

Clauses to Watch

SIGNING A PRO SPORTS CONTRACT IS MUCH MORE THAN AN AGREEMENT ON YOUR SALARY. HERE'S WHAT YOU MUST UNDERSTAND ABOUT THE FINE – BUT IMPORTANT – PRINT.

By Eric Butterman

In the old days, it was easier. A team offered a player a certain amount of money to sign a contract for the next year, the player signed the contract and then went about his business on the field. No fuss, no muss, no agents.

Now, of course, the contract landscape has completely changed. Not only are one-year deals a rarity, the contract is filled with so many clauses — from performance bonuses to personal conduct issues — that it often takes an agent, a lawyer and a Talmudic scholar to figure them out.

Before you sign on the dotted line, you need to understand the language. After all, while your agent might mean well, you may be one of many clients and your 20 percent may be only a fraction of their overall earnings. Translation? Something can slip through the contract cracks, so you need to find out what may be in the fine print ahead of time. Here are some contractual clauses to be on the lookout for — and understand

Salary Deferrals

"You can get some nice deals through deferral," Cornwell explains, "but if you don't get paid for 20 years, then neither does your contractual advisor. I often tell players to defer something — this way no matter what they spend they have something for the future if they make mistakes. Always ask yourself, 'Am I being given advice that benefits me or the person giving me the advice?'"

Performance Incentives

"In all contracts, remember that compensation is important, [but so is] the manner in which you'll be compensated," notes attorney David Cornwell, a former professional athlete who represented NFL star Reggie Bush heading into the 2006 draft. "You must pay close attention to performance incentive clauses. If you sign a Major

League Baseball player, for example, teams could owe you a great difference in payment based on whether you accumulate 499 at-bats as opposed to 500. They could sit you to avoid a certain payment. But if you have the incentive payment changing equally every 25 at-bats, now they're more likely to play you."

No Trade

Long valued by players as a way to help them avoid feeling like a piece of meat, along with keeping their families from

contract clause prohibiting such activities and, as Cornwell says, it's a tough one to argue against. "It's hard to say to a team, 'I want you to give me millions and allow me to get disabled,'" he explains. The solution? "This is where buying insurance makes far more sense than trying to get this clause taken out. If you somehow manage to convince [your team to take it out], they will want major concessions from you in return." In other words, it's not worth the risk.

Morals Clause

Many players have been dropped for not living up to this clause regarding public behavior. Cornwell recommends having the broadest language possible for this section. "One corporate client refused to sign a major sports athlete because part of their profile was a bad-boy image," says Cornwell. The opposing attorney insisted on language that included penalties for convictions, and we had no choice but to comply. But if you have a clean image, don't just let companies have their way. You never know what can happen down the road."

Royalties

One situation in which Cornwell's opposition didn't get their way dealt with royalties.

"I was negotiating two things that the other side didn't pay attention to: the number of products produced with the athlete's likeness, and the definition of net sales for measuring royalties," he says. "While they were focused on royalty percentage, I got favorable language into the contract that completely changed what the royalty was defined as. Always pay close attention to how the important points are being defined." OT

Eric Butterman, a frequent contributor to OT, is a freelance sportswriter from New York who has written for Men's Fitness, Shape, and Tennis Magazine.



being uprooted, the no-trade also needs to be seen as a clause an athlete pays for. You want to be clear on how much more a team might compensate you or if you'd get an extra year or two by avoiding this clause. Teams don't like to give up control of their decisions, so if this clause isn't as important to you, consider other perks a team may give up in exchange for it.

Behavioral Clauses

It's no secret that motorcycles, private planes and professional athletes don't go well together. Many teams want a