



After the Buzzer

Episode 20: Bob Wallace's interview with Debbie Spander and Marc Eisenberg

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Bob: Welcome to After the Buzzer. When I invited my two guests to the podcast, I told them I was going to bill them as James Carvel, Mary Matlin, Kelly Ann Conway or George Conway or even Bill and Hillary Clinton, as Debbie Spander and Marc Eisenberg are a husband and wife combination and are a well-known and successful sports world duo. Although unlike the previously mentioned, this couple actually gets along and they're really not an opposite on opinions.

Debbie Spander, as I said, is a well-known sports lawyer and agent and recently launched her own agency, Insight Sports Advisors, a Los Angeles-based agency, that focuses on representing broadcasters, coaches and college athlete personalities for NIL. Prior to starting Insight, Debbie worked at Wasserman for nine years where she was soon their Vice President, Broadcasting & Coaching. Debbie has worked at MTV Entertainment, Fox Sports and Viacom and A-Game. She's an active attorney and we have served together on the Sports Lawyers Association board for close to a decade. Debbie is a Stanford graduate and a UCLA law alumni.

I'm not sure if I met Marc Eisenberg through Debbie or our paths crossed as we shared interests in college athletics and advocating for athletes and calling for reform in the structure of amateur athletics. Marc worked for Playback Financial Advisors, a registered investment advisor. Marc has written and spoken extensively on NCAA injustices such as National Letter of Intent, the transfer rule, the no agent rule and now NIL. He serves as an expert witness, a consultant for high-profile NCAA-related issues and often who's book, *Money Player – A Guide to Success Business and Life for Current and Future Athletes*, is widely regarded as a go-to sauce for financial education and is used in many business classes at several universities. He is working on a book on name, image and likeness. A college-cocky and Emory graduate, I'm happy to welcome both Marc and Debbie to After the Buzzer.

Welcome, guys. Thank you for taking the time to join us and hopefully we'll have an interesting conversation on NIL and other issues of college athletics. --

Marc: Oh we're going to have a very interesting conversation. A lot of ground to cover. Thank you so much having us both. We've done plenty of podcasts. I think this is the first one that we've actually done together. One quick note, I guess it was probably my fault. I gave you an outdated bio because I've actually been with UBS for the last year.

Bob: Oh okay.

Marc: I just want to make sure that that's duly noted. And then I feel like faithfully you hedged it by saying that unlike the other couples that you had mentioned, that we mostly get along, otherwise we would have spent the next half hour probably arguing with you.

Bob: Well that sometimes makes for an interesting podcast where there's a difference of opinion and I think we will, although you and I, Marc, have had a number of conversations about issues in college athletics and we're usually on the reform side, so maybe Debbie can be the more traditional one.

Debbie: Uh, sorry.

Bob: Tell me a little bit about that, Marc.

Debbie: I'm more on the reform side, too, but that's okay.

Bob: Okay. Tell me a little bit about your background, Debbie. I just did it briefly. Tell me how you got into this business, how you started, uh, you know, what made you do this, uh, become a sports lawyer?

Debbie: So I got into the sports industry through my dad, Art Spander, who is a long-time sports writer out of the San Francisco Bay area. I think he's been writing for over 60 years and he started bringing me to sports events when I was like two or three years old and I just thought they were fun to go to and be around and I just started a life-long infatuation with sports and at my senior high school, I was actually accepted to a program at UC Berkley to take advanced calculus which I had zero interest in and instead I enrolled in Harry Edwards' class, A Sociology of the Black Athlete in Modern Society, and that, you know, I've been going to events for 16 years at that point and that just opened my eyes to kind of the underbelly of sports and what's really going on that you don't see when you're at the games. And when I was at Stanford, I was a sports writer for the Stanford Daily and broadcaster for KCSU but I really wanted to get into the business of sports, so I saw the route for that through law school. I worked for a year at Steinberg & Murad's Berkley office when it was still open and that made me even more interested in going into the business side of sports, not media, but I did not want to be an agent because I did not want to hold hands. So I figured I'd go to law school and figure it out as I went along. And the – NFL PA recertified while I was in law school, after the – I believe was the Smith decision, and there were all of a sudden these good licensing opportunities for football players, so I got involved in a startup company and started working there and that led me to Fox Sports as a lawyer and Arntellum[?] came, coming about ten years ago for me to flip sides and become an agent for retired athletes in the media and in coaching. So that's where I am today.

Bob: So from a hesitation on becoming an agent, to now becoming an agent, what made that flip happen?

Debbie: Um, two things. One, I don't represent any active players so most of my clients are more mature and I'm freed from the babysitting side of things and I'm not really fighting with a lot of other agents over the same clients as in NFL and

NBA. There's obviously some of it and there's some client stealing but it's not as prevalent with retired athletes and the other was Arntellum[?] convincing me that this, you know, what be a great next career step.

Bob: So tell me a little bit about representing coaches and broadcasters. Now, are you representing coaches that are going into broadcasting or are you representing coaches as coaches for teams and stuff?

Debbie: No, I'm representing coaches as coaches both in the NBA and NCAA basketball and um, it's great. I love helping people advance their careers and reach their goals, and sometimes – I got into it because Brian Scalabrine, who was one of my first clients on the media side, went into becoming an NBA coach and then after a year, went back to broadcasting but that kind of opened my eyes to the coaching world and how negotiating those deals isn't so different from negotiating media deals other than having to negotiate your exit on the way in, and he started referring me to some of his colleagues in the business and it grew from there.

Bob: So you mentioned that your dad, whoever, if you're a sports fan, you know who Art Spander is and you've probably read many of his columns over the years, and he used to take you to a lot of games. I now see that you take your young daughter to many games too. Is she going to have the passion for sports do you think?

Debbie: We'll see. She keeps saying as she gets older that she doesn't like sports as much of us, although she loves basketball, especially UCLA basketball and the Warriors, but she just agreed to go over to a friend's house to watch the Ohio State Notre Dame game so many it's growing on her.

Bob: Okay. I'm going to ask you a little bit about the Pack Ten and UCLA basketball. I tell you, I watched UCLA basketball only when Bill Walton's doing the game. I just love listening to Bill Walton. He's not for everybody –

Debbie: Right.

Bob: -- but his humor fits me. Marc, how about you? Tell me a little bit about your work and how you got started in the business.

Marc: Alright. Where do I start. I was a Division 3 basketball player. I love sports. I think as I got closer to it and had some friends that were much better than I was, played at higher levels, I sort of through them, started this, my trip inside the sausage factory of college sports and I had actually moved out here in 1994, that was actually we're good. Talk a lot about UCLA today, apparently. Uh, that UCLA had their magical run, and I was always just fascinated by the idea that college athletes are amateurs. They play for the love of the game, not for compensation, but yet for that one year when they won the championship in '95, they were, I mean, on the level of the Lakers, Toby Bailey, Ed O'Bannon, Charles O'Bannon, Tyus Edney, you know, just one of those things where you have that ah-hah moment where something's wrong with this system. Something is deeply wrong with the idea that you play for the love of the game on one side, on the labor side, and then it's unabashed capitalism on the other. And so, I mean I used

to have conversations with Ed O'Bannon before he was most known for suing the NCAA and there was just, you know, an awareness of what was going on around them.

So I thought, okay, the solution to this is education, that, I mean it's almost like back with Frederick Douglas line, the greatest way to unfit a slave is to educate them, so that if athletes and their families understood the rule that they inhabit, they would be more informed, they'd be better able to advocate for themselves, make better decisions, old schools and coaches accountable. And when I started, I started writing a book called, *The Student Athlete Survival Guide*, and it was incredibly well-received but schools kind of had a hesitancy like it was one of those situations where yeah, we want to say we want to educate athletes but we don't want them too educated. And so then, you know, as I started looking at some of the deeper issues impacting college sports, it really starts with the National Letter of Intent. This might have been when Debbie and I were dating and we had this conversation and I would sort of go through it, you know, the litany of issues that I had with the National Letter of Intent, and I'm not a lawyer by trading, but she sort of came back and said wait a second. The National Letter of Intent is a contract of adhesion. What is a contract of adhesion. And then she went through and it was like when the terms are so one-sided, that if it was ever put before a judge, it would invalidate it as an unenforceable contract. I should not be practicing law on any podcast – if I'm technically wrong, correct me –

Debbie: And it's take it or leave it. You can't negotiate the terms.

Marc: Exactly. So I started getting involved in writing op-eds. That led to some lawsuits and expert testimony at the California State Senate hearings. A couple times dealing with providing full cost of attendance which was just a code word for providing a very small stipend, the NCAA no agent rule, and it was just one of those things where if you look at the, you know, how the NCAA has been structured, this is what happens when there's no bargaining power, there's no recognition that athletes are employees, it's just, you know, back to what Debbie said, take it or leave it, and you know, thankfully after the NCAA's, you know, one hundred plus years of never losing. Um, you know, we had the Ovana[?] case, we had Austin, so I've just always have been on the side of the athlete. Same thing when it comes to, you know, when we transition to the next level. A few of them have the opportunity to play professional sports where we need to understand about agents, personal finance, investing, and just again, pulling the curtains back on this industry so that they can at least hold other people accountable and hopefully take advantage of the opportunities and avoid dangers. That was sort of like the 50,000 foot level and certainly throughout this podcast we can, you know, drill down into some of the more relevant topics. But thank you so much for having us.

Bob: So you sounded a little like Don Quixote there. You're tilting at the windmills about college athletics and education and fairness. Do you think that you're making an impact at all on that? Do you think we are getting more educated? Do you think times are changing so that the student athlete has a better opportunity to take advantage of what's going on?

Marc: Not the way you put me on the couch. I'm going to go back to a conversation I had with one of my basketball playing buddies. After I graduated, Rick Tullinder[?], probably on my wall somewhere, who wrote, *The Hundred Yard Lie, Heaven is a Playground*, and when I started explaining what I was aiming to do, instead of saying Don Quixote, he's like look, I think you come from a good place but um, you know, after having – at that point, he was ranting about these issues 20+ years, he phrased it as you're pissing in a hurricane. So, I mean, certainly to an extent, the progress has been incredibly slow. On the other side, any athlete that wants to get educated, I've always felt like they became the captive audience and it's probably not a way to scale it, but I, you know, write articles, I write books, and, you know, hopefully there's a gravitational pull of people who want more information to engage around this and really put the principles of – the first book that I wrote, and then *Money Players* into practice. I've done okay with it. I mean, obviously, I would have liked to see some of the things that happened in the last year happened 20 years ago but, you know, we'll get into NIL 1.0 and, you know, where that stands.

Debbie: Yeah, I mean the good news is we do have an IL and all athletes who play college sports can make money. The issue is are they educated about the deals and taxes and all of that. But again, we're an NIL 1.0, so it's a big step forward.

Bob: Yeah, we are going to talk about NIL. It's funny, Debbie, my wife, who is not in the sports business, but she follows it closely from years of being married to me and now my son works for the Dolphins, and she always says, I worry whether these kids just think they're getting the money and they don't have to pay taxes on it.

Debbie: She's right, she's right.

Bob: I think that's one of the traps. So you've done a lot of contracts over your career and I read the NLRB case when they were outlining whether student athletes were employees and I reached the conclusion that the judge reached, they're employees.

Debbie: Yes.

Bob: We said that the definition of what an employee is. Do you agree with that, or –

Debbie: No, I do, especially under these kind of new labor enforcement where I think it's, you know, 25 to 30 hours a week, 30 weeks a year, you're an employee. I mean, most athletes on, you know, Division 1 teams at least, and probably Division 2, are putting in that much work. So, I mean I know in other deals that I do with networks that are very careful to limit how many days you're allowed to work, how many hours you're allowed to work, if you're not an employee so that you don't become an employee and they all of a sudden have to pay you benefits. So judged on that basis, I would say a great majority of college athletes are employees.

Marc: Now you go –

Bob: Marc, it seems to me that college athletics and pro athletics seem very similar but for one fact – the talent, which is the major expense of professional athletes, don't get paid in college. How can you explain that?

Marc: We'll, I will go back, and I feel like the whole terminology of student athlete, it, you know, it was crafted by Walter Byers, the first I think executive director of the NCAA starting in the '40s, that was the original lie that he told. And he told it over and over again. He told it, you know, he had his lawyers argue that in legal cases, he had that argued with politicians and then you had thousand plus member-institutions, it's like they drank the Kool-Aid and it worked amazingly well every time they were, they encountered a situation where a lawyer on behalf of a former athlete argued, we'll say workman's comp. No, there's, you know, they're student athletes, not employees. Uh, you know, and so it just, it was a lie that was told over and over again. What was, I had the quote Balzac, behind every great fortune is a great crime, and I think that really is it. I tell people, like you hate – so people say like you hate amateurism. You just want athletes to make as much money as possible. I say no, no. I believe in amateurism. I played it. It's Division 3. I would be okay if Division 1 were made amateur in practice but that would mean that the coaches were being paid on the level of say, university profession. You know, we wouldn't have all these made-for-TV games: Big Monday, Super Tuesday, Wacky Wednesday, I mean it's just insane that on the labor side that there were these artificial constraints and when it came to revenue, it was just like how can we maximize the product value.

Debbie: Let's have, let's have, you know, Pack 12 Saturday nights. Also, Marc brought up the coaches' salaries. That's really what turned the Supreme Court in the Austin case. They mentioned multiple times, if coaches are being paid \$10 million dollars, why aren't the athletes getting anything?

Bob: Right. I mean if you look at sort of the trajectory of college athletics. Everything has gone up. The cost of schools has gone up. The pay to athletes, excuse me, to coaches, the athletic directors, television rights, ticket prices, other benefits that they provide to the boosters and stuff, they've gone up. The only thing that hasn't gone up, at least proportionately, I mean obviously the cost of an education is more expensive than it was when I went to college, but it's not the same as going from a hundred thousand dollar coach to a nine million dollar coach. That percentage increase is twice as much.

Debbie: No it doesn't.

Bob: The only thing that drives me crazy is when I watch college athletics, and I never forget being a final four and talking to a friend of mine who dingles in the final four, and he said well we got into town on Tuesday. I said the game's not until Saturday, why did you all get in Tuesday. And I said what happened to class? And he said we brought our tutors. And I always say, I spent, I learned more from being in the dorm or in a classroom talking to my professors and my classmates than I did by, you know, reading a book or have a tutor help me with making sure something else happened, so.

Debbie: No, exactly. And that's – and I know you want to get into this, but that's a huge, huge impact of UCLA and USC joining the big ten. I mean, they're going to be on six, seven hour plane flights and then buses every single week of the season. I mean these athletes are not going to be in class at all.

Bob: And we can skip around. I got to share with Marc and Debbie what we're going to talk about. There's no order to it and as we can tell as we talk about these various things, it all kind of interlap over each other. So talk about, you know, the Pack 12 or, I don't know what, they may be the Pack 6 by now. What impact we're having with this change in the landscape of college athletics. Where do you think that'll lead?

Debbie: Yeah, I mean it's a huge impact. I mean, number one, I grew up in the Pack 10, now Pack 12, to be Pack 10 again. I mean, I went to three Pack 12 schools, Cal, Stanford and UCLA. I loved the Pack 12. When the new first came out, I was shocked and upset. I'm still kind of upset, because I hate to see the Pack 12 go away and it's, you know, unless they bring in other schools or do an alliance with the big 12, I don't know how many more years the Pack 12 has and how many more years the Rose Bowl has, which is really sad – it's its hundredth anniversary this year. Um, I mean, I understand why UCLA and USC made the move – the TV money and the guaranteed revenue in the Big 10 is, you know, just multiplied what it is in the Pack 12 for various reasons. One being the Pack 12 network not being very successful and, you know, games being packed until after dark and starting at 7:30 on the west coast, which is 10:30 in the east coast and, you know, you just don't get as much from the sponsors and the commercial money, but it's going to have a big impact, not just on, you know, the schools and the athletic department is making the money and the football and the basketball teams get to play in better competition and get more eyeballs, but then you got the nonrevenue sports flying all over the country for every single game other than playing USC and you might have the end of the Pack 12 conference.

Marc: So –

Bob: Marc, do you see that, you know, the Big 10 just signed this massive deal. Uh, it'll only be out-stripped if it – at all by the SEC, are we looking at just two of the major conferences in college athletics and everybody else is by the wayside?

Marc: So the quick answer is very possibly. The longer answer, I guess, this is the overarching theme of lack of leadership, uh, the idea they were so locked into the lie that athletes are amateurs and then we're not going to pay them. Um, and then the other one, I don't think we talk enough about it, or I guess I missed, I guess, we're going to delve into it. The idea that the NCAA structured its membership by institution, not by sport, and, you know, right now, what we're seeing is everything being driven 90% by football and maybe 10% by basketball and so we're getting some unfortunate outcomes. What I wish, and again, I mean, you know, this is sort of like fantasy and NCAA talk, you know, we could have come up with a system that would have taken the schools that have football and basketball programs, we can take men and women's basketball, um that, you know, have the highest commercial appeal and create their own super conferences

and then just recognize that every other conference was bound together by some kind of geographic proximity and tradition. So this, the idea of taking all the other sports, you know, going to talk about UCLA gymnastics, baseball, softball, volleyball, it just makes so much sense that you could keep it regionalized and now the idea of UCLA baseball, traveling in January or February to Piscataway, New Jersey. I mean, it's just not going to be feasible because they don't have the opportunity to fund, you know, private charters. Then again, maybe they're going to step up and do that, but again I think that the calculation that they, you know, those two schools made, you know, they were getting I think \$33 million dollars from the Pack 12 payout and now they're going to come to, I think it's a hundred million or more –

Debbie: Right, yeah.

Marc: -- Which is, you know, that's a three-fold increase. That's great, but from our side, from the argument that athletes deserve a piece, I feel like the athletes are coming for that money. Not necessarily 50% that they might get at the professional level, but, you know, professional "light," can get give them 25%?

Bob: Yeah, I mean I just read something in the last couple days that the Big 10 athletes have said we want some of this money.

Debbie: Yep.

Bob: And Commissioner Warren said I'll listen to that. I don't know if I'll listen to that means we'll take you seriously, but that seems to be the next fight on the horizon. Do you agree or not?

Marc: Yeah, I feel like I'll listen to that means, can be sort of that we are able to translate NCAA speak into play English, no until we meet you in court and, you know, or there's some kind of federal legislation that supersedes all of this.

Debbie: Well, but on the other hand, he comes from the NFL and he gets the power of national TV which is why they wanted UCLA and USC to have two big name programs on the west coast and he also understands that the players were paid. So I don't know, maybe it's not so farfetched. It's going to take – I'd say it's going to take another ten years, but, you know, it's definitely being talked about there on lots of social media and chats and broadcast.

Marc: I know, I agree with that –

Bob: I'm not sure that having UCLA in the TV print really matters in terms of rights. I mean the NFL was killing it in rights for years with no LA Marcet. And they'll get a little bit more –

Marc: Yeah.

Bob: -- It's not significant. I mean, I think, you know, the Big 10 and the SEC are the big conferences and they're always going to dominate television revenue from the networks. So you mentioned national legislation, federal legislation, and I guess I

just read again today that Senator Tuberville and Manchin are now sort of leading the way coming up with federal legislation. Marc, have you heard anything about that?

Marc: Yeah, well just, I guess by, you know, I've read through the letter, but I guess, you know, I know that they direct the letter to Tuberville and Machin that I'm against it. You know, but they start behind the scenes to, you know, Booker and –

Debbie: Murphy.

Marc: -- Murphy, and I'm sure that they dismissed it out of hand and that these were the only two people left that, that, you know, held it, have an open mind to the NCAA way of thinking, so.

Debbie: Yeah, so Senator Booker and I actually went to Stanford together and he was a tight end on the football team. So he gets it. He's, he's been through Pack 10 travel, major program and now he's actually trying to represent the athletes.

Marc: One of the perks of being married to Debbie Spander was that we went to the reunion last fall and so we see Cory and he's always very nice, and then we started the conversation and then there's always a line because people want to talk to – it wasn't us, it was Cory –

Debbie: Yeah.

Marc: -- And so he's like oh this is fascinating, and I think our pitch to him was the greatest type of federal legislation when it comes to the NCAA and NIL would be no legislation at all, that there are laws already that protect the consumer and that we don't need the, you know, outside intervention. The whole drift of the NCAA – that was a strong word, but – like the idea was that for a hundred plus years that the NCAA was a voluntary association, that we can handle our own rules and legislation on our own without the benefit of outside legislation, and the one time that the NCAA couldn't control it, they go running to states and federal government for help. So, I don't know, I felt like that uh, it should be a nonstarter at all levels. And that would be sort of the whole idea –

Bob: Yeah, you can –

Marc: -- In having something –

Bob: Go ahead, I'm sorry. Finish up.

Marc: Alright. We have so much today. Just the idea that we are in a place where, you know, what side are you on. Are you on the side of the athletes and can you see it through their lens or, you know, is there some greater good to, you know, keeping these annotated rules in place and it just, you know, it seems to me that, you know, 95%, maybe I poll the wrong people, but just normal people, you know, recognize that you can't hold the line with amateurism and athletes as, you know, students, not employees.

Bob: Yeah. You said earlier that if Tuberville and Machin are for it, you're against it, and I would agree with that, and I might say that if Justice Kavanaugh is for it, I'm against it, but his opinion in the Austin case was really right on point in terms of let's open up the can of worms, uh, and, you know, he basically took the position that I took earlier, was, we have a system based on the back of a laborer and the laborer is not cheering at any of it. You know, let's – you sort of started to talk a little bit about uh, or that we were going to talk about the NIL, Debbie give us, can you give us a five minute or sort of primer on what is NIL, what does it mean, how has it changed, kind of a landscape in college athletics?

Debbie: So, what it means is name, image and likeness or your personal rights which every other American has and, you know, if someone wanted to go make a Bob Wallace doll, they would have to license your likeness from you.

Marc: We have a business opportunity right here on the table. Continue.

Bob: Right. I'm already a doll, but okay, never mind.

Debbie: And, but you could not do that if you were a college athlete until last July 1 because the NCAA made you sign away all of your rights when you got to your institution as part of your scholarship or even just playing on the team, they owned all rights to your name, image and likeness and they made all the money off of you and you made zero, and first through the O'Bannon case which Marc mentioned which started getting full cost of attendance, which was like a stipend on top of your scholarship, and now with the Austin case, which said it's illegal to ban college athletes from owning their name, image and likeness, they now have the rights to go out in the Marketplace and make money. They cannot go around their school's merchandise deals, so if it's with Nike, Adidas, whoever, they cannot do a side deal for that, but they can, you know, go do a car dealership deal, do a deal with Beats headphones, do a deal with um, you know, any sort of national, local, regional sponsor. The only athletes who can't actually do deals, and this is becoming an issue in basketball, are international players, because their visa's prohibit it. So that's going to be the next issue.

But, so right now, you see it in college football, especially that tons of companies are rushing out to do deals with the stars of the teams, like Caleb Williams at USC has like three or four huge deals, and then the schools are also bringing in companies which claim they're NIL experts, which is a little questionable because we're all still figuring this out, but then they're going out and doing group deals for the players and the players have to opt in on a nonexclusive basis and then if the company brings a deal for say all the quarterbacks or all the offensive linemen, then they'll get 85% of the deal and the licensing company or the Marketing company keeps 15%. So all of a sudden there's money, athletes can make it, athletes can keep it, so now it's kind of becoming an arms race between schools and I'll let Marc jump into the collectives which are kind of a byproduct of NIL.

Bob: Well before you, Marc, before we get into collectives a little bit, so Debbie, you said that in the proprietor NIL, the universities or the colleges really control everything. Do they have basically the same control over student athlete name,

image and likeness up until the point where the athlete can go outside of their family of sponsors?

Debbie: Yea—um, outside the family. So they still own all of the rights for television, radio and new media and they still own all the rights for their shoe merchandise deals, so they can still do that without paying any sort of proceeds to the athletes which means the new hundred million dollar Big 10 deal is all for the Big 10 and not for any of the athletes which of course is why they want to share in it. So it has to be outside companies that aren't, that are not already sponsors of the school, or the sponsorship deals are done and then they can go out and do side deals.

Marc: I guess it's – I'll give a George Carlin joke: I have as much power as the Pope, just not as many people believe it. And I, I just had that in my mind because I think that, you know, for the last hundred years, the NCAA has effectively quashed any legitimate voice from the athletes and there was never any situation where they could exercise the power that they really had within their governance structure. But the NCAA, which is just supposed to be about the athlete, has specifically said that college athletes are not members, and so they really don't have a standing within the organization. They gave them a vote and I just remember, you know, such a disproportionate representation that it almost doesn't matter other than the press releases that go out. I remember testifying at a California State Senate hearing where they have the chair of a student athlete advisory committee, which is, you know, athletes that are supposed to be speaking for everybody else, and he was, you know, arguing against multi-year scholarships. He was arguing against full cost of attendance because of the fact that athletes, you know, I mean, may not be in a situation where they, you know, would have the budgets. The schools didn't have the budgets and therefore scholarships would be cut and, you know, I mean, teams would be abolished altogether. I mean, I think that it's, you know, just really having a, you know, a way to think about this in terms of how do we grow the pie.

Debbie: And it's growing already. I mean, if you, you know, people go out and look at the types of deals that are being done for, especially for college football, the season, kicking off for week one, there was week zero last week, but really week one, there's millions of dollars in deals going to some of the top athletes and sponsors are coming in and doing smaller deals guaranteeing money to everybody on the women's volleyball team, everybody on the beach volleyball team, you know, that might be \$5,000 an athlete, but still that's definitely more than zero and, you know, I think it's just going to grow. The overall pie, as Marc said, is going to grow.

Bob: So what I was looking at helping some people to – actually sponsors uh, more with some NIL deals, and kind of figure out what was allowable and nobody really knew. Debbie, as you said, you know, all the companies that are experts, how can they be experts when they really, this is just beginning and nobody has any experience to say well this is the way it has to be done. But the one constant that I heard all the time is it can't be pay for play. Uh, well play for pay, excuse me. But as I look at collectibles, to me that seems like the perfect example of pay

for play. If I'm University of, UCLA, and I can get, you know, ten big sponsors to do a collectible and play my athletes, isn't that pay for play?

Marc: Well that's what's so fascinating about the NCAA's version of NIL 1.0. They told us two things. One, we don't want NIL to be used as an inducement for recruitment, and two, pay for play, and yet 90% of what we read in the media, the bigger type deals with football and basketball, literally comes back to, you know, the idea that it is very close to pay for play other than, you know, smart lawyers kind of constructing it so that it doesn't sound like pay for play so that the NCAA would sign off on it and it wouldn't jeopardize their eligibility. But you're right. It's, you know, --

Debbie: It's very fuzzy.

Marc: It's very fuzzy. But that's like, I mean I go back to the idea that NIL 1.0, it sounds good, but then when you sort of see what it really is about, the NCAA took off the meat off the bones – the shoe deals, the college and rights agreement and other contracts with their best sponsors and said that stuff is off limits and then everything else scraps – you guys go hustle for. And that's not available.

Debbie: Yeah but now, the fans and the graduates are getting together and forming these collectives and running them through charities which in the long run may or may not be legal but it's definitely driving revenue for football or basketball and then we'll see what, who else is going to get some of the revenue.

Bob: So Debbie, you're the definitional expert on this. Collectibles. Kind of explain that to the audience a little bit.

Marc: Collectible or collective?

Bob: Collectives, excuse me.

Marc: Okay. Just wanted to make sure.

Debbie: I'm going to defer to Marc on this –

Bob: Okay.

Debbie: But it's basically a group of fans from a school who get together and raise money and guarantee it to players or get it to the players through charities. It's not necessarily a sponsor. It's more of a –

Marc: It's a guarantee against future earnings and/or a way that we as a collective – I'm no working for, say with any collective, a mechanism to entrap the best and brightest athletes –

Debbie: Which is why there's a lot of shouting that it's actually pay for play because –

Bob: Right.

Debbie: -- Because it's being used to recruit, and it's funny because USC alums just formed one and the athletic department is very against it but they can't stop them.

Marc: Well was a little bit different –

Bob: You just said though, Marc, you just said it's a bunch of fans that are getting together the pay, to give money to the athletes. Do they have to do anything for this money? Or do they just have to go to school?

Marc: Again, I mean, you can't really even sort of put the NCA on the clock here because a lot of them are being set up as 501C3. The idea that they are going to, you know, do some type of charitable work, you know, get out in the community for causes that there's a connection to and sign autographs and get an appearance fee. So, I mean, you know, we can talk about collectives but it's not one size fits all that, there's a lot of different interpretations of how these things are going down.

Bob: So Debbie, you said that there are certain players making, you know, millions, you know, Caleb Williams, the USC quarterback I guess –

Debbie: That's –

Bob: He's in a major market and he's a quarterback of a team that has had historical success. But overall, is there money to be made for the majority of athletes?

Debbie: There's a little money, I mean, and this is what I predicted. I don't have the updated stats but I know as of January, the average deal was like \$1,350 per athlete and 80% of them are on social media. So there's a little money for posting something for, you know, modeling a pair of jeans or showing up at a car dealership, or, you know, doing some autographs. So I think it's trickling down to the other sports and there's some sponsors in certain cities or companies in certain cities and fans who want to make sure that the women's sports are taken care of, that the nonrevenue sports are taken care of. So I mean it just depends. Does every athlete at USC have a deal? No. But, you know, I think there's going to be opportunities for the women's basketball team and women's beach volleyball team because those are exciting sports and there's definitely companies who want to be aligned with the players.

Bob: Well there's the, the narrative that is putting put out is that the women athletes in some of the nonrevenue sports are doing better than some of the revenue sports, football and basketball for instance.

[speaking simultaneously]

Debbie: Well, there's some who are.

Marc: I think the big thing is they'll start from the beginning which is that it was a fundamental right that was denied all athletes and so now that they can engage in it, if there's not sort of the, you know, the deep pocketed rooster who wants to line the pockets of the revenue-producing athletes, then we sort of get back to the

original intent of NIL, which is, you know, how can they use their platform as a college athlete to engage in, you know, various forms of capitalism and that's really where I think the volleyball players, the women in general, are just ahead of the game because they're very comfortable in front of a camera. People aren't just handing them money, they're coming to the table and saying how can we create a win-win partnership and that, you know, that's the organic-type of NIL deal that we all want, you know, and so like, again I think that any athlete that wants to use it for, you know, commercial gain, for networking, for job opportunities, while they're in school for future, but these were rights that were never afforded athletes and when you think about all the time drains of, you know, being a college athlete, they couldn't do traditional internships. Well now they're going straight to a CEO. They're working directly on, you know, advertising campaigns to sell a product and, you know, so –

Debbie: On real estate funds.

Marc: Yeah.

Debbie: I mean, there's some really interesting and high level deals happening.

Bob: So what do you guys think the effect of all this will be on college athletics in the next few years? Is it going to continue to grow? Is it going to make student athletes decide that they can stay in school because they actually enjoy being on a college campus?

Debbie: Yes.

Bob: -- So that it's not going to be one and out or one and done –

Debbie: Yes.

Bob: -- For some, so yes --

Marc: -- _____ the above?

Bob: Yeah. Give me your landscape of what effect the NIL will have on college athletics in the next five years.

Marc: Alright, so –

Bob: Well, one year, even.

Marc: Yeah, no. Look, I think that in one year and five years we're still going to be complaining, not that it's our nature, but I think that the change is going to be incremental, uh, you know, that I guess from my perspective, I would like to see full NIL rights and I don't believe that the world of college athletics would spin up its access if college athletes could go out and sign their own true deals or if the schools went directly to the athletes as part of their recruiting package and say here's, you know, what you get if you come to our school, including an opportunity to get a meaningful education to, you know, to hone your craft as an

athlete and there's nothing wrong with a little bit of money in your pocket. So I think it's going to be evolving. I think it's just the recognition that those schools that can figure out how to partner with their athletes and I think that they're, you know, some of that that's already taken place, I think one of the schools, the other USC, South Carolina, said that they are going to provide their collective almost in-house. It's an outside company but the outside company is going to charge an agent fee of zero. I question –

Debbie: And, and the other USC is giving them the rights to use the school Marcs and logo, so now you've got the athletes – that's one thing that we forgot to mention before, that when you do a deal, when an athlete does a deal with a sponsor, you cannot use the school Marcs and logos unless they give you the right. There's a few schools that have given blanket rights, like I believe ASU is one and now the other USC, so you've been able to wear the colors. But South Carolina is not going to charge an agent fee, is going to give this outside company the rights to the Marcs and logos and now you've got the athletes with their names and their images, so it's a great package.

Marc: So then we go back to the perverse system that they had before, well, because college athletes were amateurs and not like the broken record courtesy. Yeah, but you play for the love of the game, zero compensation, so instead they put all their money in this athletic arms race. Better facilities, first class travel, coaches that can jet around the country, you know, in their own private jet. So now what's happening is you have college athletes who, you know, have Market value so these schools are competing by saying here's what we can do. Maybe it's a wink, wink. Maybe at some point it will be memorialized as, you know, schools can do whatever they want. If they feel like an athlete is worth "X," they should be able to pay them "X." You know, again, it's getting close to a free Market system. And again, I don't think that in one year or five years that it will be where I want it to be, but I think that we're making some nice progress here.

Debbie: There's has been a lot –

Marc: I mean –

Debbie: There's been a lot of progress in 14 months.

Marc: Yeah. But I think –

Bob: And you say that it's part of the arms race now is what can, now that NIL is just another quiver in the sheath, what we can do to make more athletes come to this school? Well, we'll do NIL for you. We'll make sure that you're taken care of as an athlete here.

Debbie: Yes.

Bob: The locker room is great as opposed to, you know, so all those things now, again, that would go right to the root of the problem, is that these young men and women aren't getting the value of their work. They're getting perks which really is not related to that individual, it's related to the, you know, the difference between

being a professional, has the name on the back of your jersey, as opposed to an amateur with the name on the front of your jersey.

Uh, we're coming to an end of this. And I think that we have to talk a little bit, or I'd love to get your thoughts of what just happened at BYU with the Duke volleyball player and kind of your reaction when you heard that story.

Debbie: Uh, we were both horrified and unfortunately cannot say we were surprised because things like this happen all the time. This one just happened, you know, the volleyball player luckily and her aunt spoke up. I – neither of us are happy with the response. There's no way that that should have gone on. Her teammates should have worked off, her coaches, being the fact that both athletic directors have apologized and they're horrified after the fact, great. But, you know, there's been high school coaches who've walked off when similar things have happened and it's very disturbing that the match went on. The entire match, nobody said anything or did anything.

Bob: Yeah.

Marc: Oh, it's a lot of things. I know, I mean it's like I'm very fortunate because I'm from the north shore of Chicago, but thanks to basketball, it put me in different environments that were, you know, definitely more diverse. I had a friend mentor, Rick Rhodes, who sort of, you know, when I was in my 20's, I re-shifted my thinking where his line that he used to say, it's not enough to not be racist, you must actively fight racism. And that shift was kind of like okay, you know, you can't just give yourself a pat on the back if you're not racist. It's – for moments like that that you actually stand up, you know, if you have, you know, a platform where others who have not had a seat at the table, have been disenfranchised to, you know, say something. Two plus years, George Floyd and, you know, DEI, I mean it was like so, you know, we, I mean it seems to me that the biggest take away is that shit still happens. You know, there's a racist act that's committed and then they go into damage control and the press releases and the statements, but to me, you know, DEI training and just where we are as a country should be when it happens, on the spot we are aware of the situation, we hear something that's obviously racist, and that we stop the shit at that moment and we address it. So it's just incredibly disappointing that it was heard. It wasn't like it was a football stadium filled with 80,000 people. I don't know what the attendance was, but, you know, I've had some conversations close with the situation and it was clearly heard by both the BYU players, the Duke players, the Duke coaches –

Debbie: The benches.

Marc: The benches. It was obvious. And I don't have a lot of nice things to say about Bobby Knight, but I remember the kid that was in the situation where the fans were being abusive to the rest at Bloomington and he went directly to the PA, took a mic, and said cut the shit out. Uh, and so it just, you know, seems to me that we were so equipped, allegedly, to step up in these kind of moments, and yet again, it's almost like, you know, I mean, rinse repeat.

Debbie: Oh, it wasn't the student, we didn't have – they're not going to be able to come back, but like –

Marc: It's on all of these I guess –

Debbie: It needs to be addressed while it's happening or it's just going to be mimicked.

Marc: And then the athletic director – I don't know what uh, Anita King was a friend of ours, but the athletic director –

Marc: -- At BYU –

Debbie: Former 49-er.

Marc: Yeah, I mean, he literally could only go as far as say refer to the unfortunate incident. He couldn't just call racism, racism. And so that's very disappointing.

Bob: So let me ask you a question, and I agree a hundred percent with what you guys just said. Uh, have we heard any explanation for what, why they didn't do any of this? You know, why didn't the athletic director at BYU or Duke – why didn't the coaches – what were the officials doing? Have we heard an explanation for why nothing was done in real time?

Debbie: No.

Marc: Well, there you go. That's the question that, you know, I mean, needs to be put before them. And again, I hope that there's an investigation but it could be just, you know, journalists doing their job and, you know, putting people on the spot because we do need answers. I really sort of go back to, I think it was 2014 or 15, Marcus Smart. They were playing, he was at – he was at Oklahoma State. They were playing Texas Tech and I don't know if you remember, but –

Bob: Yes, I remember.

Marc: -- They were playing under the basket and next thing you know, he pushed a Texas Tech fan and I was like oh, something really big happened. And then it was reported that he, you know, after the game, had alleged that a fan had used a racial slur and, you know, so it was like, well, you wished that it didn't, you know, I mean, result in a physical confrontation, but I get it. Um, and so, you know, you'd think that they would do a proper investigation, they would hear both sides and Marc Smart would be protected. And then three days later, he was suspended for three games. The uh, athletic director, the conference commissioner, they all came out with statements basically saying that it was unfort – well they said the same thing.

Debbie: -- Unacceptable for a player to touch a fan.

Marc: Exactly. Uh, so again, I think the 2022 lens will re-recognize that, you know, that these schools are sort of telling this line where they don't want to go after their greatest supporters. And that sucks, because this was, you know, going back to

Texas Tech – somebody who is sitting court-side, and, you know, they didn't want to bite the band that feeds them. So, you know, they –

Debbie: So they don't protect their athletes.

Marc: And here we are.

Bob: So I was, I was telling you earlier, Marc, when I was – and I'm a kid who grew up in the late 60's, early 70's, and my dad had one rule, or he, it wasn't a rule but a – it's a permission. It's if they use the "N" word on you, you can go fight them.

Debbie: Makes sense.

Bob: That was a simple rule we had. And, you know, there were many times where, you know, I had, I remember a coach on the opposing team saying the "N" word to me and I went after him. And the coaches on my side said aw, you should have kept your control and they went to my dad and said boy, I wish you would have – my dad said nope, I told him he could do it.

Marc: I heard in the bathroom –

Bob: I was fired.

Marc: -- In, yeah, so the, I – my middle school, the nickname of Edgewood Junior High was the cagers and so we, you know, if you go back to the beginning of basketball, that they accounted for just how unruly the fans were and you played in a cage. And that's how, so basketball players were called cagers. Maybe they were on to something, it was, you know, I mean some things that uh, you know, if you can't protect the players, then you've got to figure out ways to, you know, keep them out of harms way. I don't think that we need something as drastic as that, but, you know, the history of abusive fans is um, you know, very deep and very long.

Bob: So for the past almost close to an hour, we've talked about the NCAA and some of the problems and what we see in the future in the NIL. What is the future of the NCAA in your minds? And as you're giving me your answer, think about, you know, Marc Emit stepping down. What kind of leader or what kind of structure do we need so that we can go into the, you know, mid 20's, and I don't mean 2025, I mean 2050, with a system that actually works. You guys already – you had some earlier ones I thought were pretty interesting.

Marc: Well, now that you've put the pressure then I have to replicate now that we're ticking. Um, look, I think that, you know, the NCAA does one thing amazingly well. They run championships. NCAA, you know, men's and women's basketball tournament. The women's not so much but I think that, you know, they know that they're on the clock that they better get their act together for that.

Debbie: Baseball, softball, volleyball.

Marc: Yeah, right. Um, I think that there was always a mistake that we disempowered the NCAA president. We've still paid him a butt load of money. He gets to travel around on a private jet but he doesn't really have any power other than –

Debbie: He represents –

Marc: Right, so I have, I feel like that it would be better if sports could um, have a commissioner that, you know, would be much more in line with what's in the best interests of that sport because the sports are so different, whether you're producing sports, men's, women's um, just making sure that they're true advocates um, you know, in the Market place for both the sport – I mean certainly you can make the argument that, you know, Adam Silver represents the owner because he does but at least as a counterweight you have the players association. So I think that the NCAA historically has benefitted from the fact that they've never had to take athletes' views and –

Debbie: Rights.

Marc: -- Their rights, you know, into account and it became a terribly effective way to run a monopoly. And, and so, you know, I think that the next version of the NCAA, it's going to be somebody that can sit in a room and have the credibility on both sides.

Debbie: One, I see football breaking off and just running itself. We're very close to that already. I think with the next BCS or whatever they're going to call the championship when they increase the number of teams, the money is going to be in the billions and they're not going to need the NCAA. I mean it's pretty much separate already. Football, DUN football is going to be out. Um, the NCAA needs to save basketball because that's its revenue. However, they've run the women's basketball tournament terribly, they give them their revenue. The men's, you know, gets hundreds of millions of dollars and the teams all get stipends, depending on how far you go. And the women's tournament gets \$3.9 million dollars, period. They're going to have to adjust that inequality because [*all investors are?*] fighting for that, and I think they need to bring in – they traditionally have brought in a president of a university or an athletic director or former athletic director as the head of the NCAA. I think they need to bring in someone from the business side of sports.

Bob: I couldn't agree more with any you guys have said over the past hour. It's been a great conversation. I really appreciate it. You're not Mary Matlin and James Carvel. You're pleasant to talk to, although I love James Carvel, who had great insights on what's going on. So, Debbie and Marc, I want to thank you very much for taking the time out of your business schedule. I know Debbie has schools about to begin, both as a mother and as a representative of athletes going into NIL. This is a very, very busy time for you, so I appreciate you taking the hour. Marc, as always –

Debbie: You're very welcome.

Bob: Marc, as always, it's great talking to you. We agree on more than we disagree and I really appreciate your thoughtfulness on the topic of amateur athletics.

Marc: Look how busy I am. I actually had a good time for the last hour, plus. So thank you for uh, thinking we were worth of an hour on your podcast.

Bob: Sure. So to our listeners, I just, I hope you enjoyed listening to Debbie and Marc and that you've enjoyed our other podcasts. And if you have let us know. You can provide your feedback by going to Apple's podcasts and go into the ratings and review section for our podcast. If you're listening on Stitcher, go to [Stitcher.com](https://www.stitcher.com) and if there's a topic you would like to hear us discuss, let us know that too. We thank you for listening. See you guys.

Debbie: Thanks, Bob.

Marc: Thanks, Bob, that was fun.