



Dean Short of Gallagher & Kennedy with Diamondbacks General Manager Joe Garagiola, Jr., at Bank One Ballpark.



Off the Bench

BY TIM EIGO
PHOTOS BY MICHAEL MERTZ

ATTORNEY POSITION AVAILABLE: Team player needed. Unique law practice available for the right individual. Experience in representing large multi-million-dollar organizations preferred. Must be adept at or willing to learn every practice area, including real estate, employment law, patent and personal injury. Your office will house up to 25,000. Technological capabilities include phone, fax, satellite, network TV feeds and LED scoreboards. Long hours, many evening events.

Sports fan or not, you may have spotted the growing number of arenas and stadiums that have sprouted throughout the state over the past 10 years. Those sites demonstrate that the Phoenix area has become one of a small number of cities that is home to all four major-league sports.

Suns, Diamondbacks, Cardinals, Coyotes—those names spring to mind immediately. But Arizona's sports roots run deeper than that. They include the Mercury and the Rattlers. And even Cactus League spring training is growing.

Where there is a growing industry, of course, you will spot the lawyers who keep the business side of sport running.

Dispelling a typical stereotype, these lawyers say that they are commercial lawyers, not sports lawyers. In fact, they're not sure that sports law really exists.

"I don't know what sports law is, in a sense," says Robert Kaufman, who is general counsel for the Ellman Companies, the owner of the Phoenix Coyotes. "You have to have a very good generalist background and a lot of business and strategic planning, structuring and financing."

Jay Ruffner agrees. The Fennemore Craig lawyer has decades of experience representing teams and facilities all across the country, yet he says that business—not sport—is the central part of his practice.

"I would characterize sports as like any other business," says Ruffner. "It has some pizzazz to it that you don't have in other business activities, but when you boil everything down, it's like representing any other business."

That reticent description may be common to those who represent sports organizations. Sarah Strunk, also at Fennemore Craig, has the Tourism and Sports Authority (TSA) as a client. In that work, she aided the group in a highly contentious site-selection process for the new Cardinals stadium. She sat through countless public meetings, saw municipalities at their best—and worst—and got to know more than she would have cared to about how flight paths can derail construction timelines. But she too emphasizes the business—not the sport—in her practice.

"I still think of myself predominantly as a business and finance lawyer, period," Strunk insists. "It just so happens that part of my practice has evolved around doing transactions in connection with sports-related facilities or sports teams."

And though Tom O'Malley is the chief legal officer of the Suns and the Diamondbacks, he sounds like a small-town lawyer when he says, "I'm about as general practice a lawyer as I could ever imagine. I handle just about every type of law you can think of."

That's not to say that sports is not a central motivator to the practice, however. Many lawyers who find themselves at the nexus of law and sport emphasize how fortunate they are to be there. That fact is nowhere more apparent than in the career of one associate general counsel for the Phoenix Suns and Arizona Diamondbacks.

Nona Lee negotiates and drafts agreements from her office in the America West Arena; she also gets to try the occasional case. But that work was preceded by four years in a litigation practice that did not fit her.

"I was never truly comfortable in litigation," Lee says. "Then I came to the realization that what was missing from me was my life in sports."

Growing up and all through law school, Lee had been active

in sports as diverse as swimming, basketball and water polo. "I love sports. I grew up playing sports. I just really felt the need to incorporate that back into my world. And I wanted to do it through my profession."

Sports franchises may rack up wins and losses, but they rarely create life-altering events. But that's what happened to Lee when the Phoenix Mercury came to town.

"I didn't realize what was missing from me, because I was so focused in other things," Lee recalls. "When it really occurred to me was when the WNBA started. I got my season tickets and I went to a couple of games, and I thought, 'This is missing from my life. I miss this so much. It's such a key part of who I am.'"

"It was like a wake-up call for me of something that was dormant. All the pieces fell into place."

Well, almost. She was still in a litigation practice, which was not opening any arena doors. Lee decided she had to become a corporate lawyer. She contacted the Arizona law firms that represent teams, and her arguments proved convincing:

"This is the deal. I have no experience as a corporate lawyer; I want to start over as a corporate associate because I want to get into sports. That's my goal; that's my desire."

Gallagher & Kennedy took her on and she began doing transactional work for sports clients. Remarkably, within two months an opening at the Suns appeared, and she moved to America West Arena.

And she has taken the time to reflect her satisfaction outward. Lee has been active in organizations that foster sports achievement in women and girls, and she is the founder of the Phoenix Women's Sports Association. She admits that she is passionate about sport and the effect it can have.

"There is so much power, particularly for girls and women who participate in sports, in terms of what it can do for you. The discipline, the self-esteem, the confidence, the perseverance, the ability to take risks, the ability to confront challenges."

"I thought, 'People have to know this. Parents have to know this.'"

The result is the PWSA, which provides grants, scholarships and sports events for women and girls.

Lee works with Tom O'Malley, general counsel for the Suns, Diamondbacks, and their facilities.

Asked why he entered this practice, O'Malley describes an excitement.

"At the end of the day, if I'm going to be a lawyer and do legal things, I might as well do it for a group of companies that put out a product that I love to watch. It's just an exciting product at the end of the day. It's not a widget; it's something more



Phoenix Coyotes' General Counsel
Robert Kaufman at the Glendale Arena.

than that.”

“It’s something that I love,” O’Malley continues. “It’s a passion of mine, which is sports. And I get to come to the arena every day and do my job.”

O’Malley enjoys the pace and atmosphere of sport.

“My wife says that if there’s any competition involved at all, whether it’s two people sweeping a floor, I’m watching to see which one finishes first.”

Of course, love of sport makes the job more enjoyable, but business acumen is needed to make the enterprise profitable. O’Malley is extremely well suited to that, as well.

His undergraduate degree was in business. What he did with that degree helped shape an Arizona industry. After graduation, he and a fraternity brother drove to the southwest and founded Insight Computers. With that success, O’Malley went on to law school and ultimately aimed to work at Fennemore Craig, “really to work with Jay Ruffner,” he says, “whom I had heard of and highly respected, and knowing that he worked for [Suns owner] Jerry Colangelo.”

O’Malley became Ruffner’s associate. And when Colangelo began adding teams—indoor football, women’s basketball and then baseball—O’Malley was hired as the in-house GC for the teams and the facilities.

Working with Fennemore Craig’s Ruffner has been a proven method of learning the business law of sports. Ruffner jokes that Jerry Colangelo stole two in-house lawyers from him. Jane Birge was the Suns’ first in-house lawyer; before that, she had worked with Ruffner at what in 1995 was Meyer, Hendricks, Victor, Ruffner & Bivens. After Birge left the Suns, Tom O’Malley took the in-house job, leaving behind his work as a Fennemore Craig associate.

“I consider it a compliment,” says Ruffner, “that lawyers that I have trained and worked with [have gone to the Suns organization].”

(In fact, the roots of the Valley’s sports practice are even more intertwined: Ruffner worked at Meyer, Hendricks for a time while Nona Lee did the same. And both Lee and O’Malley have worked at Gallagher & Kennedy, a firm representing professional teams.)

Ruffner admits there is some pizzazz to the work—he enjoys games and concerts, after all—but friends and even other lawyers sometimes misunderstand what his practice is all about.

“They must think I’m at the arena all the time; they must think that I’m involved in meetings with Jerry on player matters and player contracts all the time.”

Ruffner does not often work in player contracts. Instead, he has become one of a few nationally recognized lawyers who are expert at arena financing and construction. He was involved with the Suns since the 1987 negotiations to bring them to Phoenix and with the construction of America West Arena—one of the first public-private partnerships of its kind in the country. Ruffner says that, even today, he sees AWA documents that he and his partners drafted being used as templates for other arenas and stadiums.

It’s not a practice he originally envisioned. By 1987, he had done a lot of work for Greyhound, which would become the lead investor that Colangelo identified to create the Suns franchise.

Once Greyhound (later Dial Corp.) agreed to become an investor, Ruffner recalls, someone in the meeting asked Colangelo, “Who is your

lawyer?” Colangelo said he hadn’t figured that out.

“My name came up,” laughs Ruffner. “One of the great client referrals of all time. It really changed my practice. I was a tax lawyer, more of a transaction lawyer. Jerry and I have been together ever since; he’s a great client.” Ruffner represents many of Colangelo’s entities, including the Suns, Mercury and Rattlers, America West Arena and Dodge Theatre. Ruffner also represents Jerry Colangelo personally.

(In April, the Suns were sold to an investor group for more than \$400 million. Jerry Colangelo was to remain in his role as chairman and chief executive officer.)

I’m fascinated with the business of sports. You get to learn something about how it all works together. Intellectually, it’s putting together the pieces of a puzzle. It’s challenging, but it’s rewarding.

—Nona Lee,
Associate General Counsel,
Suns and Diamondbacks

Off the Bench

Ruffner describes Colangelo as an owner who knows as much about the business side of sport as he does about the games themselves. Another Arizona sports executive brings similar credentials to his job. Joe Garagiola, Jr., is currently the only major league general manager in baseball who is also a lawyer—and that has helped him in interactions with agents, many of whom are lawyers.

“I’ve had many conversations where the guy will be kind of circling around a point,” says Garagiola, “and I’ll say, ‘Look, let’s just cut through this. I understand where we want to go with this, why you need to do this; your client has told you, call this club, ask these questions.’ You will just hear sort of a palpable sense of relief from the other end of the phone.”

Even with his surname, it was no sure thing that Garagiola would land a GM job. Before law school, he worked for the New York Yankees in their public relations department; after law school, he returned as in-house counsel. →



Jay Ruffner and Sarah Strunk, both of Fenmore Craig, on the court at America West Arena.

As he worked with others to have a major-league team come to Arizona, Garagiola says that Jerry Colangelo assumed that team lawyer is the job in which Garagiola would land. Asked by Colangelo if the “operations side of things” interested him more, Garagiola admitted it did.

“That’s how I wound up with this job,” he says. A job that involves long hours and only the rare day off, he acknowledges. That runs counter to the view of most people when they imagine his position: “I guess the perception is a little different: ‘Every three years, you knock off a contract with Randy Johnson and then watch the ballgame.’” He laughs—but admits that he loves to watch the games.

And being GM turns out to be the most public of jobs. “This is one of those jobs that everyone knows how to do,” he says with a laugh. He hears from fans, non-fans and the press after every trade or other decision.

Representing teams can take outside counsel from the sports arena to the public arena, as well.

Sarah Strunk at Fennemore Craig recalls the challenges of a very public site-selection process.

“[The TSA] had 46 board meetings with a volunteer board over a three-year period. And that doesn’t include all the public activities that we had when we had open house after open house after open house in site selection.”

She credits TSA chair Jim Grogan with keeping the contentious process an open one. But that openness created challenges for a lawyer who is asked for legal advice. She had to be ready to render such advice at the rare executive sessions that were held.

“I think this is probably the highest-profile project I’d ever worked on,” says Strunk. “It was a challenge. I never absolutely thought we wouldn’t get it done. I knew that our group was going to get it done. I was singularly focused on that one goal.”

Though it was good to see the client’s project through to completion, “It’s kind of nice to now enjoy a more normal practice.”

“It is nice not to be on the front page every day,” Strunk says, laughing.

Another lawyer who has grown used to that kind of coverage is Dean Short II, a partner at Gallagher & Kennedy. He divides his practice between the Diamondbacks and the Cardinals. And this past year has been a very public one as the football stadium process ground on.

“It was a very long, arduous process,” Short says. “It seemed like a number of times the deal was just dead. But the team was very patient, very persistent. They finally got a site approved.”

Asked about the aborted Tempe site, he hesitates before say-

ing, “That site was very frustrating. It caused us substantial delay in the process, and a lot of money was spent unnecessarily.”

Short is pleased with the Glendale site, though, and urges people to look at the live TSA Web cam (www.az-tsa.com; also at the Cardinals site: www.azcardinals.com/stadium/cam.php) to watch construction crews at work.

If site selection was front-page news, outfitting a stadium is less visible but just as much work.

Short points to his desk, hidden beneath five neat stacks of paper, each at least eight inches high. “Most of these contracts are related to the stadium project,” he says. They include concession agreements, naming rights, sponsorship deals.

That kind of experience yields insights into the health of sport in Arizona.

He discusses “one of the problems that plagues all four of the major sports franchises in Phoenix: This is the smallest market that has all four franchises. And they’re all competing for a relatively small pool of sponsorship dollars.”

Nonetheless, Short says that as the population grows, “the community will catch up with the franchises.”

Of the professional franchises, the newest and most untried is hockey in Arizona. But that doesn’t trouble Bob Kaufman, the Coyotes’ general counsel. He says that the team and the new Glendale Arena provide a great entertainment experience.

“There’s a reason for the fan to stay after the game, and a reason for the fan to arrive early,” he says. “We’re literally building a small city. There’s office, there’s retail, a lot of restaurants, movie theatres and so forth. So you have the total environment.”

Like Short, he points to the state’s growing population as a boon.

“One of the advantages we have in Glendale is the huge residential base that’s very, very close by. It will be the largest residential area in the city in a couple of years. I think 65 percent of all new homes being built in the Valley are being built in the West Valley.”

Like many attorneys in this practice, Kaufman points not to tickets or concerts as the best perk.

“What’s fun about working in this industry are the people that you get to work with. There are really extraordinary people in the sports industry. They’re fun people, they’re exciting, there’s an energy there that is invigorating. Every day is different.”

Perhaps these lawyers are right: There may be no such thing as sports law. Like any practice, satisfaction and success boil down to connecting with the client and almost making their goals your own.

Most would agree that is the greatest perk of practice. “It’s a great source of satisfaction,” concludes Dean Short. “Seeing the team succeed, you feel like you have some very small part in that.” ▀