

OFFICIATING IN THE
**FUTURE
TENSE** 
CHANGE MINDSETS • BUILD INTELLIGENCE

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NASO 

FROM THE NATIONAL ASSOCIATION OF SPORTS OFFICIALS

Introduction

With every play and call now captured on a camera somewhere — even at the high school level and below — there is more scrutiny than ever before on the men and women who call the games and matches. More and more, media outlets are using technology to focus in on critical game calls, showing a play to the viewing public a dozen times or more in super slow motion — those same plays that officials must call quickly and decisively in real time. Officials are being suspended for judgment calls that years ago would have been considered a mistake to learn from and resulted in a write up. What tools do officials and their supervisors need to adapt to the new realities? Where is it all heading in the very near future?

The theme of the 2016 NASO Sports Officiating Summit was “Officiating in the Future Tense: Change Mindsets, Build Intelligence.” Throughout the Summit at the Grand Hyatt San Antonio, the more than 400 officiating leaders and officials in attendance heard from industry leaders in a variety of breakout sessions, panel discussions, lunch workshops and speeches.

The program for the Summit kicked off with a panel discussion about officiating in the present tense. June Courteau, NCAA women’s basketball national coordinator; Ron Torbert, NFL referee; Craig Anderson, Illinois High School Association executive director; and Dusty Dellinger, director of umpire training for MiLB; and Julie Voeck, president and director of officials for the Professional Association of Volleyball Officials, as the moderator, gave insights and an overview of what officials are going through in the world of officiating now compared to 20 years ago.

After the kickoff session, the next panel covered where officiating will be going in the next 40 years. The panel featured Dean Blandino, NFL senior vice president of officiating; Bill Carollo, coordinator of officials for the College Officiating Consortium; Monty McCutchen, NBA referee; and Julian Tackett, Kentucky High School Athletic Association commissioner and NASO board member.

“Break Down that Play” gave attendees a chance to see plays from the officials that were involved in the calls, breaking down the how and why of complex plays. The presenters were: Dave Cutaia, college football analyst for ESPN; Joan Powell, Pac-12 coordinator of volleyball officials; Jason Phillips, NBA referee; Scott Edwards, NFL referee. The session was moderated by Ron Foxcroft, Fox 40 International chairman and founder, former basketball official, NASO board special adviser, NBA officials observer and 2016 NASO Gold Whistle Award recipient.

“Should Sports Officials Be Suspended?” discussed the benefits and problems with suspending officials. The panel included Mike Fitch, TASO executive director; Dave Coleman, Pac-12 vice

president of officials; J.D. Collins, NCAA national coordinator of men’s basketball officiating; and Scott Green, retired NFL referee and NASO board member. The panel was moderated by Debbie Williamson, coordinator of women’s basketball officials for the American Athletic, Atlantic 10 and Big East conferences, NASO board member, former NCAA national coordinator of women’s basketball officiating and former NCAA women’s basketball secretary-rules editor.

Day one ended with “Integrity Programs & Sports Official: What are We Waiting For?” A 30 minute presentation by Hugh Greeley, consultant with Sports Officiating Consulting about the importance of an integrity program and sports officiating.

Day two of the Summit kicked off with a session that gave attendees a great understanding of how the top management viewed officials as part of their brand. “Top Management Talk Officiating” featured Val Ackerman, Big East commissioner; Joe Garagiola Jr., MLB senior vice president of standards and onfield operations; Dave Gardi, NFL senior vice president of football operations; Harold Slemmer, executive director of the Arizona Interscholastic Association; Bob Delaney, NBA vice president of referee operations and director of officials; and the moderator of the session was Sandra Serafini, NWSL assigner and PRO women’s referee coach and NASO chair.

“Let’s Celebrate Great Calls” recognized calls that officials made as seen through the eyes of their supervisors. The session celebrated the calls of some fine officials and moments of the year that made you want to stand up and cheer. The presenters were Joe Borgia, NBA senior vice president, replay and referee operations; Katy Meyer, PAVO executive director; Dean Blandino, NFL senior vice president of officiating; Eddie Hopkins, Texas High School Basketball Officials Association executive chair; Larry Young, MLB umpire supervisor; James Brau, ASA umpire in chief of Texas; Jason Nickleby, Minnesota State High School League coordinator of officials; Paul Devorski, NHL director of career planning; Sandra Serafini, PRO women’s referee coach; and Charlie Obermeyer, US Lacrosse officiating education development, as the moderator and panelist.

“The Law and Liability Live,” was a question and answer session, which addressed legal liability and risk exposure for officials and their associations. The panelists were: Alan Goldberger, a sports law attorney and recognized legal authority for sports officiating; Don Collins, the commissioner of the San Francisco section of the California Interscholastic Federation and a longtime official, attorney and 2016 NASO Mel Narrol Medallion recipient; and Drew Smith, the president of American Specialty Insurance and Risk Services.

"Officiating: We Believe!" featured Bill Kennedy, NBA referee; Marcy Weston, former NCAA national coordinator of women's basketball officiating; Margaret Domka, FIFA World Cup referee; Steve Javie, retired NBA referee and NBA analyst for ESPN; Jerry Markbreit, retired NFL referee; and Robert Watts, TASO football official discussing why we officiate and what makes us the people we are today. The panel was moderated by Dana Pappas, commissioner of officials for New Mexico Activities Association.

There were also lunch workshops, including "The Front: Leading From Behind Doesn't Work," led by retired NHL referee and supervisor Terry Gregson with the help of Debbie Williamson, coordinator of women's basketball officials for several conferences; George Drouches, NCAA Division I baseball national coordinator; Tom Washington, NBA referee; and Jon Bible, longtime NCAA baseball and football official.

The Summit wrapped up with two popular sessions.

"Do Officials Have a Voice?" The panel discussed two situations where officials' voices were heard and change occurred because of it. Bryan Greenwood, past president of the Louisiana High School Officials Association (LHSOA); Paul LaRosa, president of the LHSOA; Wright Waters, executive director of the football bowl association; and Dan Capron, Big Ten referee. The session was moderated by Jeff Triplette, NFL referee.

The final session was an "It" factor panel that featured Mike Pereira, former NFL vice president of officiating and current Fox Sports rules analyst; Gary Darling, retired MLB umpire; Bill Spooner, NBA referee; Red Cashion, retired NFL referee; and Joe Vaszily, NCAA Division I women's basketball official.

The 35th Summit is scheduled for July 30-Aug. 1 in Louisville, Ky. The theme for the 2017 event is "Driven by Data: Analytics and Demographics of Sports Officials."

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Officiating in the Present Tense

In This Chapter ...

- Learn what officiating is like today from supervisors and officials
- Are officials officiating to a grade or to the video?

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Law and Liability Live!

In This Chapter ...

- How officials must deal with situations to avoid the courtroom
- What NASO insurance covers for all its members.

The NASO Summit is fortunate each year to have experts in the officiating industry conduct a session on sports officials' and associations' legal rights and responsibilities.

For the past number of years, three individuals have spearheaded a legal session at the Summit to help guide officials and officiating leaders, and answer their questions. They include Alan Goldberger, renowned sports law attorney, longtime NASO consultant and author of *Sports Officiating: A Legal Guide*; Don Collins, commissioner of the San Francisco Section of the California Interscholastic Federation and an NASO consultant on matters regarding association management; and Drew Smith, president and chief marketing officer of American Specialty Insurance & Risk Services Inc., Roanoke, Ind., the insurance provider for NASO.

Those three individuals assist NASO in many different ways throughout the course of each year, but they gathered in San Antonio to share their thoughts on report writing, educating officials and top issues with sports officials. The three then answered questions from the audience on fighting, ethics violations, background checks, liability and assigning, and provided their thoughts to an impromptu poll of the audience on poor sportsmanship and worsening behavior by players and coaches.

Just the Facts

Collins: We will start with our evidence, which is where we should start. In my field I'm a high school athletic administrator and an attorney. Our evidence begins with our game reports. And game reports can vary as far as the form from various levels — professionals, college and high schools. But at the end of the day at our lower levels — high school and beyond or below — we don't train very well on this. And we tend to tell people, quite wisely, 'just the facts.' And I believe everyone here in this room, no matter what level, understands what we are saying when we say, "Just the facts."

And yet as a high school commissioner I still receive reports that do not help us when we have hearings, injunctions, etc. The primary reason is that you and I believe "just the facts" means "Charles left the coach's box after a block-charge call, came on the court, told me I stunk, and I gave him a technical. Three minutes later Charles exited the coaching box and told me I was America's worst official. I gave him a technical and ejected him." Nice, succinct, basically what we mean by just the facts. The problem is that we get reports that say, "Hey, every time I go to the gym Charles is yelling and screaming at me. He did his usual yelling and screaming, I swear he's the worst coach in America so I threw him out." And we get angry at that person and say we told you just the facts. But if we think about it the official did give us just the facts. "Every time I come in the gym Charles is yelling and screaming" are the facts. They are the facts.

So I think what we need to do is we need to focus not just on telling people "just the facts," because your game reports are my evidence. They back up my penalties, they back me up in administrative hearings and even injunctions. We probably need to tell you the game report is a recitation of the things that occurred in that specific game and only that game that led to the action you took in that game and only that game combined with the declaration of the actions that you took. That might help those people understand a little better.

Now, we also have bad actors in our midst. Yes we do. No one phrases it this way but they're bad actors. We must have our bylaws if our associations give you the power to deal with the bad actors, give you a procedure to deal with them. Give them a hearing so that they have due process, but also so that their first avenue of recourse is not to go to court. It is important that you link to professional standards. Most rulebooks do have a code of conduct linked to it. That helps you because now you don't have to remember that the worst possible truth, the defense of the worst possible truth is getting in the way of professional standards. Which simply is to say when Sue says, "I wasn't drunk." Well, that may not be the issue. Smelling as if you contained alcohol in your system at all is a breach of our professional standards.

We must also remember that under employment law you want to have some individualized assessment. And what high school administrators are looking for is a business justification in their assessment. That's important under civil rights law because there's an old line of cases where people use arrests and convictions and pretext and it has a disparate impact on various social groups.

Next, people ask, "Can you compel members to do things when they're independent contractors?" You can because your bylaws are a contract. Just remember the more things you compel to do, the greater the odds you might convert them into employees. But your standard stuff, training, etc., those things generally are going to keep you safe.

Board disputes, we have seen a number of board disputes. When you first have the board remember to have the incorporator actually appoint names for the positions. I've seen a number of these come up where there's an empty shell, positions no one is filling because someone either didn't have a first meeting and appoint them or created an empty shell.

Also, we're seeing a lot of states do para-olympics and Special Olympics. Texas had a youth para-olympics, California, too, in their state finals. Ten years from now the para-olympians will wish to officiate. We will confront some ADA issues because we must properly address these new officials who will be disabled. Please do not fall into the trap in 10 years of not handling them properly.

Building Intelligence

Smith: If you look at intelligence in Webster's, the definition is the ability to acquire and apply knowledge and skills. As a president of our insurance company, we have the responsibility to make sure that NASO's program runs on good footing. We have the responsibility to make sure that the underwriting results are good. We have the responsibility to make sure that the officials that we are ensuring are the best in the business, and we truly believe that's the case.

So when we hear about a session like this today about building intelligence, applying knowledge and skill, it's music to my ears. See, as an insurance company we want the best in the business. We want the most informed. We want the most intelligent official. Because when the rubber meets the road, when there's an issue on the field or court, we want that official to know the rules. We want the official to know how to apply the rules. And then there's no question that they know what the rule is and the exact way to apply it.

When those things happen and an injury occurs, from an insurance standpoint, from a liability standpoint, we feel much safer and much better about defending that official in terms of the ultimate outcome. Does that mean that a plaintiff's attorney is not going to bring an action against the official because of a serious injury? No, we can't keep that from happening. But what it does mean is that if that official is sued, and we know that official is an intelligent official, we know that official is adamant about following rules, following safety rules, playing rules, whatever it may be, that we stand as good a chance as any to be able to get that official out of that case with minimal to no cost from the insurance company perspective. We can get that official out of the case as quickly as possible. And even as important, we set positive precedence in court so that the next time something like that happens we keep the official out of court.

We talk about insurance and liability a lot in our office, and they're really two distinct items. Liability is really different from insurance. You could have liability for something and have no insurance policy in force. It's a state of being legally responsible for something. And only a court or a judge is going to be able to determine that. So at the end of the day, this session to me is one of the best that I've been a part of. To be able to build intelligence, to be able to take what you learn today and share this with your member officials and your constituents is huge. It makes me smile because it makes my life easier.

Five Top Issues

Goldberger: I consider the following to be five top issues facing officials. To me these five issues are basically the verticality in basketball that we have to talk about every year, the OPI of football we have to talk about every year, and legal issues we sure need to talk about every year.

1. The top issue, legally speaking, facing officials of all sports officiating is the concussion rule.

2. Taking out the trash, how game control, taunting and baiting, and enforcing rough play, targeting and other incidents affects all of our personal safety as well as that of the student-athlete.

3. ACA2. It is an acronym that stands for "anybody who can afford the two dollars," because that is who gets into our venues. Spectators, bench flotsam, people who are there to watch the game and not there to have a conversation with us.

4. Managing the fight is a topic much misunderstood, a topic that all good officials master and a bear of a legal issue for us at times.

5. Venue awareness — how many of us are aware of what goes on in our venue in terms of hazardous conditions, obstructions, things that create a danger that could lead to the injury or worse of a student athlete or somebody else?

Concussion rule. The first thing to remember always is that concussion officiating involves officiating a rule. Does it also involve law? Absolutely. Does it involve mechanics? We need the mechanics to referee every rule or umpire every rule, don't we? In terms of law, 50 states, a number of municipalities and also the District of Columbia all have laws regarding sports concussions. In many cases the rule is more restricted than the law. In some not.

In all cases in every law, be aware of the fact that the law about concussion in sport applies to practice, practice as well as games. And what that means is if you happen to be in your underwear one morning and a buddy of yours who is a coach says, "I'm going to have a little session. Come down and blow the whistle, would you help me out? That's fine, you can do it. But remember the concussion rules do apply. OK? In NFHS, we know what the rule says. There's no return to play if a student-athlete exhibits a sign, symptom or behavior consistent with concussion unless and until the student-athlete is cleared by an approved health-care professional.

Six years after all this went down, the NCAA has finally recognized that its officials who often detect the sign, symptom or behavior first, and now referees at the NCAA level it is documented will be required to remove student-athletes under those circumstances where they're exhibiting concussion symptoms.

The mechanics, of course, we need to deal with. And those have been documented in other seminars.

Game control, taunting. As far as game control, taunting and baiting, rough play, Yogi Berra who was a resident of New Jersey in my town, very famous for saying a lot of things, said this: "You can observe a lot just by watching, OK?" Just by watching means controlling unsporting conduct, making sure that taunting and baiting and all NFHS rules, codes and similar language, and all NCAA rules codes that prohibit embarrassing, ridiculing or demeaning another person are respected. This, folks, is a foul or an infraction that needs to be penalized.

ACA2. Very simply, we do not talk to spectators while officiating. We do not talk to spectators ever while officiating. And does that mean no "good mornings"? No, it doesn't mean that. Does that mean not respond to, "Nice game ref"? You can say, "Thank you," fine. Other than that we do not talk to spectators. We do not elevate spectators because they are not our peers.

Game control. And moving right along, let them play or take the game away from the players? That's a choice sometimes we have to make. And great officials such as all of you in the room when you're working will always take a game away from players who don't want to play, right? Anybody disagree with that?

Mandatory penalties. And, lastly, coming through into a state association near you sometimes the words that are harassing and reflect a certain ethnic quality or a criticism or a denigration of a person by means of reference to race, gender, ethnicity, religion, disability or sexual orientation mean immediate ejection. That may be coming soon to your state if it's not there already, so be aware of it. Give a sharper focus and mandatory penalties.

Q&A

Q: For years we have been taught when a fight breaks out to step back and take numbers. Is this the proper protocol today?

Goldberger: OK, here's the deal with fighting. Those of you who were at Officiate Texas Day heard me bray at you for quite a while about that, maybe too long. Understand something, and I think most of us in the room do. All great officials have one way to manage the fight. It doesn't begin. Officials who are competent, who are alert and who are doing their job, do not allow student-athletes to fight. The old spouse's tale about, well, if it breaks out, you know, there's nothing we can do. I'm not going to get hurt. I'm going to take numbers. The worst garbage, frankly, I have ever heard. And if you watch YouTube of any fights that actually start you will see the difference between an official and somebody who is taking numbers.

Great officials utilize two outstanding qualities — concentration and quickness. Because, folks, in most cases it's a matter of two seconds, reacting quickly, making sure the athletes understand that you can be more of an escaped mental patient than they could ever hope to be. About every fight, no matter what the sport, there's at least one of the opponents who doesn't want to be there, and usually it's both of them. If we act quickly and decisively, the fight doesn't happen. We're not up all night doing those reports that Don is telling us about. And most importantly we may have prevented an injury and a litigation situation. So there's one way to handle a fight, don't have any.

Collins: Well, as a high school commissioner I would say if unfortunately a fight did occur, I was curious as to how many people believe officials should intercede. How many people would stop two folks from fighting? Almost 80 percent of the room. And I think when we hear the comments about stepping back and taking numbers, we might be the victim of perhaps some strange phrasing of the question in our construction of it.

I think most people understand that officials are supposed to control the game. They can get in legal trouble if they don't control the game. If they don't stop fights, they can indeed be accused and have to defend themselves for not controlling the game. So by seeing those hands I think what most people are saying is we understand we're supposed to stop the fight as it occurs. And I think when they see a question that says step back and take numbers what they're referring to is probably a fight that is of such great magnitude that they no longer could stop it. I think we all do agree with that one. Don't have a fight and if it does, yes, interject. I think this is simply a semantic thing that we have going on here.

Smith: From a liability perspective, from an insurance perspective, we would much rather defend an official who is accused of being a little bit too rough with a player that was on top of another player as he removed him from that incident than to sit back and watch this all unfold as players are hit and pushed around. Because if it's my kid in the game, and I'm sitting in the stands and no one is going to allow me on the court or the field, then my expectation as a parent, just as a reasonable effort would be that they should as the officials try and prevent further incident from occurring. The best remedy is to not have the fight to begin with. But if something were to break out the idea of just sitting back watching kids beat each other, especially if one's got the upper hand on somebody else and just let it finish, I think that is not the way we would want to go from an insurance perspective.

Q: If an official had an ethics violation in one sport, should that ethics violation follow him or her to other sports?

Collins: Well, sure. As a high school commissioner if you had something where you interfered with the functioning of our schools, then I would take it to the various associations in different sports so that they would have the factual information. Absent that record, and again that's where reports come in, they may have difficulty imposing further discipline. The best example I can offer is an official in sport A who decided to extricate food and water from a snack bar without asking for it and paying for it, and told the people at the snack bar essentially screw you I'm taking this. In sport A that person was sanctioned, but that person is entering my campus in sports B, C, D and E, so I had to go to those associations and say we want you to do this because you're the officials, but if you don't, my

schools are certainly willing to place a bar on the person and those associations did under their ethical standards clauses discipline the person.

Goldberger: The common practice of officials associations basically around the country when there is any type of violation that is alleged on an official, whether it's removing something that maybe doesn't belong to you or appearing out of uniform or not going to meetings or whatever the case may be, or an obscene gesture here and there between friends, whatever it is, the common practice in most associations, frankly, is shoot first, ask questions later. Poof, you're suspended. OK, now you can appeal.

In many states, including my state, that doesn't exactly wash. And, of course, nobody would like to be accused of something without having the opportunity to defend himself or herself. So the better practice here in 10 words or less, if somebody is accused of anything, be aware that that person generally speaking either has legal rights or maybe ought to have some legal rights to defend himself or herself.

When you get involved from sport to sport, of course, as Don said there are some legal issues involved because members of officiating associations are not necessarily the equivalent of members of college conferences or employees of the NBA or the NFL or another pro league. So they often have some rights, and they are entitled to say, "No, I'm not guilty of that," and entitled to be heard in that regard. So there are some issues with going sport to sport with violations. First you need to find out if it's a violation. And second you need to find out if you have a way of dealing with that violation in your bylaws, otherwise you could just end up with a nice lawsuit for your trouble by an affected member.

Q: For administrators, is there a growing expectation for background checks on officials? And as an association is that something that can be required?

Goldberger: I think there is a growing expectation generally speaking, and I think there are certain events in the news that maybe up the ante on those expectations. We tell officials associations that we're perfectly content with state associations doing whatever checks they like. We don't employ officials where I come from. Most officials do not have positions where they are in a solitary environment with student-athletes. So this is more of a perceived problem than an actual problem. But the only thing about background checks regardless of the expectations, generally speaking it's not really a good idea to go off and do them because it's a case of be careful what you wish for.

"You've got some information that's not so hot, and then you have nothing in your bylaws that you can use to remove that official from the floor or suspend or otherwise discipline the official, you

may have a legal issue there. So it's a good idea not to put the cart before the disciplinary horse. If you're going to do background checks, great. If you're going to have standards, you should. But you need to have something in place for the "what if." What if it's a joy ride in college? What if it's a slight case of embezzlement? What if it's something in the past that had nothing to do with officiating but did have something to do with moral turpitude? In those instances, what are your procedures to deal with it? And, once again, the member generally speaking should be entitled to have some feedback to say, "Well, I had to take a plea. It didn't happen that way." Whatever it is you need to give the member a shot at defending himself or herself if you want to manage that risk appropriately.

Q: In high school sports, what is the liability for an official that overlooks a safety rule?

Smith: I think this could be expanded actually to say in all sports what's the liability for an official who overlooks a safety rule? I think it might have been said in high school sports because that's what this individual who asked the question was engaged in. Or perhaps the idea that a high school official will not be held to the same standard of care or same level of liability that a college or professional official might be held. So we'll just take high school sports for a minute. So let's say you are a football official, and you go out on the field and you're looking for all of your crew, and they're all there except for one. So you guys all decide that you'll go ahead and officiate the game. It's a big contest between two rival schools. And you're a football official, you're trying to watch everything, right? You're trying to do your job as a linesman, you're trying to do your job to watch for penalties. You're trying to look for where the ball's spotted. All the while you're also trying to look for incidents or injuries that may have occurred to players. And let's say there's a cornerback and wide receiver, at the end of the play they're running down the field. Really no action there, it was actually a running play. And on the way back the cornerback drills the wide receiver in the back. The wide receiver ends up going down. And you, the officials, are one man down. So you've all got jobs and nobody sees that. So the player goes off the field, doesn't say anything to the coach. You didn't witness that as an official. Player comes back in, gets on the line and collapses on the next play. Of course, everybody's got video, everybody's got a cell phone.

And how in the world could these officials have missed this very clear hit by this cornerback on this wide receiver? So this player's family then decides to sue all the officials, not just one official. They take the shotgun approach. If you've ever shot a shotgun it spreads wide, and you're hoping that you hit something.

So who is going to get sued in that case? Everybody. So the

school, the school district, if it was a third party venue or arena they all get sued and all the officials. And just for the heck of it we'll sue the officials association because they allegedly did a poor job in training these officials. So this incident occurs, the lawsuit comes in, and the plaintiff's attorney, what do you think the number one reason why that you're being sued as the allegation? What is that allegation once that plaintiff's attorney spends five minutes watching this game and does this and counts how many black and white stripes are out there? You're a man down.

In high school sports, what's the liability for an official that overlooks a safety rule? It could be very bad. Now, take that example and apply it to any safety rule whether it's soccer, whether it's cleats, whether it's baseball, you pick it and if you've not enforced a safety rule, and a plaintiff's attorney makes an allegation that had you enforced that safety rule, my son or daughter would not have been injured, we've got a serious case on our hands.

Q: How does a high school assigner deal with the risk that a no-longer competent official sues over lack of assignments?

Collins: We have an obligation to assess and then assign officials who are assessed as being able to reasonably control the game. And so if in our assessment, we have determined that someone is not able to work a game or a level of play and we are assigning them, our risk elevator increases. How does the high school assigner deal with that? Presumably they would have instructions from their association as to how to assign that individual official. But reason does apply here. I am sure at some point someone who is assigned has had to have a lesser official on a game that they weren't ready for. And I would assume that what they did is they bolstered them up with the strongest possible crew partners possible. That's what I would suspect would occur. So it's a Friday night and you've got a crew of six in some sport, and you have five top varsity state championship officials, and you move the first-year person onto the crew. That would probably be better than having six first-year officials on the crew. High school assigners have a slightly greater chance of defending themselves in that instance than if they put six first-year guys on that crew.

Goldberger: And the other thing is that, of course, at the end of the day a plaintiff who was injured would really need to prove that the official assigned was not up to the task and that that fact is what contributed substantially to the injury that occurred. And in many cases obviously you need to cover it with insurance. The other thing is that in many cases there are immunity laws which would discourage and turn back that type of suit. But as in all this stuff we always need to bear in mind that it's not whether you win or lose a lawsuit it's how you pay the claim. In other words, you need to prevent the claim from happening because if it does happen,

win, lose or draw, you're in for a long and unpleasant ride on an association basis. And certainly it will be unpleasant if you happen to be one of those unlucky officials who actually worked the game and are accused of doing whatever you did or you didn't do that caused an injury. So this is one that there's not an easy answer to.

Q: How would you handle the potential issues for a wheelchair-bound official who wants to officiate a sport such as basketball? What if the person's peers discriminate against the individual? How can we manage a wheelchair on the sideline?

Collins: Let's just take the sideline first. Because in the sideline instance your state associations, if you're a high school or lower level official, are going to have to give you guidance. The reason is that they are the operators of the public forum whether they're a private entity or a state entity depending upon how your state classifies your association. They are in charge of it, and all avenues for injunctive relief are going to come under them whether they like it or not. Because that person's going to want to play in future games. So the only guidance that we have as of six years ago, the last time I looked at the cases, was Anderson vs. Little League Baseball as far as sideline. That was a coach case. The coach in the wheelchair can occupy the third-base box. Someone tried to stop her or him. I would assume that that would mean that probably, courts would probably look in baseball and say we think the official might be able to be there also. But that's an assumption because the official does run out on the field in other things. Your state would have to give you guidance so the official is not left hanging, because the official is going to be worried about someone sliding into the wheelchair, etc. But that is similarly applied to the coach. So I think the umpire in baseball might catch a break here.

What we have to remember when we deal with the ADA is we're looking to see if you can do the job or do it with a reasonable modification. Then you're going to assess as officiating supervisors how well you can do the job. You're going to assess them like anyone else. And then the third thing is the disabled official is probably going to educate us as they start showing up in numbers on what they think the modifications should be. And we would have to make a determination as leagues and sports governing bodies as to whether the modifications make sense and allow our sports to still work. So in baseball I think that person might catch a break, we've seen a case. In basketball, there have been some examples of officials who went out at lower levels, but I don't know what their modifications were and what would happen if they went to higher levels. In track and field, I could take somebody who is in a wheelchair and have them work 99 percent of the events with no problems at all. Why couldn't I sit in a chair and wave a flag? Why couldn't you sit in your wheelchair and wave a flag? If I go

out 200 yards away and a discus is thrown and I am staying away from a discus and then running in to mark the spot, presumably I could do that just as well in a wheelchair. So we would have to see what the modifications are for other sports to know whether they're reasonable and what they mean to the official. And then we'd evaluate the official. OK, you're doing the sport, are you good at it? They still have to be good at it.

Goldberger: The days of getting an applicant in a wheelchair or hearing impaired or anything else with a neuromuscular condition and saying, "Well, he or she can't referee, they can't run," those days are clearly over. So you need to make, as Don said, an individualized determination. With Anderson vs. Little League Baseball, of course, Coach Anderson who is the famous Little League coach had a day job. He was a federal judge. I don't know whether that had anything to do with his success in the case or not. And I was never a big fan of that with a wheelchair in the coaching box at any level of sports for the obvious danger to athletes. But it is what it is. So Don's points are well taken. That is a national situation, and we do have people with disabilities officiating all kinds of sports under all kinds of circumstances. And the takeaway I guess would be, you need to evaluate each situation as Don said.

Q: What keeps you up at night? How does that strike you as an issue?

Goldberger: I would say it goes to the point that worsening behavior lots of times gets worse because we on the field and on the court don't nip it in the bud when it first starts. And we go back to taunting and baiting, we go back to rough play. We go back to the business that many officials engage in that they call preventive officiating, which means go over and say, "32, next time you do that I'm going to get you." And in many cases what you've really said was, "Look, I just saw you commit a foul. It impacted on player safety and I've passed on it." So you've turned that one bad call into two bad calls, and you've created that atmosphere that is conducive to worsening behavior.

So once again at the risk of repeating this for the 87th time, you need sometimes to take a game away from players who don't want to play. It doesn't matter the reason. What matters is if your game goes south, then you lost control of it. If they don't want to play, then you have to take them, don't you? You have to take them.

Smith: Are there any teachers? A lot of former educators here. I'm just curious if we were to poll the teachers, if we had a group of teachers in here, about disciplining the kids, unprofessional, minimal training and lack of security at a school. My parents were both former teachers, and I know when they retired their number one concern was the lack of respect that they were receiving from their students, and it had to do with worsening behavior. So it's

not surprising really that that one came up first. And I think Alan's right. You are in charge of that game, in charge of that contest. So set the tone for that game and your reputation will precede itself. I mean, if you're an official in rural Indiana someplace, odds are you're going to show up at that high school time and time again. And your name is going to be known as somebody that doesn't put up with anything. So this is an issue. And it's not just in terms of officiating. I think it's an issue that we all have to deal with as parents, kids, teachers. But I think nipping that in the bud is big.

Q: From an association perspective, how do these issues rank in your mind?

Collins: Well, if I think if you ask people who come into schools they obviously would be concerned about the worsening behavior, because that's our kids, and they want us to take care of enforcing sportsmanship laws to make sure that our kids comport themselves properly. But if they're speaking to you as a high school athletic commissioner after that they probably want to make sure that your sites are run properly. That ties into lack of security, but it also ties into decent accommodations, respectful treatment for the officials. So with my high school cap on separated from my officiating cap probably the behavior and then accommodating the officials so that they're positioned to do their job. Those are probably the things that would leap up or leap out.