

Pitcher-Victims of Major League Baseball “Illegal” Sign Stealing Should Have Viable Tortious Interference With Contractual Relations Claims Against the Opposing Teams

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In baseball, sign stealing occurs when a team deciphers their opponent’s signals meant to convey the pitcher’s upcoming pitch.[1] Since the nineteenth century, sign stealing has been a part of baseball.[2] Having the ability to know the pitch before the pitcher throws the ball gives a decided advantage to the batter. Consequently, teams always try to decode signs from the opposing catchers and third-base coaches.[3] Sign stealing is not always “illegal” or against the rules; indeed, if a team can figure out their adversary’s signs simply by paying close attention and without in-game electronics, binoculars, or other foreign objects, then it is considered an acceptable part of the game. [4]

In baseball’s recent past, however, there have been two major sign stealing scandals: one involving the 2017 Houston Astros and another with the 2018 Boston Red Sox. In both incidents, the teams used live electronic equipment to capture their opposition’s signals, which contravened Major League Baseball’s (MLB) directive on sign stealing.[5] As a result, MLB punished both teams.[6]

When a team engages in illegal sign stealing, they open themselves up to not only league punishment but also to potential civil liability. Any pitchers whose signs are stolen illegally, who then performed poorly because of it, and were subsequently demoted to the minor leagues and then released by their club should be able to sue the offending team for tortious interference with contractual relations for both current and prospective contracts (if they are not signed by any MLB team going forward). Tortious interference is a common law tort that affords a right of recovery against a defendant who causes injury to a plaintiff by intentionally interfering with the plaintiff’s third-party business or contractual relationship.[7]

Part I of this paper will discuss the recent sign stealing scandals with the Houston Astros and Boston Red Sox. Part II will review MLB’s current rules on sign stealing. Part III will detail the incident with Toronto Blue Jays’ pitcher Mike Bolsinger and his corresponding lawsuits. Part IV will examine the law of tortious interference with contractual relations for both current and prospective contracts. Part V will argue tortious interference with contractual relations should be a viable claim for any MLB pitcher whose signs were illegally stolen and who then suffered adverse employment consequences.

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[1] David Schoenfield, *Everything You Need to Know About Sign-Stealing*, ESPN (Sept. 5, 2017, 9:28 PM ET), https://www.espn.com/blog/sweetspot/post/_id/82491/everything-you-need-to-know-about-sign-stealing.

[2] Cliff Corcoran, *'Everybody Tries to Cheat a Little': The Weird and Wild History of MLB Sign-Stealing*, The Athletic (Oct. 18, 2018), <https://theathletic.com/598405/2018/10/18/everybody-tries-to-cheat-a-little-the-weird-and-wild-history-of-mlb-sign-stealing/>. Sign stealing was born when pitchers started throwing curveballs. One of the first examples of sign stealing occurred during the 1876 season, when the Hartford Dark Blues used a person to notify batters of upcoming curveballs.

[3] See *id.* The most visible position to decode signs is when runners are on second base directly in front of the catcher.

[4] Jacob Bogage, *What Is Sign Stealing? Making Sense of Major League Baseball's Latest Scandal*, Wash. Post (Feb. 14, 2020, 12:15 PM EST), <https://www.washingtonpost.com/sports/2020/01/14/what-is-sign-stealing-baseball/>.

[5] *Id.*

[6] See *generally infra* Part I(A), (B) (discussing the Houston Astros and Boston Red Sox scandals).

[7] Legal Info. Inst., *Tortious Interference*, Cornell L. Sch., https://www.law.cornell.edu/wex/tortious_interference (last visited Oct. 30, 2023).

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