COLLEGE ATHLETICS ARE A-CHANGING

The transfer portal and NIL (name, image, and likeness) payments have recently significantly changed the landscape of college sports. The combination of the two has resulted in free agency for student athletes and hotly contested litigation in connection therewith.

The National Collegiate Athletic Association created the transfer portal in 2018. Prior to its creation, student athletes had to obtain permission from their existing schools to transfer to other schools and had to sit out a year from competition upon transferring. The creation of the transfer portal changed those rules, allowing student athletes to transfer at will and play immediately.

The NCAA created its NIL policy in 2021, which permits student athletes to profit from their name, image, and likeness while in college.

When colleges pay their student athletes, they typically have them sign agreements (frequently called “NIL License Agreements”). The NIL License Agreement used by the Big Ten Conference schools, for example, provides that the student athlete grants the school a “license to use the Student-Athlete’s name, nickname, pseudonym, voice, signature, caricature, likeness, image, picture, portrait, quotes, statements, writings, identifiable biographical information, other identifiable features and any other indicia of personal identity.” The agreement further provides that during its term, the “Student-Athlete will not . . . enroll at and/or compete in athletics for another college or university” or “use or authorize the use of the Student-Athlete’s NIL in connection with any college or university other than” his or her existing school. The agreement further provides that during its term, the school “is not obligated to enter the Student-Athlete into the transfer portal” and, “even if the Student-Athlete transfers to another university or college, the Student-Athlete will not use or authorize the use of the Student-Athlete’s NIL in connection with the transferee university or college.”

Reports indicate that over 70% of men’s college basketball players with remaining eligibility entered the transfer portal last year, with some schools paying them as much as $4 million or more per year in NIL money.

But what happens when a student athlete who is a party to a multi-year NIL License Agreement decides to transfer to a different school during the term of the agreement? This scenario has recently played out and resulted in aggravated litigation between the current school and the student athlete, and between the current school and the school to which the student athlete transferred.

In July 2024, quarterback Darian Mensah signed a multi-year NIL License Agreement with

Duke University, reportedly worth $4 million per year. The agreement provided that Mensah would not “enroll at or compete in athletics for another collegiate institution” during the term of the agreement, which ends on December 31, 2026. Following the 2025-26 college football season, Mensah announced he would be entering the transfer portal, and it was reported he intended to transfer to the University of Miami. Duke sued Mensah in January 2026, seeking to force him to honor his NIL License Agreement and to prohibit his transfer. On Duke’s motion, the court granted a temporary restraining order prohibiting Mensah from enrolling at or playing for another school through December 31, 2026. Thereafter, Duke and Mensah entered into a confidential settlement agreement pursuant to which, according to reports, Duke permitted Mensah to transfer to Miami, and Mensah paid Duke a significant sum to buy out of his agreement.

In January 2025, the University of Wisconsin sued the University of Miami for allegedly tampering with defensive back Xavier Lucas, who transferred from the University of Wisconsin to the University of Miami a few weeks after signing a multi-year Memorandum of Understanding with the University of Wisconsin. Wisconsin alleged that Miami tortiously interfered with its MOU with Lucas. Discovery is proceeding in the case.

On February 25, 2026, the University of Cincinnati sued its former quarterback, Brendan Sorsby, for breaching his NIL License Agreement with the university by transferring to Texas Tech University during the term of the agreement. Sorsby’s agreement with Cincinnati provided that, if he transferred to another school during its term, he would pay the university liquidated damages of $1 million. As of this writing, Sorsby has not filed a response to the lawsuit; it is due on April 27, 2026.

These cases and others could set a precedent (legal or practical) for future conduct by schools and student athletes. It is unknown whether NIL License Agreements will be governed by antitrust laws, laws relating to restrictive covenants (covenants not to compete), contract principles, or some other legal principle. Depending on what law governs, the results could be very different. For example, if the agreements are governed by laws relating to restrictive covenants, some states prohibit them except in limited circumstances. In contrast, other states consider various factors in determining enforceability, such as whether the agreement is unduly harsh to the restricted party and whether it violates general principles of public policy.

It will be interesting to watch how these cases and others shake out and what impact they have on the NIL environment in college sports. The student athletes may have significant risk either way. If they lose, the courts may prohibit them from transferring and order them to pay damages to their previous school, which could include reimbursement of some or all of the NIL money they received and the school’s attorney fees. If the student athletes win, schools may be more cautious about how much or when they pay the student athletes given that, otherwise, there may be no guarantee that a school will ultimately receive the benefits

of the deal.

College sports are rapidly changing, and litigation in this area is expected to increase, at least until the NCAA or the courts better define the rules.

SPRING CLEANING FOR YOUR BUSINESS: CONSIDER YOUR DOCUMENT RETENTION PRACTICES

Spring is the season for cleaning and organization—and it can also be a good time for businesses to revisit their document retention policies. For any combination of paper files, emails, and digital records, having a thoughtful business records management strategy can help reduce risk, control storage costs, and ensure compliance with legal requirements.

As you review what to keep, archive, or dispose of, consider the following key issues.

Be Mindful of Litigation Holds

If your business is involved in litigation—or reasonably anticipates litigation—you must preserve documents related to the dispute. This requirement is commonly referred to as a litigation hold.

Implementing a litigation hold often means suspending automatic deletion features on email systems, servers, cloud storage platforms, and backup systems. Courts may impose monetary sanctions or other penalties, including adverse rulings, if a party fails to take reasonable steps to preserve relevant documents or electronic records.

Understand Record Retention Requirements

Many industries are subject to federal and state record retention requirements. Businesses should ensure their document retention policies comply with any applicable laws and regulations.

For example, lenders must retain certain loan documentation, including closing disclosures, for five years under federal lending regulations. If you are unsure which requirements apply to your business, consulting legal counsel can help ensure compliance and reduce regulatory risk.

In addition to specific industry requirements, certain categories of documents must be kept for minimum periods of time by law. Many organizations (including the U.S. Chamber of Commerce) have assembled lists of laws with document retention periods.

When more than one minimum retention period could apply to a document, the longer period should be used. For example, payroll records must be kept for three years under Wisconsin law, but the IRS requires records of employment taxes to be kept for four years. A document that qualifies as both should be kept for at least four years.

Balance the Costs and Benefits of Storing Records

A well-designed document retention policy balances the benefits of keeping records with the costs of storing them.

On one hand, maintaining historical records can help resolve disputes, support regulatory compliance, and preserve institutional memory. Quickly locating important documents can save significant time and expense.

On the other hand, document storage—whether physical or electronic—comes with costs. Paper files require office space or off-site storage fees, while digital storage involves its own storage costs and requires secure systems, software, maintenance, and IT support.

Organization Saves Headaches and Preserves Usefulness

Documents are only helpful if they can be located when needed. Just like a storage room full of unlabeled paper files, digital records that are poorly organized, inconsistently named, or difficult to search provide limited value.

Businesses should implement clear file naming conventions, structured folders, and searchable systems to improve records management efficiency.

Labeling physical and electronic folders with information on when the files can be destroyed is also a best practice that can save your future self time and effort.

Consistency Is Key

The most effective approach for a business is to adopt a formal document retention policy and apply it consistently across the organization.

If a dispute arises in the future, demonstrating that documents were destroyed in accordance with a routine and consistently followed policy can help minimize discovery disputes or allegations of improper document destruction.

When in Doubt, Seek Legal Guidance

If you are unsure of the legal implications of keeping or disposing of certain documents, contact an attorney. For more information, contact Christa Wittenberg at 414-276-5000, Christa.Wittenberg@wilaw.com, or any of the attorneys at O'Neil Cannon.

WISCONSIN INCENTIVIZES "CLOSING CREDITS" BY OPENING NEW TAX CREDITS FOR FILMMAKERS

A significant development to Wisconsin's economic and cultural policy is now underway, as Governor Tony Evers announced on February 17, 2026, the launch of the state's new film production tax credit program and the establishment of a dedicated state film office. As part of the 2025-27 biennial budget, the state authorized up to $5 million in annual tax credits designed to incentivize film, television, documentary, and related production activity within Wisconsin. The program, administered by Film Wisconsin under the Department of Tourism, marks Wisconsin's return to offering competitive production incentives after a fifteen-year period in which the state has gone without a comprehensive tax-incentive program for media production, aligning the state more closely with regional peers, such as Illinois and Minnesota, that actively court creative industry investment by offering related tax credits.

Eligible projects must meet defined minimum spending thresholds to qualify for the tax credit—typically $100,000 for productions of 30 minutes or longer and $50,000 for shorter works. Eligible costs for the credit include in-state wages for cast and crew, accommodations and lodging, set construction and operations, rental or purchase of equipment and facilities, location fees, and other production-related goods and services. Credits are capped at $1 million per project annually, and Film Wisconsin will review applications monthly, providing a structured and transparent process for applicants. The credit is retroactive to qualifying expenditures beginning January 1, 2026, meaning that early-year investments may still be eligible for relief.

The film tax credit reflects a targeted economic development approach that leverages tax incentives to stimulate job creation, local hiring, and spending in Wisconsin's service and supplier ecosystem. By formalizing eligibility criteria, administrative oversight, and annual caps, the program seeks to balance fiscal stewardship with industry competitiveness. For production stakeholders, understanding the compliance requirements is essential for maximizing the benefits of the program. As the initiative unfolds in 2026 and beyond, the film

tax credit could become a cornerstone of Wisconsin's broader strategy to enhance its creative economy and attract an expanded slate of production activity.

The legal implications extend beyond eligibility analysis. Structuring considerations may include entity formation, allocation of credits in pass-through entities, transferability mechanics, and coordination with other state or federal incentives. Additionally, the program may require contractual provisions addressing credit risk allocation, clawback exposure, audit rights, and representations concerning local hiring and spending thresholds, all of which should be evaluated by counsel. As rulemaking and administrative guidance evolve, ongoing monitoring will be essential to ensure the available incentives are maximized while maintaining full statutory and regulatory compliance.

WISCONSIN'S NIL LAWSUIT AGAINST MIAMI COULD SHAKE UP COLLEGE RECRUITING

In a move that could reshape the college sports landscape, the University of Wisconsin and its name, image, and likeness collective, VC Connect, LLC, sued the University of Miami on Friday, alleging that Miami tampered with former Badgers football player Xavier Lucas and interfered with NIL contracts signed by Lucas.

This is believed to be the first lawsuit by an NCAA university seeking to enforce rights under an NIL contract with one of its athletes, and the outcome could have significant implications for transfers of athletes to other schools.

Wisconsin and VC Connect are seeking unspecified damages for tortious interference with contract and have also asked the court to declare that Miami tampered with Wisconsin's relationship with Lucas. Lucas is not a defendant in the lawsuit, which does not seek to prohibit Lucas from playing for Miami.

On December 2, Lucas, who had just ended his freshman season as a starting defensive back with the Badgers, signed NIL contracts with Wisconsin and VC Connect. Under his NIL contract with Wisconsin, Lucas agreed not to play for any other school and was prohibited from granting any NIL rights to another school.

Lucas participated in the shooting of promotional videos for the UW football program on December 12 and left for Florida on December 15 for the winter semester break. Two days later, Lucas informed a UW assistant coach that he wanted to be placed in the NCAA transfer portal. Wisconsin, citing his obligations under the NIL contracts, denied that request. But by

January, Lucas had enrolled at Miami, despite not formally being in the NCAA transfer portal and missing the deadline for transfer applications at Miami.

Wisconsin claims that a member of Miami's football coaching staff and a prominent Miami alumnus met with Lucas and his family when he returned to Florida over winter break, offering financial incentives to lure him away, actions Wisconsin says violated NCAA norms and the terms of the NIL contracts with Lucas.

Wisconsin characterized its two-year NIL contract with Lucas as one of the most lucrative NIL financial deals of any UW football player. The NIL contract with Wisconsin was to take effect on July 1, the first day universities can directly pay athletes under the recently approved House v. NCAA settlement. Lucas was under contract with VC Connect until the effective date of the House settlement. According to the lawsuit, Lucas received payments from VC Connect before departing for Miami.

Miami has yet to comment on the allegations. Lucas's attorney maintained that Lucas has not received any money from Wisconsin or its collective and denied that Lucas met with a Miami coach and a prominent alumnus in December.

Wisconsin argues that Miami's actions undermine the integrity of NIL deals and the broader fairness of collegiate athletics and that NIL contracts would be rendered meaningless if players are allowed to abandon their contractual obligations. If Wisconsin prevails in this litigation, schools may be reluctant to accept a transfer player bound by an NIL contract that prohibits such a move.

CORPORATE TRANSPARENCY ACT BLOCKED AGAIN

The U.S. Fifth Circuit Court of Appeals reinstated a nationwide injunction on the reporting of beneficial ownership information under the Corporate Transparency Act. The injunction issued by a Texas federal court in early December had been overturned last week by a different Fifth Circuit panel.

For now, reporting companies are (again) no longer required to report beneficial ownership information, but reporting of beneficial ownership under the CTA could be required in the future. The Fifth Circuit will hear arguments regarding the CTA reporting obligations on March 25, 2025. The Financial Crimes Enforcement Network has indicated that reporting companies may continue to submit beneficial ownership information on a voluntary basis.

Given the uncertainty about what may happen in the appeal process, reporting companies should continue to gather beneficial ownership information in order to ensure compliance with any future reporting deadlines.

O'Neil Cannon will continue to monitor and provide further updates regarding the CTA. Please reach out to a member of the O'Neil Cannon team if you have questions related to the CTA.

CORPORATE TRANSPARENCY ACT REINSTATED WITH NEW REPORTING DEADLINES

On December 23, 2024, the U.S. Court of Appeals for the Fifth Circuit stayed a preliminary injunction of the Corporate Transparency Act. As a result, the U.S. federal government is again able to enforce the CTA, which includes the reporting of beneficial ownership information. Shortly after the Fifth Circuit issued the stay, the U.S. Financial Crimes Enforcement Network extended the filing deadlines for certain reporting companies to submit beneficial ownership information. The response to the Fifth Circuit's decision by FinCEN[1] states in part:

"In light of a December 23, 2024, federal Court of Appeals decision, reporting companies, except as indicated below, are once again required to file beneficial ownership information with FinCEN. However, because the Department of the Treasury recognizes that reporting companies may need additional time to comply given the period when the preliminary injunction had been in effect, we have extended the reporting deadline as follows:

- *Reporting companies that were created or registered prior to January 1, 2024 have until January 13, 2025 to file their initial beneficial ownership information reports with FinCEN. (These companies would otherwise have been required to report by January 1, 2025.)*
- *Reporting companies created or registered in the United States on or after September 4, 2024 that had a filing deadline between December 3, 2024 and December 23, 2024 have until January 13, 2025 to file their initial beneficial ownership information reports with FinCEN.*
- *Reporting companies created or registered in the United States on or after December 3, 2024 and on or before December 23, 2024 have an additional 21 days from their original filing deadline to file their initial beneficial ownership information reports with FinCEN."*

Subject to any further developments, in light of the Fifth Circuit's decision and FinCEN's limited reprieve, reporting companies should gather beneficial ownership information as soon as possible in order to prepare the requisite filings by the updated deadlines.

For additional information or questions related to the CTA, please reach out to a member of the O'Neil Cannon team.

[1] The full alert (and other information related to the CTA and beneficial ownership reporting) is available at https://fincen.gov/boi.

CORPORATE TRANSPARENCY ACT INJUNCTION ALERT

On December 3, 2024, the U.S. District Court for the Eastern District of Texas granted a preliminary, nationwide injunction enjoining the United States federal government from enforcing the Corporate Transparency Act ("CTA"), which includes the reporting of beneficial ownership information ("BOI Report") to the U.S. Federal Crimes Enforcement Network ("FinCEN"). The court's reasoning revolved around the constitutionality of the CTA. The immediate impact is that companies are, at least temporarily, no longer required to file a BOI Report with FinCEN. Prior to this temporary injunction, the deadline for companies subject to the CTA filing requirements that formed prior to January 1, 2024 to file a BOI Report with FinCEN was January 1, 2025 (companies subject to the CTA filing requirements that were formed in 2024 previously had to file a BOI Report with FinCEN within 90 days of their formation, and companies subject to the CTA filing requirements that are formed on or after January 1, 2025 would have been required to file a BOI Report within 30 days of their formation).

Although the current injunction is nationwide (meaning all companies subject to the CTA filing requirements no longer have to file a BOI Report), because of the nature of the temporary injunction, it is entirely possible that the United States government may choose to appeal the preliminary injunction to the U.S. Court of Appeals for the Fifth Circuit, or potentially to the United States Supreme Court. If an emergency appeal is filed and heard, it is possible that the injunction will be removed and that all companies subject to the CTA filing requirements will again be required to report with no guarantee of any extension of the applicable deadlines. Additionally, it is also possible that an appeals court could remove the nationwide injunction and only leave it applicable to the specific plaintiffs, similar to the March 2024 ruling issued by the U.S. District Court for the Northern District of Alabama in *NSBA v Yellen*, which enjoined the government from enforcing the CTA against only the specific plaintiffs in that case. Furthermore, as of this writing, FinCEN has not issued a formal response regarding the injunction, which may provide further detail for reporting deadlines or other additional guidance, although FinCEN is currently still accepting BOI Reports. The rapidly approaching deadline coupled with the uncertainty as to whether the government will appeal or not (and if

an appeal is made, what the ultimate ruling will be) puts companies in a difficult position to choose between (1) complying with the CTA and filing a BOI Report by the applicable deadline regardless of the injunction, or (2) waiting until a final determination is made and possibly rushing to file by year end. Please note that if you choose to not file a BOI Report for a company required to comply with the CTA and the injunction is lifted, depending on the timing, we may not be able to file your BOI Report by the new deadline unless the deadline is extended.

O'Neil Cannon will continue to monitor for additional developments. For additional information or questions related to the CTA, please reach out to a member of the O'Neil Cannon team.

A BEGINNER'S GUIDE TO TRADEMARKS: PART TWO—USPTO TRADEMARK APPLICATION REQUIREMENTS

Submitting a valid trademark application to the United States Patent and Trademark Office is a straightforward process with the right assistance. In general, submitting a successful application to the USPTO to register your trademark requires three central components.

Central Components of Trademark Applications

First, a trademark application requires a detailed description of the trademark. If the trademark is your business or product's name in standard characters, comprised only of text not in a specific font nor stylized in any form (a "standard character mark"), you must describe the spelling, punctuation, and capitalization of the text constituting the name. All other types of trademarks must be described in additional detail. For example, if the trademark is your business or product's logo, then your logo's words, colors, symbols, and the orientation of all elements constituting your logo must be described in as much detail as possible. Except for standard character marks, the description for any other type of trademark also requires a corresponding image sample.

Second, a trademark application requires the identification of a specific goods or services class. In total, there are 45 USPTO trademark classes of goods and services determined by international agreement organized into broad categories. Each class has various respective descriptions that explain why an applicant's goods or services qualify for a specific class. A single USPTO trademark application can have multiple descriptions, but it can only identify a single corresponding class. For example, if you operate an apparel company that sells shirts,

but your company also offers a custom t-shirt printing service, then you could apply to register your trademark (e.g., your company's name or logo) under a goods class for your shirt products, and you could also apply separately to register the same trademark in a different class for your t-shirt printing service.

Last, a trademark application requires identifying a "specimen." A specimen is an example of a trademark used in interstate commerce that represents evidence of the trademark's real-life use. Specimens are what consumers see in the marketplace when they consider whether to purchase your goods or services. For instance, a specimen could be a picture of your product's packaging displaying your trademark. Common trademark specimens for services include advertisements and other types of promotional materials displaying your trademark in connection with your services. Websites promoting your goods or services in connection with your trademark are also valid specimens that can be included in your trademark applications. Successful trademark applications tend to include a variety of specimens.

How Long Is The Trademark Application Process And What Does It Cost?

Completing a trademark application does not often require considerable time or effort. But, due to the high number of trademark applications that the USPTO receives, the overall application process timeline can vary and, in some cases, it may take the USPTO over a year to complete.

A USPTO trademark application does not cost more than $350. The bulk of the costs in the application process arises from attorneys' fees for assisting clients with identifying and gathering the relevant information for their applications or addressing later issues the USPTO flags in submitted applications. Collaborating with an experienced attorney to identify the required information and materials for your USPTO trademark application in advance of starting the application can minimize the total cost of the application process and increase the likelihood of your trademark's registration via the USPTO.

NAVIGATING TRUST LITIGATION: INSIGHTS FROM THE TONY BENNETT CASE

Nearly one year after Tony Bennett's death, his children are embroiled in a trust dispute. While Tony Bennett's fame and prominence are unique, the nature of this dispute is common. In the filing, Tony Bennett's two daughters accused their brother, Danny—who served as Tony's manager and also serves as the trustee of the Family Trust—of managing their father's trust for Danny's own benefit and that of his company. The action seeks an order for

a full accounting and inventory of all property and assets so that they can be distributed in accordance with the terms of the Family Trust.

While much trust litigation revolves around the terms of a trust or its amendments, there are many situations that can lead to legal proceedings even when no one disputes the trust's terms. For example, a beneficiary may question why certain assets were not included in the trust or removed from the trust before a loved one's death. In addition, a beneficiary may question the actions taken by a trustee during their loved one's life and after their death. This is particularly relevant in high-profile cases like Tony Bennett's, where the management of substantial assets and legacy can be contentious.

In general, a trustee has a legal and fiduciary duty to uphold the terms and intentions of a trust. Under Wisconsin's Trust Code, a trustee has a duty to keep "current beneficiaries and presumptive remainder beneficiaries who so request, reasonably informed about the administration of the trust." Wis. Stat. § 701.0813(1). Such information may include copies of trust documents, details about the trustee, and a list of the trust's assets, liabilities, receipts, disbursements, and the trustee's compensation. If you are a trustee seeking to uphold or administer a trust, or a beneficiary concerned about a trustee's actions, consulting with a knowledgeable attorney to evaluate your options is advisable.

Trevor C. Lippman is a shareholder at O'Neil Cannon and assists clients with all matters related to inheritance disputes, including questions about the creation and administration of trusts and wills. Lippman has assisted hundreds of clients navigate the difficult waters involved in elderly financial abuse allegations and inheritance litigation. To schedule an initial consultation with Lippman, call 414.276.5000 or email him at trevor.lippman@wilaw.com.

A BEGINNER'S GUIDE TO TRADEMARKS: PART ONE—TRADEMARK BASICS

What is a Trademark?

A trademark can be any mark representing words, phrases, symbols, designs, or a combination of these that identifies your goods or services. In practice, the most common trademarks are business names and logos. Trademarks accomplish several objectives. They (1) identify the source of your goods or services; (2) provide additional legal protection for your brand; and (3) help to guard against counterfeiting and fraud. Creative and unique trademarks are the most effective in accomplishing these objectives and are easier to protect in the long run.

How Are Trademark Rights Obtained?

A common misconception is that the registration of a trademark with a state or the federal government is a requirement for any trademark rights. However, you establish some trademark rights as soon as you start using a specific trademark (*e.g.*, your business name or logo) in connection with the marketing and sale of your goods or services. But these rights established solely via trademark use are limited and generally only apply to the specific geographic area in which you're providing your goods or services with the accompanying trademark.

Why Register a Trademark with the United States Patent and Trademark Office?

Registering your trademark with the United States Patent and Trademark Office will provide you stronger, nationwide trademark rights in comparison to trademark use alone or state trademark registrations. Moreover, registering your trademark with the USPTO will allow you to protect your trademark and enforce your trademark rights both at the federal level in the United States and in foreign countries. Other benefits of registering your trademark with the USPTO include having your trademark listed in USPTO's database to provide notice to the public when searching for or considering registration of an identical or similar trademark and the use of the federal trademark registration symbol (®) to deter others from using your trademark.