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## And They're Off: Supreme Court Strikes Down PASPA, Leaving States Free to Legalize Sports Wagering

On May 14, 2018, in *Murphy v. NCAA*, No. 16-476 (2018), the Supreme Court held that the Professional and Amateur Sports Protection Act ("PASPA"), which barred states from legalizing sports wagering within their borders, violates the Tenth Amendment of the Constitution. In addition to striking down PASPA's core provision, 28 U.S.C. § 3702(1), the Court also concluded that the provision is not severable from the remainder of the statute, thus invalidating PASPA in its entirety.

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PASPA's core provision prohibited states from legalizing sports gambling, but the Act also included grandfather provisions for jurisdictions that already had schemes in place. Consequently, under PASPA, states could not change their minds to allow sports gambling. Another provision of PASPA prohibited private persons from conducting sports gambling "pursuant to the law or compact" of a state. Writing for the Court, Justice Alito rejected the distinction between compelling states to enact legislation and forbidding states from enacting certain laws. Both, he writes, conflict with the anti-commandeering principles of the Tenth Amendment.

Contrary to what some in the mainstream media have reported, the Supreme Court's decision does not legalize sports wagering. Rather, it shifts to each individual state the decision whether to legalize sports wagering within its borders, as well as how to regulate whatever wagering it chooses to allow. The opinion also leaves open the possibility that Congress may constitutionally enact new laws regulating interstate wagering pursuant to its Commerce Clause powers. Sports leagues and other sports entertainment companies will need to account for this fluid, multi-jurisdictional legal and regulatory environment when considering the impact of the Court's decision on their businesses.