

OPEN NINTH:

CONVERSATIONS BEYOND THE COURTROOM

LAUTEN'S LEGACY

A LOOK BACK AT THE LIFE AND CAREER OF CHIEF JUDGE FRED LAUTEN

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(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: Good afternoon and welcome to Open Ninth. I’m Don Myers, your host for the show today. I’m here today with my fellow jurist, colleague and friend, Chief Judge Fred Lauten. An accomplished lawyer, he was a prosecutor with the State Attorney’s Office until 1993 when he was first appointed to the county bench by Governor Lawton Chiles. He was later appointed to the circuit bench by Governor Jeb Bush in 2000. He’s been serving as the Chief Judge of the Ninth Circuit after being elected by his peers in 2014. Now, our regular listeners will recognize our guest Chief Judge Lauten as the original and long-time moderator and host of Open Ninth. And after a long and accomplished 26 year career on the bench we’re now just a few days away from his retirement. So I’ve asked Judge Lauten to trade chairs with me today and to sit as our guest. So thanks for joining me, Fred.

JUDGE LAUTEN: It’s a pleasure to be here. It’s strange to sit in this seat.

CHIEF JUDGE MYERS: It is unusual for me to be on this side as well. We’re going to start off, and I hope to just have a nice freewheeling conversation, cover some of your background, talk a little bit about some of the many accomplishments that you’ve had and then talk a little bit about the future and what that might hold for you.

JUDGE LAUTEN: Okay, great.

CHIEF JUDGE MYERS: You are a local boy, is that right?

JUDGE LAUTEN: Not born here, but my family moved from Boston here in 1965. I think I-4 had just opened and I still have this memory of first how flat Florida was coming from Boston. And then getting off of I-4 at Maitland Avenue and driving, or 436, I mean and driving to Maitland Avenue and there was nothing but orange grove except for one building, the Altamonte Springs Elementary School between 436 and Maitland Avenue. It was just orange groves everywhere you looked. And that sort of undeveloped land coming from up north was unusual and then I remember playing little league baseball in the spring and being overpowered by the smell of orange blossoms. It was just a different place. This is before Disney and before all the growth and explosion.

CHIEF JUDGE MYERS: Yeah, that is a different era for us around here. It's been a long time since we would say we had any true grove land in the Maitland area.

JUDGE LAUTEN: That's right. Maitland was grove land. That's well put because you're right, that's amazing.

CHIEF JUDGE MYERS: So you're raised here to some degree. How old were you when you came?

JUDGE LAUTEN: I think I was in 7th grade. I went to St. Mary Magdalen. I lived a block away from the school so I walked to school. So my wife's better at how old you are in a certain grade so however old you are, what is that? Thirteen, or something like that, somewhere in there, so – and then kind of the product of Catholic education so I went to Bishop Moore High School. And then Rollins College, so kind of, you know, elementary school, high school and college here locally.

CHIEF JUDGE MYERS: All right, and you had a good experience at Rollins.

JUDGE LAUTEN: I had a great experience at Rollins. I got admitted to Rollins College after I graduated from high school. It's a strange story. I had applied, I was heading to UCF. I was going to have to commute, ended up at Rollins for an event. Met the director of financial aid, didn't really even know what financial aid was all about. He explained how that worked for me, met the director of admissions and then one thing led to another and all of a sudden they said, you can – you're admitted to Rollins if you want to come and I had to raise some money over the summer. And my father helped me, and you could live on campus. Well, that was the deciding factor for me. I wanted to live on campus so I ended up there just by chance. Not deciding that, oh, I want to be a liberal arts undergraduate student, but it really changed my life. The campus was small enough that you could kind of do whatever you wanted to do and get involved, however you wanted to get involved and we were taught by the PhD's who ran the departments. We weren't taught by, you know, master level students and I got to be very good friends with the chair of the department of history and ended up majoring in history. And he's a major force in my life and sort of changing my pursuits to a little more academic area.

CHIEF JUDGE MYERS: So how did you get from Rollins to where we sit today educationally? What's your background?

JUDGE LAUTEN: So Rollins, majored in history. Then I stayed a fifth year and got an MBA. I worked in the dorms to work off the cost of a liberal arts education, private school education, and then I went to Villanova Law School right outside of Philadelphia in Villanova, Pennsylvania because a nun actually who worked on Rollins campus, her nephew went to Villanova and I met him once during a visit and liked him immediately. And for some reason just applied to Villanova University because he was there. And I kind of wanted to get out of

state because we had moved – I was born in Chicago. We lived in Chicago, Milwaukee, Knoxville, Boston, and then eventually Florida. I wanted to go back up north and see what that was like. I had memories from childhood and so I chose to go out of state. It was a little bit of an expensive decision, but it was a great one too.

CHIEF JUDGE MYERS: Well, so we know why Villanova, but why the law?

JUDGE LAUTEN: Well, for about six months in college, I came home and told my parents I was going to major in theatre and I had to pick my dad up off the floor when he practically fainted from that decision. I thought about getting a doctorate in history, and like I said I was – one of my mentors was the chair of the history department. But he sat me down and said you have to think long and hard about getting a degree in history because the field was crowded. There was also a movement to increase the diversity of most faculties and so minorities and women were being hired and he spotted that trend and he said, I'm afraid you might spend all the time and money it cost to get a PhD and then find that you're teaching high school which I don't think you want to do. And so I thought a lot about what – what could I do that combined a profession and an intellectual pursuit with the ability to earn a living. And that was law. I was kind of interested in law because I took some political science classes too and I knew some lawyers. One of the jobs I had when I was in undergraduate at Rollins, I worked a lot when I was at Rollins and I was kind of in the minority there. There were a lot of kids from well to-do families. I was a runner for a law firm in Winter Park and Jesse Graham was the senior partner and that firm did real estate work, as you know, and it did commercial work. And I ended up becoming friendly and guided by some of the lawyers who were there who kept talking to me about it. I'd ask them about, what was law school like and why the law for you. And the more I talked to them, the more interested I got into it. The other thing, Don, is I was

pretty active in student government at Rollins. I was vice president of the student body my sophomore year and I was president of the student body my junior year and so sort of the political connection, then law, then the intellectuality of law and I decided that's where I want to head and I wanted to make a living. My dad, God bless his soul, he had raised six kids and he was a salesman. He was very successful in Chicago, then there were some politics in the business that he was in. And he ended up moving from this area where he had poured his heart and soul to build up a district for sales, and he never really recovered from that so he just struggled financially raising six kids. And so one thing that was implanted in me at a young age was sort of, you do have to make a living. And if you want to have a family, you have to provide and I thought the law would allow me to provide for a family, but it was also intellectually challenging.

CHIEF JUDGE MYERS: You did pick a law school on the pricier end of the spectrum.

JUDGE LAUTEN: That's true, I did. That is true.

CHIEF JUDGE MYERS: Any distinct memories about your experiences there at Villanova?

JUDGE LAUTEN: Yeah, I had – I remember first it just felt far away my first year and while I lived on campus at Rollins, you know, it was close to home if I ever wanted to visit so – and again, I was on a really tight budget so I remember my first year I didn't go home for Thanksgiving and that was miserable. I got home for Christmas. But I was intrigued by moot court. My freshman year I participated in -- every freshman – every first year student had to do one moot court argument. But I watched the intermural moot court competition at Villanova and the final panel was presided over by Chief Justice Rehnquist and that was because Washington

was a pretty short train ride from DC – from Philly, so in about an hour and a half, if you took the train, you could be in Philly. If you drove, it was a little longer than that and they had announced at the end of my freshman year that Justice Byron White was going to preside over the finals for the next year and so I paired up with a third year student my second year in law school and we won the moot court competition. And so I got to argue in front of a justice from the United States Supreme Court and you know how those things go. They pick sort of one case and then there's all the periphery cases. Well, I had to argue the opinion Justice White wrote to him about what he meant what he was saying in this opinion. So that was a challenge and fun and in fact, I tell my parents, I don't even care if you come up for graduation, but you should come up for this final argument. And it was on alumni weekend for Villanova and so the courtroom was, really an auditorium, it was just packed. In fact, they couldn't fit anybody else in it. I was nervous as all get out. But I ended up finally relaxing and having a lot of fun.

CHIEF JUDGE MYERS: That's a big deal. We don't get many Supreme Court Justices that hop the train down to Florida for moot court arguments.

JUDGE LAUTEN: That's what I've heard. So it was Justice White. It was a third circuit court of appeals judge and the Chief Justice of the Pennsylvania Supreme Court. So it was a pretty – it was a pretty intrepid panel of judges.

CHIEF JUDGE MYERS: That is an elite group and a bright group which makes it a little pressure for the argument.

JUDGE LAUTEN: It was fun.

CHIEF JUDGE MYERS: That's awesome. So you graduate from Villanova. Your family is still down here. Is that what brings you back to Central Florida?

JUDGE LAUTEN: Yes. A couple of things. My family was here. I wanted to come home. I had – I just picked up a directory at the end of my – or towards the end of my first year and found that there was a lawyer Brian Hugo who went to Villanova and so I just knocked on his door and said, I'm a student at Villanova. And he in essence offered me a clerkship. At the end of my first year, it was in the middle of the summer when I finally made contact, and I was working in a clothing store and he said, why don't you just come to work for me for a couple of weeks before you go back to law school, see what you think about, you know, the practice of law. And he was a former public defender so he did a lot of criminal work. And then he offered me, to pay me for the full summer at the end of my second year so I did that and then he said, if you graduate and you want to come back to work for me, come back to work for me, so that's what I did.

CHIEF JUDGE MYERS: That's great. How long did you spend in the private practice of law?

JUDGE LAUTEN: With him about a year and a half and he had indicated he was thinking of moving his shop. He was from up north and he wanted to go back up north. And so I went to my best friend's wedding in Washington, D.C., Pat Garvey and I had so much fun in the district at his wedding and I was single at the time. And so I kind of recklessly just – oh, and one key factor was, he had decided – this was fatal to his marriage, but it gave me housing. He had decided to take his new bride and drive around the country for a year in a un-air conditioned Dodge Colt by the way which was not so smart. But he said if you want to sort of just keep our apartment, pay us rent when you can once you get work, but you can stay in our apartment which was on Capitol Hill, 6th and A Northeast, six blocks from the Capitol, five blocks from the Supreme Court. So I moved up there. And finally – and then I looked for legal work and I got a

job with a solo practitioner on K Street, 20th and K and he was a former FCC staff attorney and so we did FCC work and I did that for about two years with him. And that was – it wasn't my cup of tea because I wanted to be in a courtroom, but it was fascinating. We had radio station clients, TV clients and something that no one had ever heard of at the time were common carrier licensee – licensed applicant for something called cellular tower service and we had – I had to read and remember what that was because there were these devices, cell phones that had been authorized, the frequencies had been authorized by the FCC on an experimental basis in Boston, Massachusetts and Washington, D.C. So they existed there and then they had opened up through a rule making the whole United States for cell towers and everybody who did FCC work just filed as fast as they could applications for these frequencies for cell towers. So we did a lot of work in the cell tower area.

CHIEF JUDGE MYERS: I'd like to tell you, I don't remember that day prior to the cell phone, but –

JUDGE LAUTEN: You're younger than I am.

CHIEF JUDGE MYERS: I got to admit that's –

JUDGE LAUTEN: I remember a Motorola representative came to the law firm and we walked to lunch and he pulled a phone out of his jacket pocket which today no one would blink at, but we almost fell out of our, you know, fell over, and he said here, you can call back to your law firm. What was going on in D.C. then, because it was somewhat new, is guys were carrying around bag phones. Were you in the bag phone era?

CHIEF JUDGE MYERS: Yeah, I confess to having a bag phone and then the phone that was permanently installed inside of my car.

JUDGE LAUTEN: Oh, yeah, that was anchored to your car –

CHIEF JUDGE MYERS: Screwed in –

JUDGE LAUTEN: That's right. I had one of those too. So bag phones were like little pieces of luggage that you'd carry around and make phone calls. But those were the precursors of what everybody has now.

CHIEF JUDGE MYERS: That's incredible.

JUDGE LAUTEN: But then I came home for my older sister's wedding and I realized my dad's health was declining a little bit and I thought I really wanted to be closer to home because of that. And while I was here, I applied for a job at the Public Defender's Office and the State Attorney's Office because I knew I wanted to be in the courtroom. And as much – as interesting as practicing law was in D.C., and it was interesting, I mean, there were times when I would go to the Supreme Court and just listen to oral argument. You could just get in line and sit in the court and listen to oral argument. I also was there before 911 so from – in the fall and winter when all the leaves were off the trees, I could step out into A Street and look at the Capitol and if the light was on in the dome, that meant that either the House or the Senate was in session and I'd just walk up to the Capitol and go sit in the gallery and listen to senators, you know, make argument. And you could walk literally up to the Capitol building and peer through windows. They didn't like it when you did that, but you weren't precluded by – now, you can't – understandably you can't get that close to the building. You can't do any of those things, but it was really cool. It was just so amazing to be that close to the seat of government, watch it work and then just, when you had some spare time, go and watch it in action so that was pretty cool.

CHIEF JUDGE MYERS: I think that takes several months, an application and several months of a waiting period and tickets for the opportunity to go and witness that now.

JUDGE LAUTEN: Yeah, we used to just walk up to the Capitol, literally walk to the front of it. I remember taking guests down this corridor and say wait, wait, wait, now look up and you could see the lighted dome and if it was a full moon, the full – you can't get near that building now, understandably, but it's sad.

CHIEF JUDGE MYERS: That is a different era. So you got a job. Out of those two opportunities, you accepted a job with the prosecutor's office, State Attorney.

JUDGE LAUTEN: I did. And I did that for two reasons. One was, I did get an offer from the Public Defender. I would have had to – but I would have started in Kissimmee and I was living back with my parents in downtown Orlando, really actually in Maitland again. And that drive would have been pretty daunting, and by then I had a un-air conditioned Toyota Corolla in Florida which was fine up north. But down here it was just a killer. And then two, I remember Brian Hugo saying that one of the deficiencies he felt in his practice was we – he had learned how to cross examine and defend a case so well, but he never was comfortable being the movant or plaintiff because he didn't do that work. And yet we had clients who needed us to file complaints and you know, be the moving party and he said he wished he had learned the skillset of how do you put on a case. And he said prosecutors knew how to do that and defense attorneys knew how to attack.

CHIEF JUDGE MYERS: There's something about the responsibility of carrying the burden of proof.

JUDGE LAUTEN: And you know that because of your practice as a plaintiff's lawyer, malpractice and PI work. And so I, at the State Attorney's Office, I learned how to put on a criminal case. But it was still call witnesses, meet the elements of the offense, prove things beyond a reasonable doubt, really trying to persuade a jury to see it your way in the first instance and that was very good for me, and looking back on it, a ball. I mean, I just loved that work. At the time it was stressful, but I look back and I thought it was just great.

CHIEF JUDGE MYERS: So you and I have known each other for eight and a half years at least from my time on the bench here, and I've known of you for longer than that. We could probably talk for days about your experiences, and I've heard a lot of your stories. Any one of those that just stands out in your memory as that was, wow, that was a wow?

JUDGE LAUTEN: Probably the biggest moment was, I tried the murder of a 19 year old Disney World worker, Sharon Zellers, who left Walt Disney World in late – I think New Year's Eve, around New Year's Eve, never made it home. Eight days later her body was found in a sewage lift station off of Sand Lake Road and the murder was a little hard to identify and so ten years after a murder, Mr. Eagan gave me the file and said I want you to read this whole file. We think that the suspect is in prison now in California and I want you to go interview him if he'll talk to us. Make a long story short, we indicted Robert Cox for first degree murder. DNA was brand new then. We had some blood in a car. I went and got Jeff Ashton who was in our office, first lawyer in America to use DNA to get a criminal conviction and he and I tried that case in front of Richard Conrad. And Robert Cox was sentenced to death. It was Judge Conrad's first death case. It was a seven/five jury recommendation. It went to the Florida Supreme Court and they – they didn't just reverse the conviction, but they acquitted him under a circumstantial evidence test that's still controversial to this day. How do you review

circumstantial evidence? I thought he was guilty. Jeff thought he was guilty. We thought we had proved the case but the Florida Supreme Court has the last word. That was – that case I invested more time and emotion in and you know, there were highs and lows, certainly the acquittal was a low. He's serving a life sentence in Texas now because he left the California State Prison system and went to Texas and continued to commit crimes and got sentenced to life. But that probably in terms of effort and emotion and investment, and got to know the family, and I became best friends with Jeff, and Judge Conrad's first death trial. It wasn't my first death trial but it was his. That had a pretty strong impact.

CHIEF JUDGE MYERS: So you wind your way onto the bench.

JUDGE LAUTEN: Yeah, I was the division chief for county court so I was training new lawyers and Jay Cohen encouraged me to apply. I'm going to tell that story a little bit at my retirement, and I got nomin – I didn't get nominated the first few times, understandably. I didn't even really full understand the process other than sort of basically how it worked but my name came out of committee. I was sure I was not going to win and then I was surprised to get the appointment from Governor Lawton Chiles. The first time my name went up I got appointed to the county bench and so I started there in 1993.

CHIEF JUDGE MYERS: And how long did you spend on the county bench?

JUDGE LAUTEN: Seven years, till 2000.

CHIEF JUDGE MYERS: And in that seven years you handled –

JUDGE LAUTEN: Everything you could handle in county. So I started in misdemeanors, then sat in traffic, then sat in county civil which I was terrified to do because I had spent so much time in criminal. But it was the best experience in county because it stretched

me, it made me grow and it made me learn. And also, Don, you know, there's this debate, and you and I have had it about, should we ever put a judge in a division where they're really not that experienced? I don't know. There's pros and cons. There's no correct answer to that one.

CHIEF JUDGE MYERS: Tell me your philosophy. I think it's enlightening.

JUDGE LAUTEN: Well, what happened was, when I got there I didn't assume I knew anything and so I listened so much to the lawyers, intently took notes, asked them questions and I started to get feedback that they could tell I was invested. And that they appreciated that they were at least allowed to explain their position, win or lose. And so I thought, well, that's interesting. I hadn't thought of it from that perspective. I was asking questions and listening because I was so insecure. But they –

CHIEF JUDGE MYERS: Fear is a powerful motivator.

JUDGE LAUTEN: It is a powerful motivator. And then I had to do a lot of research so you know, it's interesting. Maybe that was one of the – one of the side benefits of being in a division where I didn't think I was the subject matter expert. In criminal, I was pretty comfortable. I had done about 90 jury trials before I took the bench and did a lot of legal research. So I don't know, that's interesting. So putting people in divisions where they're not necessarily subject matter experts, there is a big learning curve and I experienced that but if you – it might force you to listen more and that's a good trait for a judge.

CHIEF JUDGE MYERS: Yeah, I tend to think so. So you at this point, seven years on the county bench, nineteen and a half years on the circuit bench and in circuit you did –

JUDGE LAUTEN: In circuit, I sat, you know, looking back on it, more in criminal than anywhere else but I started in a criminal felony division in Orange County. Went to Osceola

County, sat in a criminal felony division. Judge Perry opened a VOP only division and he asked me to start that. I did that. I sat here in this courthouse, but eventually at a courthouse – courtroom, I mean, in the jail, the Booking and Release Center, and then he asked me to go to Business Court which is the more complex civil cases, commercial cases. And so that was a flashback to county civil where I was terrified, although I had been a judge for a lot longer and so sort of basic judging skills, I thought – I think I know that. But I was very concerned about the subject matter expertise and so I probably worked harder – that was a five year experience. In the first two to three years in business court I worked day and night. I mean, I took work home. You and I know our colleagues do that all the time so it was nothing unusual. I was doing what lots of people have done their entire careers. But I took – my wife commented about my coming home with these enormous three ring binders. Eventually we moved to thumb drives because the weight was – I didn't have to go to the gym. I just carried these binders around but I was doing a lot of reading and a lot of learning, and I was leaning – this is an inside – this is inside information you know and I know that I don't know the public knows, but I was leaning on my colleagues a lot. So especially Renee Roche who was the other business court judge and experienced and had experience in civil practice, so I leaned on her. I leaned on Tom Smith. I leaned on Jay Cohen who had sat in civil and so many colleagues generously gave up their time if I would come in and go, I'm not completing grasping the economic loss rule yet, which I realized maybe no one completely grasped the economic loss rule. But people were infinitely patient working me through these concepts. And so the other thing I learned from that experience is just how collegial we are and how we all try and help one another, and how at one moment you might be having – someone might knock on your door, say, can I take up some of your time because I'm new to an area and need your help. And in the blink of an eye you can be

the one knocking on somebody's door, saying, can I have some of your time so that you can help me?

CHIEF JUDGE MYERS: So in your time on the bench, what would say is the highlight, the best day, the best case, the best experience?

JUDGE LAUTEN: Oh, that's interesting. The best case, I don't know that I have a best case that comes to mind. I've tried a number of murder cases. I tried the murder case of an individual who killed – stabbed to death his live-in girlfriend who was a court reporter in the court system. And he was a challenge. He was an Army ranger who was very smart, but thought he was the smartest person in the room and decided for strategic reasons that I couldn't quite grasp, to challenge me all the time. And so just managing that case and getting through it – I remember him guaranteeing me he would get reversed and he would get me reversed because I was making so many mistakes. And then there was procurement affirmed from the 5th DCA which ended his appeals.

CHIEF JUDGE MYERS: It's interesting that your mind goes to that case because when we sit in these seats as the judiciary, we evaluate the significance of what we do sometimes in the most horrific of cases.

JUDGE LAUTEN: Right. Yeah, I – yeah, you're right, and for the public I should say, it wasn't – it wasn't pleasurable to preside over a murder case but it was challenging to your professional skills as a judge, a thinker, a manager. So that case, but the other thing, Don, was being in Business Court, that – being able to manage it, I wasn't sure if I could. And being there, the division shrank from two to one for a small period of time when I was there because Judge Smith was appointed a magistrate in the United States District Court so we lost him for a while.

And just managing heavy dockets. That's another skillset the public doesn't necessarily see. They see us on TV making rulings, but what you and I know is that the case filings are relentless so you're not, you know, you don't just have all the time in the world to focus on one case. There's thousands of cases. And so those management skills were tested in that division and in the trial -- I did sit as the criminal -- circuit criminal trial judge for about two years and I tried about -- I kept records, it was about 80 to 90 jury trials in two years which exhausted me. That's exhaustive work. But I really liked it because I loved doing trial work so I liked that assignment a lot.

CHIEF JUDGE MYERS: So when you talk to folks, and you tell them about being a judge, what are some of the things that you tell them that the average person doesn't know?

JUDGE LAUTEN: Well, one of them is what I just mentioned, that it's not the kind of job where you get to ponder for, in depth, for hours and hours and days and days like maybe appellate judges do. What is the right decision to make for this decision point? That one of our skillsets is triage and deciding things quicker than we would sometimes like to. Sometimes we like to have a lot more time so that's something that I don't know the public sees, this sort of work flow through this building. You and I know it but the public doesn't see it. You know, I tell them that listening is a skillset that we don't teach but it's the essence of being a judge. You listen to other people. And that is hard work, it's exhaustive work. I know you know this. When you go home after a day of listening, I used to just say after a day of trial, but it's not just trial. When you go home after a day of actively listening to people, that is not just sort of hearing the words, but thinking what they are saying, what they mean and taking notes and your mind starts working. It's exhaustive. You go home and you're exhausted. So that's a skillset, and then while you're doing that, you have to convey a certain degree of patience for the people

who are in front of you. Sometimes you realize a little bit of time is being wasted but that's okay because it's important that I let these people express themselves and their issues so that they feel that they were heard and were actually heard. So all of that and probably more that I'll think about when the podcast is over.

CHIEF JUDGE MYERS: Well, so, you know, a personal comment that I'll take the privilege of sitting in your chair here –

JUDGE LAUTEN: Okay, sure.

CHIEF JUDGE MYERS: From an outsiders perspective, from a lawyer's outside perspective, watching you over those years, you know, you did have such an outstanding reputation for being thoughtful, for being considerate, for working hard to get to things – to have the right answer to things, to being patient. I mean, your judicial temperament is well renowned in this community. You are incredibly patient. And while you may experience inner turmoil in the midst of arguments or other things, you don't show that. And so as a practitioner in this community and for the benefit of our listeners that don't practice, your reputation as a trial judge really has just been outstanding.

JUDGE LAUTEN: Thank you. Thank you, Don. That means a lot to me.

CHIEF JUDGE MYERS: And at some point though you say I'm not going to be on the bench any longer sitting as a trial judge. Instead you make a decision to run to become the Chief Judge.

JUDGE LAUTEN: Yeah, I tease with people. They say why did you run for Chief Judge? I said, I wasn't sure that I wanted that position. I just know they want the person next to me to have that position. But that's mostly just teasing. You know, I watched Judge Perry who

did a phenomenal job and I had been involved statewide as the Dean of the Florida Judicial College, sort of statewide judicial activities and had been an administrative judge in the criminal and civil. And then I thought Judge Perry is leaving, has been here for 18 years, who is going to do this and honestly I had some colleagues who were more experienced than I was and had they chosen to run, in this case particularly a woman, had she chosen to run I wouldn't run. But she said I don't want to do that, I know at this point in my career. So then I just thought who is going to do this, and I thought I might have a skillset that I could bring to that job, although I was also, much like county civil and business court questioning, do I really have the skillset to do it which is probably healthy. You know, if you walk in thinking I got this, easy – easy-peasy, you know, that's probably not a good thing. And so anyway I decided maybe I would move into that sort of complete administrative role.

CHIEF JUDGE MYERS: And talk to us a little bit about what the Chief Judge does.

JUDGE LAUTEN: So the Chief Judge in essence is the CEO of the Ninth Judicial Circuit, the Chief Executive Officer and so I – one misperception is I can't tell the judges how to decide cases. I can't tell them the right analysis. The Chief Judge does assign judges to the division in which they sit and to their chambers and so the Chief Judge decides are you in Orange County, are you in Osceola County, are you in Family, are you in Criminal. Although we have a policy that we've adopted as a group that sort of sets out where you're likely to sit. But anyway the Chief Judge assigns judges. The Chief Judge is responsible for the budget for the court system. The Chief Judge is responsible for communicating the message of the court to the public. The Chief Judge works directly with the Chief Justice of the Florida Supreme Court so the Chief Justice communicates with 20 Chief Judges rather than the thousand judges in the state of Florida about the direction of the court system. And in all of the administrative

responsibility, we work with the Sheriffs, we work with the Mayors. Our funding source is the legislature and the county commissions in Orange and Osceola County and so we work with the county – two county commissions and we work with the Florida Legislature for funding for our operations and for the size of our staffing. And so it's a pretty expansive role.

CHIEF JUDGE MYERS: Well, in that role in this Circuit, in particular, is larger than in many across the state. We sit here as the third largest Circuit, 65 judges, 65 judicial assistants, some 215 or so employees beyond that. It's a tremendous amount of responsibility and I assume then that's why you didn't or you weren't able to sit on the bench presiding over cases on a regular basis.

JUDGE LAUTEN: Correct. I had a small case load. Judge Perry, as you remember, he – while he was Chief, he presided over the probate division but he – I remember the meeting when he walked into one of our judges' meetings and said, I don't know who is going to succeed me yet, but whoever they are should not have this probate caseload and be the Chief Judge because it will just kill them. Judge Perry, I've said this numerous times publicly, is one of the hardest working people I've ever met. I mean, the guy worked all the time. But even he said that it was just too much because of the responsibilities of being Chief Judge. You've heard me say this, we're larger than 11 state courts – state judicial systems. So we would be the 11th largest court system in the United States if we were a state. And I only say that to give listeners sort of an image or an idea of what the administrative role is like.

CHIEF JUDGE MYERS: So time for a little bit of reflection. What would you say did you enjoy the most about serving as the Chief Judge in the Ninth?

JUDGE LAUTEN: Well, I think there are a couple of things. One is, I was honored and as you know, you are to be selected by your peers, and that you never lose the sort of effect of people who I respect tremendously, who are incredibly talented, work very hard, very smart, engaging, all successful in their own right or they wouldn't really be on the bench. You can't be unsuccessful as a lawyer in general and end up on the bench. Chose me to sort of, you know, be the CEO and so I was humbled by that and motivated by that. It is – it is humbling also to sort of become the voice of the court. At some point in time the public, the media, business organizations, they're going to call the Chief Judge because they can't call every single judge here and so you sort of become the voice of the court and that's sobering and humbling. And then you can kind of steer the court in the direction that you think it needs to go in so I know some of the challenges you face, and you'll recall when I became Chief, there were a couple of the issues. There had not been a judicial salary raise for over ten years. And the staff hadn't gotten raises in the longest time and so here were people who like yourself, left the practice of law where you were making more money than you make as a judge, making a good living and for some of us making a very nice living and asking your family sort of, I'm going to change directions. I'm going to pursue this prestigious, important service position being a judge and then you know what your salary is. I used to say to people you knew what your salary was coming in so that shouldn't have surprised you, but ten years later not to have even a cost of living adjustment meant that judges were making less money ten years later than when they started. And there were a couple of other structural things. They took some money from employees to contribute to a pension, so judges had actually lost some income over a decade, and it just – you know, it's one thing to say, you know, you should accept the salary, you knew what it was, but you know I really think in fairness, judge, you should have expected to at least keep

up with the cost of living and staff. And so there was that. And then the other issue which surfaced more towards the latter part of my term as Chief was we hadn't had an expansion of the work force in 13 years. So no raises, no expansion for a decade. And yet in this region, as I've said repeatedly, and I don't have to say it in this episode, we have enormous growth and we just couldn't keep up. We were falling behind. We were asking families in family court to wait on critical decisions about survival. Money for rent, child support so you could clothe your child and send them to school, fed and wait, we'll get to you because the caseload has grown so much but we don't have enough judges. So as you know, closed business court. I think that registered with the legislature when we finally got one judges – one judge, but those were the challenges.

CHIEF JUDGE MYERS: So asking the question what did you enjoy the most begs the question, what did you enjoy the least?

JUDGE LAUTEN: I can tell you what I enjoyed the least. The thing that was not fun and had to be done fortunately only rarely, but we had to fire some people, had to let some people go because they weren't performing the job on behalf of the citizens that needed to be performed. And so yet terminating people from their employment was necessary but was just not pleasant. There's no pleasant way to do that and so there was that. And then I wouldn't say this was unpleasant, but anyone who's managed people knows how hard that job can be and this is a people business. And so managing the staff and then dealing with the public, you know, that can take a lot of energy and attention.

CHIEF JUDGE MYERS: Difficult question for somebody who genuinely is as humble as you are, but looking back over your time as Chief Judge, what do you count as your most significant accomplishment?

JUDGE LAUTEN: Well, I'm going to talk about this next week. I used to – I used to think that over my judicial career, that being Dean of the Florida Judicial College was my most significant accomplishment in that I was selected to run the program that educated new judges and trained new judges, and I was very proud of that. I was very motivated by that, but I know that being selected to be Chief Judge is the most significant position I've held, most significant and important thing that I've done. And as I said earlier because you're chosen by all your peers, you know, I think it's meant the most to me to have that confidence in them to rise to that challenge. So just being Chief Judge I think has meant the most to me.

CHIEF JUDGE MYERS: So we sit here in Podcast 70 or 80 something I think at this point and all those numbers have belonged to you. You really began the podcast. What was the impetus?

JUDGE LAUTEN: Yeah, oh, that's a great question. In fact, I'd almost forgotten to talk a little bit – when I became Chief Judge, almost immediately I was asked to go to Palo Alto to Stanford to attend an ABA conference on technology in the courts. And I was just the beneficiary of my predecessors so the reason I was asked, like, why did you ask me was that we had a remote court interpreting system. And so the staff member who managed that project and I as the Chief Judge were invited to this ABA conference. I thought, okay, I'm along for the ride. She's the expert. I knew a little bit about it. Anyway, I sat in about four days' worth of classes about technology in the courts, and it expand – it blew my mind to use the whole phrase. It just had an impact on me that I didn't expect and I realized that technology and social media, you could either try to get in front of it a little bit and do something with it and direct it, or just be like a wave that washed over you because you couldn't hold it back no matter what. And I came back from that conference and I sat down with Jeff and I sat down with Matt, and Karen, and

Julio, these are all staff people who are just phenomenal staff workers for the Ninth Circuit. And we talked about our social media and we decided then to kind of expand our website, to expand or maybe start a Facebook page, to adopt an Instagram account. And then – and we did that fairly quickly and we could feel some progress there and I think Matt and the IT department, Brett, and Jeff and others, you know, one day said, hey, what about going a step farther. What about this podcasting and I had listened to one or two podcasts and I was fascinated by them, and then I thought, could we really do that here, and the technical people convinced me that for not a lot of money you could start podcasting. And having come from that conference, I was committed then to try and get the message out to the public about, here's your court system, not my court system. This court system doesn't exist for judges, it exists for citizens. That podcasting would be a device or vehicle to get out information about our court. And I think we've been fairly successful with it. I've thoroughly enjoyed it; it's been fascinating for me. But we've also gotten pretty good feedback from the community, the legal community and non-legal community that are podcasts have kind of personalized the court system, removed some of the mysticism of the court system and made it feel a little more accessible and that's a great – if we did that with some people, it was well worth it.

CHIEF JUDGE MYERS: I know we're constantly drawing lines about how far we go, and how much we communicate. But I think it is an education tool, the podcasts, the Facebook page, the Instagram, what we're doing now on 9th Now, our new technology –

JUDGE LAUTEN: Right, TV streaming –

CHIEF JUDGE MYERS: Our TV app are all just important components of that connection and the ability we have to communicate to the citizens.

JUDGE LAUTEN: Right, one thing I said to the group early on is the minute I felt that we were using social media to in any way demean or denigrate the court system or to sensationalize what we do here, like TV sometimes does, I'd shut it down. But everybody in the room agreed with that. That it should be a tool to educate and inform but not sensationalize, be a platform for somebody to become a, you know, academy award winning actor in a courtroom, but to just push out information. And so I hope – I know you're going to continue that, but that's why we do this.

CHIEF JUDGE MYERS: We are and we're excited about the future and the things that we hope we can accomplish. So I've had a chance to listen to a number of the podcasts you've done over the years. And I'm just going to touch on one or two of those and ask you questions that you had for your guests.

JUDGE LAUTEN: That's only fair.

CHIEF JUDGE MYERS: We're going to start with one that you did fairly recently with Lenora Bresler who is a human resources expert that specializes in leadership, motivation and conflict resolution. And she said an important question that we need to be asking of ourselves and learning about others. Give me three words you would use to describe yourself.

JUDGE LAUTEN: Patient, empathetic, and curious.

CHIEF JUDGE MYERS: Tell me about those three words.

JUDGE LAUTEN: Well, patience I think is just a quality that you have to have to develop as a judge. I grew up in a household, I have five sisters, you know, eight people in the house, 6 kids and two parents and so, you know, you had to learn a certain amount of patience for survival. Curious, I think that you can't be a good judge if you're not kind of curious. You

have to want to learn new subject matters. The cases have to arouse some curiosity in you, intellectually and factually. And so you know, without intellectual curiosity, I think this would be a hard job, you know, to pick up the statute books and learn a complex new area of law that can be confounding at times if you don't have a certain level of intellectual curiosity. It's just going to be such arduous work that it would wear you out, so I think you have to be curious and maybe the synonym for that is, you know, wanting to learn new things. And then, you know, empathetic, I think most of our colleagues are. Sometimes we appear detached because we have to make decisions, but I think you have to be sort of empathetic to the human drama that's unfolding, whether it's an injury case or a criminal case, a business case, trade secret wars, you know, you have to have some empathy for what people are going through who are in front of you. It can't paralyze you or can't sway you to go one way or the other because of the laws, but I think most of the judges I know have a degree of empathy for human beings.

CHIEF JUDGE MYERS: That's great. So you had a podcast in which you brought several judges in and asked them about the jobs that they held before the law. And you touched a little bit on this but I think your job history is a little more diverse than you shared with us already. What are some of the things you did?

JUDGE LAUTEN: I've had some crazy jobs. One summer I lasted for one week at the Zaffran bus company when I had to clean the interior of buses over the summer in 90 degree heat in Central Florida. And most of that was sanding rust off of these steel braces for buses and I went home one day covered in so much rust, I remember the guy said, the owner said to me on my third day on the job, hey Fred, if you can work here, you can work anywhere. And I went home and my dad said, you don't look like you're liking this job. And I said, yeah, but the owner said if you can work here, you can work anywhere. And he said, do you really want to be

known as the guy who can work anywhere. So I had that job for a week. I worked on the castle that Glenn Turner built the summer between my sophomore and junior year at Rollins doing construction. That was an educational experience like no other in terms of working with people, a diverse group of people that I had not, you know, some people with a perspective I hadn't been exposed to before. So these were hardworking, you know, laborers, worked with their hands. And then it was also interesting to be working on this construction project. I have no – no skillset, no one should put me around any instrument used to build anything so that was interesting. I did a lot of restaurant work and that is – that's – I have a good friend who is a very successful lawyer and she says that working in a restaurant taught her a skillset that she's used as a lawyer which is to providing service to other people. And so I did a lot of that. And I guess those are the jobs that kind of come to mind when I think about my summer jobs. Some funny stories from my summer jobs.

CHIEF JUDGE MYERS: Those are great. So one piece of vision, where do you see the courts in ten, fifteen, twenty years?

JUDGE LAUTEN: You know, in some ways, it's – I'm not sure where the court will be because of technology. I mean, I think that people will be appearing in courtrooms from faraway places, where they won't physically be sitting in the courtroom. I'm – I know you're interested in this and I applaud your interest in this, I don't know what the courthouse of the future will look like in terms of design. You know, when you go into a courthouse that was built 100 years ago and you go into a courtroom that maybe was built last year, it doesn't look that much different.

CHIEF JUDGE MYERS: That's true.

JUDGE LAUTEN: And so I don't know, you know, have we kept up with the time, and I know that, you know, form follows function in a way, but what will – what will courthouses look like, what should they look like, how will people appear in courthouses? Will the court users even have to come to the courthouse? Will it all be remote or not? So the building design, what should that look like? And I know you're intrigued by that. We need to expand here and that you're taking a leadership role and maybe we should think about a courtroom that has multi-functions that is not built and then permanent and moveable, so I think that's going to be the case. Ten years from now, size-wise I'm just not sure what the Ninth Circuit will look like because the growth rate that's anticipated over the next ten years is so significant that – we have 65 now, soon 66 judges and we could have 100 judges in ten years.

CHIEF JUDGE MYERS: We look at other venues of comparable growth trends and statistics and we see campuses for the judiciary and I think a lot of that is open to some opportunity for vision and some creativity in the process.

JUDGE LAUTEN: Right, and I know you're going to take an active leadership role in that. So I guess that's it. This sort of remote electronic access will be intriguing to see and privacy concerns because everything is open now. But we'll see where that goes.

CHIEF JUDGE MYERS: So a pretty incredible practice career, a really phenomenal career on the bench, what's next?

JUDGE LAUTEN: Well, I'm going to take a little time off. My son is getting married shortly and my wife and I are going to that wedding and we're going to our best friend's daughter's wedding before that. And we're going to go to Europe to follow around my son's basketball team, Northwestern University men's basketball team and so we're going to

decompress a little bit but I'm pretty sure that I'm going to mediate cases because I want to stay involved in the legal community. And I think that I'm going to do that. Shelley is the one who is starting to slap me if I use the word retire for her or for me. She says I'm not retiring. I'm just not going to do what I'm doing now. She's retiring – whoops, there we go, she's leaving her role as CEO of the Central Florida Commission on Homelessness, but she's going to stay actively involved in the community. And so I think I'll be involved in the community and probably in terms of work mediate. It's just at a pace that is a little more manageable than this.

CHIEF JUDGE MYERS: I'm confident that will be well received in the community. Fred, I thank you for the opportunity and the privilege to be able to do this with you, to reflect in the past a little bit, to see a little bit of the future for you. I'm excited that you and Shelley will continue to be a part of the Central Florida community and I'm confident that you will continue to make an impact.

JUDGE LAUTEN: Well, thank you, Don. I, you know, for our listeners, we've worked together for four months and I have absolutely no question in my mind, none at all, that the Ninth Circuit is going to be led in a great direction. You're a phenomenal leader and I know you're going to do a great job, and it's been a pleasure to work with you and get to know you a bit more, and best of luck with everything, including podcasting.

CHIEF JUDGE MYERS: And same to you. Thank you.

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