

# BACK STORY

## AN AMERICAN LAWYER IN JAPAN

BY JAMES R. EBERT, ESQ.

Following my graduation from law school, a fellowship for the Japan Ministry of Education enabled me to spend three years studying business law in Japan. The experience was educational, enjoyable and unforgettable.

I lived in Kyoto, as a foreign research scholar at Kyoto University, (referred as the “Harvard” of Japan). Professor Zentaro Kitagawa, who later became Dean of the Law Department at Kyoto University, sponsored my fellowship. A brilliant man, Kitagawa founded the Kyoto Comparative Law Center and was chief editor and catalyst for *Doing Business in Japan*, the largest and most respected comprehensive treatise on Japanese business law. Working together with Japanese tax law professors, tax judges, tax lawyers and graduate students, my task was to help write a section on Japan’s corporate tax law.

Our team translated Japanese Tax Court cases from Japanese into English and then wrote legal analyses of each case in English. We would meet to discuss each case and to analyze the tax issues involved and consider the application of each case to business transactions. At the project’s beginning, we often struggled with English vocabulary, particularly as it related to technical tax terms. It took us several months to complete the analysis of the first case, and we often slogged through long meetings. But as the project progressed and we got to know each other and our subject better, we became much more adept; toward the end we were able to complete entire cases in just a single meeting. The project is titled “Selected Topics in Japanese Tax Law” and it can be found in the “Taxation” section of the *Doing Business in Japan* treatise.

Through the Kyoto Comparative Law Center I was also able to perform research at Habataki Law Office, a respected business law firm in Osaka specializing in maritime law. Osaka is known for its ports and international trade; cargo ships were constantly arriving in the city. If any cargo was damaged upon arrival in Japan, the insurance carrier would pay the claim and then ask Habataki Law Office to recover the payments from the ocean carrier involved. Yoshio Iimura, the founder of the firm, was patient with me when I was a young lawyer, learning all about the Carriage of Goods at Sea Act (COGSA) and maritime insurance claims.

Interestingly, all of documents related to the transportation of goods at sea are prepared in English, regardless of the nationality of the ship or the origin of the goods on board. The Bills of Lading, the ship’s logs, the receiving reports and the cargo surveys are always prepared in English as well. As a result, all correspondence negotiating the claims is also prepared in English. My task was to utilize the documents

relating to the shipped goods in the preparation of a draft letter (also in English) demanding payment from the shipping line for the damage. One of the defenses available to an ocean carrier is “perils of the sea;” if a ship weathers severe storms in route, it is not be responsible for the damage those storms caused. This made for some very vivid reports. Once, while reading a ship’s log about a voyage from the U.S. to Japan, the descriptions were so detailed that I actually began to feel seasick just sitting at my desk!

In addition to the unique work opportunities, living in Japan in the early 80s was fantastic, and the experience of a lifetime. The internet and e-mail had not been invented and fax machines were still in their infancy. Overseas telephone calls were prohibitively expensive, so the only means of communication with friends and family in the U.S. was airmail or the occasional international telephone call. The Japanese television stations broadcast a few popular bilingual American television shows very late at night and we would stay up to watch them. I became a fan of Sumo Wrestling while living in Japan. Sumo Wrestling is an ancient Japanese sport and was extremely popular.

Sadly, Professor Kitagawa, under whom I learned so much, passed away earlier this year, but the knowledge I gained while working for him played a role in shaping my career. My own firm, KITAGAWA & EBERT, P.C., ([www.japanuslaw.com](http://www.japanuslaw.com)) specializes in serving many prominent Japanese companies.

Based on my own experiences, I would wholeheartedly encourage young lawyers to seize similar opportunities to work overseas. If they embrace the experience it will make them, not only a more well-rounded attorney, but a more well-rounded person. ■



**JAMES R. EBERT** is an attorney in California, Georgia and Nevada and a CPA in California. He has been admitted to practice before the United States Supreme Court. Ebert graduated with honors from Loyola Law School (J.D. 1982, Dean’s List) and the University of Santa Clara (B.S.C. Accounting 1979, Cum Laude), before forming KITAGAWA & EBERT, P.C. in Irvine, California. He is experienced in assisting Japanese businesses with real estate transactions, business litigation, collections, estate planning and probate matters.