

# Pitching Scandal Presents Challenges for Prosecution, Defense

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The indictment of Cleveland Guardians pitchers Emmanuel Clase and Luis Ortiz reprises a familiar white collar crime playbook, applying a series of fraud, money laundering, and conspiracy charges to a novel sports betting scheme.

The Department of Justice [alleges](#) the baseball players coordinated with co-conspirators on pitch selection so bettors could place prop wagers keyed to those pitches, sometimes with bribes and kickback payments routed through third parties. Both men have pleaded not guilty to the charges.

While the charges are familiar tools for prosecutors, the application isn't and could pose unexpected challenges and give defense counsel an opening to make legal arguments against these fraud statutes applying to sports betting conduct.

## Sports Gambling Fraud

Prevailing on wire fraud conspiracy likely will turn on whether the government can show a material misrepresentation tied to the bets and payouts. Wire fraud requires use of the interstate electronic communications to execute a scheme to defraud, or to obtain money or property, by means of false or fraudulent pretenses, representations, or promises. As the US Supreme Court reaffirmed earlier this year in [Kousisis v. United States](#), the alleged falsehood must also be material—not merely an “everyday misstatement,” but “actionable fraud.”

The government will likely argue that placing wagers under a betting platform's terms of service, while secretly using non-public information and coordinated manipulation to affect outcomes, constitutes an implied misrepresentation.

Defendants may counter that there was no material misrepresentation to the platforms and that having less accurate information isn't deceit absent an affirmative lie or half-truth. They may also argue sportsbooks price risks, including the possibility of manipulation, making the conduct at issue a cost of doing business.

Defendants likely will argue that even if coordination occurred, intervening game actions can disrupt prearranged

outcomes, complicating proof that deceit caused specific payouts.

### **‘Duty of Loyalty’**

Conspiracy to commit honest services wire fraud requires the government to prove the existence of a fraudulent scheme to deprive another of honest services through bribes or kickbacks supplied by a third party who hadn’t been deceived.

The government must also show that defendants owed a fiduciary duty to the alleged victims—the Cleveland Guardians and Major League Baseball.

The indictment cites contractual language asserting the players owed “a duty of loyalty to the Cleveland Guardians and pledged [themselves] to the American public and the Cleveland Guardians to conform to high standards of personal conduct, fair play and good sportsmanship.”

The government’s likely theory is that the bribery and kickbacks corrupted the services owed by Clase and Ortiz to their team and the league.

But such corruption may be harder to prove than anticipated.

Defendants can argue their team wasn’t deprived of honest services when their pitch outcomes were similar to previous games.

That argument will be more persuasive for some pitches than others. For the May 19, 2023, pitch by Clase cited in the indictment, it may be hard to prove that Clase breached a duty to his team by merely throwing a pitch at his average speed, which was faster than the betting line of just under 95 mph.

More questions arise about fair play for other pitches highlighted in the indictment, like one Clase threw on April 12, 2025. Bettors allegedly won \$15,000 by wagering it would be a ball or hit-by-pitch and slower than 98.45 mph.

According to the indictment, Clase threw the pitch in question “into the grass well before home plate,” which was unlikely the team’s intent.

Contemporaneous evidence of coordination between defendants and the bettors then becomes critical. The indictment alleges that, after the April 12 pitch, Clase texted a bettor to ask if he was able to “wager anything,” and told him to send the winnings to a recipient in the Dominican Republic “as if it were someone else.”

The government will need to introduce similar contemporaneous communications to establish intent and corruption of duty. Even if defendants are convicted, raising reasonable doubt as to specific pitches could reduce loss calculations at sentencing.

### **Practical Takeaways**

In defending cases that allege prop bet manipulation, speed and sequencing matter. Betting patterns aligned with

receipt of inside information and the timing of specific pitches will be critical evidence for both sides.

Given that players' communications with the alleged bettors is a key issue, defense counsel should quickly devote time to a disciplined forensic analysis of communications by securing and imaging devices, locking down cloud accounts, collecting banking records, and obtaining any betting platform data. Prosecutors will likely focus on the timing and use of cell phones by defendants during games, which is against MLB rules.

Counsel should also begin developing their sentencing strategy well before trial. Loss calculations, which largely will dictate the sentencing guidelines if defendants are convicted, maybe an area of vulnerability for the government.

If the defendants ultimately decide to plead guilty, it will also be critical that they preserve acceptance of responsibility arguments, which they can use to gain credit under the US Sentencing Guidelines toward a shorter term of incarceration.

Traditional fraud statutes remain potent tools in the sports betting era, but the strongest cases hinge on demonstrable deceit tied to event integrity and platform compliance—not just that one party has better information than the other.

Prosecutors who center their theories on concealed manipulation and money or property injury are better positioned to clear legal hurdles, while defense counsel should probe materiality, duty, and causation with precision.

As leagues, sportsbooks, and regulators deepen data-sharing and oversight, practitioners on both sides should expect more analytically demanding prosecutions, and should tailor strategies to the evidentiary realities and proportionality principles that define this evolving field.

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