

The 21 Club

Social Hour with Wine & Cheese and a Presentation—First Announcement Tuesday, November 15, 2016

Please mark your calendars: the second meeting of the 2016-17 academic year will be held on **Tuesday, November 15th**, starting at **6:00 PM**. The meeting will be held at the UNM Faculty Club, starting off with a social hour, dinner at 7 p.m. and, at 7:45 p.m., the presentation will be delivered by Professor Alfred Mathewson (see title and abstract of the presentation below, and his biographical sketch).

The details regarding the dinner choices, etc., will soon be available on the club website (http://21club.unm.edu/organization/SUB_meeting.html). You can pay using PayPal on the website, or if you prefer, mail your check to:

The 21 Club
c/o Professor Emeritus Daniel Finley
Physics and Astronomy MSC07 4220
University of New Mexico
Albuquerque, NM 87131-0001

Note: to guarantee your reservation(s) your online payment or your check (payable to “The 21 Club”) must be **received** on or before **Friday, November 11, 2016**.

As in the past, please also go to <http://21club.unm.edu> to find meeting announcements, the club archive, the club roster, a list of advisory board members, contact information and the call for dues and other interesting material.

ABSTRACT

The End of the College Education for Play Bargain: Chronicling the Fall of a Grand Principle in College Athletics

Alfred Dennis Mathewson*
Dean and Henry Weihofen Chair in Law, University of New Mexico

For more than half a century, the basic economic bargain embedded in the NCAA amateurism rules for college football and basketball players has consisted of a college education in exchange for participation in athletics as a student. Contrary to conventional

* Dean and Henry Weihofen Chair in Law, University of New Mexico, ©2013.

soundbites, the most significant question in college athletics today is not whether such student athletes should be paid. That question was explicitly answered by the NCAA when it sanctioned athletic scholarships in 1957. Nevertheless, the bargain has enjoyed tremendous legal protection until recently. The recent ruling by the 9th Circuit Court of Appeals that the bargain is subject to scrutiny under the antitrust laws in *O'Bannon v. NCAA* was not the beginning of the demise of that legal protection. In the past decade, courts have been more receptive to challenges to the amateurism principle on antitrust grounds. *O'Bannon* has been followed by a series of cases that are still in litigation. There is also a parallel line of recent cases outside of sports on the legality of unpaid externships under the Fair Labor Standards Act. I will present the education for play framework in NCAA rules, provide the history of the antitrust challenges in the courts from *NCAA v. Board of Regents* to *O'Bannon v. NCAA*, review the pending cases and briefly discuss *Glass v. Fox Searchlight Pictures* and other unpaid externship cases.

Alfred Dennis Mathewson

Bio

Alfred Dennis Mathewson is the Co-Dean of the University of New Mexico School of Law and holds the Henry Weihofen Chair in Law. He earned his B.B.A. from Howard University in 1975 and his J.D. from Yale University in 1978. Prior to joining the faculty at the University of New Mexico in 1983, he practiced corporate law in Denver, Colorado. He teaches primarily courses in business and sports law. From 2009 to 2014, he served as the Acting and Interim Director of the UNM Africana Studies Program. He was selected as the Business Lawyer of the Year by the New Mexico State Bar for his efforts in developing the law school's Business and Tax Law Clinic in 2009. In 2015, he filed an amicus brief on behalf of several community organizations and appeared in the fairness hearing regarding the settlement agreement between the US Department of Justice and the City of Albuquerque on reforms relating to the use of force by police. He is a member of the American Bar Association and the American Law Institute. As dean, he chairs the Judicial Nominating Commissions for the State of New Mexico.

He has published numerous articles on sports law topics and spoken at law schools across the country including Iowa, Michigan, Minnesota, Mississippi, Wake Forest, West Virginia and Yale. His publications include *SPORTS LAW: A MODERN ANTHOLOGY* (1999) (with Timothy Davis and Kenneth Shropshire); *The Bowl Championship Series, Conference Realignment and*

the Major College Football Oligopoly: Revolution Not Reform, 1 MISS. SPORTS L. REV. 321 (2012); *Remediating Discrimination Against African American Females at the Intersection of Title IX and Title VI*, 2 WAKE FOREST J. L. & POLICY 295 (2012); *By Education or Commerce: The Legal Basis for the Federal Regulation of the Economic Structure of Intercollegiate Athletics*, 76 UMKC LAW REVIEW 597 (2008); and *Major League Baseball's Monopoly Power and the Negro Leagues*, 35 AMER. BUS. J. 291 (1998). His article on the demise of the Negro baseball leagues is listed in the HARVARD GUIDE TO AFRICAN AMERICAN HISTORY. He is known nationally for his work on the application of Title IX to African American female athletes. His article *Black Women, Gender Equity and the Function at the Junction* is one of the ten most cited articles in the MARQUETTE SPORTS LAW REVIEW in the past 25 years. His current research focuses on whether college athletes should be paid.