

Eckstein Hall is nice and all, but it's not the diploma privilege).

Mr. Halfenger had long before invested in Marquette Law School. The job of reading the draft case problem in our Jenkins Honors Moot Court Competition became his permanently almost a decade ago, when in this courtroom Judge Easterbrook inquired, from the bench, of the hapless student advocate why the defendant named in the moot court problem was a public school and not a school district (as would have been the case in the real world and as would have avoided the mootness issue in the case). Mr. Halfenger, who was in the courtroom that evening, allowed to me afterward that that had occurred to him as well. I would ask Your Honor, as an alum of Marquette Law School, to consider whether to clarify in ruling on the motion that, unlike a defense of the diploma privilege, this sort of work remains available to Mr. Halfenger to do.

Certainly, the evidence that a non-alum in Mr. Halfenger's position should be interested in Marquette Law School is ample. Judge Shapiro was a friend of the Law School even before I became dean. This is a large robe to fill in many ways, as both Your Honor and the bar of this Court well know.

My confidence in Mr. Halfenger is without limit. Some years back I delegated to him my position on the Wisconsin Supreme Court's Appointment Selection Committee, which Mr. Halfenger went on to chair. And when the Court told me that his term was up and that under the rules I needed to appoint someone else, I instead suggested to the chief justice that such a small matter as the end of a term or even a term limit should not get in the way of a good idea. Mr. Halfenger was reappointed.

Let me not continue. I respectfully submit that the Court should consider itself adequately informed in the premises of the motion. The Court has heard representations by members of its bar concerning Mr. Halfenger's intelligence, his outstanding work habits, his great knowledge of the law, his interest in people, his appreciation of public service, and many other qualities and characteristics that commend him for the awesome position of judge. Thus, to appear on behalf of Marquette Law School (which I get to do frequently), to represent the local legal community (as I do only on occasion), and to speak both for myself and (for the matter where I am perhaps most careful) for my wife, I respectfully second the motion that the Court administer the oath of office to Michael Halfenger. Thank you. ■

## Sports Law Banquet | Gary D. Way

### Nike's Gary Way Receives NSLI's Joseph E. O'Neill Award

On April 26, 2013, at the annual Marquette Law School Sports Law Banquet, Gary D. Way received the National Sports Law Institute's Joseph E. O'Neill Award from Professor Matt Mitten. The award, remembering a late partner at Davis & Kuelthau, has been given annually over the past 20 years to an individual who has made a significant contribution to the field of sports law while exemplifying the highest ethical standards. Mr. Way is Vice President & Global Counsel, Sports Marketing at Nike, Inc. He used the opportunity to share some advice for Marquette law students interested in sports law.



Gary D. Way

**T**hank you, Professor Mitten, for that generous introduction. When you describe my work, it sounds much better than the way I think about my job. If I were asked at the Pearly Gates about how I have used my law degree to better the world, I would be at a loss—because, in essence, my work is based upon helping to give away money and free shoes to millionaires.

Anyway, I'm thankful for this opportunity. I would like to take a few minutes to continue in the thank-you mode. First, I would like to thank the Marquette Law School community for the tremendous hospitality it has shown me throughout the day. ▶▶

Next, I would like to thank alumnus Tim Kraft for joining us today all the way from Colorado. Tim was the inaugural Marquette extern in the Nike Sports Law Practice Group back in 2004, when we undertook this extern experiment. Tim set the bar incredibly high. Although many who have followed him have tapped the bar, Tim is still the measuring stick. And that initial big success story paved the way for this now-signature Marquette–Nike partnership.

Last, and most importantly, I would like to thank the O’Neill family, the Davis & Kuelthau law firm, and Marquette’s National Sports Law Institute for sustaining the many legacies of Joe O’Neill.

Unbeknownst to anyone in this room, in my prior career, in the NBA league office, I had a number of opportunities to engage with Joe, as we worked to bring the inaugural McDonald’s Open tournament to Milwaukee in 1987. It was a breakthrough deal that brought the first NBA international basketball tournament to the United States, and it was won by the hometown Milwaukee Bucks, who beat the Soviet Union national team in the championship game by 27 points.

Joe was a practitioner of the first order. More importantly, I can say from personal experience, he was a gentleman of the first order. I’m flattered to be mentioned in the same breath as Joe and truly honored to be joined with him through this award.

Left to my own devices, I would take my seat on that last note. However, Professor Matt Mitten counseled me that this occasion calls for at least a few words targeted at the students in the sports law program.

It immediately hit me—three top things that students most want to hear from me: No. 1, “You’re hired!” Maybe one of you will hear that from me another day. No. 2, war stories. Unfortunately, attorney-client privilege prevents me from telling the stories you really want to hear. That leaves me with

No. 3, my most reliable “go to”: career advice on how to get into “sports law.”

My advice to you all is the same you probably get from your parents—just get a job! Please don’t laser focus on getting a job in sports. Getting to a top job in the sports industry isn’t a climbing-the-ladder proposition, where there is only one way up. Rather, it’s a jungle gym. There are lots of ways to get to the top of a jungle gym. But it all starts with one fundamental. Don’t waste your energy trying to become a sports lawyer. Focus on becoming a good traditional-practice lawyer—period.

If you ask any lawyer with a bona fide practice involving sports issues, none of them will self-identify as a sports lawyer. Each will identify as a traditional practitioner.

Former NFL Commissioner Paul Tagliabue will tell you that he was an antitrust lawyer and ended up at the NFL because it had a lot of antitrust issues.

NBA Commissioner David Stern, a former law firm partner, will tell you that he was a litigator and was initially hired (to be the NBA’s general counsel) because of his litigation skills.

NHL Commissioner Gary Bettman, who also was formerly the NBA’s general counsel and the person who hired me, describes himself as a transactional lawyer. When hired as the NHL commissioner, he famously replied to criticisms that he wasn’t a “hockey guy” by saying that he was hired because he knew how to negotiate TV deals, not because of how well he could skate.

NFL Players Association Executive Director DeMaurice Smith was a litigator and had no sports experience, but the Players Association had a need for someone who could lead and manage litigation against the NFL.

Former NBA Players Association Director Billy Hunter was, ironically, a U.S. attorney.

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Gary Gertzog, the general counsel of NFL Properties, was formerly a trademark lawyer at a New York law firm.

I myself am a licensing attorney by training. I used to license NBA team trademarks; now I license publicity rights; tomorrow I could get a job at Disney licensing Mickey Mouse and Goofy. I'm a licensing transactional attorney.

The list goes on and on.

The point is this: Sports organizations don't need lawyers who can cite *Moneyball* chapter and verse, or know a sport inside and out, or have encyclopedic knowledge of every player in a league, or even have a passion for sports.

They already have people like that. They're called general managers, coaches, agents, and fans.

What employers in the sports sector need are good lawyers who can do the work that is required of these organizations: licensing of trademarks, labor law advice, antitrust counseling, litigation, real estate financing, commercial transactions, etc.

So my advice to you is summarized in the thank-you email that you'll find on the back of your program. I received it a few months ago following a



A quilt given as a gift to Gary Way by Margaret Murphy, L'13, former Marquette–Nike extern.

long lunch I had with a recent law school grad, named Joseph, from a Midwestern law school. Joseph was in the Portland area for military-reserves training before being deployed to Afghanistan. He looked me up, and I knew that this was a guy I was going to make time to see: he had me at the word *deployed*.

I first tried to get him to focus on his job at hand, which was slightly more important than sports law jobs: being a platoon leader in a combat zone. Then I talked through with him what I have outlined for you all:

Don't seek to be a sports lawyer. Simply aspire to be a good lawyer, doing things of relevance to a sports organization, and trust that a prospective sports industry employer will recognize from your résumé how your conventional practice experience can translate into its world.

Joseph clearly got it. He wrote, "I will take the best job I can find and strive to be the best lawyer I can be." And he maintained the conviction that he would make it into sports—and the hope that our paths will cross sometime down the road.

I hope that that's your takeaway, also. Thank you. ■

## Joseph D. Kearney

### Remarks at Memorial Ceremony for Judge John L. Coffey

The U.S. Court of Appeals for the Seventh Circuit convened in Ray and Kay Eckstein Hall, the home of Marquette Law School, on April 17, 2013. The court's session included a ceremony remembering the late Judge John "Jack" L. Coffey, L'48. Chief Judge Frank H. Easterbrook presided at the memorial session and was joined by eight of his Seventh Circuit colleagues and more than 200 guests. These are the remarks of Dean Joseph D. Kearney, who was among the speakers.

**T**hank you, Chief Judge Easterbrook, and May It Please the Court. Marquette Law School looks a little different since Your Honor stood in a field, on this spot, shovel in hand, almost five years ago, helping us break ground for this building. Hopefully,

Eckstein Hall does *not* look terribly different from *three* years ago, when Judge Diane Sykes helped us dedicate the building, let alone two weeks ago when she was here for our Jenkins Honors Moot Court Competition, so named after the late James Jenkins who served as

