

***Highway to NIL* Podcast — Beyond the Deals: Student-Athlete Identity, Development, and NIL With 42U's Stephen Bienko**

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Guest: Stephen Bienko

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Cal Stein (00:07):

Hello and welcome back to *Highway to NIL*, the podcast series that discusses legal developments in the Name, Image and Likeness, or NIL, space. NIL, of course, affects colleges and universities all over the country, particularly those of Division I athletics, and in this podcast series we delve deep into the current NIL rules impacting colleges and universities and their compliance departments. I am Cal Stein, a litigation partner at Troutman Pepper Locke, and today I am coming to you not only with *Highway to NIL* regular Chris Brolley, but also a very special guest, Stephen Bienko, the CEO of 42U, a company that provides services to student athletes to help them build, protect, and profit from their personal brands.

(00:55):

Stephen and 42U are nothing short of boots on the ground, on the front lines of the NIL revolution currently going on in college sports. We're going to talk to him today and get his insights into what is actually happening in this area, what he is seeing in terms of student athletes, schools, collectives, compliance departments, and others who are involved in NIL. Now, since y'all know Chris from our many other podcast episodes together, and I know everyone is as eager as I am to hear directly from Stephen, we're going to get right into that discussion with him.

(01:33):

Stephen, tell us a little bit about yourself and what inspired you to start the 42U.

Stephen Bienko (01:39):

It's really a collection of, I would say my life's work, if that means anything. But I was a student athlete many eons ago, so college athletics was a big part of my life, a big tool of mine for growth. I went to the Air Force Academy, played football and ran track there as well, and then transferred over to Villanova University where I finished up there. During that time period, I was a scholarship athlete, and I was really thrown back by how I was not allowed to pursue a lot of my entrepreneurial endeavors. I also was not allowed to receive income and get a job just to have some extra money in my pocket like many of my classmates were able to do. Even at that young age, I felt it to be very strange, and it made me really uncomfortable and actually quite angry. I went out and did it anyway. But all I wanted to do was go work at a deli and earn some extra cash and we had to jump through these circles.

(02:45):

That is one area that opened the door for me as a passion for something that deeply affected me, and when things started changing, I had been following it since the O'Bannon case, the UCLA O'Bannon case, and that started getting some running room. At that time, I really started rehashing what I went through. At the same time, I had an identity crisis until I was about 35 years old and I completely identified myself as an athlete, which caused some challenges, some negative decisions, all based upon that. So, I knew in this day and age, especially with a world of social media now attached to athletes placed on this media pedestal of what NIL is on the outside, that there were going to be some challenges and some needs.

(03:39):

So, we founded 42U. The reason why we called it 42U was because of the number 42 and its representation of Jackie Robinson. The reason for that, is that Jackie Robinson used sport as a platform to do much more, and his sport was his platform for communication. It was his platform for unification. It was his platform for messaging. The sport wasn't his identity. He himself was his identity and he used a sport to highlight what he felt, what he represented, and what he spoke of. So, that is the premise of where 42U came from.

Cal Stein (04:23):

Yeah, and no one better to name it after than Jackie Robinson, certainly. Talk to us just a little bit about the core mission of 42U and how it differs from other student athlete empowerment platforms.

Stephen Bienko (04:37):

Yeah, sure. Well, I'll start out with that core mission, and that's really to develop the person, not just to promote the profile of the student athlete. When we began to develop this, we wanted to exist to help athletes understand who they actually were under pressure. We wanted them to understand why and how they made decisions, and how that identity, their identity, translates into their elite performance, how that translates into authentic branding, and how that can relay into long-term success beyond sport. We believe what makes us different – because there's been obviously so much activity in the college sports landscape around NIL, and we've never considered ourselves an NIL company. We consider ourselves a company that supports the NIL initiative, and I think that's an aspect of our separation.

(05:40):

Where we differ with most of these empowerment platforms is we don't just start with the NIL deals. We don't start with the NIL deals or social media growth or surface level branding. We really start with identity and decision making, using our proprietary, validated, psychological, cognitive assessments, we take that to help athletes understand how they're wired to compete. Really that separation, that 80/20 rule, and that rule is athletics is 80% mental, 20% physical. For those who say football players may not be that smart, have you seen an NFL playbook? Have you heard the quarterback read through the plays? Do you understand how intense

defensive concepts are? What we're trying to elevate is, communicate with those athletes what makes them a great athlete is how their mind is performing. We use that insight. This becomes a foundation for everything else, whether it's on field development, NIL strategy, team branding, life after sport preparation.

(06:50):

On most platforms, they market athletes. But at 42, we like to say, "We brand them, we develop them, we activate that, and then we turn that development into value, performance consistency on the field, and career readiness." So, at our core, it's about building clarity, confidence, direction, so when the attention comes on the athlete, they're ready for it.

Cal Stein (07:15):

I want to talk to you a little bit now and hear about some of your experiences with schools and athletic departments. In your experience working with multiple schools and athletic departments, what are some of the trends that you've seen in the NIL space over, let's say the past year, year-and-a-half? How are universities and athletic departments evolving their internal NIL infrastructures?

Stephen Bienko (07:42):

Well, sure. Well, we've seen a major surge of internal development. Even at the Power 5 level, you're seeing NIL departments being developed. You're seeing a new wave of sport professionals entering the marketplace. I think that's the largest surge, is that the sports world – and many are coming from your backgrounds, the legal background, legal and business background – the norm in the college athletic department was always administration, and individuals that started their career in the world of athletics and kind of worked their way through into the administration roles. What you're seeing now are the opening doors for outside coverage, business professionals, marketing professionals, legal professionals, all under one roof. We're getting this evolving shift of a 50/50 landscape of business professionals, and I include legal in that as well, and then homegrown administration, because it's now becoming this cross of, in that meeting room where you have individuals that truly understand the legality, the marketing, the support needed, and then you have representatives who are in this because they love the student athlete.

(09:15):

That's what we see the majority of administrators within the athletic realm. They love to be able to support the student athlete. I think we're seeing this kind of shift internally as to these NIL departments. Let me just add this. Inside those departments, we're seeing this shift of it's not just about the deals anymore, it's about the development of the student athlete. We're seeing a surge, which I love, which I have gone on record numerous times speaking to athletic departments as to the projection of where this is going to go, and the NIL groups are merging with the student athlete development, the player development, the life after sport, and sitting in the same room. Because at the core crust, and we'll probably chat a little more about this later, is that the core crust of NIL is really about it's a different layer of education. It's not just about the

deals. Inside the institutions, it's about, this is a new way that we can now elevate the education of our student athletes.

Chris Brolley (10:23):

Stephen, you mentioned your work with Power 5 conferences or programs. Are you seeing a difference in the way the Power 5 programs and mid-major or smaller schools approach NIL?

Stephen Bienko (10:35):

Amazing question, because there's a lot of hyper normalization right now within the college athletic landscape, which obviously leads to apathy and people's feet get stuck in the mud, and because there's general confusion, there's general fear. We're seeing a lot more of those attributes at the Power 4 level because there's so much revolving in the recruiting landscape that's hedging on that. Because let's be real, college athletics, inside the athletic departments, everything goes back to recruiting, everything. Even all the wonderful, amazing pieces that come together with inside the administration of an athletic department. This is something I like to speak to parents of when they say, "Hey, is it worth it of me working on my young son or daughter?", and I have a full spectrum of children. I have two seniors, 18 and 17-year-old, I have a 13-year-old, and I have a two-month-old, so I have this full gamut of understanding the parental aspect of supporting athletes and developing, even if it's not just mine, but speaking to a lot of other parents. They ask, "Is it worth me following this path to athletics?"

(11:52):

A lot of parents think of it as an opportunity, "Oh, they're not going to play pro." Of course not. We're not even talking about that, but what's inside the athletic departments, your son or daughter has such a leg up on everybody else because of how amazing these athletic departments are and what they offer to young student athletes, above and beyond what other students receive on campus. We're seeing this trend within the Power 4 conferences is that so much hedges on this recruiting aspect, and they're under a microscope. For them, a lot of the situations we're seeing is that we have to go get these big enormous deals because that's what sounds good to the recruits, to the four stars, the five stars, so we can improve our recruitment ranking.

(12:48):

A lot of those games are played internally, and sometimes I feel for them because the majority of those NIL administrators are there to support the student athlete, and they're being looked at as, "Where are the big deals, and how are you distributing those big deals? Because we need this money to keep this athlete here." Which is complete nonsense. Hopefully that begins to shutter off, as I think it's going to come from the student athletes themselves because the way they look at is a lot different than what, let's call it the "grownups" think they look at.

(13:23):

Now, on the flip side on that Power 5, here's the difference. This is so funny because I was speaking to a Power 5 director of NIL yesterday and we had a great conversation about this. They don't have those expectations. Because I asked him point-blank, "You can't tell me that you guys are looking at an Arch Manning deal for Red Bull." He goes, "Of course not." The difference on them is that they are really focused on, "How can this NIL landscape help us to develop the true identity and the career after sport in these student athletes?" That's where they can hang their hat on and they're not under that large amount of pressure.

Chris Brolley (14:06):

Along those same lines, you may have seen an article that came out a few months ago back in 2025, that highlighted the differences between schools or programs in certain conferences, such as the Big East, that would have a focus on basketball, as the school doesn't have a major football program. Are you seeing a difference between schools and programs that are focused on one sport, like rely on basketball, versus schools within the ACC or Big 12 or Big 10 that have to distribute the money or find funds or allocate the money to different athletes in different sports?

Stephen Bienko (14:42):

Super question. The reason that is such a super question is that most of the focus is on the big power football conferences, and that's where a lot of the media attention goes. The expectation is that, "Hey, they're all ..." as you hear the many stories of it's 20.5, and then how do we get to 40 on the third party application? How is Texas Tech getting to 45 versus LSU at 42, whatever those numbers might be? So much attention is placed on that. The real winners are over in the Big East Conference because it takes a lot less to provide for their basketball programs, and they have tremendous opportunities to now spread that wealth through numerous other sports in their athletic department. Let's look at this angle, fundraising is a very important aspect within the athletic departments. Massive, and it has been the leader in the athletic departments for many years.

(15:47):

Now, there is a shift happening, that must happen, where less attention is played on fundraising and more attention is paid on business development and revenue generation. But right now, fundraising is a major source, and within the athletic departments, your easiest access to future fundraising are from your former student athletes. But again, let's be real, at many of the larger football and some of the larger basketball schools, that the football and basketball players are normally not your donors later on. It's just a fact. Despite that they may make a lot of money, whether it's still playing or it's in their career, historically that has not been the go-to. The go-to historically has been your track and field, your soccer, your lacrosse, your lacrosse families, your soccer families, your volleyball families, your former volleyball players. They're the ones that come back later and are fully bought in if they felt they were taken care of while they were there.

(16:55):

The Big East has this incredible opportunity where they can spread that wealth because their basketball programs do very well financially, and they can spread that wealth to some of the Olympic sports, which creates more of a future pipeline of customers, former students, that felt they received a lot from the university, both their education, but they also feel like they got taken care of.

Cal Stein (17:23):

Those are fascinating insights, Stephen. Let's shift now and talk a little bit about your experience working directly with student athletes and brands, and let's start by talking a little bit about expectations. In your experience, how have student athlete expectations around NIL opportunities changed since the early days of NIL?

Stephen Bienko (17:46):

Well, the early days of NIL was all about hype and media. If you guys look back on it, the attention, the PR, was out of this world. The majority of third-party corporate entities, and I'll say that I'm referring to small business all the way up to large businesses, publicly traded companies, they jumped in for the PR. That set a precedent that was not going to hold its course, and unfortunately, young people are influenced by that. Even adults in the room are influenced by that. In the early days in the NIL, most student athletes viewed it as this short-term income, "Got to get my deal," or "I've got to get my bag." Quick deals, quick social media posts, and the word back from a lot of the third party marketing arms, literally pulling their hair out like, "What are we getting here? Guys, this is terrible."

(18:42):

That's unfortunate because, at the end of the day, most student athletes – and it's one of the reasons we got into this business – most student athletes don't know what their brand is, first of all, and sure as heck don't know how to broadcast that brand in a way, in a method that's going to benefit a third party. In the beginning they were looking for the quick deals, the social media posts, the one-off endorsements, "I got to get my deal, feel good about it." The mindset was completely transactional. "Get paid, get attention," or "How is me getting a deal boosting my ego?" Over the last couple of years, because of great people getting involved inside the college sports market, that expectation has matured, I would say pretty significantly. Today, the athletes are increasingly seeing the NIL opportunities as career leverage and not just solely for cash.

(19:34):

They want structure, they want education, they want a plan. Their questions has shifted from, "What can I get right now?" to, "How does this fit in who I am, how I perform, and what I want to do after sport?" Because we also have to realize is that our Millennial and older generation is kind of running this right now, and the generation coming through? Guys, they're so much better at this than we are and they know so much more. We just don't give them the credit for it. They get this stuff. If anybody above the age of 45 really thinks that they know social media, you're

fooling yourself because you don't. You may know how it operates, but you don't fully understand it the way the younger generation fully understands it because we were not brought up on it. That's a major separating factor.

(20:24):

They inherently get it. They understand it and they understand that they have – and this is the flip – a lot of us were brought up on the fact that, "Hey, you go to school, you get your job, you work for the corporation, and they're the ones that help guide you through." Well, younger generation says, "No, that's not true. I can build my own way. I don't need you. If I have you, that's excellent, but I don't need you." Even in the legal field, once you get that, once you pass the bar, nowadays you don't need that big law firm to do everything for you. You don't. Is it powerful? Yes. Can it be great? Yes, if that's what you want to do. But you don't need that. You can take your mind, your legal degree and the way you look at things, and you can take it on your own track and you can make a solid living. This shift has happened, so they want to know, "How can this help me perform and how does this help me after sport?"

(21:20):

They also expect universities to have support systems. I like to tell this story a lot. When I was growing up, it was all about the scholarship. Man, that was everything. "If I can get a scholarship, if I can get a scholar ...", and that's all you talked about was getting a scholarship if you were an athlete, and that was the crown jewel. Then it shifted to, "Okay, we know the scholarship is there. Now, hey, how are you going to help me with my academics?", and that shifted and a lot of support went into the academic because Prop 48 and that whole sequence started happening. A lot of support went into academics. Then it was the facilities, the assets. "Hey, who has the better weight room? Hey, who's building the new stadium? Hey, who's supplying the food? Who's got the beautiful locker room? Who's got the fresh new turf?" That was sparking interest.

(22:10):

Then later, it started going to, "Hey, who's providing strength mentally?" Now, "Who's helping me with my brand?" Recruits now evaluate programs on whether or not there's an NIL ecosystem there. I have a 13-year-old son who's in the world of football and being a quarterback and he's got some nice things going on, and so I'm able to evaluate. He's looking at high schools based on how they are going to help build him, not just about, "Hey, who's got the best record? Who's going to build me?" These high school athletes are now looking at branding guidance, mental performance support. Is there clarity in compliance and are there pathways beyond just the collectives that are there?

(23:02):

There's been this reality check, and I'm a little long-winded on this one, but I love this question. The athletes understand that not everyone will land massive deals. They know this. So, the values moved more towards the clarity of it, the consistency and the development. "How are you going to build my brand? How are you going to help me?" Not just the hype. To wrap that up, the NIL has really evolved from this monetization to intentional brand building, and now these

schools need to catch up. The athletes are winning now. They aren't just chasing that deal all the time. They're trying to build something that lasts.

Chris Brolley (23:39):

There's certainly a shift. As a former high school and collegiate athlete back in the day as well, seeing everything, the brand recognition and awareness now by these kids as young as 13, 14, 15 is certainly something that's different back in our day. Are you seeing any notable differences in NIL engagement or opportunities across gender, sport, or division level?

Stephen Bienko (24:00):

I think when it comes to something like Title IX, the universities inside the compliance offices are very much in tuned with making sure not just for the legality, but for the actuality, in that let's just talk about female athletes. Female athletes today are the ticket. Not even going to circumvent that any other way. If you're thinking about revenue generation and if you're beginning to look at an athletic department, which many of them have to start doing, they have to start looking at the athletic departments as viable businesses, not just cash cows from media deals and donors. They have to begin looking at them as revenue-generating sources. Well, we've already gone down the road of how far we can extend generating income from men's sports. The women's sports are not even close and they are far going to outpace the ability to generate revenue.

(25:03):

I think you're seeing a major shift in this, and women's volleyball has truly opened the door for this observation. I've talked to an AD of a Big East school last week, and he let me know that women's volleyball is his main focus after men's basketball, because it has such a tremendous opportunity for growth and for ROI. The investments they can make in women's volleyball today, because the expectations when it comes to let's say revenue sharing, because we talk about that in the Big East, the revenue sharing, the ability to be able to pull a high ranking women's volleyball player from one school to the other is not taking six figures. It's taking five figures. Sometimes four. So, the impact you can make with that investment – and if you all haven't gone to an NCAA women's volleyball, a Big 10, a Big East volleyball match, go. Take the family. It is a blast for everybody. That goes along with gymnastics as well. Gymnastics is one of the most exciting college sports, and the universities that do it right, they're getting a big return on that.

(26:26):

I think we're seeing a major shift in universities realizing that there's tremendous opportunity in some of the Olympic sports, and I'll say mostly on the ones that are indoor. It's just a little easier to generate revenue, to create an environment outside of the spectacle of football, but your indoor Olympic-based sports, there's a big shift to continue to highlight them and find new revenue pools.

Chris Brolley (26:57):

I want to go back to something you initially said regarding when we asked you about the core mission of 42U, and essentially its ethos. You stated that the core mission of 42U is to support NIL initiatives and focus on life after sport. How sophisticated now are athletes becoming in understanding contracts, IP rights, and long-term brand strategy? I ask that question because in the early days of NIL, a lot of the focus was on education, educating the student athletes. Financial awareness, financial management, wealth management, whatever it is, these college-aged kids coming into large sums of money or even just any sum of money. How sophisticated now are these student athletes becoming and how does that transition them to life after sport to the extent they don't go professional, which, we know the statistics are out there.

Stephen Bienko (27:47):

Yes, absolutely. Well, I think let's first make sure we clear the slate here on what really goes on and what should go on. You mentioned the financial support, and I'm not speaking for – obviously not for all, because there are some outliers that are doing incredible job – but for the most part, it's just like a lot of universities jumped into NIL just to say they're supporting NIL, and they just brought in third party companies and just to say, "We're in it and we're doing something," when nothing really was happening and going on that was really benefiting the student athletes.

(28:23):

Unfortunately, the same thing happened on the financial side, is that a lot of universities brought in guest speakers and things of that nature, to just communicate about financial literacy. As we all know, financial literacy is not a 45-minute speech and I got it. If that was the case, many people would be in much different situations. Now we're talking about 18 to 22-year-olds. That is one area that the universities ... Well, I can go off script a little bit here. We really should be honing in on that on the middle school level and then in the high school level, but 100% that should be an all the time general core requirement. Now that you're opening the door, and this is part of the education track, you're opening the door for athletes to receive sums of money, big, small, or indifferent, doesn't matter, this is the time where you double down on the education around it. Not just having someone come in and speak and talk about it.

(29:26):

One of the other challenges is that some of the universities have bank partners, and sometimes the bank partners are blocking what really can be done. It's quite unfortunate. But that is an area that the athletes know, they're craving, and I'm hoping more universities figure out exactly how they wrap their arms around consistent financial support and literacy. But the athletes are definitely becoming more sophisticated, but it's a little uneven right now. At the top end, we're seeing student athletes who, they're starting to understand the contract terms. They're starting to get revenue splits. They're kind of understanding even we're talking revenue sharing, they're starting to understand what the market valuation is, and they're starting to understand brand alignment and how that works.

(30:17):

That's still a good far beat away for the athletes when we're going in and speaking to teams at a core. Most of them are still in shock a bit that it has nothing to do with what you do on the field. That's revenue share. NIL has nothing to do with how good you are. NIL has everything to do with how you align with the brand that may be interested in you and how that reflects their customer, because at the end of the day, they're paying you so they can receive more from their customer, but they know they shouldn't just sign anything. I think most of them understand that. They're definitely more aware of their name, image, and likeness, and they're beginning to hold onto that as they're seeing some of their peers develop it. I know we're teaching for them to understand to own that like an actual asset, not just a monetary opportunity because you're going to carry that on.

(31:12):

But that being said, the biggest education gaps show in, I would say intellectual property and ownership. That's a big gap that's not really fully understood yet. They don't really understand who actually owns their content when someone creates it. It's coming along. How long those rights last and how exclusivity clauses actually play into all of this as well and can limit future opportunities. I'm sure you all have seen the many trading card opportunities that student athletes have committed to for some short-term cash, and then all of a sudden they didn't realize that that trading card company has a latch on them for the next 10 or so years and any income they make. They often still focus on that dollar amount, like a lot of young people would.

(32:02):

The second of, I would say would be long-term brand strategy versus the short-term. They still tend to think it's a deal-by-deal situation and not really in terms of a narrative or a trajectory of how my brand is growing. They'll kind of ask, "Hey, is this a good offer?" Or instead of saying more, what we want to hear them say is, "Does this fit with who I'm building and where I'm going? Does this work for me?" It's kind of like when you're really working with an individual taking their first entry level job. It's like, "Yeah, that's a great job. However, does that really fit with the trajectory? I know that's a nice offer, but is that fitting with your trajectory? Can you grow inside that company or is it just a great starting salary?" Without that kind of guidance, their activity can begin diluting their brand if they don't think that way.

(32:54):

Another area that we tend to look at both on the field and off the field is their decision-making under pressure, and that's an area that our psychological evaluation supports and helps us understand more. Think about it. This is fascinating. Offers come during emotional moments, and a lot of offers come after a big game, especially think about the Final Four and the basketball championship. So many of those young players receive offers after a big game, or some receive offers during a transfer decision and sometimes they're looking at when that money is urgent. Some may have advisors, some don't, but that's another area that they're still not totally there. The athletes, they don't need to become lawyers, they don't need to become agents. They just need more clarity as to what their brand represents, a little more self-awareness, and a little more comfort in their identity.

(33:55):

But the university that's doing this well aren't just educating athletes on NIL mechanics or compliance. I know compliance is a big part of your guys' area, but it's so much bigger than that. That's something that the university has to take care of. The athletes need to be focused on, "How am I learning? How am I educating, and how is this helping me for my next steps in life?" Because at the end of the day, college athletics is all about education. I know that people say that college athletics is a business, and there can be some argument in that. However, take my take on this. College athletics is not a business, but there's a lot of business in college athletics, and that's not for the student athletes. At the end of the day, the core message and the core responsibility of the universities, of the athletic departments, is to educate the athletes, and they're doing that through the mechanism of sport.

(34:53):

Today we're just escalating that education process, because now we're involving money, we're involving contracts, we're involving transferring. Isn't that what they need to really learn in the real world when they get out? Because that's what is going to help them elevate in their career. So I'm looking forward to universities continuing to follow that path.

Cal Stein (35:17):

You mentioned a moment ago, compliance, and that is obviously a big component of what we've been paying attention to as lawyers who represent schools and athletic departments. But I want to end here today by getting your take on that. Really, in your experience and from what you've seen, what are some of the compliance, or for lack of a better word, the regulatory issues, that are causing confusion for either schools or student athletes or even collectives? What I'm talking about are things like pending state and NCAA policy changes, state laws that are being implemented and repealed and amended, and even something like the House case, the settlement in the House case. How are those things really impacting schools and athletes right now?

Stephen Bienko (36:10):

Well, I think the overall changes in regulatory activity is not so much affecting the student athlete, but it's affecting the administrators and their focus because they're spending so much time in board meetings trying to figure it all out, because every day there's something new. Every time that they are trying to figure out something new, their feet are stuck from actually helping and educating and supporting the student athlete, and that's their job. Everybody in those buildings, their job is to support student athletes. The number one job of an AD is to educate and support the student athletes. That's their job. That's what they're there for. They're high-level educators. When so much of this regulation is thrown at them, that puts you in fear because it's not something you generally understand. It's definitely not what 99% of them got into that career to do. 99% of them that did not get into to begin trying to cipher through or understand legal matters.

(37:22):

That's what they're having to do, which is highly unfortunate, because then they're not placing their focus on the development of the athlete. Because when you don't understand something, you become fearful, and fear leads to the lack of clarity. Fear then leads to you not having confidence in what you're really good at. When you don't have confidence in what you're really good at, you're then not giving the most of yourself.

(38:23):

That's having some athletes sometimes throw their arms up, "I don't want to deal with that," or "This got rejected." Now they're having to think about that versus thinking about their physics class or their nursing program class or the next game, and they're having to think, "Hey, the deal that I was approached, is it going to get passed?" I think that's causing a lot of confusion. When it comes to state regulatory, I think most of them is not so much challenges at the collegiate level, but at the high school level, and you have some very confused parents, which is also insane. You have parents moving children out of state in order to think of how they're going to participate in NIL at the high school level, which I think is absolutely insane but you are seeing that. I think what happens with compliance when it comes to athletics is that it's definitely not something that student athletes should ever be concerned about, because that's not their role.

(39:23):

On the outside, they're no different and why should they be? Especially if you think about Olympic sport athletes, they're no different than every other student that goes to that university. Besides the fact that they play a sport, maybe they're on scholarship, maybe they're not, but they're there to get an education, to play a sport. If this student that's not an athlete is able to get an influencer deal or a partnership – let's call that what it is, NIL is influencer marketing – so if that student is able to build up their social presence and create opportunities for themselves, they don't have to go through any legal hoops. I understand where it comes from. It comes from to keep the regulation because at the bigger universities, there's some crazy stuff that goes on. But when you're talking about Olympic sport athletes, nothing crazy is going on there, and a lot of times just it's taking away from what the core value of NIL represents and the opportunity that it represents. I'll say it again, it represents a new wave of education for student athletes.

Cal Stein (40:36):

Well, Stephen, I can't tell you how much we appreciate you spending some time with us today and giving us this really, really unique perspective on NIL and what is going on with student athletes in particular, but also schools and athletic departments. You've said a lot of things here today that I've been writing down as unique, interesting perspectives on things that I really hadn't thought about and really hadn't considered. I know our listeners are really going to appreciate the diverse view that you're bringing, and really the boots on the ground approach. I'll tell you that the one thing I think that you said that's really going to stick with me the most is ... What was it? "College sports is not a business, but there is a lot of business in college sports." I think that is a really interesting way to be thinking about it, and one that is absolutely, absolutely

true. So, thank you so much for all the work that you're doing and for spending some time with us here today.

Stephen Bienko (41:39):

I appreciate it. You guys do a great job. It was awesome to have this different perspective on knowing your legal demographic and a lot of your listeners and to add this other area, because we do have the opportunity – you mentioned boots on the ground – we do have the opportunity to sit with hundreds and hundreds of student athletes and to learn about them, to have experiences, to listen, to communicate with the coaches, the administrators. So, I am very grateful and blessed. Like I started off say, this has been a life's work, and athletics has been very important to me and has given me a lot. The opportunity to give this back and to build a business and make some money off of it as well, is just fantastic.

Cal Stein (42:20):

I think that's the one thing that brings everyone in this area together no matter what you're doing, is a love of sports, a love of participating in sports, and all of our collective past participation in sports, particularly team sports, really shaping who we are and who we become in all that we do. So, thank you.

(42:41):

And with that, we are out of time here today. I want to bring this discussion to a conclusion. I really want to thank Stephen Bienko, CEO of 42U, for joining this podcast and giving us all of his observations and insights. Check out Eric and his company at the42U.com. They are truly invaluable. I also want to thank everyone for listening. If you have any thoughts or any comments about this series or about this episode, I invite you to contact us directly. You can subscribe and listen to other Troutman Pepper Locke podcasts wherever you listen to podcasts, including on Apple, Google, and Spotify. Thank you all for listening.

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