

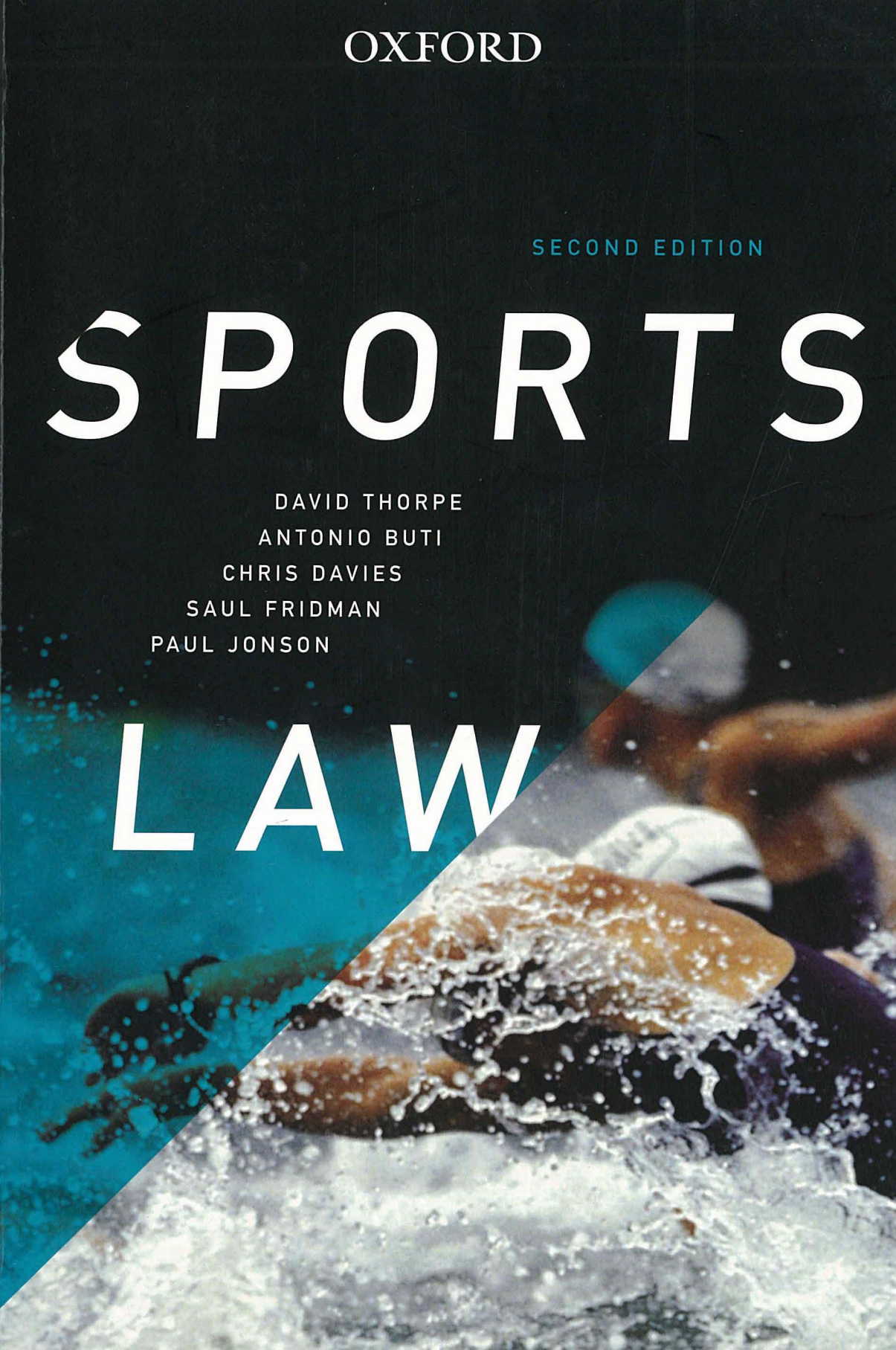
OXFORD

SECOND EDITION

# SPORTS

DAVID THORPE  
ANTONIO BUTI  
CHRIS DAVIES  
SAUL FRIDMAN  
PAUL JONSON

# LAW



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# FOREWORD

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I began the foreword of the first edition of *Sports Law* with a quote that is all the more relevant in today's sporting environment, and so I once again adopt it:

Sport is an order of chivalry, a code of ethics and aesthetics, recruiting its members from all classes and all peoples. Sport is a truce: in an era of antagonism and conflicts it is the respite of the gods in which fair competition ends in respect and friendship. Sport is education, the truest kind of education, that of character. Sport is culture because it creates beauty and, above all, for those who have the least opportunity to feast on it.

*Rene Maheu, Director General of UNESCO*

It is most unusual to have the five leading scholars in a field of study cooperate on a text for publication. That is what makes this second edition of *Sports Law* so important and so relevant in today's sporting, competitive environment. The text has not only the necessary outline of the history of the development of this 'lex specialis' (now referred to as a 'lex sportiva'), along with an outline of the present legal organisational structure governing sport, but within each chapter a comprehensive analysis of a developing jurisprudence for sport.

This body of jurisprudence, known as sports law, has developed quickly—a reflection of the professionalisation of sport as well as the associated sponsorship and monetary rewards now available to our sporting elite.

This text is not only academically excellent; it is most readable. The legal analysis reveals the great intelligence and collective scholarship of the writers. The book's design is clever and so will prove useful to both the scholar—be it writer, lecturer or student—and the legal practitioner.

Each chapter begins with an overview of the content addressed and then an introduction, both of which assist in legal research. The topic is then developed with facts (supported by authorities) and updated with detailed, recent case examples. Each chapter is footnoted with citations of referenced authorities and ends with some discussion questions (of great assistance to the lecturer and student).

Most topical issues within sports law are addressed; for example, violence, corruption and gambling, and doping.

Management issues that have led to litigation or disputation are also addressed; for example, risk management, employment, agency, trade and competition, intellectual property and marketing.

The structures used in the governance of many sports have recently been under scrutiny in Australia. Questions have been raised as to the proper application of corporate legal principles by the directors of sporting clubs, for example having in place governance policies and procedures, ensuring management accountability to a

board so it is properly informed as to the internal activities of the various divisions within a club's administration.

An associated issue brought into question is the accountability obligations and the duty of care carried by employees and contractors serving sporting clubs. Examples include, among others, the recent allegations as to the role of administrators in Harness Racing NSW, where two stewards faced the criminal court; and the ongoing doping enquiry into the various football codes played across the states of Australia, where the role of sport's administrators, employees and contractors have been brought into focus.

Given the public's love of sport, the skill and beauty in a game well played, the camaraderie that attaches to a game, and the egalitarian basis of sport, it is to be hoped such ideals and principles continue to be promoted and protected by the law.

This authoritative account of the developing law of sport gives hope that those basic ideals and principles are being protected. On review, matters that have been brought before the various courts and tribunals for consideration of the application of legal principles to the sporting field have endorsed these ideals and principles within the ambit and application of existing legal precedent. The law in its application to sporting conflict has proven respectful of the ideals promoted by those who love fairness and beauty in true competition.

I commend the text. It is both learned and a good read.

The Honourable Dr Tricia Kavanagh  
Former Justice of the New South Wales Industrial Court  
and Deputy President of the New South Wales  
Industrial Relations Commission  
May 2013

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