

Jury Finds Former USA Swimming National Team Member's Lawyer Committed Fraud; Awards \$617,810

Jury finds that attorney Richard Foster's legal representation benefited Dagny Knutson's legal foes, including Mark Schubert, Chuck Wielgus and USA Swimming.

SAN JOSE, CA, USA, July 1, 2016 /EINPresswire.com/ -- An Orange County, California jury this week awarded former Olympic swimming hopeful and USA Swimming National Team member Dagny Knutson \$617,810 for the financial and emotional harm caused by her former attorney, Richard Foster. Knutson trusted Foster with her swimming career when she retained him in late 2010, but the aquatics insider instead defrauded Knutson.

The Knutson legal team featured attorneys [Robert Allard](#), [Jonathan Little](#), Mark Boskovich and Laura Liccardo.

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"Dagny was used, abused, manipulated and betrayed by a powerful group of aquatic insiders," said Allard. "This is full vindication for her. After what she has been through and what she has lost, she deserves it."

Knutson retained Foster to enforce a contractual agreement with former Olympic coach Mark Schubert and USA Swimming. She believed that Foster had her best interests at heart and would aggressively represent her. Instead, the testimony showed that Foster collaborated with the head of USA Swimming, Chuck Wielgus, by engaging in "confidential" correspondence and entering into secret deals, including not

involving the press and scaling back litigation in light of USA Swimming's sensitivity to negative publicity.

Coming out of high school in 2010, Knutson was one of most decorated swimmers in the country. She was a national champion and broke numerous high school records. Some of her records still stand, including one in the 400 Individual medley as a 16-year-old in 2008.

Knutson had already committed to Auburn University, when Schubert, then USA Swimming National Team Head Coach, showed up unannounced at one of her swim meets in Ohio. Schubert confided to Knutson and her coach that Auburn's assistant coach was leaving the program. A stunned Knutson then listened as Schubert proceeded to outline an exciting plan for Knutson to become the first high



Attorneys Robert Allard & Jonathan Little

school swimmer to turn pro. A week later, Schubert flew to Minot, North Dakota to sell Knutson's parents on the idea.

Schubert promised that if Knutson gave up her five-year scholarship to Auburn, USA Swimming would pay Knutson for housing expenses, college tuition and also provide her with an Olympic coach and an Olympic training facility to prepare for the 2012 and 2016 Olympics. Knutson arrived in Southern California in the Fall of 2010, enrolled at Fullerton Community College, and began training with Olympic Coach Sean Hutchison.

Within weeks, Knutson learned from Schubert that he was being terminated. At the same time, USA Swimming stopped fulfilling its contractual obligations and she lost her swim coach, Sean Hutchison. Knutson was devastated by the ensuing turmoil. Her agent, Evan Morgenstein, then recommended that Knutson retain his attorney, Richard Foster, to enforce the contract.

The evidence presented at trial revealed that Foster worked against Knutson's best interests while at the same time benefiting his "many friends" at USA Swimming, as well as his longtime client, Schubert. The re-negotiated contract placed onerous performance markers on Knutson, specifically that she had to consistently maintain a Top 3 USA or Top 25 World Ranking in order to receive the contractual benefits. The original contract with Schubert had no such markers. Foster's re-negotiated contract also required that Knutson completely release both USA Swimming and Mark Schubert from any and all liability.

Decorated Olympic champion Nancy Hogshead-Makar testified on behalf of Knutson, opining that the performance markers negotiated by Foster set up Dagny for failure and placed undue pressure on her. Predictably, just over a year after the contract was formed, Knutson failed to meet the markers and lost all of her benefits, due primarily to an eating disorder that she developed.

Hogshead-Makar stated,

"Rich Foster's re-negotiated 'deal' was never comparable to a Division I scholarship. In my research covering the past 16 years, just 3.5 American women per year made the harsh standard, as opposed to tens of thousands of women who earn and kept college swimming scholarships. 99% of full-scholarship college swimmers could not meet the standard in Foster's contract. In addition, colleges are generally well-equipped to handle life's hurdles, like an eating disorder. For example, Auburn University's athletic department employs a full-time nutritionist. Instead, Dagny was on her own; held to unrealistic performance expectations, and without her peer group or the safety net that a college can provide."

The jury concluded that Foster breached his fiduciary duty to Knutson and fraudulently induced her to enter into the re-negotiated contact by failing to inform her of material facts, starting with the fact that he had admitted conflicts of interest with both Schubert and USA Swimming.

The jury awarded Knutson \$217,800 to cover the loss of her housing and education benefits, along with \$250,000 for past pain and suffering, and \$150,000 for future pain and suffering.

Foster's defense team brought in former Olympic champion Janet Evans who tried to support Foster by stating that the performance markers were reasonable. Schubert also testified for his longtime attorney, Foster, stating under oath that his original deal with Knutson contained performance markers. This testimony was contradicted by Knutson, her mother, her former swim coach and her former strength coach. The jury did not find Mark Schubert's testimony to be credible, citing the fact that it would make no sense for Knutson to give up five year scholarships to virtually any Division I program in the country for a contract that was conditioned on hyper-elite performance.

"Foster and Schubert violated Dagny then, and tried to violate her again years later in a court of law. Fortunately, the jury saw the truth and rendered their verdict accordingly," said attorney Jonathan Little.

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