003). In *Crist*, as in its 1982 *Kuhn* decision, which the *Butterworth* court cited and rejected, the Eleventh Circuit held that the baseball antitrust exemption applies broadly to the entire business of baseball. 331 F.3d at 1183. The Eleventh Circuit criticized the Florida Supreme Court’s contrary conclusion as “having scant support in the case law.” *Id.* at 1181. The *Butterworth* court, however, extensively reviewed the *Flood* decision and the

Eleventh Circuit's and other federal court decisions and reached a different conclusion than the Eleventh Circuit.

10. Because *Butterworth* binds this Court with regard to the scope of the antitrust exemption, any preemption of state law cannot reach beyond the scope as limited by *Butterworth*. Therefore, the Academy's claims here are not preempted.

11. Moreover, the Eleventh Circuit itself has recognized that the Florida Supreme Court's opinion in *Butterworth* precludes a Florida circuit court from finding the baseball antitrust exemption applicable to issues beyond MLB's player reserve clause. In discussing MLB's possible courses of action in response to the Florida Attorney General's demands, the Eleventh Circuit identified MLB's option to file suit in Florida circuit court, under Section 542.28(3)-(5), Fla. Stat., claiming immunity from the antitrust laws. The Eleventh Circuit noted the futility of that procedure in the following terms:

This option was similarly unattractive because Commissioner Selig, MLB, and the two Florida clubs would have found it **impossible** to convince a Florida trial court to adopt the first premise of the argument---namely, that the "business of baseball" is immune from antitrust prosecution. This is because the Supreme Court of Florida held in an earlier decision that the antitrust exemption established by federal law extends only to the reserve system rather than broadly exempting the "business of baseball." See *Butterworth v. National League of Professional Baseball Clubs*, 644 So. 2d 1021 (Fla. 1994).

Major League Baseball v. Crist, 331 F.3d at 1181 (emphasis added, footnotes omitted).

12. MiLB also suggests that this Court should ignore binding Florida Supreme Court precedent on the basis of an “implicit” application of the Supremacy Clause. Article VI, Clause 2 of the United States Constitution states:

This Constitution, and all of the Laws of the United States which shall be made in Pursuance thereof, and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and Judges in every State shall be bound thereby, any Thing in Constitution or Laws of any State to the Contrary notwithstanding.

The Supremacy Clause forms the basis for decisions based on federal preemption of state law and applies to acts of Congress. No act of Congress has established a federal exemption for the “business of baseball,” and no preemption analysis under the Supremacy Clause is warranted.

13. It is important to note that federal courts are not unanimous in the application of the exemption beyond the reserve clause. In *Piazza v. Major League Baseball*, 831 F. Supp. 420 (E.D. Pa. 1993), in an opinion that the Florida Supreme Court in *Butterworth* court described as comprehensive, the federal district court rejected the contention made by MiLB here that the exemption applies to all aspects of the business of baseball. The *Piazza* decision was not appealed to the United States Court of Appeals for the Third Circuit, and no Third Circuit opinion has contradicted the *Piazza* court’s holding.

14. MiLB argues, further, that Florida has incorporated federal law into its state antitrust statutes and that, as a result, this Court must follow federal law, including federal circuit court opinions, that differ from the Florida Supreme Court's decision in *Butterworth*. The basis for MiLB's argument is Florida Statutes, Section 542.32, which provides, in part:

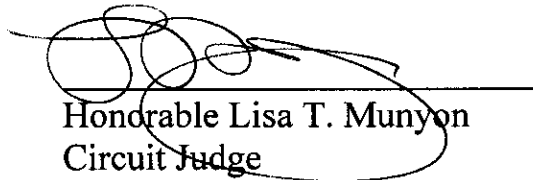
It is the intent of the Legislature that, in construing this chapter, due consideration and great weight be given to the interpretations of the federal courts relating to comparable federal antitrust statutes.

This court is bound by the Florida Supreme Court's decision in *Butterworth*; however, *Butterworth* reflects that the Court followed section 542.32's statement of legislative intent. The Court gave due consideration to, and discussed at length, federal court decisions applying the baseball exemption trilogy beyond application to the reserve clause. The *Butterworth* court was asked to interpret application of the exemption to the sale and location of baseball franchises. The Court reached a conclusion, based on Florida and federal law, that was different than the conclusion reached by some federal courts, including the Eleventh Circuit. Nothing in the language of Florida Statutes, Section 542.32 mandates that the Florida Supreme Court, or any Florida state court, blindly follow the opinions of lower federal courts, when the Florida court believes the federal decisions to be poorly reasoned.

15. Finally, even if the proper scope of the baseball antitrust exemption is “the business of baseball” and even if federal law preempts state law with respect to the exemption, the motion to dismiss must still be denied. No appellate court, Florida or federal, has ever held that baseball’s antitrust exemption immunizes dealings between professional baseball and third parties. In *Crist*, even the Eleventh Circuit acknowledged, “the antitrust exemption has not been held to immunize dealings between professional baseball clubs and third parties.” *Major League Baseball v. Crist*, 331 F.3d 1177, 1183 (11th Cir. 2003). Here, minor league baseball’s dealings with a third party, the Academy, would not be exempt under the broadest reach of the exemption.

16. For the reasons set forth above, the motion to dismiss is DENIED. MiLB shall have twenty (20) days from the date of this order in which to serve and file its answer to the complaint.

DONE AND ORDERED at Orlando, Orange County, Florida this 28th day of March, 2013.



Honorable Lisa T. Munyon
Circuit Judge

Copies provided to all
parties of record via ECF