



# Emil Rothe Chicago Chapter

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Rich Hansen, Chair – Richard Smiley, Vice Chair – David Malamut, Secretary – Peter Yee, Treasurer



*On Saturday, March 23, SABR Chicago members Tim Czuba, John Racanelli, Bill Pearch, David Malamut and Mike Bojanowski braved the elements and watched the Northwestern University Wildcats defeat the Purdue University Boilermakers, 2-1, at Rocky and Berenice Miller Park in Evanston.*

## Pitching Dominates in SABR Chicago's First Outing of the Season

By Tim Czuba 

As Northwestern University (5-12) was preparing to host Purdue University (6-15) in only their third home game of the season, both teams were looking to right the ship In rocky starts to each's seasons. On a cool, but sunny and beautiful Saturday afternoon, pitching was the star as the Wildcats knocked off the Boilermakers, 2-1.

Wildcat starter, Hank Christie (7 IP, 0 runs), came out strong, not allowing a hit until one out in the fifth. He left the game in the seventh, scattering four hits, fanning six and walking only one. Purdue never threatened the lanky righthander.

Andrew Bohm (3 2/3 IP, 2 runs, 1 ER, 5 Ks, 4 BB) started for Purdue, and while he did not pitch badly, was just wild enough for Northwestern to scratch out two runs in the first. Leadoff hitter Jack Dunn got things going for the Wildcats with a single and promptly stole second. After Bohm struck out the next two Northwestern hitters, cleanup hitter Shawn Goosenberg singled sharply to right center driving in Dunn with the first Wildcat run and legged out the hit for a double. The next hitter, left fielder David Dunn, dribbled a swinging bunt up the third base line and beat a wild throw to first, which scored Goosenberg with the second run. After giving up another hit, Bohm settled down and got the third out, quelling the rally.

Northwestern had their chances to add on after Bohm walked the bases loaded in the fourth. Trent Johnson replaced Bohm and proceeded to strike out Casey O'Laughlin to kill the threat. Johnson pitched the last 4 1/3 innings, dominating Wildcat hitters, striking out ten, allowing one hit and hitting a batter. Northwestern never threatened again.

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**Next Chapter Meeting: Saturday, April 27**  
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# Northwestern vs. Purdue Game Experience – March 23, 2019 SABR Chicago Outing

By John Racanelli

Ted Nugent is thought to have popularized the rallying cry, “If it’s too loud, you’re too old.”

When I first arrived at Rocky and Berenice Miller Park for the SABR Chicago ballgame, the folks running the audio system were blaring pop music. The music was not my taste and was way too loud, making it very difficult to have a conversation. This jarring affirmation of my advancing age, however, was but a mild irritation in an otherwise enjoyable afternoon at the March 23 Northwestern-Purdue ballgame.

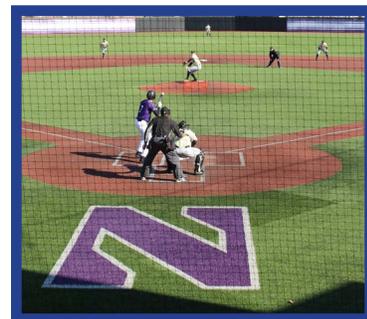
Miller Park is located at the northern end of Northwestern’s sports complex. The parking lot to the west of the ballpark was free. Be mindful that spots nearest the stadium will be in foul ball territory, however, so use caution when choosing how close you park your car!

Tickets can be purchased at the box office on the day of game (or in advance through the university if you chose). All tickets are general admission and priced reasonably at \$7.00 for adults, \$5.00 for kids and \$3.00 for groups of fifteen or more. The home dugout is along the third base line and it seemed as though the fans for each of the teams sat along the same side of the ballpark as the team for which they were rooting. The crowd was a good mix of players’ parents, families, students and a particularly handsome group of baseball nerds.

The game was played on a crisp Saturday afternoon with temperatures in the low 50s and nary a cloud in the sky. Evanston’s Miller Park is not far from Lake Michigan so the weather was very reminiscent of a spring day at Wrigley Field. Despite the relatively mild March temperatures, seats in the sun were preferable and there were several groups huddled under blankets. When you attend a spring Northwestern game, dress accordingly and consider wearing at least one more layer than you might think necessary.

The park was recently renovated in 2016 and the seats were new and comfortable. The entire spectator area was protected by screens, so fan safety was clearly a priority. The large video board in right-center field would make some minor league owners jealous and featured in-game player profiles, statistics, and a even a *Family Feud*-themed guessing game. The new-fangled playing surface was completely artificial and did not appear to affect game play except—perhaps—causing an awkward Purdue balk when the pitcher’s shoe appeared to get stuck in the mound.

No outside food or drinks were allowed in the park and the security guard at the gate was checking bags. If you plan to eat



*Top: Northwestern’s Alex Erro bats during the bottom of the first inning.*

*Bottom left: Wildcat souvenirs for sale.*

*Bottom right: David Dunn attempts to pad the Wildcats’ late lead.*

or drink at the game, expect Major League prices! Chicago-style hot dogs were \$6.00, pop was \$5.00, and a 16 oz. bag of peanuts was \$6.00. The food and drink offerings were standard ballpark fare but no one among us was brave enough to order the nacho helmet (\$12.00). Pro-tip: if you are craving a legit Chicago-style hot dog, consider a pre-game meal at Mustard’s Last Stand (<https://mustardschicago.com/>), the renowned hot-dog joint conveniently located at the south end of the sports complex parking lot.

If you are seeking a keepsake to commemorate your trip to Rocky and Berenice Miller Park, a trailer located along the first base side hawked all things Northwestern baseball. Also, there were free scorecards available on the concourse behind home plate, featuring a cool black-and-white photo of Wildcats outfielder Ben Dickey.

Overall, the fan experience was excellent at Miller Park and a Northwestern game is highly recommended for anyone looking to watch some quality Division I baseball. Just be prepared to (maybe) feel old.

# Rocky and Berenice Miller Park Renovations

By Bill Pearch



*Top: Northwestern fans watched the Wildcats grab an early lead over the Purdue Boilermakers.*

*Right: A plaque commemorating the donors who helped renovate Northwestern University's baseball field.*

*Photos: Bill Pearch*



If you have not attended a Northwestern University baseball recently, or at all, you will be in for a pleasant surprise.

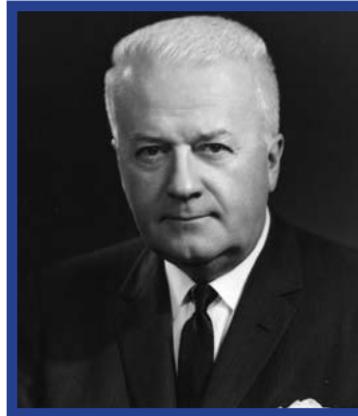
Northwestern University's baseball stadium, now known as Rocky & Berenice Miller Park, has been the home of Wildcats baseball since 1943. Thanks to a \$5 million pledge from Richard ('53) and Roxy Pepper ('53) and university fundraising efforts, Rocky & Berenice Miller Park was transformed into a premier Big Ten athletic facility.

The renovation, which began in 2013, was completed in two phases in order to accommodate the baseball season schedule. Phase one, completed prior to the 2015 season, included an artificial turf baseball field, pitcher's mound, bullpens and new dugouts. Phase two, completed prior to the 2016 season, included a state-of-the-art clubhouse with locker room, players' lounge, coaches' offices, meeting room, training room, updated bleacher seating, concession stand and ticket booth. Prior to the facility's recent renovations, the last time Miller Park received any upgrades was in 1983.

But who was Rocky Miller? The ballpark is named in honor of Roxy Pepper's late parents, Dr. J. Roscoe and Berenice Miller. Dr. Miller, better known as Rocky, served as Northwestern University's president from 1949 to 1970.



*Top: Conceptual rendering of Rocky and Berenice Miller Park prior to construction.*



*Left: Dr. J. Roscoe "Rocky" Miller, Northwestern University's president from 1949 to 1970.*

*Photos: northwestern.edu*

## Pitching Dominates (Continued)

Nick Paciorek replaced Hank Christie one batter into the seventh inning and made quick work of the Boilermakers in the seventh and the eighth. The ninth, however, was a different story. Paciorek walked the first two Boilermaker hitters before Cole McKenzie singled to load the bases. Paciorek then fanned cleanup hitter, Zac Fascia, with the only breaking ball he got over for a strike in the inning for the first out. First baseman Nick Evarts singled to drive in Purdue's only run before Paciorek got Ryan Howe to roll into a 6-3 double play to end the game.

### Get Your Baseball Research Published

Are you conducting baseball research? SABR's Emil Rothe Chicago Chapter can help. We are looking for new articles to publish in the Chapter's monthly newsletter and social media outlets. Submit your articles to Chapter Secretary David Malamut via email at [david@malamut.net](mailto:david@malamut.net). Submittal deadlines are the 15th of each month for inclusion in the next edition.

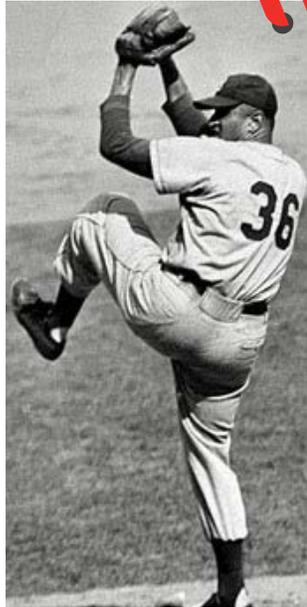
# You Be the Judge: Was Don Newcombe's Likeness Used Improperly by Coors and the Washington Senators?

By John Racanelli

Don Newcombe began his professional baseball career as a teenager with the Newark Eagles of the Negro National League in 1944. As a rookie hurler with the Brooklyn Dodgers in 1949, he quickly established himself as an ace—he was named an All-Star, started two games for the Dodgers in the World Series, and was eventually crowned Rookie of the Year. This photo of Newcombe from the 1949 World Series would be used as evidence in a lawsuit nearly 50 years later (right).

Newk last pitched in the majors in 1960 with the Cleveland Indians and spent 1961 with the Spokane Indians in the PCL trying to resurrect his Major League career. After making a single start for Japan's Chunichi Dragons in 1962, Newcombe retired from baseball as the only player in major league history to have won the Most Valuable Player Award, the Cy Young Award, and the Rookie of the Year Award (Justin Verlander has since matched this feat). Newcombe's playing career, however, was cut short due to military service (1952-53) and a personal battle with alcohol.

After his playing career ended, Newcombe—who drank his first beer as an eight-year-old—began to imbibe heavily. He eventually lost his New Jersey cocktail lounge to tax agents and a liquor business to bankruptcy. His wife left him and took their three kids with her. He even pawned a World Series ring to pay his rent. Having hit rock bottom, Newcombe embarked on the road to recovery, ultimately dedicating his life to helping others who struggled with addiction. He joined the Los Angeles Dodgers' front office in 1970 and served as the team's community relations director, specializing in drug and alcohol awareness programs. He additionally served as spokesman for the National Institute on Drug and Alcohol Abuse pursuant to presidential appointments by Richard Nixon, Gerald Ford and Ronald Reagan.



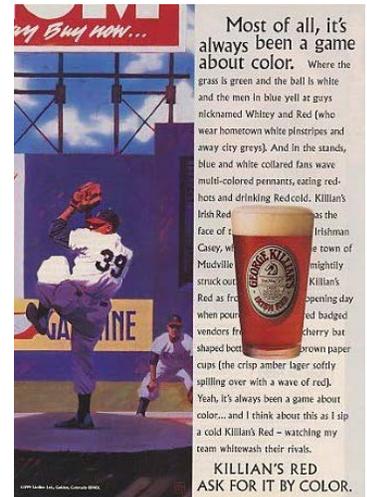
*Photo by Ralph Morse//  
Time Life Pictures/  
Getty Images*



Accordingly, Newcombe was sickened to discover that a beer advertisement in the February 1994 *Sports Illustrated* "swimsuit edition" appeared to feature his likeness. The full-page illustrated ad for Killian's Irish Red (owned by Coors Brewing Company) showed a seemingly generic pitcher in his windup, a nondescript infielder, and a fictional ballpark. The players' uniforms did not show a team name or logo and did not utilize the same color scheme as the 1949 Dodgers. However, "Newcombe, along with family, friends and teammates immediately recognized the pitcher featured in the advertisement as Newcombe in his playing days." Willie Mays and Duke Snider, in particular, recognized Newcombe straight away.

Newcombe filed suit on March 10, 1994 in the Central District of California against Coors, the advertising agency that created the ad, and Time, Inc., publisher of *Sports Illustrated*. He sought to prevent the advertisement from future publication and asked for \$100,000,000 in damages. Judge Stephen Wilson eventually dismissed Newcombe's case in 1995, holding that Newcombe could not prove any of his claims.

Undeterred, Newcombe appealed to the 9th Circuit where he alleged that his identity had been misappropriated in violation of California statutory and common law; the advertisement was defamatory because it portrayed him—a recovered alcoholic—as endorsing beer; the advertisement was negligently created; and, that defendants intentionally inflicted emotional distress upon him. The defendants denied that the pitcher in the advertisement was a "likeness" of Newcombe, but admitted that the illustration was based on a newspaper photograph of Newcombe from the 1949 World Series. The court noted, "The only major differences between the newspaper photograph of Newcombe and the drawing of him are that the pitcher's uniform number has been changed



*Advertisement Inset*

# You Be the Judge (Continued)

from '36' to '39,' and the bill of the hat in the drawing is a different color from the rest of the hat. Otherwise, the drawing in the advertisement appears to be an exact replica of the newspaper photograph of Newcombe.”

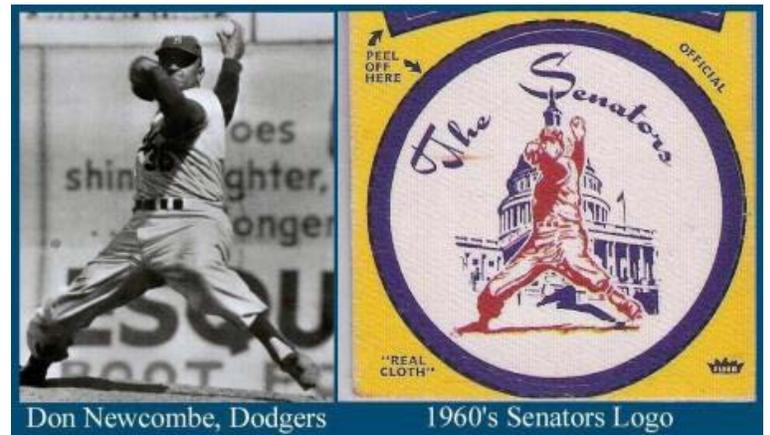
Because the advertisement did not feature a photograph or any particularly distinctive facial detail, the reviewing court was tasked with determining whether the illustration was actually a “likeness” of Newcombe. The court held “that in order to constitute Newcombe’s likeness, the pitcher depicted in the advertisement must be readily identifiable as Newcombe.” After comparing the advertisement and photo of Newcombe, the court found that reasonable people could disagree whether Newcombe was “readily identifiable” as the pitcher in the advertisement. The court acknowledged that the illustration was slightly different from the newspaper photograph in that the uniform number in the advertisement (“39”) was different than Newcombe’s actual number (“36”) and the color of the ball cap had been reimagined. Regardless, “the drawing in the advertisement and the newspaper photograph of Newcombe upon which the drawing was based are virtually identical. The pitcher’s stance, proportions and shape are identical to the newspaper photograph of Newcombe; even the styling of the uniform is identical, right down to the wrinkles in the pants.”

The defendants argued that “stance alone cannot suffice to render a person readily identifiable, and that even if it could, the drawing of the pitcher in the advertisement was essentially generic and could have been any one of thousands of people who have taken to the pitcher’s mound to throw a baseball.” The court disagreed, however, after reviewing photographs of other pitchers in the windup position—having found none were similar to that of Newcombe. Moreover, an advertising agency representative had admitted that a different prior illustration by the same artist would have been rejected for the subject advertisement because it depicted former San Francisco Giant Juan Marichal’s distinctive high-leg-kick windup. “It may be the case that Newcombe’s stance is essentially generic, but based on the record before us, Newcombe is the only one who has such a stance.”

The court found there was a genuine issue of material fact as to whether the defendants made use of Newcombe’s likeness and reversed district court’s grant of summary judgment in favor of the defendants on the common law misappropriation and Cal. Civ.Code § 3344 claims. The reviewing court, however, held that Newcombe was not able prove his claims of defamation, negligence and intentional infliction of emotional distress, so the district court’s grant of summary judgment as to those counts was affirmed. The case was returned to Judge Wilson for further handling. On October 21, 1998, the parties agreed to dismiss the district court case with prejudice—most

likely because defendants agreed to pay Newcombe some measure of damages (it does not appear that the amount of any possible settlement was reported in the record or newspapers of the time).

Perhaps even more amazing in this whole story is that the Killian’s advertisement was probably not the first time Newcombe’s likeness was used for an illustration! You be the judge as to whether the Washington Senators actually incorporated Don Newcombe as part of their primary logo from 1961 through 1971:



*Photo by Jason Blatt*

## Sources:

*Newcombe v. Adolf Coors, Co.*, 157 F.3d 686 (9th Cir., 1998).  
Dan Stoneking, “Highballs Put Don Newcombe’s Fastball and Career on the Rocks,” *Minneapolis Star*, February 26, 1981, 42.  
“Judge Dismisses ‘Newk’s’ Suit Over Beer Ad,” *Indiana (Pennsylvania) Gazette*, September 8, 2001, 27.  
“Court Clears Way for Newcombe to Sue,” *The Record (Hackensack, New Jersey)*, September 23, 1998, 16.  
Civil Docket for Case #: 2:94-cv-02282-SVW-BQR, CDCA, Western Div.  
[http://www.sportslogos.net/logos/view/1384/Washington\\_Senators/1961/Primary\\_Logo](http://www.sportslogos.net/logos/view/1384/Washington_Senators/1961/Primary_Logo), last visited February 25, 2019.  
<https://i.redd.it/3r1yzt8l7sh2i.jpg>, last visited February 25, 2019.  
<https://www.baseball-reference.com/players/n/newcodoo1.shtml>, last visited February 25, 2019.

*JOHN RACANELLI is a Chicago lawyer with an insatiable interest in baseball-related litigation. When not rooting for his beloved Cubs (or working), he is probably reading a baseball book or blog, planning his next baseball trip, or enjoying downtime with his wife and family. He is probably the world’s foremost photographer of triple peanuts found at ballgames and likes to think he has one of the most complete collections of vintage handheld electronic baseball games known to exist. Please check out his blog at [www.baseballlawreporter.com](http://www.baseballlawreporter.com) to share in his obsessions.*

# What's On Deck?

Get Your Pencils and Scorecards Ready

- **Chapter Meeting**

April 27, 2019 - 1 p.m.  
Chicago Public Library,  
Rodan Branch  
6082 N. Northwest Highway  
Chicago, IL 60631

CLICK FOR  
DIRECTIONS

*Speakers*

**Chris Kamka**

Presenting the Hall of Fame case  
for Minnie Minoso

**Dan Helpingstine**

Discuss his book on the Black Sox Scandal

**John Racanelli**

Speaking on Chicago baseball sites

\* Join us for lunch across the street at Mo  
Dailey's Pub & Grille (11:30 a.m.), 6070 N.  
Northwest Highway, Chicago, IL 60631

- **Chapter Game #2\***

May 4, 2019 - 6:30 p.m.  
South Bend Cubs vs.  
Clinton LumberKings  
Ashford University Field  
537 Ballpark Drive  
Clinton, IA 52732

CLICK FOR  
DIRECTIONS

With Field of Dreams Chapter

\* Possible meeting with guests prior to game

- **SABR 49 - San Diego**

June 26-30, 2019  
Manchester Grand Hyatt  
1 Market Place

CLICK FOR  
DETAILS



## Get Social with SABR's Emil Rothe Chicago Chapter

There are five easy ways to interact with  
Chicago Chapter members.  
Click today and start talking baseball.



Clinton LumberKings'  
Ashford University Field

## SABR Member Highlights

We all have great baseball stories to share. Beginning with the May issue, we will start highlighting SABR Chicago Chapter members. Contact Bill Pearch via email at [wcpearch@comcast.net](mailto:wcpearch@comcast.net) to schedule a brief interview.