

# Penalty Flag Thrown: Former Florida Gators Sues to Void Controversial NIL Contract

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In just over two years since the inception of college Name, Image, and Likeness (NIL) rights, a groundbreaking lawsuit has emerged, alleging a violation of Florida's NIL laws. On September 1, 2023, Gervon Dexter Sr., a former University of Florida Gator and current Chicago Bear, filed a lawsuit aimed at invalidating an NIL contract that he signed during his junior year at the University of Florida. The contract in question exemplifies the very concerns that advocates for increased oversight and regulation in the [NIL landscape have been cautioning against](#).

Dexter's lawsuit, brought in the Northern District of Florida, seeks to void his NIL agreement with Delaware-based entity Big League Advance Fund II, LP (BLA). His claims revolve around the contract's alleged violations of Florida's Athlete Agent Act and NIL law. Under the terms of the agreement, BLA pledged to pay Dexter \$436,485 for the use of his NIL during an "initial term" and an "extended term." The initial term commenced upon contract signing and concluded with Dexter's ineligibility under NCAA rules. In contrast, the extended term started after his NCAA eligibility ended and spanned an astonishing 25 years. During this extended period, Dexter was obligated to allocate 15% of his pre-taxed NFL earnings to BLA. Notably, Dexter signed this contract in May 2022, ahead of his junior collegiate season and declared for the NFL Draft in December 2022. Dexter was subsequently drafted by the Chicago Bears in the second round of the April 2023 NFL Draft. Dexter signed a four-year contract worth \$6,723,732 with the Bears on June 16, 2023, that included a \$1,889,983 signing bonus. As such, Dexter would potentially owe BLA over \$1 million from his initial four-year deal alone.

BLA was founded seven years ago, with a business model focused on "investing" in athletes by providing upfront lump sum payments in exchange for potential future earnings. In the beginning, BLA was primarily focused on Minor League Baseball players who received immediate lump sums in exchange for a percentage of their future earnings. With the inception of college NIL, BLA has expanded its business model to include college athletes. Essentially, BLA gives college athletes a chunk of money upfront in exchange for a piece of their future earnings, and they get to keep the upfront cash even if they don't make it big in professional sports. According to BLA's website, "BLA is not a bank that you need to pay back. The capital players receive from BLA is not a loan." Notably, Dexter is not the only college athlete to ink an NIL deal with BLA. Former Georgia defensive standout and first-round pick Nolan Smith purportedly also signed an NIL deal with BLA.

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Dexter's lawsuit contends that the NIL agreement is invalid for multiple reasons. First, he argues that the extended term violates Florida's NIL law because it extends beyond his period of student-athlete eligibility. Florida's NIL law explicitly prohibits NIL contracts from extending beyond a student-athlete's participation in an athletic program at a postsecondary educational institution:

The duration of a contract for representation of an intercollegiate athlete or compensation for the use of an intercollegiate athlete's name, image, or likeness may not extend beyond her or his participation in an athletic program at a postsecondary educational institution. Fla. St. § 1006.74(2)(j).

Moreover, Dexter alleges that the agents representing BLA were not licensed as agents in the state of Florida, thus rendering the agreement in violation of Florida's Athlete Agent Act. Dexter's argument hinges on the assertion that the contract authorized BLA to represent him in marketing his athletic ability and reputation, effectively constituting an agent contract. Furthermore, he contends that since the extended term surpassed his student-athlete eligibility, the agreement should have included the conspicuous notice mandated by Florida's Athlete Agent Act. Pursuant to Florida law, an agent contract must include a boldface type, capital letters notice in close proximity to the student athlete's signature stating:

### **WARNING TO STUDENT ATHLETE**

1. YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT ATHLETE IN YOUR SPORT;
2. IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS AFTER ENTERING INTO THE CONTRACT, YOU AND YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC DIRECTOR; AND
3. YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER SIGNING IT. HOWEVER, CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY.

Fla. St. § 468.454(3).

Additionally, Dexter contends that BLA, failed to provide the University of Florida's athletic director notice of the agreement, in violation of Florida law. Pursuant to Florida's Athlete Agent Act, within 72 hours of entering into an agent contract, "the athlete agent must give notice in a record of the existence of the contract to the athletic director of the educational institution at which the student athlete is enrolled." Fla. St. §468.454(6).

The Dexter NIL contract serves as a stark warning to those navigating the complex NIL landscape, underscoring the importance of prioritizing student-athletes' best interests. It also highlights the crucial need for student-athlete education and resources to help them navigate the intricate world of NIL agreements. Notably, neither BLA nor Dexter informed the University of Florida about the existence of the agreement, raising questions about whether the university's involvement could have prevented its approval. Whether or not Dexter succeeds in having his contract voided, the lawsuit underscores the critical importance of implementing at least some measure of regulations, whether at the state or federal level, to safeguard student-athletes from entering contracts without a full understanding of the implications.

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