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Meet Laura Ellis

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an interview by David D. Dodge

Meet Richard Walden

Richard Walden (athletere@aol.com), an attorney and partner in the law firm of Burris, Schoenberg & Walden, LLP, was interviewed in February 2018 by **David D. Dodge** (david@sprtsoc.com), CEO, Sports Officiating Consulting, LLC in Carlsbad, California.

DD: What led you to collaborate with others in writing the book, *Sport, Ethics and Leadership*?

RW: Two things. First, I attend many sports events (in some years nearly 200) and also participate in recreational sports. I see many examples of poor sportsmanship and coarse behavior by fans and participants, and often



Walden

wonder why people act that way and why other fans, athletes, and management don't do more to curb that bad behavior. So the questions of what is an "ethical" fan or athlete and what can good leadership do to foster "ethical" behavior are on my mind when I am at sporting events.

Secondly, I've taught sports law at the University of San Francisco master's program in sports management since about 2001. In teaching that course, I realized that we'd often touch on the philosophical and ethical components of issues, not just the legal. I spoke with the dean about creating a sports ethics course. While preparing the proposal for that course, I recalled actual things I'd seen at events over the years to use as examples for the course. I also began looking for a suitable textbook and did not find one to my liking, so I mentioned to the dean that perhaps one byproduct of the course would be that I'd write my own textbook.

At some point, I realized that I did not have time to pursue the course or the book any further and shelved the project. A year

or two later, the dean was talking to another sports lawyer and professor (Ron Katz), who mentioned that he was interested in writing a book on sports ethics. The dean remembered my interest in the subject and put us in touch.

Ron and I got together and decided to see if we could get a book deal. Ron had a much broader vision for the book than my original one, so the scope of the book quickly expanded. As it expanded, we realized that it was becoming a bigger undertaking and that there were topics that would be better addressed by other experts. So we recruited a sports philosopher, Jack Bowen; a leadership expert, Don Polden; and an expert on amateur and intercollegiate athletics, Jeff Mitchell. We then came up with an outline of chapters, which we divvied up based on our areas of interest and experience. The collaborative part of this was seamless.

DD: Why is ethical leadership so important in the microcosm of sport?

RW: I don't have any social science data to rely on, just my opinions, but I think that sports are so important in our society and so prevalent that they end up shaping behavior and norms. Kids emulate the batting stances of their baseball idols and the basketball moves of their favorite NBA stars; they imitate the way they wear uniforms, even the trash-talking and other behaviors exhibited by athletes they look up to. People take many social and behavioral cues from the sports world. So I think that sports have a profound influence on non-sports behavior.

I also think that the more we are invested in sports, the more we need ethical leadership. The use of performance-enhancing drugs,

other forms of cheating by athletes or officials, the response of teams and leagues to things like violence on and off the playing field, and player injuries like football concussions are all things that can erode our trust and enjoyment of sports if not thoughtfully dealt with.

DD: In light of the recent sexual abuse scandals at USA Gymnastics and at Michigan State University, what is the risk of focusing preventive programs solely on sexual abuse rather than all areas of risk?

RW: That is a great question. In the past I think we've seen scandals addressed individually and on an ad hoc basis with little or no thought to how that scandal fits against the sports culture backdrop in which it arose or how to have a cohesive policy to promote ethical behavior across the board. If fans get drunk and rowdy, stop selling alcohol after the seventh inning. If an athlete bullies another, punish him or her. If a fan or player files a suit, settle it. But rarely is thought given to a broader risk management policy and how the school or team or league leaders can do just that: lead. I think that much of Roger Goodell's problems since he took over the National Football League (NFL) stem from this sort of myopic, "plug each hole in the dam as they pop up" approach.

I think that the gymnastics scandal will likely follow the same pattern and will not, other than perhaps with a few visionaries and outliers, result in a more comprehensive approach to risk management.

DD: Although compliance, ethics, and integrity programs are common in other

businesses and industries, why have sports leaders been slow to adopt such programs?

RW: I honestly don't know. I think that part of the answer may be that even today sports are still often viewed less as businesses or industries and more as pastimes, activities, and pleasures. Obviously, this has changed over the last few decades as the business side of sports has taken a higher profile, but there is still a sentiment that sports are different. I think the fact that sports often involve behavior that is inappropriate in other industries, such as physical contact, means

that sports does not fit the "typical" compliance model. Sports, at least professional sports, are dependent upon competition, whereas in other industries, competition is the enemy, which may also be a factor. Finally, sports historically have been more or less self-regulated, which has likely slowed the process.

Rarely is thought given to a broader risk management policy and how the school or team or league leaders can...lead.

DD: From your book, "most failures in sport organizations are caused by failures in leadership..." What can be done to aid sports leaders in advancing their leadership capabilities?

RW: The book does a good job of discussing the different kinds of leadership and leadership styles. In doing so, it is apparent that one size does not fit all, and some styles do not work for some people. However, there are still certain characteristics or qualities that all good leaders possess, such as integrity, vision, and the ability to communicate. Certainly, litigation and the threat of litigation are increasingly driving leaders in the sport industries to get out ahead of issues rather than simply reacting.

Recently, Major League Baseball (MLB) extended the safety netting at its ballparks even though, for the most part, teams have been immune from fan suits for injuries from foul balls. The National Hockey League (NHL), learning from the NFL concussion-related suits and claims, has instituted its own concussion protocol. MLB has issued no-hazing guidelines for its teams. Although these sorts of policies and steps are not entirely divorced from the threat of litigation, they are more forward-looking than remedial.

DD: In your book, you talk about the humanity of sport and the moral concept of sportsmanship. Can you expand on that for our readers?

RW: The concept of sportsmanship embraces more than simply not cheating and following the strict letter of the rules. It includes the “unwritten rules” of each sport,

such as hockey’s informal code of conduct, which states that in a fight, one does not continue to punch an opponent after he has fallen to the ice. A perfect example relates to MLB’s rule changes to increase the pace of games. Traditionally, if an umpire is struck by a pitch or a foul ball, the catcher will go out to the mound to allow the umpire a moment to regroup. This sort of mound visit based on unwritten rules of sportsmanship may become a thing of the past, since new rules limit the number of mound visits. In golf, for example, players are trusted to self-report rules infractions. There are countless such examples in sports. Because the culture of sports goes far beyond the written rules, sports are a perfect setting for discussions about humanity, integrity, and behavior. As Alan Greenspan once said, “Rules cannot substitute for character.”

DD: Thank you for your time, Richard. *

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