

TOP PLAINTIFF LAWYERS 2019

Whether litigation is going to be a short sprint or a long marathon, Broillet said a plaintiff attorney has to be ready to run at the word “go.”

Broillet, a renowned trial lawyer whose most prominent work includes a \$3.3 billion settlement against the tobacco industry and a \$55 million verdict for sportscaster and TV personality Erin Andrews, recently secured a major victory for college athletic coaches in a long-running case against the National Collegiate Athletic Association. His client in the case, former USC assistant coach Todd McNair, had been placed on a one-year “show cause” penalty that prohibited him from coaching, and following the expiration of the penalty his contract was not renewed.

The penalty required any NCAA institution to demonstrate good cause as to why it should be permitted to hire a coach subject to such a sanction.

Broillet said the effect of such a penalty was essentially to render a coach unemployable during and after the show cause period. Thanks to Greene, Broillet & Wheeler LLP’s successful declaratory relief motion, the penalty has been benched. *Todd McNair v. NCAA*, BC462891 (L.A. Super., June 3 2011)

“We were very pleased to get that result. We think it’s going to help protect all college-level football coaches from having their careers destroyed,” Broillet said.

Though a jury rejected his client’s defamation claim at trial in May, a Los Angeles county superior court judge ordered a new trial in January, finding there wasn’t enough evidence to support a finding that the NCAA hadn’t defamed McNair. The superior court judge also found that the jury foreman – an

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**Catastrophic personal injury,
wrongful death, product liability,
professional malpractice**

attorney whose firm had previously worked with the NCAA – shouldn’t have been allowed to stay on the case.

The NCAA’s appealing the new trial, Broillet said, as well as the declaratory relief ruling. But Broillet said that’s mostly to be expected.

“Any fight against the NCAA is a long, hard battle. We filed this case back in 2011, and we’ve had to fight an anti-SLAPP motion, multiple appellate proceedings, we’ve had to take depositions all over America,” Broillet said. “A battle over summary judgment, a battle over declaratory relief, and now, again, appeals.”

He compared the case to another one of his recent prominent victories, scored on behalf of a 31-year old air conditioning repairman who fell 31 feet through a skylight on the roof of a mattress warehouse in Moorpark, which took comparatively less time at just under two years. Attorneys have to be ready for cases that come in all shapes and sizes, Broillet said. *Clanton v. XP Systems Corp.*, 56-2016-00481127 (Ventura Sup., May 2, 2016)

“By contrast to how long the fight was



with the NCAA, that one was pretty short. The point being, all plaintiff lawyers take on a variety of cases – some move quickly, some take a long time. Some lose, others win,” Broillet said. “Whatever happens, though, a plaintiff attorney carries on. You have to.”

While not necessarily indicative of a trend shift in his practice, Broillet said the air conditioning repairman’s case isn’t all that rare. A ton of buildings have skylights, he said, but very few have proper protections.

“People falling through skylights has been a major problem since the early 1970s, it’s been so significant, such a severe problem that back half a century ago, the labor bureau began to keep line items about workers who’d died from falling through skylights,” Broillet said. “If plaintiff bars across America bring lawsuits over these incidents, a time will come that buildings will finally get the message that you might as well guard them, because paying out for these cases will be too expensive.”

– Steve Crighton