

Contributor

Q&A



Q&A WITH GARETT MURAI, PARTNER, NOMOS LLP

Q: Hi Garret. Thanks so much for making the time for us today.

A: Hi. Thanks for the invitation.

Q: For the record, Garret Murai is a partner at Nomos LLP, a construction law boutique in the Bay Area. He is also the owner, administrator and brain trust behind the California Construction Law Blog, through which we've become acquainted.

A: Not sure about "brain trust." "Worker bee" perhaps.

Q: And I believe your firm is rather new?

A: Yes, I spent the majority of my career at a firm in Oakland, California called Wendel Rosen, which is where I worked when I first became involved with Practical Law. Last year, I decided to branch off on my own.

Q: And you work with two other attorneys including a Kathy Murai. Any relation?

A: Indeed. Kathy is my wife.

Q: Oh wow!

A: You know, some people said I must be crazy to work with my wife. Others have told me what terrible timing I have, starting a new law firm right before the coronavirus hit. As to the former, I knew what I was getting myself into. As to the later, I had no idea. But as to both, it's been great. It's been fun. It's been exciting. It's something both my wife and I have wanted to do for a long time.

Q: That's awesome. It's been interesting talking with folks in different practice areas and different parts of the country – to hear what their experiences with COVID have been like.

A: Well, as far as opening up right before COVID, honestly, all things considered, it couldn't have worked out better. You think about the layoffs and salary reductions that are happening at the larger firms and – knock on wood – we haven't had to consider doing anything like that. We're smaller, we're more nimble, and we have less overhead. So, all in all, it's been good.

Q: I'm thrilled for you. Does that mean construction is still booming on the west coast? I know where I am, I've been waiting three months for available lumber to redo our porch!

A: As a firm, we only focus on construction. And are we busy right now? Yeah, we are busy. What I'm seeing from my clients is a

slowdown in new projects. But, much like an employment lawyer, many construction lawyers do both transactional work as well as litigation – payment issues, defect issues and so forth. So, in the last three or four months while there has been a slow down in new projects, at the same time, contractors aren't getting paid and there have been delays impacting contractors, subcontractors, material suppliers and project owners because of COVID. So on the litigation and pre-litigation side, I've been seeing a lot of folks trying to navigate those kind of issues.

Q: I suppose that makes perfect sense. You apply pressure on the economy and the building sector, that's going to squeeze and result in, you know, more litigation.

A: Well, when this whole COVID thing began, we could all take our best guess at what industries were going to be hit the hardest – restaurants, Uber and Lyft drivers, airlines, the hospitality industry. But, as the pandemic draws on, you've seen the impact spread to a wide swath of people and industries that initially no one was really thinking about.

Q: That's very true. And it leaves you thinking about things, things I never could have imagined a few months ago –

A: Absolutely! What are you going to do when you bring home the groceries? What door handles are you going to touch on your car with bare hands versus with gloves? You have to make sure you have your masks – you probably have five sets of masks scattered all over the place to make sure you've got them available when you need them.

Q: Yeah, it's crazy. For me, masks are the new hair tie. No matter how many I have, when I need one, I can't find it.

Now, going back a minute, your practice has been relatively unaffected because you have that dual role in both the transactional and litigation worlds. So, setting aside for a minute any COVID-related considerations, what are the other big challenges you see right now either in your practice area or for the profession generally?

A: Yeah, so I've been almost exclusively practicing construction law for about 20 year now. And I've got the grey hairs to prove it. Over say the past few years – things that are different than in my first 10 years of practice – I'm seeing a lot more focus on risk avoidance and risk transfer in the construction industry.

To put a little bit of a finer point on it – folks are really focusing on insurance provisions and indemnity provisions in their construction

contracts because there's probably no more litigious industry out there than the construction industry. You know disputes are going to happen. Claims are going to be made. Litigation is going to commence. It's what folks in the construction industry know to expect. Knowing that, they have been trying their best to avoid risk and transfer risk to the extent they can.

Q: I can understand that.

A: I tell people to think of the apple iPhone or, you know, any other consumer product. Are there problems with these products? Yes, there are. Here's the distinction though; with your iPhone, they'll make the tweaks and work it out on the production line. But every construction project is a beta. There is no other project quite like it out there. And when you're always working on a beta, there's going to be problems, particularly when you've got as many people involved in the creation of that "product." Architects, engineers, owners, contractors, subcontractors, material suppliers – all these people are trying to create a custom product. Not everything is going to run smoothly.

Q: I've done enough renovations in the old houses we've lived in to know that everything you're saying is the absolute truth! But writ much, much larger. And I realize, listening to you describe these custom, detail-specific, fact-specific situations, this must keep you very busy and on your toes. No two cases or clients will ever be the same.

A: That's so true. One of the things I most enjoy about the construction practice is the concept that for most of us, where we work, where we play, where we go to school, that's our built environment. That's our world. And so, to be involved in a small way in creating that reality, it's exciting.

Q: I really like that concept of the "built environment," as you call it. You're so energetic, so enthusiastic about your work. What drew you to this particular practice?

A: Well, before I went to law school I lobbied for the American Institute of Architects, and later, I lobbied for a trade association representing apartment developers. First in Sacramento and later in Washington, D.C.

Then, when I graduated from law school in 2001, there was the dot com bubble and we were all vying for those big, lucrative Silicon Valley jobs. I was supposed to join Pillsbury Winthrop in their corporate law department, which was at that time Pillsbury Madison and Sutro, but when the dot com bubble burst everyone got the pink slip and was scrambling to find jobs. I wound up doing civil litigation in a teeny tiny three person law firm in Walnut Creek. My father is an architect, so between that exposure and my lobbying experience, I started taking on more and more construction cases. Over the years, my practice has evolved to focus almost exclusively on construction law.

Q: I came out of a state government and lobbying background, too. What was your experience like lobbying?

A: The three years that I lobbied in D.C. were the years my wife was going to law school at American University. I had come from a lobbying background in Sacramento, but you know, legislative work is challenging, and as you might imagine in the grand scheme of things, multi-family housing is like a low, low, low priority in Congress. In the three years I was there, I don't think we had a single piece of legislation get passed. We'd reintroduce legislation every two years, but yeah, nothing would happen.

Q: Did you lobby the executive agencies as well?

A: So, while I was in D.C. I was lobbying for an outfit called the National Multi Housing Council. They represent apartment developers, contractors and property managers. I worked with HUD on the Section 8 program and low income housing tax credits. We actually dealt with Elizabeth Warren for a time when she was heading up the Bankruptcy Review Commission before her political career took off. They were looking at revamping bankruptcy laws, which touched on our interests because when tenants would file for bankruptcy there's an automatic stay and we were trying to seek an exception to that for apartment units. So anyways, I have in fact met Elizabeth Warren on a couple of occasions.

Q: Oh, that's very cool!

A: It was a good time. I was there during the Clinton years, so there was a lot going on and a lot of cool things happening in D.C. One of my colleagues, who had been lobbying for decades, told me that whenever a new administration comes to town, the bars and restaurants sort of cater to their tastes. So when I was there in the Clinton administration, it was the first time I had ever tried fried green tomatoes. They're terrible for you, but they're delicious.

Q: Okay, so Sacramento to D.C. where your wife was at law school. What came next?

A: Well, after my wife finished up law school, we wanted to move back to the Bay Area, which is where she's from. As you know, I had a background in legislative work, but there's not a whole lot of lobbying in San Francisco. So, I decided to give law school a try, too.

Q: My husband did something similar. I don't know about you, but we certainly found it to be challenging to be married while in law school.

A: I took a somewhat atypical path because I didn't go straight from college to law school and I was married when I was a law school student. So, I saw these students who were coming directly from college and they were the most intense kids I had ever seen. I was like "I'm going home to my wife!"

In fact, we had our first child the month before I took the bar exam, which people thought was insane, but (a) I don't control that, and (b) as it turns out, my first born was my respite from studying for the California bar. It was a good thing.

Q: Oh, that's lovely. I suppose there's nothing to put all that hard work and trouble in perspective quite like the birth of your first child.

A: That's right.

Q: Now, Garret, when we first became acquainted you were working with another firm and you were running the California Construction Law blog. Are you still actively blogging?

A: I am, very much so. I've been blogging since 2011. Back then there were very few law-related blogs. It's a funny story – when I became a junior partner at my old firm, Wendel Rosen, they had our class participate in a business development program. As part of that program the coaches would help us take "proactive steps" to get business, network and things of that nature. For most of us, at 3pm the day before our next coaching session, you'd be trying

to find something to satisfy this business development initiative. That became very stressful and I thought, “maybe what I’ll do is create a blog.”

The thing is, initially I didn’t put that much thought into it and I didn’t think to ask the firm for permission. I just started the blog to help avoid the stress of reporting to the business development coach! Then the marketing department got wind of what I was doing and I was called in for a meeting. Initially there was some hesitation and concern – did it need to be vetted or peer reviewed – but with some guidance, it was fine. Three or four years after I started my blog, there was an explosion of legal blogs. Actually, my old firm, despite their initial concerns, now has three or four additional blogs that they manage.

Q: It was pioneering effort!

A: I suppose so, not that I intended it to be! I still post several times a month. I’ve learned that it is great for networking – I’ve had a lot of opportunities come to me through the blog. We met by virtue of the blog! Things like the blog and working with Practical Law, they’re great way to keep myself abreast of what’s happening in the construction arena and it helps hone my writing skills. I’ve noticed my briefs are better because I’m always writing.

Funny story, I have a case right now and both sides just produced their expert documents. And so I’m looking through the documents and the opposing counsel says “you should look at this article I found on the internet” about such and such. I look at it and I said “I’ll be darned. That’s a pretty well written article. I even know that author!”

Q: It was one of yours?

A: Yeah. So, it has been a very successful effort. It’s also given me an entrée to more established publications like Practical Law.

Q: And I believe you write in a few other places, too?

A: I do. I also write for the California State Bar and I write a monthly article for the Daily Journal, which is a legal newspaper here in California.

It’s been a really great experience writing for Practical Law. I use it as a way to keep myself sharp and it’s a great way to connect with people like you.

Q: I’m so pleased to hear that.

A: I also find that lawyering has become much more focused. People’s practices have become more niche over time. And while I know a fair amount about California construction law, I have cases outside the state on occasion. When that happens, I have relied on Practical Law to learn what I need to do to, say, record and perfect a mechanic’s lien in another state. It’s a tremendous help to have these resources that not only provide relevant case law and regs, but resources that give you concise pointers – a road map – to guide you through a given topic.

Q: Well, I want to thank you for that resounding endorsement of Practical Law as well as your contributions over the last few years! Thanks for finding the time to sit down and talk with us. We appreciate all you do and wish you and yours all the best.

Garret and his colleagues at [Nomos LLP](#) have worked on ultra-high profile construction projects including the Golden Gate Bridge and the Salesforce Tower. So, if you have any interest in construction law or practice in California, you should definitely bookmark Garret’s business development coaching appeasement strategy, a.k.a. the [California Construction Law Blog](#).