

# U.S. Sports-Betting Ban Back In Legal Spotlight

17TH MAR 2015 | WRITTEN BY: TONY BATT

The floodgates could open for sports betting in America if New Jersey prevails in a case that will be heard this morning by a three judge-panel in a federal appeals court in Philadelphia.

This will be the second time in three years that the [3rd U.S. Circuit Court of Appeals](#) has considered a sports-betting appeal from New Jersey, and the Garden State remains a huge underdog against the nation's major sports leagues and the U.S. Department of Justice.

If New Jersey somehow pulls off the upset, the impact on the global gaming industry could be historic as the U.S. sports-betting market — estimated to be as high as \$500bn annually — emerges from underground.

No matter who wins, the debate about legalizing, regulating and taxing sports wagering in the United States appears to be just beginning.

"The case is important for at least two reasons," said Ryan Rodenberg, an assistant professor of sports law analytics at Florida State University.

"If New Jersey wins, then other states — Indiana, Minnesota, South Carolina among others — who are watching the case closely will know they can comply with PASPA by simply repealing their current laws that ban sports gambling," Rodenberg said.

PASPA is the [Professional and Amateur Sports Protection Act of 1992](#), which includes the federal ban prohibiting all but four states from legalizing sports betting.

"If the sports leagues win, [National Basketball Association] commissioner Adam Silver and other like-minded sports league commissioners can pursue a uniform nationwide regulatory framework via Congress at a timetable of their choosing," Rodenberg said.

The NBA and Silver oppose New Jersey's sports-betting law, preferring federal legislation that would apply to all states.

By penning an [op-ed in the New York Times](#) last November calling on Congress to pass a law to regulate sports betting, Silver has created a "paradox," according to Kevin Braig, a partner at the Columbus, Ohio, law firm of Shumaker, Loop & Kendrick.

"Silver's paradox has fueled momentum for allowing sports betting beyond Nevada, and may be a wild card that factors in how the panel [of judges] views New Jersey's appeal this time around," Braig said.

Another potential factor could be the growing number of states which are passing laws to accommodate fantasy sports, according to Daniel L. Wallach, a gaming attorney with the Fort Lauderdale, Florida, firm of Becker & Poliakoff.

Some legal observers equate daily fantasy sports to sports betting since both are paid-for contests on the performance of athletes.

New Jersey could argue the leagues are "selectively enforcing PASPA" on states like New Jersey "while giving a pass to those states such as Maryland that have expressly legalized sports wagering based on the individual performance of athletes — activity which is plainly prohibited by PASPA," Wallach said.

Both sides will have 15 minutes each to make their arguments this morning, and [all three judges](#) are familiar with the gaming industry.

Judge Maryanne Trump is the older sister of former casino mogul Donald Trump and a former assistant U.S. Attorney in New Jersey.

Judge Marjorie Rendell is married to former Democratic Governor Ed Rendell of Pennsylvania who played a key role in the passage of

the 2004 law allowing casinos in the Keystone State. The couple amicably separated in 2011.

Perhaps the most important judge is **Julio Fuentes**, who wrote the majority opinion in the 2-1 decision in September 2013 which upheld PASPA and rejected New Jersey's previous sports-betting law.

This will be Fuentes' third sports-betting case in the last six years. He also ruled against Delaware's attempt to expand its sports-betting law to include bets on single games as well as parlay wagering.

Delaware, Montana and Oregon are partially exempt from PASPA because they allowed limited forms of sports betting before the enactment of the prohibition. **Nevada** is the only state that is completely exempt.

Despite Fuentes' history, **Democratic state Senator Ray Lesniak of New Jersey** did not criticize his appointment to the panel for today's hearing.

Lesniak said he crafted New Jersey's current sports-betting law to conform with Fuentes' opinion two years ago.

If New Jersey wins, other states will move quickly to legalize sports betting, according to Paul Charchian, president of the Fantasy Sports Trade Association.

"My personal finger to the wind, I think within ten years we'll have close to ten states that have legal, regulated sports betting," Charchian said.

If New Jersey loses, the state may appeal again to the **U.S. Supreme Court**, which declined last June to consider its previous appeal.

"If that does not work, then the only opportunity for New Jersey to offer sports betting that I see is through federal legislation, and the chances of that happening are uncertain at best," said Christopher Soriano, a gaming attorney with the Duane Morris firm in Cherry Hill, New Jersey.

### Geography:

UNITED STATES

FEDERAL

NEW JERSEY

### Sectors:

CASINO

ONLINE GAMBLING

OTB AND BETTING SHOPS

### Content:

REGULATORY NEWS

### Spotlight Subject:

U.S. SPORTS BETTING