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High school concussion suit tossed

Ruling holds IHSA making effort to avoid head injuries

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A Cook County judge has sacked a class-action lawsuit accusing the Illinois High School Association of failing to minimize concussions in contact sports across the state.

The lawsuit filed in late 2014 by a former Notre Dame College Prep quarterback sought to force the IHSA to adopt new polices for handling concussions and to create a “medical monitoring” fund for students who suffered concussions during high school sports starting in 2002.

Circuit Judge LeRoy K. Martin Jr. on Wednesday dismissed the suit with prejudice, writing, “It is

clear to this court the IHSA has acted to protect student athletes in this [s]tate.”

Martin wrote that policies for preventing and treating concussions were the province of the legislature — which has passed numerous laws regarding the management of concussions in high school sports — and local school boards.

Martin wrote that “negligent rulemaking” is not a cause of action. The ruling comes at a sensitive time for the IHSA.

Just last week, Andre Smith — a senior at Bogan Computer Technical High School in the city’s Ashburn neighborhood — died after being injured on the last play of a football game. The Cook County medical examiner’s office said an autopsy revealed the cause of death was “blunt-force head injuries.”

The IHSA said the ruling vindicated its efforts to make sports safer, which include the creation last May of an inde-

pendent advisory council on concussions made up of trainers and current and former players.

“We maintain that the way to make high school football in Illinois safer is not through divisive lawsuits, but rather through collaborative efforts with key stakeholders,” said IHSA Executive Director Marty Hickman. “We have followed this practice for years, and it’s obvious the [c]ourt agrees with our approach.”

The IHSA was represented by Thomas J. Heiden and Michael J. Nelson of Latham & Watkins LLP.

Calling it a “test case,” Nelson said the ruling was the first of its kind regarding liability for concussions at the high school level.

“It validates the IHSA’s approach in promoting high school sports safety and allows the IHSA and other statewide high school sports associations to continue to do so,” he said.

Joseph J. Siprut of Siprut P.C.,

represented Alex Pierscionek, the named plaintiff for the class. He could not immediately be reached for comment.

The case is *Alex Pierscionek v. Illinois High School Association*, 14 CH 19131.

In separate litigation, Siprut initially represented Adrian Arrington, a former Eastern Illinois University football player, in a class-action concussion lawsuit against the NCAA.

Arrington has since fired Siprut and is now represented by Robert A. Clifford of Clifford Law Offices, according to court documents.

In late July, the NCAA announced a proposed settlement in that case that would provide \$70 million for concussion testing and diagnosis of current and former NCAA student-athletes.

That proposed settlement has yet to be authorized by U.S. District Judge John Z. Lee as it still being contested by multiple members of the class.