



michigan high school athletic association

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FOR IMMEDIATE RELEASE

April 9, 2008

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Statement From MHSAA Executive Director Jack Roberts To Member Schools On Fees Judgement In Sports Seasons Litigation

EAST LANSING, Mich. – April 9 – *The Michigan High School Athletic Association today released a statement to its member schools from Executive Director John E. “Jack” Roberts regarding the order of the United States District Court for the Western District of Michigan on March 31 relating to attorneys’ fees in the sports seasons litigation.*

The following statement will also serve as the Association’s only comments to the media at this time. Additional comments will be forthcoming as this portion of the litigation develops.

“We are sincerely appreciative of the encouragement received from school representatives, contest officials and many others during the past ten days.

“A year ago when we learned the appeal to the U.S. Supreme Court would not be heard, on the same day I went before this state’s media; and through them and the MHSAA Web site, I spoke to you face to face. It was not responsible for us to speak as quickly this year; and even now, we cannot comment fully.”

Background

“During the long history of the sports seasons litigation, MHSAA staff were able to serve you without distraction, and the cost of the defense of schools’ sports seasons schedule was reimbursed through two inexpensive insurance policies the MHSAA had purchased.

“The MHSAA also prepared for the possibility that, if that defense was unsuccessful, a petition for reimbursement of plaintiffs’ attorneys’ reasonable fees and costs would follow. In considering exposure, we were guided by the result of a decade-long Title IX lawsuit after which a university settled plaintiffs’ attorneys’ fees at approximately \$1 million. When the petition for fees and expenses was filed in our case for more than \$5 million, MHSAA contingency planning was guided by the affirmative action case involving the University of Michigan where the demand for attorneys’ fees was reduced approximately 40 percent by the U.S. District Court for the Eastern District of Michigan.

“The court’s order in our case exceeded even our worst-case scenario preparations. The requested attorneys’ fees award of \$5,023,991.25 was reduced to \$4,921,241.25 through an across-the-board reduction for “fees on fees” hours claimed and public relations hours claimed. This was reduced further by a ten percent across-the-board reduction for “vagueness, excessiveness and duplicity in the hours billed,” which is how the court arrived at \$4,429,117.13 in attorneys’ fees and \$131,144.80 in costs, for a total award of \$4,560,261.93.

“The bigger surprise was the award of prejudgment interest paid on that total award, starting from the date the complaint was filed in 1998. This issue had not been briefed by the parties. This means that a case that was not about money damages has now become such a case. And it pushes the total well beyond the MHSAA’s assets.”

(more)

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What's Next

“The MHSAA is considering appeal of the District Court’s Order and is also preparing to file for protection against creditors. These precautions will assure the future of the MHSAA.

“The MHSAA is not funded by schools through membership dues and assessments and tournament entry fees but generates revenue through the programs it sponsors and conducts, sharing revenue with schools which host and participate in those events. Therefore, when the MHSAA is harmed, local school programs feel the effect.

“It is reasonable to anticipate that member schools will continue to have nearly the MHSAA’s full range of services for students, coaches, administrators and officials, although there may not be the same level of financial support available for some MHSAA programs and events for some length of time.”

In Closing

“The sports seasons decisions were made by the schools of Michigan themselves; and the placements of MHSAA tournaments have always followed those local choices. At trial, school people (not MHSAA staff) testified to the merits of their decisions. On appeal, arguments on behalf of those decisions were briefed by school organizations, including the Michigan Association of School Boards, Michigan Association of Secondary School Principals, and Michigan Interscholastic Athletic Administrators Association.

“We are where we are today because this is a democratic organization, and schools count on their elected representatives and leaders to promote and defend their decisions. We accept that plaintiffs acted on principle they believed in; it is unfortunate that defendants are being penalized for doing the same.

“Nevertheless, with your continuing support, the MHSAA will get through this, gain in character and grow in service.”

The MHSAA is a private, not-for-profit corporation of voluntary membership by over 1,800 public and private senior high schools and junior high/middle schools which exists to develop common rules for athletic eligibility and competition. No government funds or tax dollars support the MHSAA, which was the first such association nationally to not accept membership dues or tournament entry fees from schools. Member schools which enforce these rules are permitted to participate in MHSAA tournaments, which attract approximately 1.6 million spectators each year.

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