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## In Business Q and A

### John Bailey

Chairman of the Nevada Athletic Commission

Interviewed by [Stephanie Tavares / Staff Writer](#)

About eight years ago John Bailey left a lucrative practice at the state's largest law firm, Lionel Sawyer & Collins. At the time, he was exploring his priorities and long-term goals, and hoping to move his career in a new direction.

He was nominated for a spot on the 9th U.S. Circuit Court of Appeals that never materialized, and Bailey found himself attracted to the possibility of opening a boutique law firm. That firm, now called Bailey Kennedy, focuses on litigation and administrative law, mostly within the gaming and health care industries. In the past six years, the firm has grown with the addition of hand-picked and promising young lawyers who Bailey and his partner, Dennis Kennedy, an expert on legal ethics, are molding into top attorneys.

Also during that time, Bailey was appointed to the Nevada Athletic Commission, of which he is now serving his second term as chairman. The commission regulates all fighting matches in Nevada, and Bailey has become an avid boxing fan.

#### **Question: You are chairman of the Nevada Athletic Commission. What are the largest issues the commission faces today?**

Answer: We constantly face issues dealing with fighter health and safety. We are vigilant in our efforts to protect fighters from both a health standpoint and a safety standpoint. We are constantly assessing and evaluating medical procedures, medical techniques so we can stay on the cutting edge of the medical side of health and safety. We're also very concerned about and will continue to educate, and when necessary discipline, those fighters who take prohibited substances such as steroids. We believe the public demands that competition here in the state of Nevada is done fairly and that no fighter has an unfair competitive advantage through the use of steroids or other prohibited substances. So our challenges are primarily in that area.

We're also a tax-collecting agency for Nevada. We collect taxes on the different events, the athletic events, that we regulate.

#### **This is your second term as chairman. What have you learned from your first term?**

I learned that it is very important to build consensus amongst the commissioners whenever possible. We are five individuals and I've had other commissioners throughout the past seven years I've been on the commission who come from different backgrounds, have different understandings, have different values, and it's a wonderful experience when we all have different viewpoints and we express them. It always happens in an open meeting situation and it is great to have the dynamic of different people with different thoughts and different ideas come together. As chairman you have to facilitate a lot of that process. So I've learned to be a little bit more efficient in terms of facilitating the open meeting process and getting people together and trying to understand the different agenda items that we deal with.

#### **How is regulation of fighting sports different from that of other sports?**

Well, we regulate unarmed combat and without regulation, unarmed combat would be the equivalent of assault and battery. So unless we regulate it in such a way that it can be safe and proceed in an



John Bailey

PHOTO BY TIFFANY BROWN / STAFF PHOTOGRAPHER

organized fashion, we'd essentially have criminal conduct taking place in the ring. That's very different from football, basketball, baseball - you can see kids play basketball without the guidance of the NBA - however, you should not be seeing people engaging in unarmed combat unless it is regulated by an authority such as the Nevada State Athletic Commission.

### **Why is regulation necessary?**

It's necessary because without regulation you'd have essentially brawls and free-for-alls, you'd have people seriously injured if not killed, and it is no different than seeing fights out on the streets without any type of judge, referee, the medical teams that we have in place at all of our events and essentially you would see chaos.

### **How important are fighting matches to Nevada's economy?**

We generate, directly, somewhere between \$3 million and \$6 million a year through the Nevada State Athletic Commission, through events that take place. That's the direct benefit.

The indirect benefit is tens of millions of dollars because Nevada, and particularly Las Vegas, is generally regarded as the boxing capital of the world. We're fortunate that, through the concentration of gaming that happens here in Southern Nevada, we have the infrastructure, whether it's hotel rooms, accommodations, arenas, we have what most other cities anywhere in the world do not have. So it is very important to our economy and it's because we've been able to establish, through some great forethought, kind of the mecca of boxing in the state of Nevada.

### **What does Nevada, in turn, offer to this industry?**

It offers the platform that I just spoke to of the infrastructure. It would be very difficult to be in the position that we're in with respect to boxing and mixed martial arts without the support, directly, of the hotels. The number of rooms on any corner that you may have - 10,000, 20,000 hotel rooms - you don't have that anywhere else in the world. We can put on megaevents. For example, the (Oscar) De La Hoya-(Floyd) Mayweather fight that occurred last May: The event had around 2.4 million pay-per-view buys, but more importantly a sold-out event for the state during that two- or three-day weekend. It generated millions of dollars for our economy and you probably can't capture that kind of event anywhere else in the world.

### **You were once a shareholder at the state's largest law firm, Lionel Sawyer & Collins. Now you have your own smaller firm. What prompted that change?**

At the time that I left Lionel Sawyer & Collins, I was at a point in my life when I wanted to do something different and I wanted to take on a new challenge and I decided to go out and open up my own firm. That's provided me with the ability to have a lot more autonomy with respect to the things I do in the firm and it has allowed me to implement business strategies much quicker in a smaller environment that I, as a founding member, have the ability to control over being in a much larger structure. It has allowed me to develop leadership skills much quicker having my own firm than where I was.

### **How is working in a small firm different?**

It's different for us, and I can only speak to my firm. It's different in the sense that our philosophy is two-fold. First we deal with the individual attorneys, the staff, on a basis upon which everyone is treated equally - everyone is treated with respect. We understand that you spend a large part of your life at work. So if you're going to be at work, you want to work with people that you like, people who are quality, people who share your same values - you want to make the environment as pleasant as possible and you want to be able to share without as much drama. You want to alleviate as much drama in the work environment as possible. While that's not something you can always do, it's something I think we've been able to accomplish, and I think if you walk out my door and down the hallway and talk to people, they'll tell you how much different and how much better this environment is than maybe some of the places they've worked at in the past.

The other point is quality of work. We believe that you have to exceed client expectations. So by having a smaller environment, my partners and I are able to have a lot more control over the quality of what happens with respect to the interaction between clients and attorneys, which I think is absolutely significant. Once you lose focus of the fact that you're in a service industry - you're servicing a client's needs - then you've really lost sight of what's important in terms of practicing law.

### **What are the pros and cons of having your own small firm in this market?**

We've been able to do quite well in this market, and I think that's a testament to the quality of work we produce. Ten, 20, 30 years ago there was a certain economy of scale you could get with a larger firm, you would be able to have a large law library, for example. In today's day and age, with technology being what it is, you don't need a large law library because you can do your legal research over the Internet. So being at a large firm is not quite as important, I believe, as it was maybe 10, 15, or 20 years ago. But the driving factor has to be quality of work, whether you're in a large environment or a small environment. If you produce quality work, if you exceed client expectations, you will always do well.

**Competition between law firms has become more intense with the growth of the business community and the introduction of out-of-state firms. How has this trend affected you?**

It hasn't affected my firm directly. I can tell you that it's no secret that here in Nevada we have a very dynamic and vibrant economy, and I think large law firms from out of state, whether they're national or regional, recognize that fact and want to share in that success. So that has provided the basis for which you see a lot of national and regional firms come into this state. In terms of our firm, it hasn't affected us as far as a loss of demand for our services. We're well situated and have been well situated with the clients that we do have and other clients recognize our reputation to the point that I think that demand will stay in place. At least I certainly hope so.

**What do you think of the trend of regional and national firms coming to Las Vegas?**

I think it's wonderful. I think it's a testament to the fact that we have a growing economy and people want to be in Southern Nevada. Industry is thriving in Southern Nevada. We have not only the gaming industry, but a multitude of other industries that want to move to Nevada for various reasons, whether it's the tax climate, the weather, being closer to the West Coast - all of those things are really important and it's just a testament to how we have structured Nevada as a whole to why people want to be here.

**Many regional firms are entering the market by merging with local firms. Is your firm considering such a move?**

I receive, on average, a call once every couple of weeks from a national firm that expresses an interest in merging with our firm, and my partners and I have routinely rejected those kinds of overtures because no one is ever able to explain to us how merging with a national firm is going to benefit our firm. We believe that we share a very good, and perhaps excellent, reputation as far as providing legal services here in Nevada, and it doesn't make economic sense for us. It doesn't make sense in terms of autonomy to merge with an out-of-state firm, at least not at this time.

**Just as law firms compete for business, they also compete for top lawyers, especially now with law school graduation numbers dropping. What is your recruitment and retention strategy and how important are they in this market?**

You know, recruiting lawyers is really kind of simple. What you have to do is go out and find the smartest people you can who are interested in becoming excellent lawyers. From that point you bring them in and you teach them that there's really only one way to practice law based on professional ethics and professionalism and you put them in an environment where they can thrive. My partners and I believe that we have formulated an environment where that can happen. When I talk to people who are interested in coming to the firm and we talk about what we do here and we talk about the opportunities in terms of if you're a litigator, getting into court, actually doing things firsthand, of course with supervision - that's very appealing to new people. The important thing is that you bring them along at a pace that they can handle, but you have to have smart people to start with, you have to have people who are engaged, people who understand we're advocating on behalf of clients, people who clearly keep their ethical responsibilities in mind. And very fortunately my partner, Dennis Kennedy, is probably the foremost expert in ethics in the state of Nevada. He's served on the ethics committee (State Bar's Standing Committee on Ethics and Professional Responsibility) for a number of years and was formerly the chairman of the committee.

So in terms of that process, we believe you have to understand the human needs and the human side of practicing law. At the same time you have to bring in people who are going to be engaged, people who want to practice law, people who want to service clients, and from that point you've probably set yourself up in a situation that is going to work well for the law firm itself, for clients as well as the individuals.

**You've practiced law here for more than 20 years. How have things changed in the legal community?**

The biggest change that I've noticed is that when I go to court, which happens several times a week, there are a lot of faces that I don't recognize. Twenty, 25 years ago, when I started practicing law, I ran into the same set of attorneys almost daily and we all knew each other. And since 20 years have passed, I bump into those people a lot less frequently and I bump into people I've never seen before -- good lawyers, of course - but we've gone from a bar that only had a small number to a bar that has a very large number of attorneys. And they all look a lot younger than I do, I might add.

**You earned a bachelor's degree in economics before becoming a lawyer. Many of the town's veteran lawyers recommend a background in finance, business or economics for young lawyers. Has that part of your background come in handy in your legal career?**

It has. Through my economics degree and my background in economics, I understand better what business cycles look like. I now understand why something as seemingly unimportant as the federal discount rate may impact a client's desire to employ capital for legal services. I probably would never have understood that if not for my background in economics. It certainly has helped me in understanding financial statements and understanding why business points in deals either do or do not make sense.

**What advice would you give to aspiring attorneys wanting to practice in Las Vegas?**

The first thing I would tell them is that you need to make sure that practicing law is what you really want to do. It can take over a large part of your life, but just like any profession, if you don't have a passion for it, you won't do well. And if you're going to do something you might as well do it as good as you can and have a passion for it.

So the first thing I would challenge someone young to do is to internally assess whether or not they have a passion for practicing law. And if they do, then you just have to jump in with both feet. You have to recognize that it's very important because you're dealing with people's rights. And, many times, once you've dealt with rights a certain way, it's irretrievable - you can't go back and do it over again. It's a very honorable profession, it's a wonderful profession, and if you have a passion for it, it can be a great life.

**In 2001 you were recommended for a seat on the 9th U.S. Circuit Court of Appeals by Sens. John Ensign and Harry Reid. Do you still want to be a judge on the 9th Circuit?**

At the time that occurred, I received a call from Sen. Ensign, and I believed that that was just an opportunity I couldn't pass up, just being recommended for a position like that. I have never specifically sought out to be a judge, per se. If an opportunity like that came along again, I'd certainly have to assess it and determine, at that particular point in my life, whether it was appropriate for myself, my family, my law firm, my partners. But it is quite an honor to be asked whether or not you'd consider being recommended to the president of the United States for a position like that.

**The 9th Circuit is often criticized as too liberal or for overstepping its role. What do you think of those criticisms?**

I think the 9th Circuit has challenges that are very different from probably every other circuit in the country. First, it is geographically the largest circuit. I believe it has the most states in it, and I think it deals with issues that are unique and peculiar to states that are different from any other state in the country - you're dealing with issues that are unique to Hawaii, and then in the next matter you're dealing with an issue that's unique to Alaska or Arizona, then California, Nevada, Montana. I think the 9th Circuit has probably more volume of cases than any other court and, just by sheer numbers, you're going to get criticized more because you deal with more, you deal with a greater variety of issues that are peculiar to particular states.

My experience has been that, without exception, all of the judges on the 9th Circuit are well qualified and are thought of quite well, particularly by me and people here in Nevada.

**What do you see as the role of the judiciary?**

The biggest concern I always have - and it's more so in state court than federal court - is the quality of the judges. We certainly have a number of judges in our state court system who are eminently qualified and who are great judges. By the same token, we have some other judges who don't spend the time necessary to make sure that they understand what the issues are that are before the court. Those are the kinds of things that I find frustrating sometimes as a practitioner. But I guess that's just a part of people and different behaviors and different qualifications and abilities.

## **What do you think of the judicial reform movement in Nevada, particularly the debate over judicial selection?**

I think when you look at the discussion, it's always between elected versus appointed, and it begs the question of how do we get well-qualified, impartial individuals who are removed from politics and who don't have to go out and raise money in order to obtain the office. The problem is that I don't think you can completely remove the political aspect from whether it's being elected or being appointed. I can tell you, though, on the federal side, where judges are appointed, they seem to have a lot fewer challenges and controversy in terms of political infiltration. I don't have an answer for which system is the best. We obviously are concerned about the electorates' right to vote for the people who are going to serve them if they end up (in court).

By the same token, the thought of judges having to go out and raise money, I believe, is probably not the best way to approach it because there is an appearance of potential impropriety, an appearance of potential partiality if that judge gets on the bench and then has to rule on cases from people who may have contributed to their campaign. I just don't know which answer is the right answer, but I can tell you that the federal system seems to work pretty well with the appointment of judges.

## **Are there any other topics that I haven't touched on that you'd like to discuss?**

Well, you haven't asked me about the most important topic of my life, which is my three kids. ... and my wife, of course. I don't know what I could tell you about them except that they're all wonderful.

## **Well, let's expand on that. Work-life balance is a challenge for many, many lawyers. How do you make that work?**

It's not easy and I don't think it's particular to (lawyers). Professionals, in general, can suffer from doing one thing too much, such as working too hard and not focusing on your family. It's a constant struggle for me because most of my clients have my home number and my cell number, and because I represent hospitals on administrative matters, I get calls in the middle of the night from time to time regarding very important issues, and my family has to tolerate that.

But what I try to do is never take work home with me. Physically I try to avoid taking work home with me and I try to avoid talking too much about cases and work and having my family not only have me away at work but then when I come home, listening to a bunch of lawyer stuff. So I try to separate those roles as much as I can.

My wife insists that I take vacations. I'm generally very successful attending all the events that my kids have at school, which is great for them but it's even more rewarding for me, because at the ages of 10, 12 and 14, my kids are relatively young - and as everyone tells you, and it's absolutely true, you never recapture this period in their life and it's so important that their parents are involved in everything they do. And that's kind of the center of my life, making sure I'm involved in everything my kids do, and invariably I learn more from them than I think they probably learn from me.

## **As far as being a lawyer and a father in Las Vegas, I've heard from a lot of firms that they have trouble convincing lawyers with families to move here because they have concerns about the adult environment in Las Vegas. How have you found it?**

I think that's a misnomer. I grew up here in Las Vegas. I went to school here in Las Vegas. After graduating from law school, I came back to Las Vegas.

I have seen huge changes, as anyone who's been here for 40-plus years has seen, but this is a wonderful town. There are challenges with education, just like any other city, but I wouldn't think of raising my kids anywhere else. We have wonderful friends and neighbors. I just don't have the same viewpoint that others express, particularly when those others haven't lived here, haven't come here, haven't experienced what we have in the state. Not to say we don't have challenges, because we do, but I think just looking at my kids I can see how they've thrived in this environment as well as their friends.

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