

# League of Fans

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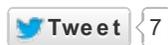
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## Q's & A's with Leading Sports Reformers: Joseph Siprut

by L E A G U E A F O R I L F L A E I N A S V E 2 A 1 C O M M E N T



*A League of Fans Special Feature*

**Joseph Siprut** is the founder and managing partner of Siprut PC. His

S P E C I A L F E

### From League of Fans

League of Fans is a sports reform project founded by Ralph Nader to encourage social & civic responsibility in sports industry & culture. [See League of Fans Core Principles](#)

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Q's & A's with Leading Sports

practice encompasses a wide spectrum of litigation, with an emphasis on challenging cases against powerful, well-funded adversaries.

The vision of Siprut's law firm is the following: "To take interesting cases. To work with clients who have been unjustly wronged. To prosecute important causes that we believe in. And whether representing businesses or individuals, we take difficult cases against powerful, well-funded opponents all the way through trial."

True to that vision, Siprut has filed a class action lawsuit against the National Collegiate Athletic Association (NCAA), alleging it isn't adequately protecting football players and other student-athletes from brain trauma, including concussions.

Siprut has been appointed lead or co-lead class counsel in some of the largest and most complex class actions in the country. His firm recently won a class-action lawsuit against Southwest Airlines, with damages valued between \$29 million and \$58 million. As a result, he was dubbed "Friend of the Frequent Fliers" in media reports.

Siprut is an Adjunct Professor at Northwestern University School of Law, where he teaches in the Trial Advocacy program. He has been recognized by the Law in Public Service Committee of the ABA as a TIPS Honor Roll recipient for his dedication to pro bono work. He is a graduate of Northwestern University School of Law, where he served as the Managing Editor of the Northwestern Law Review.

*Ken Reed, League of Fans' sports policy director, recently interviewed Siprut.*

**Ken Reed:** To begin, could you give a quick summary of the essence

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Q & A With John Gerdy

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of your lawsuit against the NCAA?

**Joseph Siprut:** Sure. We have a class action against the NCAA. The NCAA, for years, turned a blind eye to the concussion problem and never addressed the issue. It wasn't until 2010 that they even implemented a concussion management plan. And even then, the concussion management plan only really says that every member school has to have their own concussion management plan.

In practice, that's led to complete disaster. A lot of schools simply don't do a good job addressing the issue. There's no consistency. As a result, these issues have been exacerbated, and increased in number far beyond the point that they should have. Although football is a violent sport, and there's going to be head injuries as long as people play football, our basic point is that if there were more effective measures in place it would certainly help. The failure to do that is negligence.

The problem is, that left to their own devices, the schools aren't really addressing the issue consistently and effectively. One of the key things we're after is "return-to-play" guidelines that are uniform and consistently implemented at all member schools. That's not happening today. Kids are returning to play way too soon after receiving a brain injury and that's putting their immediate and long-term health in jeopardy.

And it's not just football. All sports could benefit from uniform and consistent "return-to-play" guidelines. It's the same principle in all sports.

**Reed:** Do you think the NCAA is doing enough to warn athletes before

putting the "Youth" back into "Youth Sports"

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**June 24, 2011**

they step out on the field – and I’m primarily referring to football players here but it applies to other athletes as well – of the potential dangers of brain trauma from participating in sports? Are these kids even aware of some of the research pertaining to brain trauma and concussions in sports?

**Siprut:** No, I don’t think the NCAA is doing a good enough job in this area, not nearly good enough. Some NCAA schools are doing a better job than others about this issue. But, again, that gets back to the same problem. If you don’t have a uniform policy you’ll get inconsistent and ineffective results at the member school level. There has to be a macro level approach to this issue — which is consistent with the NCAA’s mandate. The NCAA was formed for the purpose of promoting player safety. However, this issue has slipped through the cracks.

**Reed:** Do you think the NCAA’s lack of action on this issue is greed based?

**Siprut:** The NCAA is a very mysterious institution in many ways. They make a lot of decisions that are very callous and hard to understand. I think some of them are made by greed.

A uniform and consistent policy on the concussion issue is way over due. The concussion issue is the number one issue in sports, certainly in football. There’s really no excuse to be moving this slow on it.

**Reed:** The NFL is dealing with their own set of concussion lawsuits brought by former players. How would you compare and contrast your lawsuit with what’s going on with the NFL?

**Siprut:** What strikes me about the two different situations is that at the

June 21, 2011

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**March 24, 2011**

[NCAA's Reaction to League of Fans' Proposal](#)

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**March 25, 2011**

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League of Fans is a project of the [Center for Study of Responsive Law](#).

NFL level the players at least have some kind of representation. They've got agents, they've got full lobbying for their interests through the union, and in many cases they're making millions of dollars a year.

At the NCAA level, they're just kids, they're just playing the sport for fun; some are on scholarship and some aren't. And there's really no one looking out for their interests and no one representing them. The NCAA, which is supposed to be representing them, uses them up and spits them out.

**Reed:** Do you think football is too dangerous for the human brain?

**Siprut:** Our position in this case is not to outlaw football. We're not taking the position from a liability perspective that football should be banned. I think that's an issue that a parent needs to decide, whether or not they want their kid to play football. I probably wouldn't let my kid play football, based on what I know and what I've experienced with this lawsuit. But our position in this case is not that football should be banned.

**Reed:** If this is a successful case, economic pressures — for example, insurance premiums rising as a result of lawsuits like this — could lead to the end of football, at least at the small college, high school, and youth levels. Isn't that a potential outcome?

**Siprut:** Maybe. But I think one thing's for sure, if the NCAA doesn't make the game safer, fewer people will play and fewer parents will let their kids play. When that happens, the talent well dries up and the sport will slowly die. That's what happened to boxing and I believe that's what will happen to football if changes are not made to make the game safer.

**Reed:** After digging into this issue, I'm not sure its possible – as long as there's blocking and tackling — to make the game of football safe for the brain. There isn't a magic helmet that will protect the brain. Helmets can help prevent skull fractures but have only limited effectiveness when it comes to preventing brain trauma. Concussions result from a whiplash effect that helmets can't really do anything about. It seems to me that unless you get rid of blocking and tackling you really can't make the game safer. And if you do eliminate blocking and tackling, then it's not football anymore. So, I think football is ultimately doomed. What do you think the long-term prognosis is for football?

**Siprut:** Well, if football is doomed or not I don't really know. But if that ended up being the case I wouldn't lose much sleep. If a sport is so dangerous that it becomes prohibitively expensive, maybe that's a sign that this isn't a good idea. So, even though the direct objective of our case isn't to ban the sport, if that were to happen I don't think it would necessarily be a bad thing.

**Reed:** Some people argue that most college players, at the Division I level anyway, are getting compensated for their injury risk with athletic scholarships. What's your reaction to that line of thinking?

**Siprut:** That is true but I don't think the quid pro quo is that you get a scholarship and in exchange you leave the field with permanent brain damage. The reality is that a lot of these kids suffer concussions because they have the inherent pressure of staying in the game so they don't lose their scholarships. They believe that if they come out of the game or practice the coach will get mad at them. And they fear that if they miss a month of practice, or whatever, their scholarship could be

in jeopardy. I think that type of pressure is causing a lot of safety problems.

**Reed:** If you're successful with your lawsuit, what do you think will happen?

**Siprut:** The implementation of the "return-to-play" guidelines will be an awfully good start. And that's what will happen if we're successful. Also, the medical expenses, for people who have sustained injuries playing the sport, being subsidized. Those are really the two biggest parts of our case. If you're playing football and you sustain an injury and you need treatment you shouldn't have to forego treatment because you can't afford it. That's part of what we think the NCAA should be paying for. If the injury was caused by what happened on the field, the NCAA should pay for that.

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