

ANTITRUST—EXEMPTION—BASEBALL'S ANTITRUST
EXEMPTION DOES NOT EXTEND TO DECISIONS
INVOLVING SALE AND LOCATION OF BASEBALL FRANCHISES —
*Butterworth v. National League of Professional
Baseball Clubs, et al.*, 644 So.2d 1021 (Fla. 1994).

In *Butterworth v. National League of Professional Baseball Clubs, et al.*, 644 So.2d 1021 (Fla. 1994), Florida's Attorney General, Robert A. Butterworth, issued civil investigative demands (CIDs) to the National League of Professional Baseball Clubs (National League) pursuant to Florida's antitrust statute.¹ *Id.* at 1022. This matter stemmed from the failed attempt by a group of investors to acquire and move the San Francisco Giants baseball team to Tampa Bay, Florida. *Id.* A combination of the baseball owners' rejection of the sale to the Tampa investors and the Giants owner's agreement to sell the team to San Francisco buyers prompted Butterworth to issue the CIDs. *Id.* Specifically, Butterworth sought to investigate the appearance of a restraint on trade with respect to the purchase of the San Francisco baseball team. *Id.*

National League moved in the Circuit Court to quash the CIDs. *Id.* National League asserted that the subject of Butterworth's investigation was exempt from federal and state antitrust laws. *Id.* at 1022. Butterworth cross-moved to compel National League's compliance with the CIDs on the theory that the relocation of a baseball franchise was not encompassed by baseball's antitrust exemption. *Id.* The Circuit Court quashed the CIDs, ruling that the scope of baseball's antitrust exemption extends to issues of ownership and relocation of a baseball team. *Id.* The District Court of Appeals upheld the Circuit Court's ruling, but certified the issue to the Florida Supreme Court because of its public importance. *Id.* The Florida Supreme Court reversed the lower court's order to quash the CIDs, holding that baseball's antitrust exemption only applies to the reserve system.²

1. FLA. STAT. § 542.28 (Supp. 1992). Under the Florida antitrust statute, the Attorney General may issue a civil investigative demand (CID) to anyone that the Attorney General reasonably believes to be in possession, custody, or control of material or information relevant to a civil antitrust investigation. *Id.* The recipient of a CID may be required to produce documents, answer interrogatories, or give sworn testimony. *Id.*

2. *Id.* at 1023 (citing *Flood v. Kuhn*, 407 U.S. 258, 259 n. 1 (1972)). The nature of the

Justice Harding, writing for the court, examined the history of baseball's judicially-created antitrust exemption. *Id.* The court acknowledged that the United States Supreme Court first recognized a certain degree of antitrust law exemption for baseball in *Federal Baseball Club, Inc. v. National League of Professional Baseball Clubs*, 259 U.S. 200 (1922). *Id.* The court explained that in *Federal Baseball*, the United States Supreme Court found federal antitrust law inapplicable to baseball because baseball games did not involve interstate commerce. *Id.* at 1022 (citing *Federal Baseball*, 259 U.S. at 208-09).

The court further noted that baseball's antitrust exemption was reaffirmed without additional analysis in *Toolson v. New York Yankees*, 346 U.S. 356, 357 (1953). *Id.* The court indicated that the *Toolson* court merely relied on *Federal Baseball's* theory that Congress did not intend for federal antitrust law to encompass baseball and that it was not the province of the judiciary to write baseball into such legislation. *Id.* at 1022 (citing *Toolson*, 346 U.S. at 357).

The court also discussed *Flood v. Kuhn*, 407 U.S. 258 (1972), the final case in the trilogy of United States Supreme Court decisions that directly address baseball's antitrust exemptions. *Id.* at 1023. The court explained that although the *Flood* court relied on the authority of *Federal Baseball* and *Toolson* in affirming the dismissal of a player's challenge to baseball's reserve system, it made some intriguing and somewhat contradictory findings. *Id.* (citing *Flood*, 407 U.S. at 282-83). Specifically, the court noted that the *Flood* court found professional baseball to be a venture engaged in interstate commerce and that baseball's antitrust exemption is an "aberration". *Id.* at 1023 (citing *Flood*, 407 U.S. at 282-83). The court interpreted these findings as an express rejection of *Federal Baseball's* rationale. *Id.* at 1024.

After establishing that baseball enjoys some exemption from antitrust laws, the court endeavored to determine the scope of the exemption. *Id.* at 1023. The court's inquiry uncovered disagreement among the federal courts regarding the extent of baseball's antitrust exemption. *Id.* The court explained that many of the Courts of Appeals broadly interpret the scope of baseball's antitrust exemption. *Id.* To illustrate, the court cited *Charles O. Finley & Co. v. Kuhn*, 569 F.2d 527 (7th Cir.), cert. denied, 439 U.S. 876 (1978), which interpreted the Supreme Court's creation of baseball's antitrust exemption as applying to the entire business of baseball, not just to a single aspect of the business. *Id.* at 1023 (citing *Finley*,

reserve system involves "the uniformity of player contracts; the confinement of the player to the club that has him under the contract; the assignability of the player's contract; and the ability of the club to renew the contract unilaterally, subject to a stated salary minimum." *Id.*

569 F.2d at 541; accord, *Professional Baseball Schs. & Clubs, Inc. v. Kuhn*, 693 F.2d 1085, 1086 (11th Cir. 1982) (baseball franchise location system is exempt from antitrust laws); *Salerno v. American League of Professional Baseball Clubs*, 429 F.2d 1003 (2d Cir. 1970), cert. denied, 400 U.S. 1001, (exemption applies to former umpires' claim of antitrust violation following umpires' discharge).

Despite such weight of authority, the court pointed out that one federal court applied an extremely narrow scope to baseball's antitrust exemption. *Id.* at 1023. The court noted that in *Piazza v. Major League Baseball*, 831 F.Supp. 420, 438 (E.D.Pa. 1993), the District Court for the Eastern District of Pennsylvania held that baseball's antitrust exemption was limited to issues surrounding the reserve system. *Id.* at 1024 (citing *Piazza*, 831 F.Supp. at 438). The court was heavily influenced by the *Piazza* court's extensive analysis of the Supreme Court's baseball trilogy. *Id.* The court was especially persuaded by the *Piazza* court's reasoning with respect to the *Flood* court's express invalidation of the *Federal Baseball* rule that the business of baseball is not interstate commerce. *Id.* Specifically, the court found instructive the *Piazza* court's conclusion that since *Flood* found baseball to be interstate commerce, lower courts were no longer bound by *Federal Baseball* and *Toolson* as a matter of law. *Id.* at 1024 n.7 (citing *Piazza*, 831 F.Supp. at 437-38). Indeed, the court acknowledged that according to *Piazza*, lower courts were only bound by *Federal Baseball* and its progeny with respect to the result reached in light of the specific facts of those cases, i.e., the exemption applied to the reserve system. *Id.*

In light of the *Piazza* decision, the court closely analyzed the language of *Flood* opinion. *Id.* at 1024. The court noted that the *Flood* court specifically mentioned the antitrust exemption applied to baseball's reserve system. *Id.* (citing *Flood*, 407 U.S. at 282). The court also indicated that the *Flood* court determined that Congress had no intent to apply antitrust statutes to baseball's reserve system. *Id.* (citing *Flood*, 407 U.S. at 283). The court concluded that notwithstanding the *Flood* court's adherence to stare decisis, its specific reference to the reserve system evidenced its opinion that baseball's antitrust exemption ought to be applied only to the reserve system. *Id.* at 1024.

Following its own analysis of the *Flood* opinion, the Florida Supreme Court decided that the *Piazza* court's narrow interpretation of baseball's antitrust exemption was a logical, well-reasoned application of the Supreme Court's baseball trilogy, particularly with respect to the *Flood* opinion's implications on the precedential value of *Federal Baseball* and *Toolson*. *Id.* at 1025. The court ultimately concluded that its analysis of *Flood* compelled it to reach the same result as the *Piazza* court. *Id.* Accordingly, the court held

that "baseball's antitrust exemption extends only to the reserve system." *Id.* In doing so, the court was quick to point out that its decision was not a ruling on the merits of an antitrust suit against the National League. *Id.* Rather, the court stated that this decision served only to compel compliance with the CIDs issued by Attorney General Butterworth. *Id.*

In a brief, special concurrence, Justice Overton agreed with Justice Harding's approval and adoption of the *Piazza* court's reasoning and decision. *Id.* at 1025-26. Additionally, Justice Overton expressed a personal opinion that judicially-created exemptions to laws should always be strictly construed because of their exclusion of others. *Id.* at 1026. Moreover, Justice Overton opined that baseball's antitrust exemption to the exclusion of all other professional sports, "defies legal logic and common sense." *Id.* Justice Overton concluded that the time is ripe for the United States Supreme Court to revisit baseball's antitrust exemption and determine its viability and scope. *Id.*

Relying on the preponderance of case law, Senior Justice McDonald filed a brief dissent urging a broader interpretation of baseball's antitrust exemption than the majority. *Id.* Justice McDonald adopted the trial judge's reasoning that the purchase and relocation of a baseball franchise is within the scope of baseball's antitrust exemption. *Id.*

The Florida Supreme Court's narrow interpretation of baseball's antitrust exemption is significant for a number of reasons. First, it places a state's highest appellate court's imprimatur on a federal trial court's innovative and legally rational analysis and interpretation of the United States Supreme Court's trilogy of baseball antitrust exemption cases. Taken together, *Butterworth* and *Piazza* could signify the first note of the death knell for baseball's antitrust exemption.

Second, the court's decision evidences synergy of result-oriented jurisprudence and faithfulness to *stare decisis*. The Florida Supreme Court reached a result which afforded protection to Florida's citizens through carefully surveying existing authorities and grounding its decision in a legally defensible interpretation.

Finally, the court's analysis highlighted a conflict among the federal courts regarding their application of a federal law (the Sherman Antitrust Act). Even without Justice Overton's plea (veiled in the form of a concurrence) to the United States Supreme Court to address the issue, it is quite clear that the time is ripe for the Court to make a definitive ruling on the status of baseball's anti-

trust exemption. The existence of a conflict among the courts in applying the antitrust law vitiates the notion that changing the exemption lies solely with Congress.

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