

OPEN NINTH:

CONVERSATIONS BEYOND THE COURTROOM

THE 100TH

A LOOK BACK

FEATURING FORMER CHIEF JUDGE FRED LAUTEN

EPISODE 100

MAY 18, 2020

HOSTED BY: DONALD A. MYERS, JR.

(Music)

NARRATOR: Welcome to another episode of “Open Ninth: Conversations Beyond the Courtroom” in the Ninth Judicial Circuit Court of Florida.

And now here’s your host, Chief Judge Don Myers.

CHIEF JUDGE MYERS: Hello and welcome to the 100th episode of Open Ninth. Wow, what an amazing time to be here. This small idea of bringing conversations out of the courtroom and into the community has grown beyond our wildest dreams. It’s been three and a half years, 2 hosts, and 99 episodes in the making to get us to this centennial milestone. And with me today to mark this occasion is the first champion of Open Ninth, the original host of the show and former Chief Judge of the Ninth Circuit, Fred Lauten. Thanks for being here, Fred.

JUDGE LAUTEN: It’s great to be back.

CHIEF JUDGE MYERS: It’s really great to have you here and to be able to celebrate this time together with you and we’re grateful for you showing up. Fred, you were here at the ground breaking of the idea, the inception. Just tell us a little bit about why, how, how did that come about?

JUDGE LAUTEN: Yeah, there was a variety of factors that sort of collided in a good way. To start this all off, when I became Chief Judge, I fairly early on went to a conference at Stanford in Palo Alto. It was sponsored by the American Bar Association, and it was really for lawyers and it was technology and the future of the law. And we were invited because we did remote interpreting. And they were interested in our sort of pilot here in the Ninth Circuit and our experience in the Ninth Circuit, so I went with a staff member to this conference. I had no idea what I was walking into, and I got there, you know, it’s almost the heart of Silicon Valley

and there were some pretty heavy-hitters. The CEO and legal counsel for Legal Zoom was there. The CEO and legal counsel for Alva were there; same thing for Tesla showed up and some high-powered Silicon Valley folks, judges, leaders of the bar, the ABA president was there. And the whole conversation was about the future of law practice and technology, and they invited judges because, you know, it's obvious that law practice and the courts are tied together. And so the lecturers were starting to talk about this future vision and I was just blown away by it. I was really blown away. And the lesson I took back from that is that you can't stop technological advancement even if you tried or wanted to. There's no point in it. But when I got back, then the staff here, many of them are in the room, Matt and Jeff, Karen Levey, Rob, Julio, they themselves without my knowledge were talking about what next step can we take in technology in the Ninth Circuit? I think it's fair to say that at that time we were recognized in Florida as an at least just sort of pretty sophisticated or developed technological circuit because we had remote court interpreting. We had computers, and when you traveled around the state at that point in time and I went to other circuits, I can't believe how blessed we are in the Ninth. So I came back saying, let's talk about technology and Matt and Karen said we should beef up our Facebook page, we should start a Twitter account and Judge, what do you think about podcasting. And you know, the first two were easy, yes, let's beef up our Facebook page, let's beef up our Twitter account. Let's have our website be as sophisticated as we can get it. And then it was like, talk to me a little bit more about podcasting because I wasn't quite sure about that one. And Judge, as you know, technology can be – it can be a tool, it can be a weapon, I mean, there's good and bad. We were worried about, you know, on Facebook getting comments that were personal about how a judge ruled, you know, things like that, litigants trying to ex parte us through some technological advice, things like that that we had to work our way through. But at any rate, to

get to podcasting, we kind of – we brainstormed that for a long time and then decided that it could be pretty exciting. There was no other state court system in the United States that was podcasting. The National Center, we didn't know it at the time, but they were kicking around the idea and I think maybe they did one podcast before we started our podcasts. Some of the challenges might be interesting to our listeners.

CHIEF JUDGE MYERS: Well, it's certainly not a traditional means of communicating. I mean, really, was that the intent or the purpose from the beginning was to communicate information?

JUDGE LAUTEN: There were two – the two most detailed conversations I remember was why do we want to podcast? What's the whole point? What's the purpose of podcasting? And we talked at length about, you know, do we just start talking about the law? Well, we're limited a little bit. We can't give legal advice. We can't talk about pending cases. We thought maybe the listener base, that's all they'd want to know is, Judge, you're presiding over a high-profile case, tell us all about it. Well, I can't tell you anything about it. Or we thought we might put people to sleep if we talked about, you know, the legal aspects of the rule against perpetuities or whatever it might be. So we were like why do we want to do this? We settled on, we want to do it because we want the public to know more about their court system in a general sense. How do the courts operate? What do we do? What's our function? And also to humanize the players in the court system so our colleagues on the bench, you know, people come in, they see them, they're elevated on a bench, they're dressed in a black robe, it can be intimidating. I don't have to tell you how spectacular our judicial work force is and how spectacular the staff is, but we thought if we personalized it a little bit it might demystify the court system so that people would be a little more comfortable when they walk through the front door. So that's what we settled

on. Let's bring to the public who we are, what we do, show them to a limited extent a little bit more personal information than you would get just walking into a courtroom. Then we had to discuss what kind of topics we should talk about. Then the second most difficult conversation, Don, was we quickly learned that the name that you attribute to your podcast is critical. So if you want to get listeners, you've got to have the right name, we went through a 100 possible name choices, and some of them were hilarious. I can't remember some of them. Some of them were ridiculous. Some of them sublime and fabulous, and we'd settle on one and then we went to register it and I went, nay, can't have that name. It's too close to someone else's name. But we did – the staff, by we, I mean the staff and Matt, in particular, did a lot of research on how important it was to come up with a right name to get people in, especially in the beginning when it's like you have no tradition or history or experience, so people don't know anything about this so why would we tune in.

CHIEF JUDGE MYERS: So we have lots of conversations in the courts about access to justice and access to the courts and all of the barriers that are thrown up that make it difficult, uncomfortable, inconceivable really for some people to say that they would want to participate in this system at all. And the idea that this podcast could be used as an entrée, an entry point for folks, a soft opening to be able to see that the courts really are human, that they are real, and that they're just made up of people a lot like the folks that walk in the doors has been incredibly effective. The goals have not changed since you've left. We continue I think to look for opportunities to find those intersections between the courts and society. And I think if we look at the 100 or – now 99 podcasts behind us in the rearview mirror, we see intersections between the courts and mental health. Intersections between the courts and addiction, the courts and technology, the courts and security, emergencies. I mean, obviously, it's become a very

important tool for us to talk about the natural disasters and things that we suffer in our community and our state. They're unique to Florida, hurricanes, but also now the virus. And it's really been a powerful tool for us, and then significantly, and this will help us I think to transition as we talk about some of the episodes. The relationship between the courts and bias, racism, gender inequalities. The very real, social and societal issues that surround us in our community. So I'm just – I think it's so cool that the vision was laid out there. That you and court administration worked together so closely to develop this and to make it run.

JUDGE LAUTEN: You know, you said a couple of things I'd like to briefly comment about. One is, I know you tell brand new judges this and I used to tell brand new judges when I was chief, that you are embarking on a job where you might think it's just about the law. Are you a legal scholar and can you apply the law and analyze cases, but the role of a judge has become – is and has always been so broad so that you can never master the role because let's say you're Oliver Wendell Holmes about the law. What do you know about addiction? What do you know about mental health? What do you know about sociology? What do you know about implicit bias? What do you know about education? What do you know about – and the list is endless, so that to become the best possible judge, you have to know as much as you can about society because we touch every base of society so this podcast that reaches out, like I listened this morning to your podcast with an elementary school teacher who teaches civics.

CHIEF JUDGE MYERS: Oh, Dawn Dunham who teaches middle school. That's right, yeah.

JUDGE LAUTEN: Fascinating. And then I listened to the one about autonomous cars, fascinating. And then I loved the one that you did recently about the different generations of judges. That might have been one of my favorites, you know, baby boomers, millennial, gen-

xers. There's a new term now, I-Gen's and that was just so intriguing but I think it does tell the public that this is so multi-dimensional and the court touches everything. I know you want to get into some of the cases we've done, or some of the podcasts we've done, but yeah, I hope that and I think with those numbers that you mentioned, that we're accomplishing what we set out to accomplish which was to take the court out to the community and people in the community.

CHIEF JUDGE MYERS: Absolutely, and I think that when we get a chance to talk about our top ten, all right, the ten most listened to podcasts over the year, I think you're going to see an interesting blend really of those things that have attracted the attention of our listeners. And it's fascinating to me that they weave in and out of those topics we've talked about but also things like pop culture, human interest, that idea of generational differences between judges. All of those things have woven their way up to the top ten.

JUDGE LAUTEN: Okay, good.

CHIEF JUDGE MYERS: Number one, without question, and really an impactful series was the three-part series concerning the Provenzano shootings, The Shooter, the Victims, and The Aftermath. And tell us – just tell us a little bit about how that came about and really for you the highlights maybe of that process.

JUDGE LAUTEN: Well, I think that that was Karen and Matt's idea so they brought it to me. You know, I think it was close to an anniversary date for the shooting. It was very personal to me. I had a run-in with Thomas Provenzano. I escorted him out of the State Attorney's Office when I was a young prosecutor, when he wanted to use our law library the Wednesday before Thanksgiving and we were closed. And I was the only lawyer on the floor and the staff member at the front desk said, will you come out and help me, and I escorted him

out. He came and watched me try three or four cases in a row, then he kind of disappeared. And then, three months later the shooting happened and it was him. So I had met him, I had actually touched him, I laid my hand on his arm and said, come on, you got to leave. And I knew Arnie Wilkerson, the deputy who was shot and killed immediately and I knew the other two deputies. So it was very personal. And then – so in that sense very interesting and very personal for me, but then – and this wasn't my idea, I give full credit to the staff, but then this sort of break-down of how to do it, you know, the day before the shooting, what was the court system like right before the event. Then let's talk about this dramatic, horrible, tragic event, but was interesting because of all of that drama, and then what's the court like afterwards, just was – it's a fascinating concept that I again give credit to the staff for kind of breaking it up that way and then I heard, you know, I heard it was very successful. So that's intriguing to me that it's number one. And I can see why it would be number one because it's almost like a movie, Don. It's like a movie in words of what happened.

CHIEF JUDGE MYERS: And it was number one even before we made the decision to replay it again. That's how successful it's been. That's actually been aired twice and we – I think we re-recorded some introductions to the pieces when we replayed it most recently. But I think the personal connection that you had with the event and that the guests that you spoke with during the course of that all really brought that story to life in words.

JUDGE LAUTEN: Yeah, it was powerful.

CHIEF JUDGE MYERS: Well, it's been – it's a marker in our community.

JUDGE LAUTEN: Yeah, in our system it was life before the shooting and then life after the shooting. I'm sure for some of our listeners, I think now it's going to be life before the COVID virus, life after the COVID virus so it's that kind of event.

CHIEF JUDGE MYERS: Yeah, very significant opportunity and one of those pieces I think that really opened the doors to the insider view I think of the impact of that type of an event here in the courthouse, so pretty significant. Number two, Love, Jewett Style.

JUDGE LAUTEN: Of course.

CHIEF JUDGE MYERS: No, why of course? Why do you say that?

JUDGE LAUTEN: Well, I think the Kest's should be a little jealous because we interviewed John and Sally Kest who are, you know, one of our married coupled judges and then we interviewed the Jewett's, but you know, you put Steve and Evellen Jewett together in front of a mike and you never know what you're going to get. And so some of the stories were hysterical, of course. You and I know Judge Steven Jewett famously for forgetting to thank his wife at his first investiture. Thanked everybody in his campaign but her and as a result to make amends he bought her a new car and a very nice car.

CHIEF JUDGE MYERS: A very nice car.

JUDGE LAUTEN: That's called the Jewett proviso now, you better thank your spouse, but, you know he has that kind of personality so the two of them were both so forthcoming, you know, and it was almost like, hold on, let him speak, hold on, let her speak, hold on – and you know, they were just so engaging. Love, Jewett Style is perfect.

CHIEF JUDGE MYERS: Yeah, that's great. We have a new married couple of judges in the courthouse. We have two circuit judges, John and Denise Beemer who are with us now.

JUDGE LAUTEN: Here we go, Love, Beemer Style.

CHIEF JUDGE MYERS: I'm excited to do –

JUDGE LAUTEN: People might think it's about a car.

CHIEF JUDGE MYERS: Well, I'm excited for the chance to interview them and I'm hopeful that we can move the Jewett's on down out of the top ten by getting the Beemer's up there.

JUDGE LAUTEN: I'm sure Steve Jewett and Evelyn are very thrilled to be in the top five of the podcasts, you know, listening public.

CHIEF JUDGE MYERS: Well, it's so interesting, the contrast though between the number one and the number two.

JUDGE LAUTEN: That's true. From the – not the sublimed to the ridiculous but the very serious to the less serious. But that accomplishes some of the goals that you mentioned, like we want to personalize our judges. We also want to talk about important events. One thing, just going back to that for a moment, you know, one rule we set down very early is, I remember saying to Matt and Karen, I'm going to pull the plug on this if I think it gets either sensationalized or frivolous. You know, because I don't – never wanted to demean the court system. I worked a quarter of my life – adult life in it and I respect tremendously the court system, so I never wanted to demean it or make it frivolous and I think if it became sensational,

frivolous that we would, but it didn't. And then, the feedback we got from the public was, this is great; I can't believe you guys are doing this.

CHIEF JUDGE MYERS: Yeah, it's really been an incredibly positive experience and without a doubt it requires a mix I think of things that are a little more substantive and heavy and those that are a little more of a glimpse into the life of types of things that aren't quite as heavy and have some levity and lightness to them. And I think the Jewett's successfully accomplished that.

JUDGE LAUTEN: Well, I know one on the list and I know you're probably working to it. One of my favorite ones early on was, I interviewed Judge Mark Blechman and what we interviewed him about was his climbing Mount Kilimanjaro. So it wasn't like a day in the life of Judge Blechman on the bench, it was this – it was this adventure that he undertook. He was a lawyer at the time so he was raising funds in honor of one of our judges who was battling cancer. And then his story was just so engaging about climbing Mount Kilimanjaro so that in and of itself was fascinating. But the other thing that was fascinating was, I just asked him one simple question, how do you train to climb Mount Kilimanjaro when you're in Orlando, Florida, one of the flattest places on the earth. And then when he explained, I would hike up and down staircases in tall buildings, I'd go out to Mount Dora and put a hundred pound pack on my back and walk up a couple of hills in Mount Dora. You know, it was just fascinating. And then the whole experience of the climb was – and he was so engaging. And so I think that personalized Judge Blechman, Mark Blechman and it was just an easy one to do. He was very easy to interview. Great story.

CHIEF JUDGE MYERS: Number six on the list.

JUDGE LAUTEN: Number six, great.

CHIEF JUDGE MYERS: Absolutely. Well, so number three, book ending now the Jewett – the Love, Jewett Style with the Provenzano shooting on one side and on number three, History in the Grove, your conversation with Gilbert King.

JUDGE LAUTEN: Yeah, that is another one that – I'm glad to see it's on the list. And it was very meaningful to me because I got to know Gilbert King when I was chair of Conference of Education for the Circuit Conference of Judges, and decided that at a summer conference for the plenary session, which is the general session of all the circuit judges, that it was time for us to talk about racism in the court system. And we had talked about it before, and one issue is, I don't -- I felt that the public didn't know that we talk about biases, implicit biases, explicit biases, racial justice, social justice. But I met Gilbert King when I invited him to talk to all of the circuit judges and it was a gamble because he was a Pulitzer Prize-winning author, but some authors are deadly speakers and some are completely engaging. I mean, his book was fascinating but had never heard him speak, and I thought he could bomb in front of 500 people for almost two hours. And he was the exact opposite. He was so engaging. And so we became pretty good friends because we spent hours together on the phone talking about what the conference was like. And then that evening he came up to the hotel kind of suite that the Ninth Circuit had and there were a number of the judges who were there, and the Chief Justice stopped by and Justice Perry stopped by and then Gilbert King stopped by. And so we talked that evening for hours, and you know, I asked him, how did you get your book published, what's it like to write a Pulitzer Prize-winning book, how do you find out that you're the Pulitzer Prize-winner. And you know he's just engaging. And so he was writing another book, Beneath a Ruthless Sun, and he was here I think publicizing it at that point and I knew that and I said, can

we do a Podcast and he said absolutely. And he's such an engaging guy and then the story of the Devil in the Grove about the trial in quotes of "The Groveland Four" and racist sheriff Willis McCall and what people -- until you read the book you don't realize, you know, Justice Thurgood Marshall as a lawyer came down and tried the case. Just, that book, I see why it won the Pulitzer Prize, fascinating story, real life in a neighboring county and so he was -- he's a little bit of a, you know, I don't if I'd say personal hero, but he porches' that for me. And so he -- and he was easy to talk to, you know, you ask him a question and he'd just run with it so he was great. So I'm glad to see that's on the list.

CHIEF JUDGE MYERS: It's always great to have a guest that's easy to talk to.

JUDGE LAUTEN: That's true. Sometimes it's like pulling teeth, right, Chief. Every now and then, you think this is going to be easy and it was like, I think going to the dentist would have been easier than this.

CHIEF JUDGE MYERS: The good news is none of the top ten were those podcasts -- I really -- it plays itself out in real life as well. No, these were all great guests and so the number four on our top ten list is a podcast I had the privilege of doing with Mark Lanterman who is a leading expert in cybersecurity, computer forensics. He has done some work with the federal marshals and the federal court system, and really a fascinating sort of look into the dark web, things that we in the courthouse need to be concerned about, a real conversation about a colleague of ours in Texas who was the victim of a shooting by a criminal defendant that appeared in her courtroom. And so some real fascinating information, but I walked away with something I'll always remember that, you know, every time we accept a convenience of technology, we give up a little bit of our security.

JUDGE LAUTEN: Interesting.

CHIEF JUDGE MYERS: And it was a real helpful perspective, I think, on the decision-making process as we talk about the adoption of more and more technology inside of the courthouse.

JUDGE LAUTEN: And Judge, do you think that that podcast helped the public understand that, you know, while we love the job we're doing, as judges, there are always security risks? We're always disappointing somebody when it's a two-party contest.

CHIEF JUDGE MYERS: Half the people that walk out of the courtroom are unhappy or could be unhappy.

JUDGE LAUTEN: Right.

CHIEF JUDGE MYERS: So yes, I think it was a very real life look at the challenges of knowing about those security things and how so many judges candidly take for granted I think the idea of security. We're surrounded by some really great folks with the sheriff's office who have committed themselves to ensuring our safety in this building. But the minute we leave, we're on our own.

JUDGE LAUTEN: Right.

CHIEF JUDGE MYERS: And we fall into habits. We do things the same way, and we are ultimately very vulnerable because of that, and I think some of the real life stories that he shared with us put that on display. And I think it brings in awareness for us as well as for the community that when we're called upon to make the difficult kind of decisions that we have to make, it puts us at risk.

JUDGE LAUTEN: It's interesting that the Provenzano shooting which was us really when we should have taken security a lot more serious in the building that we were in and then this on the same top ten list tie together pretty well, different but tie hand in hand so that's great. So what was the next one?

CHIEF JUDGE MYERS: Judges on Film, number five.

JUDGE LAUTEN: I forgot about that one.

CHIEF JUDGE MYERS: With Judge Egan and Judge Marques.

JUDGE LAUTEN: First of all, just put the two of them in front of a mike and let it go, but yeah that was another concept I think of staff – I didn't come up with it, but it was a blast to prepare for because we sort of created a list. And so we had this lengthy list of films about lawyers or courts or judges, and then we had to decide who we were going to have as panelists, and we settled on those two. And that was just so much fun. I think we – did we videotape that too because we played clips sometimes of films and then we went through this little test of, you know, who can name that film fastest. Judge Marques always won that one. That was a lot of fun. What was the title of it, was it Judges on Film?

CHIEF JUDGE MYERS: Judges on Film.

JUDGE LAUTEN: Judges on Film.

CHIEF JUDGE MYERS: Yeah, it was – you talked about a lot of legal movies, and that's always interesting for us as lawyers and judges because we use those movies as illustrations frequently teaching points, opportunities to springboard conversation about evidence or courtroom procedures.

JUDGE LAUTEN: Yeah, or at home, I always say to my wife, like on Law and Order when they're walking down the hall with a judge in a robe and no court reporter hearing a motion to suppress, going that would never happen in any court in America. So sometimes in films you have tell the public that's crazy. But then there are other films that are so realistic, like you got it, you must have had some advisors. Anyway, that was a lot of fun to do, that one.

CHIEF JUDGE MYERS: Yes, we talked about number six, Climbing Kilimanjaro with Judge Blechman.

JUDGE LAUTEN: Yeah, that's fun.

CHIEF JUDGE MYERS: Number 7, a Labor Day special that you did, Before They Were Judges.

JUDGE LAUTEN: Oh, that was fun too.

CHIEF JUDGE MYERS: Yeah, so you had a whole crew of judges from the circuit and spoke with them about what they learned – what they did before they were judges and what they learned from those experiences.

JUDGE LAUTEN: Yeah. As I know you know this, I think that that was very helpful for the public, to say look at this group of, you know, who are all wearing black robes, and look at the difference in their backgrounds and their different life experiences, you know, their different employment opportunities, and their different paths from they used to do this, and you know, now they're, you know, wearing a robe and hearing cases. And I hope that, in part, that communicated that we're a diverse group, that we are all not cut from the same cloth, that we bring different perspectives to the job. And I think that that's valuable, highly valuable to our community. As you know, we're one of the more gender-balanced circuits in the state. We have

as many women as we have men who are judges. When I was chief, I would talk openly in the community about we're not quite as balanced as we – as the community is about racial balance on the court, and ethnic balance, but I think it's important that the community know that we're a diverse group of people. We don't all think the same. We have different life experiences. And I've heard you say it so I know you believe it, when we get together as a group and talk it's great that someone has a different experience from ours because sometimes they shed light on our decision-making and it really helps inform us and helps us make a better decision. So that wasn't really what that was about in a sense, but the underlying message was, here's who we are and we're not all the same.

CHIEF JUDGE MYERS: Right, and you know, I think it's so important for the public to understand that we talk about judging as an art. It would be easy to say, well, judge look it up in the statute, look it up in the case law, there's your answer, but frequently the answers aren't there. And we're called upon to make decisions, for example, in the best interest of the child. --

JUDGE LAUTEN: Right.

CHIEF JUDGE MYERS: -- in a family proceeding. And that's not written in the books. That's dependent largely on view of testimony and the evidence that's received, and candidly to some degree, the experience of a judge.

JUDGE LAUTEN: This didn't make the list but we did a podcast I remember about artificial intelligence. And the speaker talked about how in the predictable future we might replace judges with computers where you just dump in data and the computer will decide the case. And I just finished watching season three of Westworld, by the way was terrifying about computers running the world. But I remember doing that podcast and thinking, I don't want the human element to be taken out of judging. I don't want a computer – because like you say, how

does a computer decide what's in the best interest of a child. I mean, you can put a lot of data into it but at some point in time, all those human dynamics are important so that's interesting that you said that and we did – we did this sort of scar – a little bit of a scary podcast about, you know, artificial intelligence in the future of the courts.

CHIEF JUDGE MYERS: Well, I attended the court technology conference last year and the speaker there, I think they're continuing obviously to watch the accuracy levels of that artificial intelligence to determine how close is it going to get. And they now have technology that can predict the outcome of patent litigation, more than 90 percent of the time accurate with no understanding of the law. Law is not one of the factors that is inputted into the program.

JUDGE LAUTEN: That's fascinating. They're predicting how judges will decide –

CHIEF JUDGE MYERS: How judges will decide.

JUDGE LAUTEN: The trial judges and the appellate judges?

CHIEF JUDGE MYERS: Yes.

JUDGE LAUTEN: By the way, today I listened to your interview of federal judge Skip Dalton. And you know that patent case that he talked about intrigued me. So – so a computer might be able to have predicted or could predict how Judge Dalton would rule and then how the appellate court would rule –

CHIEF JUDGE MYERS: Outcome, exactly.

JUDGE LAUTEN: Wow. Wow, fascinating because I know like a multi-million verdict was entered and he set it aside, that's pretty bold and then he was affirmed. Yeah, interesting, fascinating.

CHIEF JUDGE MYERS: Yes. Autonomous Vehicles, number eight.

JUDGE LAUTEN: I love that. You did that one and I loved listening to that.

CHIEF JUDGE MYERS: I did. It was fascinating. Judge Tiras from Nevada, who's got some background and experience in those issues, and what an incredible look into the future about the impact of technology that exists today and it's really just a matter of time.

JUDGE LAUTEN: Exactly. Right. Well, I was intrigued because it's not court technology, it's not like – this is not technology designed for the courthouse. This is technology in the marketplace and then your conversation with him about how it's going to impact the courthouse. My wife, who's done – touched on urban planning a little bit. She's not an urban planner but she's, you know, involved in the community. I told her about this and so she listened to it and she said, you know, she's worked with the Department of Transportation and they're kind of coming up with fifty-year road plans. And I said, you can't come up with fifty-year road plans after listening to that podcast because we don't – there won't be people driving cars in fifty years. They'll be all automated –

CHIEF JUDGE MYERS: And you won't need the capacity.

JUDGE LAUTEN: And you won't need the capacity as he pointed out. It was – that was a fascinating – I'm glad that made the list because that was fascinating.

CHIEF JUDGE MYERS: Yeah, very enjoyable.

JUDGE LAUTEN: You know, Tesla has cars now, little, you drive – automated drivers – automated systems.

CHIEF JUDGE MYERS: Absolutely. And not just Tesla. There are others as well, and I appreciated his insight that when the federal government gets involved and decides to create standards, they may very well accelerate the adoption that technology beyond what we might otherwise see it play out.

JUDGE LAUTEN: And I was intrigued by, you know it's that sort of destructive – what's that word in –

CHIEF JUDGE MYERS: Disruptive technology.

JUDGE LAUTEN: Disruptive technology. But the sort of economic destruction in creation, so I don't mean to pick on any particular firm, but personal injury law firms that are driven by automobile accidents, you think those really might just go away.

CHIEF JUDGE MYERS: To be perhaps replaced though by lawsuits involving the technology that's responsible for feeding into those cars.

JUDGE LAUTEN: Right.

CHIEF JUDGE MYERS: So if we depend, for example, on an internet coverage that allows a car to receive and send data as to location and speed, and all of those things, and the system fails, then they're going to be questions about the system and the designers and –

JUDGE LAUTEN: That'll be – that'll be the PI lawsuit dream.

CHIEF JUDGE MYERS: Absolutely.

JUDGE LAUTEN: Have you watched Westworld? Are you a Westworld –

CHIEF JUDGE MYERS: I have not, no.

JUDGE LAUTEN: In season three, there's lots of autonomous vehicles moving around.

CHIEF JUDGE MYERS: Number 9, Judging by Generations, and this was the fun podcast I got to do with Judge Weiss and Judge Beemer. Just talking about the different ways that we see the world and interact with it.

JUDGE LAUTEN: Fascinating.

CHIEF JUDGE MYERS: And it has played itself out interestingly in the courtroom during this time as well. We're recording this podcast in the midst of the COVID-19 virus pandemic, so there's been mass adoption of technology across the board. And to see the levels of interaction and comfortable interaction with that technology by our judges and their age ranges is not entirely consistent. We have some judges who I think are boomers who are doing great, love it. They are early adopters, some of them, and it may be a perspective that they appreciate the value. And we have some Xers and some millennials who are struggling a little bit.

JUDGE LAUTEN: So I've read – there was an interesting article in the Sunday Times last week about millennials now lecturing their parents who are boomers about the importance of the virus, and staying isolated. But the Times – New York Times article said that that's sort of a misnomer that baby boomers are taking it as serious, if not more serious than millennials so sometimes there's sort of misperceptions or, you know, broad conclusions that are drawn. But I found that whole thing fascinating. You know, if I can go back to the beginning for a moment, when I went out to the conference in Palo Alto, they talked about sort of a hearing on a computer, you know, where no one was in the courthouse and I thought, that's a couple of decades away. And I guess I went to that not quite – when was it, 2014 so six years ago but

now, Zoom, it is Zoom. They didn't call it Zoom then. The Zoom there was Legal Zoom, which was like hiring a lawyer over the internet.

CHIEF JUDGE MYERS: And Legal Forms –

JUDGE LAUTEN: And Legal Forms. But now you conduct these hearings where they're not in the buildings.

CHIEF JUDGE MYERS: We have judges, as we are sitting here today, who are conducting hearings and not present in the courthouse.

JUDGE LAUTEN: And some of them have health issues. We're not going to disclose any identities, but you know they have to be very careful. It's fascinating that they can continue to do their job so that's a good thing. But they do it through technology and so that – yeah, that whole podcast was fascinating.

CHIEF JUDGE MYERS: Well, it's a testament too to the – I think the willingness of our Bar to adopt and adapt to technology as well, that we have been as successful as we have. I'm so impressed with the ingenuity, the creativity, and the work ethic of my colleagues through this time as they adapt to the technology and do everything they can to figure out effective ways to make decisions. Lawyers weren't prepared to shut down when the virus happened. And it was necessary for them to have the opportunity to get issues decided and the courts here locally have responded really well.

JUDGE LAUTEN: Well, I listened to your podcast about the pandemic. You know, one of the points you made so strongly was, you know, the court system can't shut down completely. Even if we wanted to, even if we said, let's shut it, you just cannot shut down an American court system because there are daily hearings like someone gets arrested, they have the right to see a

judge the next day. And there are people who are sitting in jail who should have a bond hearing even in a pandemic, and so – there – domestic violence injunctions, you pointed them all out. We've got to do all of these things. Now, maybe we can't bring jurors into the building, but we have to function as a court system. So thank God we had tech – what would we do. What would we do if we didn't have this technology? I don't know how we'd be dealing with all this.

CHIEF JUDGE MYERS: Well, I'd love to go back sometime and evaluate what the courts did in 1918.

JUDGE LAUTEN: 1918, right.

CHIEF JUDGE MYERS: During the Spanish flu. I think that would be fascinating. Number ten episode, early on for you was From Havana to Tallahassee with Justice Labarga.

JUDGE LAUTEN: Yeah, that was among the first, maybe it was the first. It was the first, thanks, Jeff. You know, so we're out there, we're kind of in the wilderness, going what are we doing and what should we start with and we decided, you know, that it would be kind of sublime to have our first podcast with the Chief Justice of the Florida Supreme Court so Justice Labarga was sitting as Chief Justice. We thought how are we going to do this. We didn't want to do it over the phone. He was so busy, we thought coming here to the circuit, every now and then he does, but, you know, we weren't sure how far out that would be. We talked about going up to Tallahassee, like we'd go to the Supreme Court and do it. But coincidentally, was very close in time to our summer conference where we would all be together as judges for education and business meetings. And so we did it in a hotel room, we just set up the mikes, and it was like, this is wild but I mean, I teasingly refer to this because Justice Labarga, he's a great friend and he's so easy to talk to. You know him. And so I like asked him three questions and boom,

we were off to the races. But his story was so compelling. You know, his father's friends were shot and killed. He fled Cuba. He fled dictatorship and repression, and he came to the United States and he didn't speak the language. And you know, fast forward, you know, into his adult life hood and he ends up as Chief Justice of the Florida Supreme Court. So that was another one that was pretty easy to do. He's not shy. But that's good in an interviewer. You don't want to be pulling teeth. And then I just thought it turned out even better than I think we thought it would. We thought – we weren't sure what it would turn out to be. But his personal story was so compelling that I think – I'm glad it made the list. We also did one with Justice Pariente, not about her ruling from the Supreme Court, not about her law practice but about her very personal battle with breast cancer. And she was completely open and forthcoming about it and I thought that it was a great public service for her to kind of remove some of that stigma and talk about, here's what I experienced as a sitting Justice. So those two are really pretty good. We did one with Justice Canady. I'm sure you're going to do them with Justices on the court, but the first one with Justice Labarga kind of set the stage.

CHIEF JUDGE MYERS: Well, we're running out. We need two new appointments.

JUDGE LAUTEN: That's right.

CHIEF JUDGE MYERS: Give us some new folks to interview.

JUDGE LAUTEN: You'll get to do those.

CHIEF JUDGE MYERS: I may have the chance to get to do those. I'll look forward to that.

JUDGE LAUTEN: Yeah, I encourage you, you know, to do as many of the Justices – but they have – I think they might have their own podcasts now, but I think, for some reason I think

our setting is a little easier for you to sit down with a Justice and say, you know – and it doesn't have to be like, how does it feel to rule, just sort of what's your personal story? How did you get to be where you are and the path that you took – they all have fascinating stories. And fortunately, now we have one of our former – we've interviewed him, but we have a former trial judge, Justice Lawson, who is on the court so we're very honored.

CHIEF JUDGE MYERS: Who you've interviewed once or twice perhaps, I think.

JUDGE LAUTEN: He's been in a couple of panels. He – you know, this isn't on the script, but Justice Lawson takes a group to Ecuador, where – Honduras, Honduras to build houses during the summer. And he doesn't want – he doesn't do that for publicity and he almost doesn't want the publicity, but a group of our judges went with him and helped build houses for underprivileged residents of Honduras. And it's such a personal story, so we did one where Justice Lawson was on the panel along with everybody else. That was Steve Jewett, Mark Blechman, Lisa Munyon and who else. I remember those names. I know there were a few more and I'm sorry, I'm forgetting. And then we did one just about him being on the court.

CHIEF JUDGE MYERS: Yeah, great ones. So we've been through our top ten. Is there one that you think that should have been there in your reflection on those that you've done?

JUDGE LAUTEN: Well, no, I think that's a great list. And I'm happy – I had one or two others that were fun to do, but you know, then it might be the top twenty or top twenty-five. The interesting -- and we're not going to call them out, but honestly there were one or two flops. Like I brought someone in and I thought this is going to be an intriguing story and it was like holy smokes, you know, just was like pulling teeth. And it just didn't flow and I thought it was going to go – and I take – I take responsibility for that more than our guest. But every now and

then if you get someone who's kind of really shy in front of a microphone or maybe a little introverted and you know, they don't quite understand, it's like I want you to talk to me, I don't want to do all the talking. So there were one or two, afterwards I was sweating at the end, I'm like holy smokes. But most of them have been a blast.

CHIEF JUDGE MYERS: So I've had this experience as a host and I'm sure you experienced it as well, you walk out of the podcast and you think I should have asked –

JUDGE LAUTEN: Right, that's right.

CHIEF JUDGE MYERS: I missed an opportunity.

JUDGE LAUTEN: Well, that's interesting but the worst feeling is when you walk out and go, oh my God, why did I ask that question? I'm in trouble on that one.

CHIEF JUDGE MYERS: Or you ask the great question –

JUDGE LAUTEN: And you get nothing.

CHIEF JUDGE MYERS: And you get nothing, right, yeah.

JUDGE LAUTEN: Well, and I'll share this with you too. I think we only edited out one podcast where we had someone make a statement and we went, there is no way we can air that. We cannot put that out in the airways and I'm going to let our guests be mystified by what it was about but it was a statement and went, nope, we're not putting that out. But when you think, you know, we've done a hundred and we've only done that one time, you know, I think that speaks volumes for it. So I imagine you feel the same way I do. Doing podcasts, as a chief judge was a blast. A lot of what you do on a daily basis is not so much fun, you know. You're dealing with those issues that only the chief executive officer can resolve. If they were easy to resolve,

someone along the way would have resolved them in their department or in the structure of the court system. So you know, there's a lot of tough decisions that I know you are faced with every day that you really have to struggle with to try to come up – doing podcasts was just fun. And so you know, I want to maybe end where we started. I want to give credit to the staff here --

CHIEF JUDGE MYERS: One hundred percent.

JUDGE LAUTEN: -- to Matt, Karen, Julio, and Rob, Jeff, gosh I hope I'm not leaving anybody out. Frannie, who wasn't here in the beginning when we started but then she came on board. Maybe I can disclose a little secret to the public. You tell me if I shouldn't, but Frannie helps prepare sort of an outline or if not a script so that we have something to work off. I almost always abandoned the script for one reason or another, but that was in part because once you start interviewing someone, they take you down paths that you never even thought you've gone, but they're fascinating side note, you know, paths to go on. But yeah, the staff really gets a lot of credit because this – this idea pretty much started with them and then the implementation of the idea was really their doing. And so I'm glad that it's successful and I really give them all the credit. One thing, Don, at first, it was like, I'm not going to do these. I'll do one and then we'll just turn it over. The problem was, I did the first one, I had so much fun, I went, there's no way I'm giving this to somebody else.

CHIEF JUDGE MYERS: Well, I think that is a great place for us to wrap up. You're absolutely correct that the staff deserves so much credit for what gets accomplished during these podcasts. When I was early on in my role as chief, we spent some time locked together in a room just brainstorming about topics, about approaches, about the value, asking – re-asking, really a lot of the questions I think that were asked from the inception of the podcasts. And I'm so grateful for their input. They care about this. And so they – they really invest, I think, a lot of

themselves into the ultimate work product. The tech piece is so well done. I know we are the envy of circuits across the country for the things we can accomplish with the people that we have and I'm just very, very grateful to be in this place of getting to take the microphone and to put on display what is really the work product of all the people that work in the background. So I do want to say thank you.

JUDGE LAUTEN: I've said it privately but this does give me an opportunity to say it publicly, I think you're doing a great job as chief. I know how hard the job is. There's only about three people in Central Florida who – or maybe, no, I forget, there's a couple more. There's four or five, Judge Thompson, Judge Perry, me, you, Judge Stroker who's – I don't think he's in Central Florida so much, who really can fully appreciate how hard the job is and you're doing a great job and I'm happy you're continuing to do podcasts. They're great. I really look forward to listening to them.

CHIEF JUDGE MYERS: Well, thank you so much for being with us today and the chance to recap a hundred episodes. Thanks so much, Fred.

JUDGE LAUTEN: You're welcome.

NARRATOR: You've been listening to "Open Ninth: Conversations Beyond the Courtroom" brought to you by Chief Judge Donald A. Myers, Jr. and the Ninth Judicial Circuit Court of Florida. For more information about the Ninth Judicial Circuit Court, follow us on Twitter, Facebook, Instagram and LinkedIn.

(Music)