

Nebraska

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Young Lawyers Section

Welcome to the September/October edition of the Young Lawyers' Section Page. I am your Editor, Patrick McNamara. Wow, I cannot believe how quickly this summer went by. It's "back to the grind" time and we also have the NSBA Annual Meeting coming up. This issue, we have Susan Reff giving an in-depth account of her experience of being a juvenile court attorney and foster parent at the same time. Dave Sommers, Executive Director of the Omaha Bar Association, talks about how his interests in sports have shifted from the plays on the field to the plays outside the lines following becoming an attorney. And I discuss Fox News' methodology for choosing candidates for its presidential debate. As always, we welcome submissions from young lawyers all across Nebraska. If you are interested in writing for the Young Lawyers' Section Page, please contact me at pmcnamara@omahalawgroup.com.

Living at a Crossroads: My Experience as a Juvenile Court Attorney and Foster Parent

by Susan Reff



In 2008, I began to practice as a Guardian ad Litem in Juvenile Court. As a former Douglas County Public Defender, this new role was a much-needed breath of fresh air for me. I was so accustomed to no one listening to what I had to say about my clients and feeling like I was fighting a losing battle with almost every case. In the role of GAL, the judges were listening to my position and often agreeing with it! This was a whole new world of law practice for me.

It was in this role that my eyes were opened to the world of foster care. I had never had any personal or professional experiences with foster care before. I was amazed that there were people who would open their homes and their hearts to complete strangers.

In 2013, my husband and I accepted our first foster placement, a 3-year-old boy named Johnathan. We decided that we had enough love to give, we had enough patience to share and we wanted to make a difference. Suddenly, my home was the place being inspected, my background was being scrutinized and my caretaking of our foster son was being questioned. Now it was MY foster son that had his own GAL!

As a foster parent AND an attorney who regularly practiced in Juvenile Court, I know I was treated differently than other foster parents. As a GAL, I saw how case workers generally interacted with foster parents and I knew how judges handled foster parents in the court room. At first, there was usually a level of suspicion from the caseworkers that was obvious. And as a GAL I had had contact with more than a few visitation workers, and it wasn't always the best experience. Now it was me who had some of those workers coming to my home to pick up and drop off Johnathan for his visits. That was awkward to say the least.

I tried very hard not to wear my "lawyer hat" as a foster parent, but I truly believe that it ended up helping me in my role in more than just the obvious ways. Sure, I knew the legal process of the case and how to read between the lines of what the lawyers on the case were saying. But I also knew that anything can happen in a juvenile court case. I knew that there was always a possibility that Johnathan would leave. Maybe he would return to his mother, or maybe he would be placed with a family member. I knew to protect my heart.

When it became obvious that Johnathan wouldn't be returning to his mother or placed with a family member, I was able to take off the "lawyer hat" and start to see how the "mom hat" might fit me. We adopted Johnathan in 2014. It's hard to believe that the practice of law actually led me toward becoming a parent, and more than that, it allowed me the opportunity to make a difference.

Susan Reff is a Partner at Hightower Reff Law in downtown Omaha. Susan practices in the areas of criminal defense, juvenile court and family law. She has served as Guardian ad Litem for children in the juvenile court system since 2008. Prior to that, Susan was an attorney with Public Defender's Office of Douglas County.

Sports and Torts by Dave Sommers



From ages 3 through 12, I knew exactly what I wanted to be when I grew up: a professional baseball player. It was my all, my dream. I spent a majority of my waking hours playing, thinking, and talking about it. Then, as time marched on, so did my dreams... from baseball to basketball to football to tennis to my present obsession: golf. (Oh, in case you were wondering, to be eligible for the 2016 U.S. Open local qualifying tournament, you need to have a handicap of 1.2. I'm confident I can shave 12 strokes off my rounds in the next 5 months. How hard could it be?)

Recently a strange change has occurred in my lifelong love

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affair with sports: I've found myself enjoying it more than when I was hitting home runs, smacking forehands, draining jump shots, breaking tackles, and crushing drives. How can I enjoy sports more when I'm not playing than when I was playing? Is it because I'm getting too old to actually play the sports I love? Maybe, but I hope not. Let's not write the obituary on my athletic career just yet. No, I believe the wellspring of my increasing enjoyment of sports actually has to do with my legal education and practice. No joke!

How so? Well, my appreciation of "off the court" legal issues that surround the sports and their stars mesmerizes me. Recounting home runs hit in the dog days of summer in North Dakota has been replaced by examinations of depositions taken during steroid scandals and salary arbitration terms for Mike Trout. Home videos of shooting three pointers in dimly lit gyms collect dust while I debate the appropriateness of NBA owners forcing Donald Sterling to sell the Clippers. Memories of goal line dives have ceded to endless chatter of DeflateGate and concussion lawsuits brought by retired NFL players. Dreams of winning third set tiebreakers have taken a backseat to negotiations over equal prize money for men and women and the banning of loud grunting by women. Boasts of 350 yard drives are forgotten as discussions of illegal gambling by Phil Mickelson and Under Armour's sponsorship agreement with Jordan Spieth abound.

When I was younger I used to think about sports in a vacuum, unaware of all the outside influences that were affecting what I was seeing in front of me. A player's resurgence to hit 10 more home runs than he did in previous years was seen as just the product of hard work and focus, rather than from the pressure of being a free agent after the season and wanting to be signed to a new contract. The horrible record of the 76ers was just bad luck, rather than a team's executives attempting to gain the first pick in the next NBA draft. Tiger Woods' decline from best golfer in the world was because of age and injury, instead of his very public divorce. Now I appreciate sports for the intricate balance and dance of athletic performance in the context of so many legal issues. As an attorney, I can't get enough of the "outside the lines" stories about sports and athletes. Olympian Michael Phelps gets a DUI and vows to not drink a drop of alcohol until after Rio 2016!?!? Tell me more!

And I'm certainly not the only attorney to share this passion for sports and all its legal issues. In fact, the commissioners of the NBA, NFL, MLB, and NHL are all lawyers. Omaha's own Clete Blakeman practices law when he's not refereeing NFL games. I would posit that many attorneys share my appreciation for sports in part because they enjoy competition and feats of strength and agility, but also due to all the legal issues raised on a regular basis.

The sports world seems always to be promoting the BFSY storyline—BIGGER, FASTER, STRONGER, YOUNGER. So maybe the adage "it gets better with age" doesn't seem to

make much sense in regard to sports. But in some way it perfectly describes my relationship with sports. I've found a richer and fuller experience and appreciation, and I have my profession to thank for it.

Dave Sommers is the Executive Director of the Omaha Bar Association and a solo practitioner.

Let's Be Straight by Patrick McNamara



On August 6, 2015, Fox News hosted a debate that included what Fox considered to be the top ten Republican candidates based on recent national polling. This procedure left seven or eight candidates out of the debate, and likely has had a significant negative effect on each of his or her campaigns.

Fox's method of choosing candidates would be fair if those top ten candidates were actually and legitimately leading in the polls. The problem is, based on how closely most of the candidates were packed and the margin of error in the polls that Fox chose to use, any one of the seventeen or eighteen candidates could have actually been considered in the top ten (never mind the fact that Fox got to choose which polls to even consider). As Fox's debate will likely end up having a major effect on the Republican primary race, it had the responsibility to fairly choose the field of debators, whether that be by drawing straws, or maybe even by hosting two debates, one after the other. Fox chose not to do so, and as a result, certain legitimate candidates' campaigns may end up coming to a premature end.

As attorneys, we have a responsibility to accurately represent the facts at hand. Sure, we can frame our arguments in the manner that best represents our client's cases, but we should not skew, misrepresent or omit hard facts in our client's favor, whether it be to opposing counsel or, especially, to the courts. First, we have an ethical responsibility to be candid with the courts and other counsel. And second, most of the other lawyers and judges are not dummies and will see right through whatever is gossip is being passed off as gossip.

Fox News' misrepresentation of its methods for choosing the candidates for its debate is a disservice to the American people and an abdication of its responsibilities as both a public broadcaster and as host of a national presidential debate. Attorneys, and especially Nebraska attorneys: be straightforward with the facts and you'll earn the respect of the bench, your clients, and the legal community at large.

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