

OPEN NINTH:
CONVERSATIONS BEYOND THE COURTROOM
THE BAR IS OPEN
EPISODE 17
FEBRUARY 20, 2017
HOSTED BY: FREDERICK J. LAUTEN

(Music.)

>> Welcome to Episode 17 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:** Good afternoon. I'm here today with Wiley Boston, who is the current president of the Orange County Bar Association and an attorney with Holland & Knight. He's board-certified in real estate, and I think other areas of practice in Florida.

And, Wiley, welcome to Conversations with the Court.

>> **WILEY BOSTON:** Thanks for having me, Judge.

>> **JUDGE LAUTEN:** So why don't you tell the listeners a little bit about yourself. Are you that rare breed, native Floridian? Are you a transplant? How did you end up in Central Florida?

>> **WILEY BOSTON:** Close to native. I moved -- well, I was born in California. My father was in the Navy and lived in Illinois for a few years but moved to Florida in 1979 to Orlando -- actually, where my parents live now, still in the Conway area. So I was eight years old when we came here.

>> **JUDGE LAUTEN:** So you certainly went to one of the high schools locally. Where did you go to high school?

>> **WILEY BOSTON:** Oak Ridge High School.

>> **JUDGE LAUTEN:** Oak Ridge. And then on to FSU from there?

>> **WILEY BOSTON:** Correct.

>> **JUDGE LAUTEN:** And after FSU, law school at Duke University?

>> **WILEY BOSTON:** Yes.

>> **JUDGE LAUTEN:** So I happen to know you're a Blue Devil, as is my son, as is one of the partners in your firm --

>> **WILEY BOSTON:** (Laughing.)

>> **JUDGE LAUTEN:** -- and we'll come back to and talk about that in a moment.

So what sparked your interest in law and law school? Any lawyers in the family? Are you the first?

>> **WILEY BOSTON:** I'm the first. My mother was a paralegal with -- she actually worked for the law firm of Rumberger Kirk for a while, and then went to the Legal Aid Society and worked there --

>> **JUDGE LAUTEN:** I didn't know that --

>> **WILEY BOSTON:** -- for a few years.

>> **JUDGE LAUTEN:** That's fascinating.

>> **WILEY BOSTON:** Yeah.

>> **JUDGE LAUTEN:** Is that what sparked your interest in the possibility of a law career?

>> **WILEY BOSTON:** It may have had something to do with

it. You know, I think -- you always want to generally gravitate towards areas where you have a competency. And my competency is based on -- classes and testing, all of it seemed to be things related to language and vocabulary, things I thought would lend themselves well to the practice of law.

>> **JUDGE LAUTEN:** So what year did you graduate from Duke?

>> **WILEY BOSTON:** 1995.

>> **JUDGE LAUTEN:** And then did you go straight to Holland & Knight from there?

>> **WILEY BOSTON:** I did not. I went first to a law firm in Daytona Beach for a couple of years, Eubank Hassell; Joe Eubank, Brad Hassell. I worked there for a couple years, and that was a great place to start practice. The pay was pretty abysmal, but the experience was priceless in terms of just being thrown into depositions and mediations and trials, everything, from the beginning.

>> **JUDGE LAUTEN:** Right.

>> **WILEY BOSTON:** A high-volume practice.

I worked for two years for a construction litigation firm in town, and then five years for Broad and Cassel. And up to that point, it was all litigation.

But about 13 or 14 years ago, I switched to Holland & Knight, and switched to primarily transactional practice at

that point.

>> JUDGE LAUTEN: And why don't you tell us what -- what do you love most about practicing law? What is the most rewarding part of your job?

>> WILEY BOSTON: It is nice -- very nice. It's rewarding to solve problems for clients. You know, litigators do that by winning a court -- a case in court. And transactional lawyers do it by bringing everybody together, finding common ground, and making a deal happen. And the clients like that on both sides of the deal. The parties like you because they're all making money on those transactions.

>> JUDGE LAUTEN: So did your experience in litigation, which I guess was in the early part of your career, do you think that that helped you when you became a transactional lawyer?

And for our listeners, transactional lawyers, why don't you tell them what that means? Because you and I know, but --

>> WILEY BOSTON: Yes. And that's a great question. The -- transactional lawyers, you know, we're not going to court, we're not litigating, generally. We are working on deal terms and contracts -- and it can be real estate transactions, buy -- purchases and sales, leases, easements; also things that don't involve real estate, purchases of

businesses, shareholder agreements.

And having the litigation background and then switching to transaction -- transactional work was -- was -- it was excellent preparation for transactional work. I think, um, a lot of lawyers working on contracts may have never had the opportunity to actually litigate the indemnity agreements that they're writing into the contracts or litigate the attorneys' fees -- fee-shifting provisions, and may not have learned some of the things that you pick up on when you actually litigate the cases.

So I didn't plan it that way, but I feel like it really prepared me very well for transactional work.

>> JUDGE LAUTEN: Right.

Well, that sounds like a full-time job. But I happen to know that in addition to that full-time endeavor, you're currently serving as the President of the Orange County Bar Association, an association of -- you correct me if I'm wrong, but -- I think 3500 members, plus or minus, that was founded in 1933.

So how much time and responsibility does it take to serve as President of the Orange County Bar and be a partner at a prestigious law firm?

>> WILEY BOSTON: The Bar work is demanding. It -- some days it takes half to three-quarters of my time, but it's only one year. It will be over in about four months. But

who's counting?

>> **JUDGE LAUTEN:** Right.

>> **WILEY BOSTON:** And it fluctuates from day to day. I mean, there are some days where I can just kind of put the Bar emails aside and focus on client work full-time.

But, I mean, it really is kind of a half-time proposition this year.

>> **JUDGE LAUTEN:** Sure. So tell our listeners a little bit about the Orange County Bar. I mean, it's a renowned statewide -- and I really think nationwide -- bar association. It stands out because of some of its requirements for participation, as well as its activities.

So this is an opportunity for you to -- I know this isn't in your nature, but I want you to brag a little bit about Orange County Bar Association and its standing in the community and what it offers to this community.

>> **WILEY BOSTON:** Well, I'm very proud to say the Orange County Bar Association is pretty much unique nationwide in having mandatory pro bono service for most of its members. And they either have to agree to take two cases per year for free for people that need assistance or pay a fee in lieu of service, which is currently \$350 per year, to benefit the Legal Aid Society of the Orange County Bar Association.

This is something that sets the OCBA apart from -- from pretty much all other bar associations. And despite having

that requirement, which is a pretty demanding requirement -- and arguably somewhat kind of onerous -- we have great participation rate with people that are Florida Bar members in Central Florida. We have roughly 50 percent penetration, which is comparable to other bar associations that don't have such demanding requirements.

>> **JUDGE LAUTEN:** So what is the membership number? Was I close to it? About how many members?

>> **WILEY BOSTON:** You were pretty much right on. It's about 3500 people.

>> **JUDGE LAUTEN:** 3500. So what skills and experiences have helped you in your role as President of the Orange County Bar?

>> **WILEY BOSTON:** I've been on the Board -- I served as president of the Young Lawyers section, probably 11 or 12 years ago. And so I learned a lot about the organization, how it works that way.

I've been on the board ever since then continuously. So I've put a lot of time, a lot of years in. I've served on the budget committee of the organization for probably four years now. That's probably been the best way for me to really learn how the organization works, how it help funds the activities that it conducts, what the big expenses and risks to the organization are.

And it's taken -- it's taken every bit of that time to

get to know everything about -- and I still don't know everything about the organization --

>> **JUDGE LAUTEN:** Sure.

>> **WILEY BOSTON:** -- but to learn what I know now about how the organization operates, who's involved in it, how the staff operates.

>> **JUDGE LAUTEN:** So in addition to members providing either funds or their actual time for pro bono services, why don't you list some of the things that the Orange County Bar Association offers to the community in addition to those activities.

>> **WILEY BOSTON:** Um, well, there are a lot of things. I'll try to hit on a few highlights.

>> **JUDGE LAUTEN:** Okay.

>> **WILEY BOSTON:** In terms of education, Law Week is coming up. Our Law Week Luncheon is in April. The -- and Law Week relates to an ABA event called Law Day, and they set a theme for it every year. This year it's the "14th Amendment: Transforming Democracy."

And as part of that, there's a committee of the Orange County Bar -- and it's a big committee, very active committee -- that goes into schools and conducts mock trials to teach students about the legal system, the process, and the 14th Amendment will be integrated into that. They also conduct poster and essay and speech contests about the theme

to cause students to think about these things.

So that's kind of a general community education component to what OCBA does.

We also have awards, Liberty Bell, Liberty Shield, and Liberty Apple awards, which are for members of the community that are not lawyers, but that are involved in civics education and some of the values of the independent judiciary and the legal community; one's for a teacher, one's for a first responder, a law enforcement officer, and one's for just a general member of the community outside of those categories.

By finding examples -- getting nominations and selecting examples and promoting their example, we can help educate the community about some positive things that people are doing with regard to civics.

>> JUDGE LAUTEN: And I know that the Orange County Bar also internally has a number of committees that provide education to its members, so that if you're a member, there are seminars. Some of them are afternoon seminars. Some of them are lunchtime seminars. Some of them are all day or multi-day seminars. And the Bar seems to be very active in education of its own members and developing professionalism.

Is that -- is that your impression?

>> WILEY BOSTON: It's a key part of our mission, and it is. The substantive law committees -- and there are, I don't

know, say 15 of them that are active right now -- generally do have luncheons or other meetings, and they'll frequently -- I will have substantive law continuing education at those seminars where someone will lecture, bring people up to date on current events, statutory developments, case law.

And we also have a pretty good judicial participation in a lot of those committees. The Business Law committee is a great example with having judges at those meetings, and also from time to time contributing to the curriculum and speaking at those meetings.

>> JUDGE LAUTEN: So you mentioned earlier Legal Aid. So there's the Orange County Bar Association. I understand there's Orange County's Legal Aid Society. What's the relationship between these two groups?

>> WILEY BOSTON: Legal Aid Society of the Orange County Bar Association was formed in the 1960s by members of the Orange County Bar Association. And the Legal Aid Society, a nonprofit 501(c)(3) organization, essentially a law firm with, I think, 16 or 18 attorneys that provide services to people based on a certain income level that's tied to poverty -- the poverty level.

And -- so the OCBA essentially started Legal Aid, but it's a separate entity now, separate board, separate leadership, separate staff. And pretty much in my mind, the

most important thing the Orange County Bar Association does is support Legal Aid, requiring our members to take cases or contribute funds.

>> JUDGE LAUTEN: Now, is that in addition to the requirements you mentioned earlier or does that go hand in hand? Is that the requirements --

>> WILEY BOSTON: That's the requirements.

>> JUDGE LAUTEN: It's the same thing? Okay.

Well, let me ask you this -- actually, before I move on to that topic, so you took over the reins when, as President of the Orange County Bar Association?

>> WILEY BOSTON: June 1st, 2016.

>> JUDGE LAUTEN: So then in our community in mid-June, we had one of the more horrific experiences in the community with the Pulse Nightclub shooting. And I know that the Orange County Bar Association was instrumental and stepped forward to provide assistance in that terrible time after -- well, the terrible event and then the time immediately thereafter.

Can you tell our listeners a little bit about that, what the Orange County Bar did in providing assistance to victims of the nightclub shooting?

>> WILEY BOSTON: Yes, I can talk a little bit about that.

The Bar Association stepped up very quickly to -- to

volunteer, essentially, to coordinate with the Legal Aid Society and to provide staffing and a phone number where victims and their families could call to get help, get legal assistance.

And we solicited -- the day after it happened, we solicited volunteers to serve as panel attorneys from our membership and was met with an overwhelming response of people that were willing to donate their time and represent victims and their families.

So we set that up. We had staff at the Bar -- at the victim service center. There was a crisis center that was set up by the City and the FBI and coordinating agencies, and we staffed that, I think, for the entire time that it was running.

And that's an ongoing project. We were fortunate to be well-situated to help. We had a phone number and staff in place for our lawyer referral program that we could easily use without having any kind of lead time, of having to set anything up or worry about continuity. It's there -- it was there right away, and it would continue to be there for years in the future. So we were well-situated to do that.

But it was all made possible by the attorneys among our membership, and also other nonmembers that reached out to offer their assistance, that volunteered their time. And the staff of the Orange County Bar and Legal Aid also just

putting in a lot of time and a lot of effort and a lot of emotion into making it work.

>> JUDGE LAUTEN: So I imagine an event like that -- well, there's some obvious legal needs immediately. They're tragic. But certainly if someone was killed, then their family would have to -- potentially have to probate an estate, deal with all of the things that -- the legal requirements surrounding death, which is just horrible and tragic.

Then there are a number of people who are injured and out of work and unable to receive benefits. And I understand that the Orange County Bar and these lawyers who volunteered stepped up in so many different areas, that the public might be surprised as to how many legal -- different legal needs the Orange County Bar tried to meet after the -- after that terrible tragedy.

>> WILEY BOSTON: We pretty much -- and there were a lot of very hurried discussions in the days immediately following the event of how the program would be structured, what the program would do.

And the general decision was the program's going to serve any needs that -- that come in, anything that's requested. Generally with the exception of personal injury claims, um, which just by their nature, generally being contingency-fee matters, isn't well-suited to pro bono.

>> JUDGE LAUTEN: Right. Right. So these services were offered for free. And for our listeners who might not know, a lot of personal injury lawsuits, the attorney's law firm -- the attorney or the law firm fronts the cost of that litigation and then, if they recover a fee, recovers those costs as part of the fee recovery. That would be hard for lawyers who are volunteering to do.

But I'm sure there were landlord/tenant disputes and employment disputes and Social Security claims and --

>> WILEY BOSTON: A lot of immigration law claims also.

>> JUDGE LAUTEN: Immigration claims. Not to mention the probate that we were talking about earlier.

Well, that's an incredible service. Let me ask you this: What challenges do you see for a bar association in today's environment in going forward? Not so much lawyers, per se. We can talk about that in a minute, if you'd like. But for the association that you're president of, is it interest, is it money, is it -- what are the challenges that the Bar Association --

>> WILEY BOSTON: Well, having been to some Bar -- Bar leadership training conferences that go along with being in this position, there's a lot of talk about the newer generation -- the younger generation's not being joiners, so to speak, not being as involved in community organizations or professional organizations.

So that's what's discussed. Frankly, I haven't really seen that. You know, we track it, and the membership -- that performance indicator for the Orange County Bar seems to indicate that we're still doing -- at least for now -- a reasonably good job of staying relevant and valuable to the attorneys in Central Florida. But long term, it's something I think that could pose a challenge.

In terms of revenue sources, the lawyer referral program for the Orange County Bar Association, it's -- it was started as -- and continues to be -- sort of a public service allowing access to justice for people that need counsel.

And it doesn't just serve the wealthy and those able to pay a lot. It also can help people with modest means, more of the middle-income areas where sometimes there's a justice gap between Legal Aid and traditional counsel.

That program has competition from for-profit lawyer referral agencies that do -- spend an inordinate amount of money on advertising, and potentially from some other market forces, that may change the way people find and hire counsel. And the internet might be one example of that. So that's something that we've been watching very closely and coordinating with the Florida Bar about.

But really it's a great program, so as long as we're successful in getting the message out that this is a nonprofit, the people in this program have professional

liability insurance, they are Orange County Bar members that contribute to Legal Aid, to serve the community, and the referrals that we make are to people that have expertise in those particular areas. I think it's -- it's a message that wins if we're successful in getting it out to people that are seeking counsel.

>> JUDGE LAUTEN: So let me shift gears a little bit, Wiley. You've been practicing for 20-plus years. When people ask you how has law changed over the course of your profession, is there any one or two easy answers to that question or is it -- is it more nuanced than that?

>> WILEY BOSTON: Well -- and you've been practicing a while as well --

>> JUDGE LAUTEN: Yes.

>> WILEY BOSTON: -- Chief Judge.

>> JUDGE LAUTEN: Longer than that.

>> WILEY BOSTON: I mean, some of the obvious and kind of superficial differences, when I started practicing, it was one lawyer, one assistant, and, um, email wasn't really in use widely. I would dictate pretty much everything that I was doing.

Those days are just long gone. We are at one -- one assistant for three lawyers, currently, which I think is typical around -- among larger law firms. And my days are dominated by email. It's --

>> JUDGE LAUTEN: I imagine that's good and bad. One of the features of emails, you can communicate instantly. But sometimes I know there are examples of lawyers who regret that they communicated instantly.

And in the old days, you might dictate a letter, it would get typed, you'd edit it. And then you might say, as soon as you were about to mail it, well, maybe I shouldn't use this tone or even send this out at all.

But today with emails, boom, it's instantaneous, isn't it?

>> WILEY BOSTON: Sure. Sure. Causes a lot of challenges.

>> JUDGE LAUTEN: It has benefits. It's fast. But it has some other aspects to it also, doesn't it?

>> WILEY BOSTON: It -- you're right. You're correct. It's easy to focus on the negative aspects of it just because of how many -- the sheer volume of the emails.

>> JUDGE LAUTEN: Right. Right.

So if you -- when you hire new lawyers in the firm and they come to you for advice starting off their career, anything that -- that you tell them that, you know, you'd want to share with us? What advice would you give to a new lawyer just starting out?

>> WILEY BOSTON: Well, getting involved in organizations like the Young Lawyers section of the Orange

County Bar Association. And also depending on what kind of work and trade and professional organizations that your clients will be involved in, that's, I think, some of the best advice that someone can receive as a new lawyer.

And, of course, observing experienced attorneys and perhaps imitating some of their practices in terms of dealing with opposing counsel and with clients. That's a good -- good, positive thing for people to do as well.

It's -- I don't know if you can give people advice. I don't know if there's a shortcut -- any shortcut for hard work --

>> JUDGE LAUTEN: Right.

>> WILEY BOSTON: -- and putting in a lot of hours.

>> JUDGE LAUTEN: So do you think the practice is less professional or has the standard of practice devolved at all, or do you think maybe that's some -- an overstatement sometimes? In other words, you find new lawyers wanting to be as professional and courteous as when you started or as that changed a little bit? I'm curious about your perspective on that one.

>> WILEY BOSTON: From my perspective, which may not be the best since I don't do much litigation anymore, but I have not personally noticed, really, any deterioration in the level of professionalism with opposing counsel.

I mean, from the beginning of my legal career,

anecdotally, it was always said if you go to South Florida, it's a whole different world.

I mean, I began practicing in Volusia County for the first two years, which was a small legal community with, really, an excellent bar, excellent judges, just as there are here. And professionalism -- the level of professionalism was excellent -- was great. It was a nice place to work. And you didn't have to really watch your back with opposing counsel.

And I don't think that's really changed. And, I mean, the more that I've practiced, of course, as the years have gone by, I've realized the legal community is smaller and smaller than I even realized it was before. And you're always gonna run across people again.

>> JUDGE LAUTEN: Well, I love living and working in Central Florida. And I've lived in a number of different places. You feel the same way? I mean, I wouldn't trade Orlando for the world, to be honest with you.

>> WILEY BOSTON: I do. I love it here. And my family's here, and the weather is great.

>> JUDGE LAUTEN: Well, you ready for the most difficult question of the day?

>> WILEY BOSTON: I -- I don't know.

>> JUDGE LAUTEN: Okay. Here it comes.

So FSU undergrad, Duke Law, both in the ACC, both

storied football -- but both storied basketball programs. So who do you root for when FSU plays Duke on the hard court?

>> **WILEY BOSTON:** On -- in basketball, um, generally Florida State.

>> **JUDGE LAUTEN:** Oh!

>> **WILEY BOSTON:** The allegiances go with undergrad.

>> **JUDGE LAUTEN:** Well, you know, I do know there is a member of your firm who possesses two rings representing the National Championship. Why don't you tell our listeners who that might be. They're gonna think it's a former player, I'm sure. But who is it actually?

>> **WILEY BOSTON:** You have to be referring to Suzanne Gilbert.

>> **JUDGE LAUTEN:** All right. And her story is what? She is a Duke undergrad, and she was a, um -- she was a, um, student manager on the team, and the student managers get rings when the team wins the National Championship. So I think she might be the only person in your firm with two National Championship rings.

But correct me if I'm wrong. I'm not sure about that.

>> **WILEY BOSTON:** I think that's right. And I think she's a superfan of the team, and had the great fortune of being there, I think, when Christian Laettner --

>> **JUDGE LAUTEN:** You were there?

>> **WILEY BOSTON:** -- was there.

>> **JUDGE LAUTEN:** Yeah.

>> **WILEY BOSTON:** I was there with Bobby Hurley and Grant Hill.

>> **JUDGE LAUTEN:** Right. She was there with Christian Laettner. Right.

Well, she's gonna want to have a word with you when you pick FSU over Duke when they're meeting for the hard court.

Thank you so much for joining us today. And thank you, most importantly, for your service as president of the Orange County Bar. It's a fabulous association. The judges here in the Ninth Circuit, I think all of a them are members. You invite us all to be members.

And we appreciate so much your leadership style and the time that you take away from your job, and the devotion and dedication you've had, not just in your year as President. That's the most visible contribution that you make. But we all know that you, for years, have been an active member of the association, and we're very grateful to you. And I think as a member of the judiciary, we're proud to have a lawyer like you who's leading the organization so well.

So thank you for that and thank you for taking time out of your busy schedule in joining us today.

>> **WILEY BOSTON:** Thank you for the opportunity to sit with you, Judge.

>> **JUDGE LAUTEN:** You're welcome.

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Judge Frederick J. Lauten and the Ninth Judicial Circuit
Court of Florida.

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