

OPEN NINTH:
CONVERSATIONS BEYOND THE COURTROOM
THE INNOVATION IMPERATIVE
EPISODE 3
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HOSTED BY: FREDERICK J. LAUTEN

(Music.)

>> Welcome to Episode 3 of "Open Ninth: Conversations Beyond the Courtroom" in the Ninth Judicial Circuit Court of Florida.

And now here's your host, Chief Judge Frederick J. Lauten.

>> **JUDGE LAUTEN:** We're here today with Mark Britton, the CEO of AVVO.

Mark, welcome. Great to have you.

>> **MARK BRITTON:** Thank you, Judge. I appreciate it.

>> **JUDGE LAUTEN:** So from Montana to Gonzaga University to George Washington Law School, how did you get from there to the CEO of AVVO?

>> **MARK BRITTON:** Wow. Well, it's a bit of a zigzag, but I'll try to keep it as truncated as possible.

So I always had a tremendous love for that intersection of business and law, but -- you know, I grew up western Montana where that old adage of be a doctor or a lawyer, and my brother was the doctor, so I became a lawyer. And interestingly, my sister became a teacher. So we kind of hit all the core --

>> **JUDGE LAUTEN:** Right.

>> **MARK BRITTON:** -- professions growing up.

So I, you know, really -- going to Gonzaga, it's a

fairly common place for Montanans to go, and it was only three hours from my hometown, so it felt kind of like going to a local school.

And then I wanted to go to the east coast and experience that for a while, and so I went out there for eight years. Went out to GW for law school and then practiced both in a private law firm, and then I was a regulator at the Securities and Exchange Commission for --

>> JUDGE LAUTEN: How long were you at the SEC?

>> MARK BRITTON: Three years, which is kind of the standard stint you do if you're planning to move on.

>> JUDGE LAUTEN: And what area did you work in for the SEC?

>> MARK BRITTON: In the division for corporation finance. I actually clerked in the division of enforcement, and I loved them both.

But, again, if you really want to do that intersection of business and law, corp fin as they call it, that's where you end up because you're dealing with a lot of really technical financial issues that law firms will pay for. They're excited to have people who have seen really complex financial issues, financial transactions that -- well, they can deliver to their clients.

>> JUDGE LAUTEN: Great. Where did you head out after your stint at SEC?

>> MARK BRITTON: So it's pretty common that after you work in the SEC, you go to work with one of the firms you interacted with during the many mergers and acquisitions or the many types of transactions.

So I was focused on going to San Francisco or Portland or Seattle, really looking to get back to the west coast. And Preston Gates, Bill Gates' dad's law firm, I had helped them on a very large transaction that was actually quite a complex spinoff, and I called the partner that I worked with and really liked and said, hey, I'm thinking about leaving and they put me on a plane, and suddenly I was working for Preston Gates, which is now K&L Gates. They merged with Kirkpatrick and Lockhart.

>> JUDGE LAUTEN: How long were you with Preston and Gates?

>> MARK BRITTON: It was actually a short time. It was three years. I became a partner, and I wasn't planning on leaving. That was really my golden ring. I was an equity partner. I was so excited. Surely everything I'd work for.

And -- but sure enough, one of my clients being Microsoft -- and you can imagine being Bill Gates' dad's firm, we did a lot of Microsoft work, one of my clients came and said, listen, we are -- we're in the process of building out this Microsoft travel, and we're going to spin it out of Microsoft. Would you come be our first general counsel? It

was just an offer I couldn't refuse. And that became Expedia.

>> **JUDGE LAUTEN:** That's pretty exciting.

Now, three years to partner, that sounds like a pretty fast partnership track. Is that typical?

>> **MARK BRITTON:** Well, I was -- I think at that point I was eight years out, so I think it was a lateral. I'd done okay. But I felt ready. I felt like I had a client base to do it.

>> **JUDGE LAUTEN:** So general counsel to Expedia, was that predominantly practicing law or business strategy or a little bit of both? What was it?

>> **MARK BRITTON:** That was the eye-opener. And really when I landed at Expedia, I think it was the first time where I said to myself, wow, this is what I was kind of meant to do. Because -- first of all, it's just shocking for people who go in house. Because in law firms, you're the revenue-generating asset, and everything revolves around you.

You go into a company and you, for the most part, are simply an expense -- or at least you're viewed by the product people, by the engineers, as an expense, unless you can inspire them regarding the value that you can deliver as a lawyer.

And so there's actually a lesson in there. I give a lot of talks to general counsel groups, and that's one of the

things I tell them about. It's kind of a self-fulfilling prophecy. You will succeed as a general counsel if you inspire and help them understand the value of the law in order to be strategic. But if you just sit in your office and say no a lot, well, then you'll probably get the mushroom treatment.

And so you have to -- you have to figure out how to navigate those waters while still being the -- kind of a watchdog. You have to be the ethical heart of the organization in a lot of ways.

>> JUDGE LAUTEN: How challenging was it to convince businesspeople of the value of law at Expedia -- or in any company for that matter?

>> MARK BRITTON: Well, I had a little bit of a head start because this is after three years of antitrust litigation at Microsoft, so I think they'd woken up a little bit, that, hey, maybe listening to the lawyers and having a presence in Washington, D.C., those things are valuable. And that played really well into my experience.

But also, you know, the -- I had a boss, Rich Barton, who I continue to work with to this day. He's on the board of directors of AVVO. He started Zillow. He started the company Glassdoor. He's truly the classic serial entrepreneur.

He and I hit it off from a very -- we were the same age,

so I was a public company general counsel at 32.

>> **JUDGE LAUTEN:** Wow.

>> **MARK BRITTON:** He was a public company CEO at 32, so we kind of felt like we were in this boat together.

The whole senior team at Expedia was very young.

But he gave me the reins in a lot of areas. For example, building out a government affairs office in Washington, D.C., where we were able to battle against the airlines, battle against the computer reservation systems, a lot of things where if we truly were going to innovate the way that we saw, the way that we could help the customer, the travel consumer, we were going to have to blow up some of the old infrastructure.

So, you know, I think I inspired him to say I can see a way that I can help in D.C. to get that done. And I think we had a strong enough relationship, both with me being his outside counsel and then being his general counsel, for him to say, okay, I'll fund this and support you to do this.

>> **JUDGE LAUTEN:** Is it as exciting as I imagine it is or it sounds to be with a start-up company and get all of that off the ground and address all of those issues?

>> **MARK BRITTON:** It is exhilarating and harrowing all at the same time.

So both with Expedia and AVVO, I have now lived this twice. And it is -- you know, Expedia was the rocket ride of

all rocket rides. I mean, we grew to the largest online travel company, now the largest travel company in the world, in just five years.

>> **JUDGE LAUTEN:** Right.

>> **MARK BRITTON:** And it was growth that -- I didn't even -- it's probably good that I was so young because I just didn't even appreciate what I was doing other than working a lot.

But I think what is wonderful about it is you are cutting things from whole cloth. It is so exciting to say, no one's done this before. This is my idea and how we can accomplish this and to succeed in that is just -- I mean, it's intoxicating. It's why a lot of people get addicted to it.

But at the same time, there are some of the lowest lows in that because it's hard. If it were easy, everyone would be doing it. And even in AVVO today, I think there's this perception that AVVO is almost like this huge death star.

And, you know, we have -- there is no guarantee that Expedia would have survived. There's no guarantee that AVVO survives. Every day is a battle for us to continue to innovate and bring great things to our customers.

>> **JUDGE LAUTEN:** Well, let's talk about the transition from Expedia to AVVO. Is that a direct line? Why would you leave something so exciting as Expedia and move off into

another venture?

>> **MARK BRITTON:** So this was a bit of a zigzag as well. So we were bought out. Microsoft sold its stake in Expedia to InterActiveCorp, which is owned by Barry Diller, one of the wealthier people in the United States.

>> **JUDGE LAUTEN:** I'd say.

>> **MARK BRITTON:** And then we rolled all of the travel assets that Expedia owned and that IAC, InterActiveCorp, owned, all of that under the Expedia management. And I became the No. 2 of that rolled-up organization called InterActiveCorp Travel.

And that was interesting, but -- well, there was -- there were a couple of elements in that that a lot of the power was in New York, and I wanted to live in Seattle where Expedia and Microsoft are based.

And secondarily, after five years and three years before that -- so you're talking about eight years where I don't think I was the best husband or father, quite honestly, and so my wife, who is also a lawyer, said, you know, we need to take a break and we need to reset as a family.

And so post acquisition, I took some time off. I actually took about a year and a half off. And a year of that I spent in Italy, and I taught finance for Gonzaga, and that's where I came up with the idea for AVVO. AVVO was short for *avvocato*, which is lawyer in Italian.

>> **JUDGE LAUTEN:** I didn't know that. Did you take your whole family --

>> **MARK BRITTON:** Yeah.

>> **JUDGE LAUTEN:** -- and the whole family relocated to Italy?

>> **MARK BRITTON:** Well, the whole family at the time, and then we added one more when we came back. So I have three boys.

>> **JUDGE LAUTEN:** Tell me a little bit about that. How old are you boys?

>> **MARK BRITTON:** 15, 13 and 10. And they're all going on kind of like 25, 23 and 20.

(Laughter.)

>> **MARK BRITTON:** They are all alpha, crazy boys.

>> **JUDGE LAUTEN:** Would you encourage them to go into law?

>> **MARK BRITTON:** Sure, if their heart's in it. I mean, one of the challenges with the legal profession today is I think you have a lot of people that go in because they don't know what else to do. And I think that's one of the curses of the legal profession, that this perception that I can just go to get rich.

If you don't have a love of the law, if you don't have a love for anything, if you're pursuing just a dollar, you're gonna burn out. You're not going to be a great ambassador, a

great executor, a great innovator for that profession. And I think -- you know, my love was always in that intersection of business and law, and I feel like I nailed that straight on, and it was always wonderful.

But I did litigation for a year, and that wasn't wonderful. I did not enjoy that. But I see -- to this day, I see a lot of people in the profession who are in it not to serve the customer, not to serve the judiciary, not to serve really anything except some sort of monetary gain. And I just don't know how anyone is happy in that.

So my middle son has the best shot at being a lawyer, just how his mind works and how he speaks. And I constantly chat with all of them, but especially him. If you are going to go into the law, take the time to get to know it and how you can help your community and that's how you're going to have longevity in the law.

>> JUDGE LAUTEN: So my parents always taught me, pursue your passion or your love and the money will follow. You certainly just stated that lesson.

Did you get that from your parents? Did you learn it from your own experience or was it a little of both?

>> MARK BRITTON: I think -- you know, it's interesting. I had great parents who are such a mix. I often joke that I'm a little bit country and I'm a little bit rock n' roll.

My dad -- I grew up in the cattle business. And my dad

is multigenerational cattle ranchers and what are order buyers or think about making a market with cattle and we own stockyards.

And so watching my grandfather and watching my father do that as successful businesspeople, I just -- they absolutely loved what they did, so I probably picked that up through osmosis.

But, you know, my mom's side of the family, as well, they tended to be more on the -- they were the accountants, the doctors, the lawyers, et cetera, and they always had just such a sense of civic obligation.

And I think you kind of take that business side and you take the obligation side and it was -- I think that's really my fit. And I don't know if that avocation meets vocation, I don't know. But I feel like I sure have great underpinnings.

>> JUDGE LAUTEN: And it certainly sounds like both of your parents had tremendous work ethics that I'm sure they passed on to you.

>> MARK BRITTON: I think if -- a little bit of it is -- we'll call it the midwestern work ethic. But my grandfather is first generation Irish. You know, really in Montana, Montana is a state that's full of immigrants. Everybody that came in there originally came in mostly to mine or to farm, and -- so, yeah, I think, you know -- I lived zero to nine in Butte, Montana, which is one of the hardest-working mining

towns you'll ever see. And I think all of Butte -- I mean, all of Montana is like that.

There are not -- one of the paradoxes of Montana, for anyone who's listening that's spent time there, is a fascinating place because it is really hard to do extraordinarily well. You have either the natural resources industry of mining or farming or what have you, and those -- the people that work in those industries, it's either controlled by big corporations or it's very fragmented across a lot of small farmers.

And then the industry on the other side of that is tourism, and that is also not a place -- it's either controlled by the big corporations, or, again, out in the long-tail, small travel companies.

So you -- it's a beautiful place because you haven't had a lot of light industry, medium industry move in. You don't have big cities, and so it's -- I'm always kind of torn on Montana because I'd love to be there, but it's very hard to make a living.

So it's a great place, and --

>> **JUDGE LAUTEN:** Mark, let me take you back to -- so you're in Italy and you're teaching finance.

>> **MARK BRITTON:** Yeah.

>> **JUDGE LAUTEN:** And how did you decide to leave that, and did that take you on a direct line back to Seattle and

AVVO?

>> **MARK BRITTON:** Yeah. So I actually -- I was a little burnt out with the corporate life after InterActiveCorp, and I said I need to take this time off to reset. And I wanted to -- I actually thought I might teach. I've always loved academia. I'm on -- at that time I was not on the Gonzaga board. I am now. Since then, I've been on two lower school boards.

It's where it all starts with our kids. So I love academia. And there's a lot of curiosity there. And to your point, vocation and avocation.

However, I only needed to sit in a couple of academic meetings, and I realized I am a corporate beast. I just wanted to stand up and be like, you can't talk, you shut up, and excuse my French -- or maybe Italian -- and can we just get to the point? And it's a very different culture.

So in corporations -- and by the way, law firms don't even run this way. Law firms are very passive aggressive, at least that's what I found.

And because you have a bunch of independent contractors that were -- or a federation of independent contractors, one can unplug their practice at any time. So you get a lot of undercurrents.

You go into a company like Microsoft, people are in your face. One of Bill Gates' favorite things he would say is,

"that's the stupidest thing I have ever heard," and you get people in your face immediately.

So when I went to academia after living through that culture and the indirect conversations were happening, I said, no, I need to go back to the corporate life, and I started thinking about starting my own company as part of that.

>> JUDGE LAUTEN: So where did you get the idea for AVVO?

>> MARK BRITTON: I -- it's actually really simple. I -- in the end, it was Expedia for lawyers. But it comes from me being in Italy for a year with the Atlantic Ocean in between. And I had not practiced law for quite some time, and, yet, friends and family, educated people, were calling me in Italy asking about legal issues and hiring lawyers.

And the lightbulb just went off. I mean, nobody called me about travel. Nobody called me -- they were just -- when it comes to the legal profession, people are lost.

So I did a little bit of research and found out quite quickly that the No. 1 resource for consumers at that time was the Yellow Pages, and the Yellow Pages was making \$1.2 billion a year on lawyer advertising.

And that's all I really needed to see. I mean, that is a massively inefficient marketplace, and it's all paid advertising.

And so much of how we should be interacting with our potential customers is not through paid advertising. It's through communication and listening to them and building relationships.

And so the lightbulb went off in Italy where I just said, you know, so much of what we did in building community at Expedia, we can do that with AVVO and help people, ultimately, get the legal guidance that they need, which helps them choose the right lawyer.

>> JUDGE LAUTEN: Mark, tomorrow you're going to speak to over 400 circuit court judges in Florida about technology.

>> MARK BRITTON: Wow.

>> JUDGE LAUTEN: The court system is probably way behind the curve in technology. The legal profession may be behind it, and the court system is usually a little bit behind the legal system.

What overriding message do you want to give to judges about the courts and technology?

>> MARK BRITTON: Yeah. The -- it's hard when you are a public servant and you are getting paid public servant dollars to always be thinking about what is innovation and what is around the corner.

But we literally have an epidemic on our hands in every state in the union. I'm not talking -- I'm here talking to Florida judges tomorrow, but I've given this speech in other

states, with other groups of judges, and across -- uniformly across the country, we have consumers who are crying for help. They're saying whether I look at it as the judicial system as a whole or judges or lawyers or anyone in between, I can't -- I can't access the courts. I can't -- I can't access justice.

And all of the data that is coming in shows how the historical infrastructure for how we administer justice and resolve conflict, it's eroding. It's eroding in that the consumer is deciding that they need to go other places.

And so the challenge for judges, when they have to administer these courts and they have to be the judicial experts, the legal experts, they have to wrangle the lawyers, they have to wrangle the administrators, how do they create the space in order to -- and really, the mindset -- to drive innovation in the courts?

Because ultimately as public servants, judges serve the public and that public will vote with its feet. And I'm gonna show some examples tomorrow where the consumer is voting with its feet, and we will just continue to see erosion in the utilization of both the judiciary and lawyers as consumers go, well, I'm not getting any help, so I got to do it myself or I'm going to go to a professional alternative.

>> JUDGE LAUTEN: The suggestions that you might give to

the judges tomorrow, are they driven by dollars or can these things be accomplished regardless of financing? Or are they all tied together?

>> **MARK BRITTON:** Well, I don't think you ever escape money. To be innovative, you need a system that provides financing for that innovation. But we have this -- there's a monopoly of sorts that the lawyers have done an amazing job in saying the only ones that can really administer this whole thing is the lawyers and the judges. And I get why historically that has been the case. But it also is starting to collapse into itself in that we haven't built, as lawyers and a judiciary, a support system for innovation.

So -- I mean, think about the medical profession. You have -- you know, you can go to all sorts of schools and get medical administration degrees, business -- there's an MBA path that is very focused on hospital administration. They have think tanks. They have big private corporations that are putting a lot of R & D dollars into -- or research and development dollars into the medical profession. We don't do any of that in legal.

And if we don't start thinking as an industry that needs to innovate -- and, yes, how are we going to bring the money into this industry? I mean, Judge Lauten, you can, you know, you'll cut your \$10,000 check and all 500 judges tomorrow can cut their \$10,000 check. And, yes, we're getting there, but

that's like a drop in the bucket.

And we need a system that supports, drives innovation, drives business operational excellence and drives the technical top of the pyramid where we're actually executing and practicing the law ethically. Like, all of that needs to happen, but it starts with that support system.

And right now, the way the laws are set up, the only people that are allowed -- that must provide that -- are the judges and the lawyers.

>> JUDGE LAUTEN: Is it an oversimplification from your perspective that if we don't innovate, we could die. We could become the buggy whips of the future?

>> MARK BRITTON: I -- absolutely. It's -- it's a bit of a setup, probably, although we did not prearrange that question. I'll talk tomorrow about the innovator's dilemma, and that is where just showing -- I'll show two examples.

But if you read the book, there are multiple examples of where mainstay, iconic technologies and brands and companies, no one ever thought they would go away, and by bringing in -- by not serving the market in an adequate way -- because often they get close to monopoly power, and then they slow down, you have new entrants that come in and nibble away. And as they nibble away, they ultimately override the competitors.

So one of the examples I give tomorrow is around the transistor radio. I mean, think about -- the radio was the

core of the home and that nobody -- when transistor radios came in, nobody ever thought, you know, they were junky. They did not have -- they were low-frequency. There was a lot of static. They didn't look nice. They weren't wood paneled, but kids could take them to the beach. Workers could put them in their pocket.

And while they were of a lower quality, slowly but surely, they started to find places, little pockets, where people could use them. We started putting them in cars. And before you know it -- before you knew it, the furniture radio industry was thrown out the window. And TV came out as well.

But these are the little things that nibble away. Think of mobile phones when they first came out. They were these big bricks. And they cost a ton and you couldn't -- they -- you know, you could only call within your city and they dropped all the time. What was anybody ever going to do with those? And now today, look at my kids. Their entire life is driven through their phone. That's the innovator's dilemma.

>> JUDGE LAUTEN: And so those are all products. The court system is a system, but you believe that if it doesn't innovate, it can be like a product and face extinction if it doesn't --

>> MARK BRITTON: Thanks for pointing that out. I'm a very big believer that there is no difference between product and service. Service is just a product of a different kind.

I mean, is Apple a product or a service?

>> **JUDGE LAUTEN:** That's a great question. I'm not sure how to answer that. How would you answer that?

>> **MARK BRITTON:** I would say it's both. I just -- I think it's a red herring, quite often, when people say we provide a business process. We provide a service process, and -- but in the end, it's all about who is your target customer? What do they need? And how do you get them what they need? That thinking is all about delivering them a product, whether it comes in the form of a physical good or a service.

And by the way, as we go more to digital goods, that will blend. Because as I asked you with Apple, iTunes, for example, it's not a physical good. You can't touch it. But it is absolutely a product as much as it is a service.

>> **JUDGE LAUTEN:** Well, I do know this: I think all my colleagues understand that our consumers are the citizens of the United States who, by birthright, are entitled to justice. And I think that you're delivering the message to us tomorrow about, think about what you're doing in the future to ensure that our citizens have access to and receive justice is a significant and important message.

And I want to thank you for being here in Jacksonville, and I want to thank you for talking to us tonight. And good luck tomorrow with your presentation.

Thank you.

>> **MARK BRITTON:** Thanks, Your Honor.

>> Thank you for listening to "Open Ninth: Conversations Beyond the Courtroom" brought to you by Chief Judge Frederick J. Lauten and the Ninth Judicial Circuit Court of Florida.

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