

Jeffrey Kessler Discusses Los Angeles Clippers Owner Donald Sterling Controversy

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Winston & Strawn partner and head of the global antitrust/competition practice Jeffrey Kessler was quoted in several articles concerning Los Angeles Clipper owner Donald Sterling and his racial commentary that was captured in a recording of an argument with his ex-girlfriend. Before commissioner Adam Silver announced Mr. Sterling's lifelong ban from the National Basketball Association, Mr. Kessler, who also acts as co-chair of the firm's sports law practice group, commented on the potential sanctions Mr. Sterling could have faced from the NBA for his racist comments, citing article 35 of the NBA's private constitutional bylaws that gives the commissioner the power to sanction owners.

"Requiring the sale of a team would be the most severe sanction," Mr. Kessler told the [Wall Street Journal](#). "But I believe the NBA would take the position that the commissioner has the necessary authority to take action."

Mr. Kessler also commented on the legality of the audio recording, which was captured by Mr. Sterling's ex-girlfriend without Mr. Sterling's consent. He pointed out that whether both parties gave consent is irrelevant, as, "The league is not a court of law."

Mr. Kessler's pre-announcement commentary was also featured in articles by [Sports Business Daily](#), the [New York Post](#), [Business Insider](#), and the [Washington Post](#), among other publications.

Following Mr. Silver's announcement, Mr. Kessler was quoted in several media outlets, including the [Wall Street Journal](#), [CNN](#), [Fox News](#), [Law360](#), and the [New Republic](#).

Mr. Kessler said that the league's sanctions are effectively a binding arbitration decision and are enforceable in court, and any attempt to overturn the commissioners decision would be difficult.

"And the only grounds to challenge an arbitration decision are very narrow, none of which apply here. All that said," Kessler added, "I'm sure if he's intent on suing, he could find some lawyer who would assert some claim for him."

Mr. Kessler told the [Wall Street Journal](#) that he expects Mr. Sterling to file a lawsuit given his litigious history, but he doubts any lawsuit would have much merit.

"I don't think Mr. Sterling has any basis for a legal claim, period. The decision by Adam Silver is grounded in the NBA's constitution and its bylaws — which Mr. Sterling agreed to and signed — and any challenge would be considered as an arbitration decision and not by the courts," he said.

As a final thought, Mr. Kessler told the *New Republic* that he thinks Mr. Sterling should forego any attempt to overturn the league's decision.

"I think if he had any good sense, which he may or may not have, he would agree to go off into the sunset and promptly sell his team," he said.

Mr. Kessler is a partner in the firm's New York who serves on the firm's Executive Committee. He focuses his practice on all aspects of antitrust/competition, sports law, intellectual property (IP), complex litigation, and ~~30 Mr. Read~~ criminal and civil investigations.

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