NEWS AND ANNOUNCEMENTS

Careers in Entertainment and Sports Industry: Upcoming Teleconference
By: Abioye Oyewole

Why you should participate in the ABA YLD Entertainment and Sports Industry Committee's upcoming February 25, 2014 teleconference.

On February 25, 2014, Greg Olaniran, veteran copyright and entertainment attorney and partner at Mitchell, Silberbeg & Knupp, will speak with the Committee’s own Hilary Metz about his career in copyright and entertainment law. Greg has many years of experience in domestic copyright and entertainment practice, as well as international experience working on issues related to the Nigerian motion picture industry, also known as Nollywood. You will not want to miss this exciting teleconference in which you’ll have a chance to speak directly with Greg and ask him questions about building a practice in entertainment law. Check the Committee’s webpage for details regarding registration for the event. For more information, feel free to contact the Committee’s chair, Abioye Oyewole, at abioye.oyewole@gmail.com.

ARTICLE >>

Brief Summary of Legal Issues in the Jonathan Martin – Richie Incognito Bullying Controversy
By: Abioye Oyewole and Hilary Metz

The article below provides a brief summary of the potential legal claims Jonathan Martin could have against Richie Incognito, the NFL and the Dolphins related to the recent bullying issue.

Richie Incognito (“Incognito”) was recently accused of bullying fellow Miami Dolphins (“Dolphins”) teammate, Jonathan Martin (“Martin”). In addition to reports that Martin was repeatedly harassed by Incognito in the Dolphins locker room, there are reports that Martin received harassing text messages from Incognito that included racial and sexual epithets and profanity, as well as threats of bodily harm towards Martin and his family. Associated Press, “Richie Incognito bullying: Jonathan Martin could sue Dolphins under workplace laws, experts say, blog.oregonlive.com (Nov. 14, 2013) available at http://www.oregonlive.com/nfl/index.ssf/2013/11-richie_incognito_bullying_jona.html. Some reports also allege that this may have been a part of a workplace culture of bullying in which Martin was a willing participant. Id. To date, Martin, who left the Dolphins, has not filed charges against Incognito, the Dolphins, or the National Football
League ("NFL"). A few issues that arise include (i) whether the bullying was routine and all were complicit or whether the bullying rose to the level of workplace harassment and Martin was a victim; (ii) what legal claims Martin may have; and (iii) whether anyone had a responsibility to stop Incognito’s behavior at the collegiate level?

Incognito could be held liable for his actions under Florida’s Evidencing Prejudice While Committing Offense law. If his actions fell under a felony or misdemeanor that Martin could prove was race or sexual orientation-related, a civil cause of action arises under this statute if Martin could also prove that Incognito “… by clear and convincing evidence … coerced, intimidated, or threatened,” Martin, to which Martin would be entitled to “treble damages, an injunction, or any other appropriate relief in law or in equity,” in addition to attorneys’ fees and costs should he prevail. See Title XLVI, Chapter 775, Section 085 (2011), available at http://www.flsenate.gov/Laws/Statutes/2011/775.085; Lester Munson, Lawsuit could provide Martin big payday,” ESPN.go.com/nfl (Nov. 30, 2013). available at http://espn.go.com/nfl/story/_/id/9932264/florida-law-provide-big-payday-jonathan-martin-sue-miami-dolphins-richie-incognito.

Other possible actions could be filed against the Dolphins and/or the NFL including violation of employment laws for allowing harassment related to race or sexual orientation; a workers’ compensation claim; and a grievance under the NFL’s collective bargaining agreement. See Lester Munson, “Lawsuit could provide Martin payday,” Espn.go.com, (Nov. 5, 2013) available at http://espn.go.com/nfl/story/_/id/9932264/florida-law-provide-big-payday-jonathan-martin-sue-miami-dolphins-richie-incognito.

Another issue is whether the National Collegiate Athletic Association ("NCAA") had any responsibility to keep Incognito from entering the NFL following a string of conduct violations at the college level. Incognito, while in college, left quite a record of his conduct prior to the NFL; however he was still brought into the league. He was suspended from numerous college games, and suspended from his Nebraska team twice before leaving for Oregon, where he was kicked off the team after violating the organization’s code of conduct. Elizabeth Merrill, “Who Is Richie Incognito?”, Espn.go.com (Nov. 8, 2013) available at http://espn.go.com/nfl/story/_/id/9943353/who-richie-incognito. Martin left the Dolphins shortly before Incognito was suspended from the team following release of the story. See Associated Press, “Incognito bullying: Jonathan Martin could sue Dolphins under workplace laws, expert says,” (Nov. 14, 2013) available at, http://www.oregonlive.com/nfl/index.ssf/2013/11/richie_incognito_bullying_jona.html.

Incognito was suspended for the first two games without pay before the Dolphins and Incognito came to an agreement that suspended him with pay. http://www.nfl.com/news/story/0ap2000000300146/article/richie-incognito-supporting-miami-dolphins-during-suspension. According to Fox News, Incognito is now a free
agent and is mounting a public relations defense to the allegations, and leaking texts between he and Martin that he alleges prove Martin was a willing participant in the bullying culture. See Charlie Gasparino, “Suspended NFL player Richie Incognito claims texts show Jonathan Martin wasn’t bullied (Jan. 30, 2014), available at http://www.foxnews.com/sports/2014/01/30/richie-incognito-fights-back-against-bullying-allegations/.