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# Can't get into Super Bowl? See you in court, NFL

By Randy Maniloff | Jan. 30, 2020

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Hard Rock Stadium will be the site of Super Bowl LIV in Miami Gardens, Fla. Photo: Brynn Anderson / Associated Press

The television audience for Sunday's Super Bowl LIV, between the San Francisco 49ers and Kansas City Chiefs, is expected to hover around 100 million. Many fans would prefer to take in the game from inside Hard Rock Stadium in Miami. But when it comes to the biggest sporting event of the year, getting in the building has always been challenging.

For some, the frustration proved too much. They went to court.

In *Finkelman v. National Football League* (2019), the Third U.S. Circuit Court of Appeals (with a stop along the way at the New Jersey Supreme Court), addressed whether the NFL's practice of selling just 1% of the tickets for the 2014 Super Bowl to the public violated a Garden State consumer protection law.

The law was designed to keep too many tickets to events from being withheld from the general public. While virtually every ticket went to NFL teams, networks, sponsors and bigwigs, the court concluded that the law was not violated since those tickets were never destined to be part of a public sale.

Another dispute over the distribution of Super Bowl ducats was decided in *Louie v. National Football League* (2002). A Florida federal court rejected a fan's claim that the NFL's Super Bowl ticket lottery system violated the Americans with Disabilities Act because it placed him at a disadvantage in securing seats. But the court declined to throw a penalty flag. The ADA would be violated, the court concluded, only if the NFL denied the plaintiff an opportunity to participate in the lottery.

Super Bowl XLV involved a fiasco when a large number of temporary seats built for the 2011 game at Cowboys Stadium in Arlington, Texas, were not ready in time. Some ticketholders had no seats, and others were moved to less desirable seats.

Most fans settled with the NFL. But some disgruntled ticketholders filed lawsuits, leading to a battle at a level not seen in Texas since the Alamo. A jury awarded each plaintiff between \$5,670 and \$22,000 for breach of contract. The Fifth U.S. Circuit Court of Appeals concluded in *Ibe v. Jones* (2016) that the trial court was correct to deny the ticketholders the right to also pursue a certain fraud theory.

And it is not just fans being denied access to the Super Bowl that has led to litigation. A well-known missed pass interference penalty in the 2019 NFC Championship Game, on a New Orleans Saints player, led some Saints faithful to believe that it cost their team a spot in the big game. Angry Saints fans went marchin' into court.

However, Louisiana's top court held in *Le Mon v. National Football League* (2019) that disappointed fans could not maintain claims that the NFL and referees engaged in a conspiracy and committed fraud and deceptive trade practices in conjunction with the botched call.

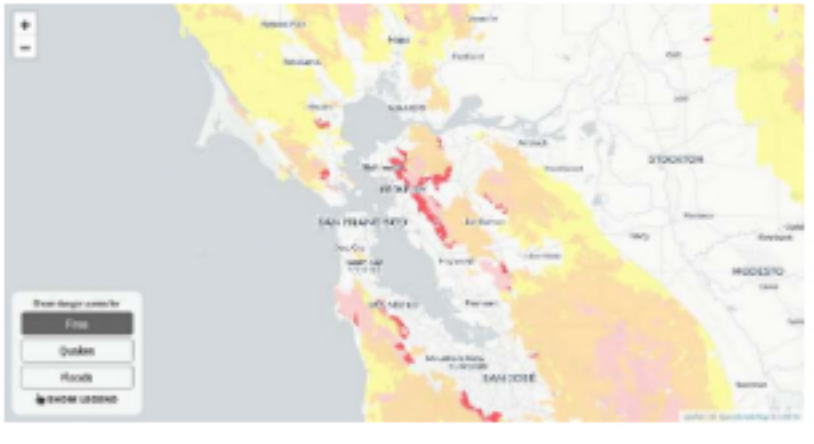
Lawsuits over NFL tickets are not new. In *Coniglio v. Highwood Services, Inc.* (1974) the Second U.S. Circuit Court of Appeals held that it was not a violation of antitrust law for an NFL team to require a person to buy tickets to pre-season games in order to purchase season tickets. In reaching its decision, the court made an observation that has withstood time: "Whatever else might be said about professional football in the United States, it does seem to breed a hardy group of fans who do not fear litigation combat."

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