

Northern California Record Turns to Partner Barbara Hoey to Discuss the NFL Cheerleading Lawsuit

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Northern California Record interviewed [Barbara Hoey](#) in the article “NFL cheerleading lawsuit based on disparate impact claim, labor attorney says,” where she discussed the *Kelsey K. v. NFL* case, a multimillion-dollar antitrust lawsuit filed by a former San Francisco 49ers cheerleader who was fired after she posted a picture on Instagram that the team viewed as offensive.

“There are allegations that the cheerleaders are subjected to onerous rules that regulate their on- and off-duty conduct, much more so than players – like what they wear off duty (no sweatpants in public), what restaurants they can go to and who they can interact with on social media,” said Barbara. “Some of the rules, frankly, do seem a bit strange, but one assumes that the team had a good reason for creating them.”

In a 67-page appellate answering brief to the U.S. Court of Appeals for the 9th Circuit, NFL attorneys argued Judge William Alsup was correct in his judgment, saying based on the *Bell Atlantic Corp. v. Twombly* standard, Kelsey K.’s argument was futile.

Barbara explained, “Under Title VII, an employer cannot discriminate or treat similarly situated employees differently because of gender. The claim is that the team may not have intended to discriminate, but the effect of these rules fell disproportionately on women – which is a disparate impact claim.”

To read the full article, please [click here](#).