David Knight: Spell your last name.

Arthur Gilbert: Okay. Arthur Gilbert. I'm the Presiding Justice of Division Six of the California Court of Appeal.

Paul Coffee: And I'm Paul Coffee, retired Associate Justice of Division Six of the Second District, California Court of Appeal.

David Knight: ***[inaudible]***

Paul Coffee: Okay, before we begin, can I just . . . .

David Knight: Whenever you're ready to start.

Arthur Gilbert: Okay, fine. I'm Arthur Gilbert, the Presiding Justice of Division Six of the California Court of Appeal with the Second District. And this is our Legacy Project – an oral history of some of the justices who have served on our court. And this morning I have the distinct honor of interviewing one of my dear friends and colleagues, Justice Paul Coffee, who was an Associate Justice in Division Six for many years and is retired. And we're going to review some of his life and his time on the court.

So Paul, good to see you.

Paul Coffee: Good to be here.

Arthur Gilbert: And I'm so . . . . I always enjoy seeing you, and I'm glad you live in the area so we have time to get together now and then.

So let's start at the beginning. You were born . . . . You're a native Californian, is that right?

Paul Coffee: I'm fourth generation native Californian, born in Madera, California, in July of 1932 – the same place where my dad was born in '01 in Madera, California. So . . . .

Arthur Gilbert: So tell us a little bit about your childhood – where'd you go to school, and . . . .

Paul Coffee: Well, my mom was an elementary school teacher. We lived across the street from the K-through-8 school that I attended, and where she taught. So I always had the feeling that somebody was watching! ***[chuckles]*** So . . . .

Arthur Gilbert: Were you in her class?

Paul Coffee: No, I was never in her class.

Arthur Gilbert: It would be a conflict of interest.

Paul Coffee: Yeah. She always liked to teach the first grade because in the curriculum as it then existed, that was where you learned to read, and she considered teaching a person to read was a real accomplishment 2:17

and something to be prized by both the teacher and the student. And she loved to teach. She was an outgoing, warm-hearted, gregarious woman that embraced everybody that went through her life, whether it was scholastically or personally. And I benefited from that because I grew up in a two-child household – I have an older sister, three years older – and we just felt all of this warmth and support from my mom, notwithstanding that the school was right across the street.

My dad was a lawyer. Graduated from Boalt in . . . just before the Depression. The first . . . .

Arthur Gilbert: Now, Boalt was the University of California.

Paul Coffee: California, yeah.

Arthur Gilbert: And that law school hadn't been in existence that long, had it, or do you recall?

Paul Coffee: It was . . . .

Arthur Gilbert: It was around then.

Paul Coffee: It was around.

Arthur Gilbert: Yeah.

Paul Coffee: I can't remember the date of its inception, but . . .

Arthur Gilbert: Neither can I.

Paul Coffee: . . . it had been there quite a while. The first job my dad could land, after he graduated from Boalt as the only lawyer in the family who had ever graduated, was raising chickens in a little town a few miles north of Madera called Berenda. And so my earliest childhood recollections are of being on a farm in a rural atmosphere with a lot of chickens! He eventually moved to Madera and found work in his profession, and for most of the time that I was growing up and living at home he was a public lawyer. He was the Assistant District Attorney in Madera, California on a couple of occasions and was the District Attorney there as well. I remember that as being a source of irritation to me because as a member of the local Boy Scout troop, I participated every year in a Civics Day in which various members of the Boy Scout troop would portray various individuals in city and county government. And I was ***always*** relegated to be the District Attorney, because my dad was the District Attorney. And there was even a radio program in those days called ***[lowers voice]*** "Mr. District Attorney."

Arthur Gilbert: I remember it. I even met the voice of the District Attorney.

Paul Coffee: Is that right?

Arthur Gilbert: Yeah. He's 5:31

Paul Coffee: He had a ***commanding*** voice.

Arthur Gilbert: Terrific, yeah.

Paul Coffee: I don't think he did as well as Perry as far as trial results are concerned.

Arthur Gilbert: No. It was more realistic. ***[bothlaugh]***

Paul Coffee: But I always had to be the D.A. I wanted to be the Mayor or a city councilman or somebody else. Anything but the District Attorney. So I left Madera in . . . following high school . . . .

Arthur Gilbert: Now, you went to high school there as well?

Paul Coffee: Went to high school there as well. It was a small, tightly-constructed society. Everybody . . . . The town population was probably somewhere between 2,500 and 4,000 people, so if you had been there for any length of time, you knew ***everybody*** And I was reminded when I listened to Colin Powell speak publicly about his upbringing in New York, and he made a point that he had so many relatives in the borough in which he grew up that he was always aware that he could not misbehave because somebody, some aunt or cousin or elder would . . . to whom he was related would see him! And it influenced his behavior. Madera was kind of like that. You were always aware that there was a consequence to be paid for misbehaving because people were always watching.

Arthur Gilbert: So you were conscious of that, huh?

Paul Coffee: I was conscious of that. I was a good student in high school. Did a little bit of public speaking in the debate team arena. Served as the student body president. And sometime during that period of time – which was '46 to '50 – introduced Earl Warren to the school assembly during a campaign trip that he was making simply because . . . . It was not that I had such great prestige or talent as the student body president, but the chairman of the local Republican committee's daughter was in our class. And so I had a little leg up in ascending to the position that I could, in a tieless shirt and a corduroy jacket, introduce the man who would eventually become the Chief Justice of the United States.

Arthur Gilbert: Now, was Earl Warren running for Governor then?

Paul Coffee: He was running for Governor then.

Arthur Gilbert: And he . . . was he Attorney General at that time? Or he was the District Attorney, I think, at one time as well.

Paul Coffee: I was so apolitical that . . .

Arthur Gilbert: Yeah.

Paul Coffee: . . . I don't . . . .

Arthur Gilbert: I don't recall. 8:45

Paul Coffee: I can't remember.

Arthur Gilbert: Yeah, I think he was . . . . I don't know. I know he was very good friends with . . . close friends with Pat Brown.

Paul Coffee: Yes.

Arthur Gilbert: In those days, you could both be a Democrat and a Republican and be very close.

Paul Coffee: That's right. And because of my dad's election to the District Attorney position in Madera County, ***he*** became a good friend of Pat Brown. And in the early '60s, just after I had finished school and was beginning a practice in San Jose, Pat appointed my dad the sole superior court judge in Madera County.

Arthur Gilbert: And he became a judge . . . . Now, were you in high school at that time . . .

Paul Coffee: No.

Arthur Gilbert: . . . or in college?

Paul Coffee: I was just out of law school.

Arthur Gilbert: Oh, you were just out of law school.

Paul Coffee: Just out of law school.

Arthur Gilbert: I got it.

Paul Coffee: I was privileged to be able to swear in my dad as a superior court judge, and it was brief in duration because of his health. He had to take a medical disability after a couple of years. But it was a signature event in my life to swear him in as a judge. I had no judicial aspirations at that time at all.

Arthur Gilbert: Wow. So let's back up again . . .

Paul Coffee: Okay.

Arthur Gilbert: . . . and go back to high school. What were your interests in high school? Did you . . . . I know . . . . So you were pretty popular if you were the student body president.

Paul Coffee: Well, my best friend – a boy who I met when we were three years old at a birthday party and with whom I went to the remaining . . . all of grammar school, high school, and a couple of years of college at the University of California – my friend and I were on parallel tracks. And he kind of beat down the grass because he'd been the student body president for the first semester and I just thought it was my right and entitlement to be the student body president in the second 11:04

semester! ***[laughs]*** And I was a runner and a swimmer. As I said, I did well scholastically. I beat out a very bright young Asian woman to be the valedictorian of the class and earned a ***magnificent*** scholarship to the University of California in Berkeley provided by the local UC Alumni Association of $500 a semester.

Arthur Gilbert: Wow. Hey, that was good in those days.

Paul Coffee: That was not bad in those days. Tuition in 1950 was $35 a semester. And for that you also got an ASUC card – Associated Student card – that entitled you to get into the ballgames!

Arthur Gilbert: Boy! Perfect.

Paul Coffee: Yeah.

Arthur Gilbert: Now, do you recall the theme of your valedictorian speech?

Paul Coffee: You know, I don't even recall the speech! I don't recall the event.

Arthur Gilbert: Really.

Paul Coffee: I'm sure that I gave one, but it was so memorable that it has slipped completely off the radar screen.

Arthur Gilbert: So many things have happened in your life.

Paul Coffee: Well, both good and bad, but the valedictorian experience was paper-driven rather than oral. So . . . .

Arthur Gilbert: And so when you graduated you went right on to college.

Paul Coffee: Went right on to college with my friend and two other of my classmates. Off to Berkeley, about which I had some knowledge because my mother's parents – my maternal grandparents – lived in Berkeley. My mom and dad were both graduates of UC Berkeley undergraduate. They actually met through relatives who lived fairly close to my grandparents and married when they were in college. So we made frequent trips from Madera to Berkeley for holiday events, Christmas, Thanksgiving, etc. In those days it was about a five-hour trip, as I remember, in the family automobile, which was lovingly entitled "Nellie the Nash." And the house where they lived was reasonably close to the campus at Berkeley. And I don't remember having any aspirations to go to college anywhere else but Berkeley. I had . . . . I don't think the $500 made that much difference, but . . . . And sadly I needed to maintain a certain grade point average to maintain the scholarship, and I discovered beer and girls at about the same time, and adios scholarship. So . . . .

Arthur Gilbert: So what did you study in Berkeley? Was . . . . Did you have a . . . . I mean, what was your major?

Paul Coffee: My major ended up being in business administration, with a concentration in insurance and real estate. I remember the latter 15:04

fondly because the term project for the real estate course was to prepare an appraisal of a piece of residential property. And at the time I was in a fraternity, one of who. . . . the members of which lived in San Francisco. And as was the common practice in those days, at the fraternity there were no meals on Sundays. So we shamelessly poached on the parents of those kids who lived in Oakland or Berkeley or San Francisco. And the father of one of those fraternity brothers was a realtor in San Francisco, and during the course of several Sunday night dinners, Mr. Owen and I accomplished the appraisal of a piece of vacation property that he owned in Santa Cruz, California. Never laid eyes on it, but was able to acquire sufficient information about the property to do the appraisal, submit it, and complete the course with a substantially better grade than I got in anything else. So . . . .

Arthur Gilbert: Terrific. Now, I bet you had some meals with your grandparents.

Paul Coffee: Had some meals with my grand***mother***, because my maternal grandfather had passed away by then. She moved to an apartment, and I spent a summer living with her in Berkeley – the summer between freshman and sophomore years. I was . . . . During the school term I was dating a girl from Burlingame, which is just down the Peninsula from San Francisco, and I thought it appropriate that I stay in the Bay Area and court her and that I was able to spend some real quality time with my grandmother.

Arthur Gilbert: Oh, terrific.

Paul Coffee: She was a . . . . She was the matriarch. A woman unfailingly gentle and quiet, but had a kind of underlying resolve about her that you didn't want to get caught.

Arthur Gilbert: Got it. You didn't want to disappoint her.

Paul Coffee: No. Did ***not*** want to disappoint.

Arthur Gilbert: So, now, what was the name of the fraternity, may I ask?

Paul Coffee: Delta Upsilon. Your friend Tom Hastings, when he came by and sat down with you and Steve Stone following his retirement, revealed to all of us that ***he*** was a Delta Upsilon, and we actually were able to exchange the secret handshake.

Arthur Gilbert: Oh, my goodness. Right. I have one, too, in a fraternity I was in and I met someone who's my age, you know . . .

Paul Coffee: Yeah. . . .

Arthur Gilbert: . . . and somehow it came out and we . . . you never forget the handshake.

Paul Coffee: You never forget the handshake, so . . . . Actually, in the Delta Upsilon fraternity, it's just called "the right hand of friendship." And so you . . . 18:50

Arthur Gilbert: You do it.

Paul Coffee: . . . give a good strong politician's handshake.

Arthur Gilbert: I bet many of them are the same.

Paul Coffee: Yeah, I suspect that!

Arthur Gilbert: There's a limitation as to how many secret handshakes there could be.

Paul Coffee: That's right, that's right. And the memory factor.

Arthur Gilbert: So it sounds like pretty pleasant years at Berkeley.

Paul Coffee: Very pleasant years at Berkeley. Changed major a couple of times. Recovered the . . . from the beer-and-girl discovery phase, so that the grade point average was ***just*** sufficient to get into Boalt Hall.

Arthur Gilbert: It had to be pretty good to get into Boalt Hall, even in those days.

Paul Coffee: Yeah. It was a lot easier than it is now, but again, that seemed to me to be the only place to apply. I applied notwithstanding that I had been out of school for five years, in the navy.

Arthur Gilbert: Okay, let's . . . Oh, my goodness, . . .

Paul Coffee: Okay, okay.

Arthur Gilbert: . . . that's right, there's a hiatus. You didn't immediately go to law school.

Paul Coffee: No, no.

Arthur Gilbert: So let's go back to Berkeley as an undergraduate. Is there anything else memorable you'd like to talk about during your time as an undergraduate, up to graduation, or have we covered that?

Paul Coffee: Oh, we've covered it mostly.

Arthur Gilbert: Yeah. Okay.

Paul Coffee: It was a very . . . . It was . . . . I thought it was a good mix of scholastics and socialization. It was a far different environment than I'd been used to. There were more people in my History of Western Civilization course than there were in Madera.

Arthur Gilbert: ***[laughs]***

Paul Coffee: And I recall . . . recalling that because as a part of my "hell week" initiation, the seniors in the fraternity thought it would be a good idea for me to take my violin – which I'd been playing since I was five – 21:19

Arthur Gilbert: Oh, I didn't know . . . . That's right!

Paul Coffee: Yeah.

Arthur Gilbert: I remember you telling me about this one time.

Paul Coffee: My mother fostered this craze about my violin playing, and she persevered and . . . dragging ***m***e along, to the point where actually I got pretty good at it. If you do ***anything*** for a long period of time, you generally accomplish ***some*** skill. And so . . . . But the violin is not a great social instrument. In the time that I was in the fraternity, I would have ***died*** to be able to play the guitar. Or the piano, or . . . . The violin just didn't fit in with the ethos. So my fraternity brothers thought, okay, take your violin, go down to campus, stand in the back of Wheeler Hall . . . Wheeler Auditorium – the largest classroom . . .

Arthur Gilbert: Yes.

Paul Coffee: . . . at that time probably on the West Coast –

Arthur Gilbert: Right, I remember it. Yeah.

Paul Coffee: . . . and play "Yankee Doodle" on your violin. ***[laughs]***

Arthur Gilbert: Was there a class in session . . .

Paul Coffee: Oh, yes!

Arthur Gilbert: . . . at the time? Oh . . . .

Paul Coffee: There was a class in session. But the auditorium was so huge that it didn't really . . . . I remember the name of the Professor was Palm. Professor Palm was not deterred. He probably couldn't even ***hear***. But I think I saw all 2,800 students file in and sit down, and then I played "Yankee Doodle" on the violin.

Arthur Gilbert: Did you get a standing ovation?

Paul Coffee: ***[laughs]*** I got a lot of hoots and jeers! And a few mild fits of applause, so . . . . But that was a transcendent, nonscholastic recollection.

Arthur Gilbert: That'll be with you. That sounds like a ***very*** memorable event.

Paul Coffee: And I served as the leader of the fraternity in hazing the ***next*** group, but I could never come up with anything which I thought was as humiliating as playing the violin – playing "Yankee Doodle" on the violin in Wheeler Auditorium. So . . . .

Arthur Gilbert: So anyway, so you graduated.

Paul Coffee: Right.

Arthur Gilbert: And 23:52

Paul Coffee: About this time . . . .

Arthur Gilbert: Yeah.

Paul Coffee: At about this time – this is 1954 – I graduated in the searing heat of the floor of the Memorial Coliseum because my mom wanted to see her little boy in a gown graduate. And you didn't say no. So . . . . But at the same time, the Korean situation had perpetrated a draft, and my grades weren't good enough to keep me with a low draft number. So while I was still in college, I joined a U.S. Naval Reserve unit at Treasure Island, and . . . which is the halfway point of the Bay Bridge. That group met once a week at . . . on Wednesday nights and did very little. And it was part of what I came to realize in the future was the Black Shoe Navy – the part of the Navy that takes care of the ships.

We . . . . My friend and I was right alongside me in the college and the fraternity and the Navy experiences, and we met some kids from Pittsburg, California, which was kind of a rough oil refinery town on the . . . in the East Bay. And they said, "We've heard that there is a naval aviation reserve unit over on the Alameda Naval Air Station, and they drill once a ***month!*** Not once a week, once a ***month!*** On Saturday and part of Sunday. And we all thought that was a ***lot*** better deal, so we transferred, not really realizing the significance that we were leaving the Black Shoe Navy and now we were part of the Brown Shoe Navy – the aviation part of the Navy.

But that was my introduction to naval aviation, and the squadron to which we were assigned was flying torpedo planes of the same type that the elder George Bush flew as the world . . . as the youngest naval aviator in World War II. They were a big lumbering craft called the TBM Avenger. And they had a pilot and two crewmen, and we were eligible to become crewmen. And there was a little additional stipend if you served as a crewman on the aircraft. So my friend and I said, "We'll sure try ***this*** This looks like fun," and because I was usually the smaller of two crewmen assigned to a particular aircraft, I got the position in the turret, which was at the aft end of the greenhouse. And you sat facing backward. The machinery for the turret was fairly complex and it was hard to maintain, so they just locked it so that you ***always*** faced backwards. You ***never*** saw what was coming. And the other crewman was down in a position lower in the aircraft and . . . by the access door.

So we signed up, got qualified, and we would do these flights from Alameda up to the Sacramento River Delta, which had a lot of open water. And they had some targets staked out on the larger of the areas that were covered by the water eventually which became part of the Sacramento Delta Project and was shipped to Los Angeles. But we'd make these dive-bombing runs. Well, a dive-bombing run backwards is more exciting than one in which you see what you're doing. And we thought it was worthwhile and worth the extra money that we got to do those crew flights. But that was my introduction to naval aviation. And I came away from it with the idea that we thought that the guy in 29:03

front – the pilot, who was facing forward – probably had the better deal. ***[laughs]***

Arthur Gilbert: You learned that the hard way, right?

Paul Coffee: Yeah. And so . . . .

Arthur Gilbert: Now, I imagine you had extensive training for this before you did it, or was it on-the-job . . . .

Paul Coffee: Not much.

Arthur Gilbert: It was like being a judge – on-the-job training?

Paul Coffee: Not so much. There were always people who wanted to do it, so they didn't feel that you had to be terribly well qualified, 'cause if you didn't do it, there was a guy right behind you that would.

Arthur Gilbert: Now, what ***specifically*** did . . . were you required to do?

Paul Coffee: Oh. Only to . . . . You went to a short survival course to find out what kind of survival gear you would wear, how to operate it, how to . . . .

Arthur Gilbert: But when you say "operate it," what did you do within the plane itself?

Paul Coffee: Oh. As a crewman, . . .

Arthur Gilbert: Yeah.

Paul Coffee: Nothing.

Arthur Gilbert: Really!

Paul Coffee: Sat there with my knees up by my ears, because as soon as you got in the turret they raised a big piece of armor plate . . .

Arthur Gilbert: Yeah.

Paul Coffee: . . . underneath you, and you couldn't ***go*** anywhere!

Arthur Gilbert: Yeah.

Paul Coffee: It was like being the tail gunner in a B-24.

Arthur Gilbert: Yeah. Mm hmm.

Paul Coffee: So there was nothing to do. You couldn't fire a gun or move the turret or do anything. You just sat there for an hour and a half, probably.

Arthur Gilbert: And what was the utility of that? How did . . . .

Paul Coffee: Oh, it was . . . . The only utility was to provide the pilots with the necessary flight time per month to be maintained on a flight 30:46

status. As crew members, we were baggage. We didn't have any mission; we didn't have any duties. The pilots got so bored with these trips that they talked the ordnance officer into giving them some little Mark 76 smoke bombs. It's a little piece of hardware that maybe is 15 pounds, and it has a charge in it that when it hits the ground produces some smoke so you see where the projectile landed. And they'd tell the crewman who was in the other position in the Avenger to throw one of these out the door as he completed a dive on a target. And it was the most rudimentary thing that you've ever seen, but it broke up the boredom. And I didn't do any of that because I was always stuck in the turret.

Arthur Gilbert: Got it.

Paul Coffee: So . . . .

Arthur Gilbert: So how long was your stint in the Navy?

Paul Coffee: Well, we did that probably when we were sophomores in college, so I . . . . My friend, who was a really gifted athlete but was a little too short to play the position that he was so good at, which was quarterback – he couldn't quite see over the butts of the big linemen –

Arthur Gilbert: Yeah.

Paul Coffee: And instead of becoming the starting quarterback for the freshman football team – because in those days there were freshman sports and only freshmen participated, and to get to the varsity level you had to be a sophomore or better – instead of becoming the freshman starting quarterback, that fell to a classmate of ours in the same class whose name was Sam Williams, who went on to become a very excellent and well-known lawyer in Los Angeles. And passed away several years ago. But Sam – who we called Sammy – had probably six to eight inches on my friend in height, and so that got him the position, and my friend took to a bar in Oakland that we called The Kingfisher, and there went his grades, his scholarship, and he went back to Madera. I finished school and was in the Reserve in the . . . for the rest of the time that I was in Berkeley.

Arthur Gilbert: So, now, when you graduated from college you were in the Navy.

Paul Coffee: No.

Arthur Gilbert: No. All right, what happened . . . .

Paul Coffee: I was in the Naval Reserve.

Arthur Gilbert: You were in the Naval Reserve.

Paul Coffee: Right. I was not on active duty.

Arthur Gilbert: Right. So what did you do upon graduation? What happened at that point? 34:17

Paul Coffee: Well, at that point, I was going to get drafted or had to activate myself in the Naval Reserve. And remembering how much better it looked to be the pilot than the turret gunner, resolved with my friend who was faced with the same consequences of getting drafted because of the Korean draft, we said, "Let's go to Pensacola, Florida, become naval aviators, and fly airplanes from the front! And maintain our own destiny," so to speak. So we did that. We went through a battery of tests at Alameda Naval Air Station. My friend – who I thought was the best . . . had the best coordination . . . best hand-eye coordination and spatial orientation skills of anybody I've ever known – flunked the physical. And so . . . . I didn't. ***[laughs]*** And there I was. And so it was June graduation in 1954, and then a trip to Pensacola in August in my brother-in-law's '56 Chevy, and . . . '52 Chevy, I'm sorry, 'cause we're talking about 1954. And it was starting flight school in Pensacola in September of 1954.

Arthur Gilbert: So, now, how long were you in the Navy?

Paul Coffee: Five years on active duty.

Arthur Gilbert: On active duty.

Paul Coffee: Yeah.

Arthur Gilbert: So you learned how to fly a plane.

Paul Coffee: Learned how to fly a plane.

Arthur Gilbert: And you flew missions, . . .

Paul Coffee: Yes.

Arthur Gilbert: . . . did you not? And . . . .

Paul Coffee: We . . . . Happily – this was what we referred to as the Cold War – the Navy and the Air Force were fighting between themselves for a part of the nuclear weapon delivery mission. The Air Force said, "Oh, no, that's us; we're the guys who drop the nukes. We got all these bombers – these big planes." And the Navy said, "Well, we have a little airplane over here that can do the job, and so we've got this capability as well." So I ended up in a squadron the mission of which was to deliver a 20-ton . . . 20-***kilo***ton nuclear weapon. Could do a lot of other things as well, but that was the design parameter when the airplane was created.

Arthur Gilbert: And what was the plane?

Paul Coffee: It was the Douglas A-4. It was a tiny little thing that only weighed 9,000 pounds without any fuel. Was the first carrier-based airplane that didn't have a wingfold mechanism because the wings were not that long! You could get the airplane up and down the elevator from the hangar deck to the flight deck without folding the wings.

Arthur Gilbert: So you'd have to take off from a carrier and land on a carrier. 38:00

Paul Coffee: Indeed.

Arthur Gilbert: Pretty scary, huh?

Paul Coffee: In the daytime, not scary. At nighttime – in particular when the weather's not good – it's terrifying.

Arthur Gilbert: I can imagine. How . . . . Did . . . . What kind of crew? How many on the crew of a typical mission that you would fly?

Paul Coffee: Well, it was a single-engine, single-pilot aircraft.

Arthur Gilbert: Okay. There was just you alone?

Paul Coffee: Just you. Just you.

Arthur Gilbert: And you're the one that drops the bomb.

Paul Coffee: You're the one that drops the bomb. They had a very intricate delivery system that was designed to be able to drop the bomb and escape its consequence. That was great fun to practice. We were reasonably certain it would have worked, but happily nobody ever had to try it. So . . . .

Arthur Gilbert: So how many times did you fly this?

Paul Coffee: Oh, we . . . . I was on an aircraft carrier based in Alameda – the USS Hancock – for eight months in 1958. Did about 50 carrier landings and catapult takeoffs. Only a handful of night landings because we had no mission at night. There was nothing we could do relative to this 20-kiloton nuclear weapon at night because the delivery technique involved flying at very low level – a hundred feet or less – so that you would not be detected by the enemy's radar, and get to the position where you wanted to drop the bomb, and then you did what was called an over-the-shoulder maneuver, which was basically a 4-G loop. And the bomb left the airplane and you dove for the ground and skedaddled as quickly as you can so that you would put the maximum distance between you – your airplane – and the explosion that you just created.

Arthur Gilbert: Boy. So any close calls on landing or taking off, or any memorable . . . .

Paul Coffee: Actually, I never had a bona fide flight emergency in either the training command – through a series of different airplanes that we flew – or the fleet. The worst thing I can recall was failing to lower the landing gear on an aircraft that I was flying in Corpus Christi, Texas – actually Kingsville, Texas – and having that omission sternly pointed out to me by a person who was standing at the end of the runway, strictly to warn people like myself who have forgotten to put their gear down that "your gear are ***not*** down." And so . . . .

Arthur Gilbert: So how did you correct that? 41:23

Paul Coffee: Oh, just press the lever. I just . . . .

Arthur Gilbert: Oh, it . . . .

Paul Coffee: Bad headwork, and forgot to do it.

Arthur Gilbert: So . . . . But you're approaching . . . . I imagine . . .

Paul Coffee: There is . . . .

Arthur Gilbert: . . . they came down pretty quickly.

Paul Coffee: Yeah. There's time enough to do it . . .

Arthur Gilbert: Wow.

Paul Coffee: . . . if the wheelwatch tells you. Yeah. "06, no gear."

Arthur Gilbert: Yeah.

Paul Coffee: So you only do that once.

Arthur Gilbert: ***[laughing]***I can imagine.

Paul Coffee: It's like the saying, "There are old pilots and bold pilots but there are no old bold pilots." And there are those who have made a gear-up pass and there are those who ***will***make a gear-up pass. So . . . .

Arthur Gilbert: So anyway . . . .

Paul Coffee: But it was an absolutely delightful five years. I wouldn't trade those five years of naval aviation for anything. We had that one Far East cruise – went to Hong Kong, other Pacific Islands, spent a lot of time in the Philippines. And when I came back from the cruise, it was 1959 – actually 1958. I didn't want to stay in the Navy, there weren't a whole lot of other vocational choices that I thought about, so I went up to Berkeley when I was still on active duty in the Navy, stationed at Moffett Field, and took the LSAT. Had ***no idea***what it was, how long it was, what they were examining me for. Didn't take a prep course. There was not a single portion of the LSAT examination that I had time to finish before the time was up. I was so dispirited after finishing that that I went by myself back over to San Francisco to then–Seals Stadium and watched the newly-arrived San Francisco Giant baseball team get beaten by the St. Louis Cardinal baseball team.

Arthur Gilbert: But you didn't bring your violin and play . . .

Paul Coffee: No.

Arthur Gilbert: . . . "Yankee Doodle."

Paul Coffee: No. 44:10

Arthur Gilbert: I was thinking you were going to say that!

Paul Coffee: No. I probably should have. ***[both laughing]*** But it was . . . . Excuse me. It was my performance on the LSAT – which I never found out what my score was – but that was a slender reed upon which to rest my legal aspirations. When I applied to Berkeley, to the law school, I got back a postcard that said, "You have an appointment with the Assistant Dean of Admissions on such-and-such a day." So I took my little postcard and I went to the office to which I was directed and found, happily – although I don't know that it made any difference – the Secretary of the Assistant Dean of Admissions' son was one of my fraternity brothers at Cal! The Dean of Admissions was a man named William Keeler, and he was a personable guy, and we started talking, and we ended up . . . I found out that he was from Fresno, which was the metropolitan center of the Central Valley in California at that time and 20 miles from where I grew up, so I knew a little bit about Fresno. Lots of raisins. We talked, and we talked mostly about the geography of the Central Valley and agriculture and raisins, and he kept looking at my LSAT score and my undergraduate record. And he said, "These aren't very good." And I said, "Yes, Sir." 'Cause I was still in the Navy and you said "Sir" a lot. And he said, "Tell you what. The best thing for you to do is to go to Hastings for a year and then transfer." Well, unspoken was the fact that only the top 10 percent of the Hastings students were ***eligible*** to transfer. And if I had such a lousy LSAT score, how was I ever going to get to be in the top 10 percent of my law school class? So I said, "You know, my dad is a Boalt Hall graduate." And I crossed my fingers behind my back and said, "You know, it's . . . I'm sure it's really important to him that I get accepted to Boalt." Well, as a matter of fact when we had the very few vocational discussions that we had, he not only didn't favor Boalt Hall, he didn't favor my being a lawyer! He had a good friend who was high in the teacher placement division of the undergraduate school in Berkeley, placing teachers here and there, and it was a very responsible position.

Arthur Gilbert: So he wanted you to be a teacher rather than a lawyer.

Paul Coffee: He wanted me to be an administrator, yeah.

Arthur Gilbert: Oh.

Paul Coffee: He said, "Why don't you do what Uncle Lloyd's doing?" you know, and never once said, "Gosh, why don't you try law school?" But fingers crossed and all, I got accepted. And the rest is history.

Arthur Gilbert: So you . . . . So in law school . . . . Did you enjoy law school? Some people loved it, some didn't like it so much.

Paul Coffee: I didn't like it. Very quickly, I gravitated to a little group of guys who had . . . like I, had been out of school for a while – usually in the service – and we thought it was a little . . . we thought the Socratic method was a little antiquated or demeaning or whatever. We didn't like it. And so we formed a study group, and we met on Sunday afternoons, and what we tried to do was review what had happened the preceding week, 49:27

and then try and figure out what was going to happen to us the ***following*** week. It was that group that got me through law school.

Arthur Gilbert: Incidentally, what year was this?

Paul Coffee: I entered in 1959. September.

Arthur Gilbert: So I was a year behind you.

Paul Coffee: You were a year . . . .

Arthur Gilbert: You and I were . . .

Paul Coffee: Yeah.

Arthur Gilbert: . . . actually at Boalt at the same time.

Paul Coffee: We were at Boalt for two years . . .

Arthur Gilbert: Yeah.

Paul Coffee: . . . at the same time.

Arthur Gilbert: Our paths didn't cross.

Paul Coffee: No.

Arthur Gilbert: I don't recall. They might have, but we didn't know about it if they did.

Paul Coffee: I didn't . . . . I had . . . . I got married between year one and two, because after a year of law school you can pretty much figure out whether you belong or not, and whether you're not . . . whether you're going to be able to finish or not. And I figured I could get through the next two years, and so I decided that we'd get married. And we did that the summer between year one and two.

Our group remained intact throughout three years of law school, with very minor changes in personnel. And purely as a matter of happenstance, the majority of the people in the group were really smart. We had the number four in the class in our group, we had a couple of other law review members in our group, and we took finals very seriously. We did all-nighters and we got everybody in the group through law school. And I'm not sure without that support, without that discipline, that I would have been that successful.

Arthur Gilbert: I bet the Navy helped prepare you for law school.

Paul Coffee: The Navy helped prepare because the Navy really teaches you preparation and discipline. And a lot of law school is preparation and discipline.

Arthur Gilbert: Sure. 51:59

Paul Coffee: A lot of the practice of law.

Arthur Gilbert: Of course, yes.

Paul Coffee: And judging. So . . . .

Arthur Gilbert: So speaking of the practice of law, you graduated from Boalt.

Paul Coffee: Graduated from Boalt in 1962.

Arthur Gilbert: I don't think they call it Boalt anymore, do they?

Paul Coffee: No.

Arthur Gilbert: I think it's the University of . . . what is it?

Paul Coffee: It's Berkeley Law.

Arthur Gilbert: Berkeley Law.

Paul Coffee: Right. Christopher Edley . . .

Arthur Gilbert: And at the time . . . . That's right.

Paul Coffee: . . . brought us that.

Arthur Gilbert: And at the time you and I were there, it was called "The Harvard of the West," I believe.

Paul Coffee: Yes. How many were in ***your*** class?

Arthur Gilbert: I think we started with 300, as I recall, in my . . . 270 or 300, something like that. And do you recall the opening speech that Dean Prosser gave to us?

Paul Coffee: Yeah. The left and the right . . . .

Arthur Gilbert: Look to the . . . . Why don't you tell us that. It's . . . .

Paul Coffee: In one of two huge classrooms in which most of our instruction took place, they were kind of auditorium layouts and you looked ***way*** down at the speaker's podium. And Dean Prosser, who had been a pilot in World War I, said, "Look to your left" and everybody looked to the left. "Look to your right," looked to the right. And he said, "One of those people will not be here next semester."

Arthur Gilbert: Real encouraging words, . . .

Paul Coffee: Yeah.

Arthur Gilbert: . . . right? ***[laughs]*** 53:42

Paul Coffee: Real encouraging words. He was a ***[audio dropout]*** semester of torts from Dean Prosser.

Arthur Gilbert: So did I.

Paul Coffee: He gave me, ***I*** thought, some really good advice as far as the bar examination was concerned. He said . . . . In those days, except for the first morning session of the bar, you got five questions and you only had to answer four. So you could waive a question. And he said, "If I were taking the bar, I would waive all tort questions." And we examined him a little bit more and said, "Why is that?" He said, "Well, the Restatement of Torts section makes up the questions. And we get . . . we have a nice dinner, and we have a few drinks, and we spend ***hours*** composing these questions. We see how many torts we can get into one question, and then wait to see how many of those you can find." He said, "We have much more time than you have. Don't try and find all those torts." And so I didn't answer a single tort question. And I think that, along with real property, was a subject in which there were four or five questions on the bar. So passed the bar.

Arthur Gilbert: Hey, good strategy!

Paul Coffee: Good strategy.

Arthur Gilbert: Now, I answered all the tort questions.

Paul Coffee: Did ya?

Arthur Gilbert: How silly of me. Had I only known.

Paul Coffee: Yeah.

Arthur Gilbert: I wish I'd have known you then; you could have passed some wisdom on to me.

Paul Coffee: He was an interesting professor in that he had taught ***so*** long, and knew ***so*** much about the subject he was teaching, that I had the impression that no matter what the question was, he'd heard it before.

Arthur Gilbert: I think you're right. Absolutely.

Paul Coffee: And there was a little three-by-five card in his head that just flipped down and he had the answer.

Arthur Gilbert: Yeah, he was amazing.

Paul Coffee: Yeah.

Arthur Gilbert: And his tort book really taught me how to write.

Paul Coffee: That's . . . .

Arthur Gilbert: It was one of the most well-written . . . 56:17

Paul Coffee: Yes.

Arthur Gilbert: . . . books, and it made everything so clear, so comprehensible.

Paul Coffee: A fraternity brother of mine who preceded me through law school by a year – because he had spent a couple of years in the Air Force and then started law school – gave me a copy of Prosser's hornbook on torts the summer before I went to law school. And he says, "If you don't read anything else, read this." And that really is a work of art.

Arthur Gilbert: Oh, just magnificent. It really made . . . .

Paul Coffee: The only . . . . Yeah, the only person whose writings I think approach his were Witkin.

Arthur Gilbert: Yeah. Witkin or . . . . That's true. I felt the same way.

Paul Coffee: Yeah.

Arthur Gilbert: And they were models ***I*** used.

Paul Coffee: Yeah. And I didn't . . .

Arthur Gilbert: Yeah.

Paul Coffee: . . . know anything ***about***Witkin then, . . .

Arthur Gilbert: Yeah.

Paul Coffee: . . . but in comparing them now, there's a lot of similarity.

Arthur Gilbert: Boy, that ***is*** something. You know, I think Prosser was also a minor league baseball player, I heard, and he also wrote an opera, . . .

Paul Coffee: Yeah, yeah.

Arthur Gilbert: . . . I was told.

Paul Coffee: He was a real Renaissance man.

Arthur Gilbert: Yeah, yeah. Very interesting guy.

Paul Coffee: He had a cocktail party for the new law students every year in his house in the Berkeley hills, and it was apparent that he knew how to entertain as well.

Arthur Gilbert: Yeah. So you graduated law school . . . .

Paul Coffee: Graduated law school.

Arthur Gilbert: You took the bar, you passed the bar. 57:56

Paul Coffee: Yes.

Arthur Gilbert: And . . . .

Paul Coffee: Had a baby between year two and three. When I was at 35,000 feet on a flight at the Reserve Squadron in Alameda, my daughter was making her entry at Alta Bates Hospital in Berkeley. And so by the time the bar examination comes around, I've got a couple of dependents, and it's probably incumbent to find some gainful employment. We all took the . . . one of the two bar prep courses that were available then. The one I took was Richard Wicks' course.

Arthur Gilbert: So, yeah.

Paul Coffee: He was from L.A.

Arthur Gilbert: Yeah.

Paul Coffee: It was given in the old Rathskeller restaurant in San Francisco: California Hall. Took the bar. I did ***exactly*** what the bar prep instructors recommended. I spent ***exactly*** the amount of time on each of the subjects per their advice. Took the practice exams; did okay on those. Not star material, but . . . . I had the feeling that I could not be better prepared for an examination than I was for the bar examination. There isn't anything I could have done better or different. That's the only confidence that I approached the time that you got your bar results.

And at that time, my wife and daughter and I were living in a triplex in San Jose. One of the members of the class in front of me had gone to San Jose to practice after he graduated, and he wrote back. There was no placement service at Boalt then; it just didn't exist. And this graduate said, "Hey, come to San Jose. Lots of jobs down here." And as a matter of fact, over a dozen members of ***his*** class went to San Jose and found work and verified what he had posted on the bulletin board. So both because of ***that*** recommendation and my former fraternity brother who had ended up in a tort firm in San Mateo, got me an interview in San Jose with a tort lawyer who had been . . . who had a practice in . . . left a practice in Berkeley and moved to San Jose.

[brief break]

David Knight: Started again, so any time you're ready.

Arthur Gilbert: Okay, so you're in San Jose . . . .

Paul Coffee: Let me interject . . .

Arthur Gilbert: Please.

Paul Coffee: . . . a Richard Abbe . . .

Arthur Gilbert: Yes. 1:01:45

Paul Coffee: . . . recollection, while . . . because we talked of him when we were having our break.

Arthur Gilbert: And Richard Abbe was one of . . . was . . . he preceded you, did he not . . .

Paul Coffee: Yes.

Arthur Gilbert: . . . on this court. He's deceased now, and he was one of the original members of Division Six.

Paul Coffee: Correct.

Arthur Gilbert: Justice Stone – Steve Stone – Richard Abbe, and I were the first three justices in this newly created division back in 1982.

Paul Coffee: Called the Santa Barbara Division. Populated by a Ventura judge, a Redding judge, and a Los Angeles judge. ***[laughs]***

Arthur Gilbert: That's right.

Paul Coffee: But Richard . . . . I only got to sit with him a couple of times when he came back to do pro tem. And I took him to dinner one Sunday night before we were having a Monday session. And in the war – World War II – he was a gunner on a dive bomber.

Arthur Gilbert: Yes.

Paul Coffee: It was not . . . . It was the precursor of the Avenger that I talked about in ***my*** experience. He was in a Dauntless . . . Douglass Dauntless dive bomber, and he was the gunner. He was the aft cabin gunner. And happily – he never talked about his experiences – but happily his turret moved, and he could protect the craft from assaults from the rear and the sides. But he was a wonderful man with a lot of innate wisdom. I really enjoyed the very brief period of time that I had to sit with him.

Arthur Gilbert: Yes, he was a character, and a ***very*** memorable character. Someone you'll never ever forget.

Paul Coffee: Yes.

Arthur Gilbert: So getting back to you now. So we're in San Jose, and you're . . . you've passed the bar and you're interviewing with a tort lawyer.

Paul Coffee: I'm interviewing with . . . .

Arthur Gilbert: How interesting, when you didn't answer any tort questions . . .

Paul Coffee: Exactly!

Arthur Gilbert: . . . on the bar! 1:04:01

Paul Coffee: Well, and it gets even a little more unlikely, because the man I was interviewing – with whom I was interviewing – was named Burt Wines. W-i-n-e-s. And he had been practicing in Alameda County with a charming Irishman that I met later named Larry Mullalley. And Burt wanted his own practice, so he also succumbed to the San Jose siren song and came to San Jose and hung out his own shingle and was starting a tort practice in San Jose. And I'm sure using some of the same referral insurance cases that he'd been working on in Alameda County. But ironically he lived next door to one of the better-known Boalt Hall professors, David Louisell. And David Louisell was an expert in evidence matters and wrote several books and was a very effective instructor, I thought. I took a semester of Evidence from him. When our interview was finished, I found out years later that Burt had . . . . 'Cause we talked in my interview with Burt about the curriculum at the school, and I obviously mentioned that I had taken some instruction from David Louisell. I found out years later that he had called Dave Louisell after our interview and basically said, "Well, what about ***this*** guy?" you know. "He says he was in your class." And according to Burt, Dave said, "You wouldn't know it from me! He followed that law school ethic of never raising your hand," because the answer was never going to be exactly the way the professor wanted it, and there was much more risk than simply to keep your hand down and listen and take notes. 'Cause . . . . And I ***know*** that I never recited orally in Dave Louisell's class, but he had the grace to say, "Well, he seemed to be doing okay." And either because of or notwithstanding Dave Louisell's recommendation, I was promised a job.

And this was in July because I'd taken the bar but the results . . . you didn't get them until almost Christmas, in the old days. I was promised a position with Burt if I passed the bar. So I was still working as a Teamster in Oakland in the night shift to pay the rent on the triplex, waiting for the bar exam results. Got to know the postman on a first-name basis. And finally got the notification that I'd passed. And started my legal career as an associate to Burt Wines and another lawyer he had also offered an association with: George Bonney, who became a . . . first a municipal court and then a superior court judge in Santa Clara County. Burt told me that he'd hired George because George had a workers' compensation practice that complemented Burt's tort practice, and that he wouldn't hire anybody in front of me other than George. And so the three of us practiced in San Jose and became known as Wines, Bonney, and Coffee.

Arthur Gilbert: Now, this was an insurance defense practice.

Paul Coffee: Insurance defense practice purely. I don't . . . . I had a . . . . Burt had a close friend whose mother lived in Berkeley, and when she passed away, Burt told me that I could keep the fee for probating his friend's mother's estate. Well, not a good idea, because I didn't know diddly about probate. And I was trying to establish my mettle as a trial lawyer – a jury trial lawyer. And it took several herculean efforts in the Alameda County Superior Court Probate Department to get Charlie Hines' mother's estate probated, the most memorable of which occurred when I went over there to confirm the sale of her house. And she had a 1:09:56

charming little house in a charming little street in Berkeley that her neighbors had been lusting after for ***years*** And of course as soon as she died, ***everybody*** wanted to buy that house. And so I stand up to announce the sale of . . . by virtue of the realtor with whom I'd been working, and it seemed to me that everybody in the courtroom had a competing bid. And I was like a deer in the headlights. I didn't know . . .

Arthur Gilbert: ***[coughs]*** Excuse me.

Paul Coffee: . . . the procedure; I wasn't . . . I didn't take enough notes to see who had a better bid. Pretty soon the bids got so competitive that the realtors were discounting their commissions by a percentage point at first and then two percentage. And it was a mess. And so I tell that story only to reinforce the fact that I was going to be a trial lawyer. I was not going to be a general practitioner or a probate lawyer.

Arthur Gilbert: But . . . .

Paul Coffee: That was the kind of law that Burt knew about and helped teach me. And it made my . . . it also formulated my thoughts about the judicial branch of our profession. Jury trial lawyers are seldom really enamored of judges. The jury trial lawyer seeks an impartial referee, basically, who will keep his nose out of the trial lawyer's lawsuit. And the extent to which the judge starts to play a role, he loses a lot of acceptance by the trial lawyer. So that's the belief system in which I was trained as I started my trial lawyer activities. And in those days – in the . . . these are the early 60s in Santa Clara County – maybe there were about a dozen departments of the superior court then, and three or four strategically located municipal courts: one in Santa Clara, one in Palo Alto, one in San Jose. And you could go try a jury case every ***month*** if you wanted. It was a ***marvelous*** training environment. I think in the mid-60s, a trial a month was pretty average. And you found out . . . . Some of those were in the municipal court, but a municipal court jury trial is the same as a superior court jury trial, only quicker! And Willie Brown hadn't passed the Discovery Act yet, so we didn't have a bunch of depositions, we didn't have a bunch of requests for admission and answers and all of the oppressive paperwork that now surrounds trials.

Arthur Gilbert: For purposes of viewers who might be viewing this video in decades to come, Willie Brown was the very irrepressive Speaker of the Assembly.

Paul Coffee: Yes.

Arthur Gilbert: And . . . .

Paul Coffee: The Ayatollah of the Assembly. ***[laughs]***

Arthur Gilbert: Yes. He was pretty well known, and a very powerful figure in the state of California. And so this interview is taking place in 2013 – May of 2013 – and the courts are in a different position than they were then.

Paul Coffee: Oh 1:14:18

Arthur Gilbert: Now you're lucky to ***get*** to trial on ***any*** case!

Paul Coffee: And in fact the very phenomenon that you describe was instrumental in my eventual decision to seek a judicial appointment, because the last two years that I described myself as a jury trial lawyer, I tried one case each ***year*** – not once a month. I needed a doc cart to get my file ***to*** court because of all of the paraphernalia that was generated by the ***filing*** of the lawsuit. And I thought, "I can't get to court any more in an acceptable frequency as a lawyer. As a judge you go to court every ***day***. Why not think about that?"

Arthur Gilbert: Now, when you . . . . Did you practice law . . . . Did you stay in San Jose, or did you . . . .

Paul Coffee: Stayed in San Jose from 1962 to 1975.

Arthur Gilbert: Okay.

Paul Coffee: At which time there were a dozen superior court departments in . . . when I started, and over 30 when I left in 1975. San Jose just exploded. The . . . . It wasn't Silicon Valley, but there was an immense growth in the population, in agriculture, in industry, everything. And the courts reflected that, and there were more and more courts, more and more judges. I stayed in the same practice that I started in 1962, and left there in 1975 to go to San Luis Obispo to find a judicial and legal and personal environment that was a little closer to what I'd grown up with over in Madera than San Jose had become.

Arthur Gilbert: So you were motivated to move by a desire for a smaller community, . . .

Paul Coffee: Yeah.

Arthur Gilbert: . . . a more close-knit community.

Paul Coffee: Yeah. It just . . . . San Jose was just out of control, I thought. I had some personal changes that also made the move make some sense. At the time I moved to San Luis Obispo, PG&E was putting what they had hoped were the finishing touches on their first nuclear power plant at Diablo Canyon, which is in San Luis Obispo County, on the coast about seven or eight miles from San Luis Obispo's city limits. And the firm with which I associated represented – or had all the business from – the liability and workers' compensation insurance company that insured every contractor on the Diablo Canyon premises. And so there was a lot of business – a lot of accidents, unfortunately. And I used that as the nut of the business when I opened the branch office for the law firm that was then called Hoge Fenton Jones & Appel.

Arthur Gilbert: So that was . . . . So you weren't starting from scratch.

Paul Coffee: No, no.

Arthur Gilbert: You had a 1:18:35

Paul Coffee: I had a 240Z full of files.

Arthur Gilbert: Yeah. Terrific. So you moved up there to San Luis Obispo and practiced there.

Paul Coffee: I practiced there.

Arthur Gilbert: A similar practice.

Paul Coffee: Similar practice. I stayed there until I went on the bench in 1992.

Arthur Gilbert: And what prompted the move from successful practice as a trial lawyer to the bench?

Paul Coffee: Interesting. I had grown up with this judicial philosophy that looked somewhat askance at judges because they were competing for the attention of the jury. And that was ***my*** jury – that wasn't the ***judge's*** jury. And yet in a smaller community I came to know the judges who were on the bench then. There were . . . . It increased from two to five in the period of time we're talking of: '75 to '92. I got to know the judges on a personal basis as well as professional, and found that they weren't really the enemy that they'd been made out to be!

Arthur Gilbert: They weren't so bad after all.

Paul Coffee: They weren't so bad after all. And I . . . . That, and the frustration of . . . with the economics of a defense practice . . . . Insurance companies are not only very careful about spending funds to satisfy claims against them – against their insureds – they're also very niggardly with their lawyers. The hourly rate that we were charging during the entire time I practiced insurance defense law – both in San Jose and San Luis Obispo – was hundreds of dollars less than general practitioners were charging ***their*** clients. And they did that simply by spreading the business out. And they'd say, "Well, if you don't want to work for 25 bucks an hour, I know a lawyer down the street who will." And so there went the business. So they also became more sharp-eyed, if that's the right word, about the contents of the bill. They were hiring people to review the bills that I sent to them – to the insurance companies – and making sure there wasn't any fluff in there. That a telephone conversation ***was*** .1 and not .5 tenths of an hour. Everything was in tenths of an hour. The thing that bothered me was that they were compensating the people who were reviewing my bills on the basis of a percentage of the amount that they found was fluff in the bill. And I thought perhaps there was a little conflict there.

Arthur Gilbert: Yeah.

Paul Coffee: But the frustration between the unavailability of trials – which is the part of the practice of law that I enjoyed the most by a long shot – and the economics of the practice, and really the realization that the judge ***had*** a job and that most of them did it well and that it would be interesting and rewarding to do it. 1:22:40

Arthur Gilbert: So you . . . .

Paul Coffee: So it was a real metamorphosis for me.

Arthur Gilbert: So you applied for a judgeship.

Paul Coffee: I applied for a judgeship.

Arthur Gilbert: And lightning struck, and you were appointed.

Paul Coffee: Charles Poochigian was the appointments secretary at the time, and . . .

Arthur Gilbert: And he's now sitting on the Court of Appeal!

Paul Coffee: . . . he's now on the Court of Appeal in Fresno.

Arthur Gilbert: I met him recently. ***Very*** charming guy. Very nice guy.

Paul Coffee: Did he do any bird whistles for you? He . . . .

Arthur Gilbert: No, but he sang some songs while I played the piano for him, so . . . .

Paul Coffee: ***[laughs]*** Good.

Arthur Gilbert: And so you were appointed by – who was the Governor that . . . .

Paul Coffee: Pete Wilson.

Arthur Gilbert: Pete Wilson.

Paul Coffee: And like the newscasters on NPR always do their disclaimer about all of the corporate money that funds PBS when they do the news, Pete Wilson was a member of the class of 1962 at Boalt Hall!

Arthur Gilbert: I remember him there, yes, even though I was a year behind him.

Paul Coffee: Right. He was a . . . . He was not in our . . .

Arthur Gilbert: Study group.

Paul Coffee: . . . seminar group, in our study group. And I had little contact with him. He was a good friend of several of the members of our Sunday afternoon seminars, but . . . .

Arthur Gilbert: I think the viewers would be interested to know that when Pete Wilson was in . . . at Boalt Hall, his girlfriend at that time was Kathryn Werdegar, who was number one in the class. And he appointed her to the California Supreme Court – first to the Court of Appeal, and then to the California Supreme Court. She's one of the most able and capable persons sitting on that court, in my view, and a lot of other people feel that way. And he's . . . he acknowledged when he appointed her 1:24:40

that . . . . He said, "She got me through the bar." She . . . . So he made . . . . So in addition to you, he made some ***very*** good appointments.

Paul Coffee: She was one of either three or four women in my entire . . .

Arthur Gilbert: Yes.

Paul Coffee: . . . law school class . . .

Arthur Gilbert: That's right. Yes.

Paul Coffee: . . . of . . . . We were . . . . It seemed to me we started with about just under 300 and graduated in it a little over 150, and only one of whom, I think – I can't remember whether Joanne Garvey was in my class or one side or the other – but there just . . . there was no female population . . .

Arthur Gilbert: No.

Paul Coffee: . . . at . . .

Arthur Gilbert: That's right.

Paul Coffee: . . . in the law schools in those days.

Arthur Gilbert: There were very few . . . . There were a few women in my class, too.

Paul Coffee: Yeah. So here you are now. You've got your appointment to the superior court. Incidentally, just backing up a little, you were quite active in ABOTA, were you not? The American Board of Trial Advocates? Or was that later?

Paul Coffee: That was later. What I did when . . . in order not to be isolated in San Luis Obispo, which . . . . At that time the airport didn't have an approved approach for bad weather landings, and so in order to make sure that you were at your appointed position, you had to go there the night before. So that was one of the logistic reasons to establish a branch of the law firm that I was associated with in San Luis, as well as its proximity to the place that was generating all the business, Diablo Canyon. But now I forgot your question.

Arthur Gilbert: Oh, I was talking about ABOTA.

Paul Coffee: Oh!

Arthur Gilbert: Yeah.

Paul Coffee: And I was going to respond that it was later in my San Luis Obispo practice that I became active in ABOTA because ABOTA, unlike all the other lawyer ego societies, you have to . . . there are some performance requirements . . .

Arthur Gilbert: Yes. 1:27:13

Paul Coffee: . . . to get ***into*** ABOTA.

Arthur Gilbert: Right.

Paul Coffee: And . . . .

Arthur Gilbert: So we know what we're talking . . . so people know what we're talking about, what does ABOTA stand for? I mentioned it.

Paul Coffee: American Board of Trial Advocates.

Arthur Gilbert: Right. And you had to try a number of cases and be voted in, did you not?

Paul Coffee: That's right. And I'm not sure that . . . . I probably had the necessary requirements when I moved to San Luis Obispo, but I was much more involved in the Northern California Association of Defense Counsel, which was an organization then based in San Francisco that included defense lawyers from northern California and Nevada. And I got involved in the leadership of the Association of Defense Counsel of Northern California, found it really helpful to stay abreast of what was happening in the practice of law in our field as well as maintaining good personal contacts with other defense lawyers through the state. And then after I had been in San Luis a few years, one of the tort lawyers in ABOTA came to me and said, "If we make you the secretary-treasurer, will you show up with the books? I . . . . We can't get the treasurer to come to the meetings." And I said, "Okay." ***[laughs]*** So that's how I got to be the treasurer, and ultimately president, and the leadership position in ABOTA.

Arthur Gilbert: Well, you always had a . . . from high school on, you've just had . . . you're a natural-born leader, I think.

Paul Coffee: Yeah, but . . . .

Arthur Gilbert: So . . . .

Paul Coffee: Somebody's . . . . Clay Hall, a partner in the San Luis Obispo firm, has always accused me of not wanting to be a member of any organization unless I could be president.

Arthur Gilbert: Yes.

Paul Coffee: So he's partially correct.

Arthur Gilbert: So you . . . so now you're on the superior court.

Paul Coffee: Right.

Arthur Gilbert: Tell us a little bit about your experiences there and . . . .

Paul Coffee: That was five years which were just great, because in '92 I was tasked with establishing, in San Luis Obispo County, "Fast Track." And for viewers, this was the response to the sluggish performance of 1:29:50

the judicial system in getting cases to trial. And at that time, in '92, if you were in Los Angeles and you had a tort case that you wanted to go to trial before a jury, you waited five years. And at the end of five years they gave you a little beeper that you carried around on your belt, and you went about your practice until the beeper went off and they said, "Okay, now we have a place for your jury trial. You've got four hours to get started." And it was the same in other metropolitan counties, and there was . . . there were backlogs in most civil departments of the superior court. And the response was a system in which you had a year to get your act together and tell the court that you're ready to go to trial. There were some other requirements. But this kind of stunned the lawyers and the judges, and nobody wanted to have anything to do with it. And I took it over and started it in San Luis and got the waiting time down; it was in acceptable limits. Wasn't quite a year. But I was dealing with litigation with which I was familiar. It was all civil. It was with lawyers who I knew. It was with court personnel with whom I'd worked as a lawyer. And I just . . . I really enjoyed the administrative part of the job. I wished that there were more trials over which to preside, because I found that presiding over a well-tried civil jury case is the height of judicial pleasure.

Arthur Gilbert: Yeah. I think all of our colleagues . . .

Paul Coffee: Yeah.

Arthur Gilbert: . . . would say this. I certainly share that view, and all our colleagues do. You have good lawyers and they try the case, . . .

Paul Coffee: Yes.

Arthur Gilbert: . . . it's a pleasure, isn't it?

Paul Coffee: Yeah.

Arthur Gilbert: Yeah.

Paul Coffee: We . . . . And as the fast-track supervising judge, I got to pick out which cases were going to come to my court, and if they didn't settle we tried 'em. And I had a very good experience there. And I would have stayed but for the revelation of Division Six.

Arthur Gilbert: So Division Six was created. And we would visit San Luis Obispo on a yearly basis.

Paul Coffee: Yes.

Arthur Gilbert: And I think we met then.

Paul Coffee: We met then.

Arthur Gilbert: And we would come up and hold our hearings once a year and have . . . and meet with the bar and the judges. 1:33:01

Paul Coffee: Right. And neither as a lawyer in San Jose and San Luis Obispo as a tort lawyer, nor anything else, made me really appreciate the appellate process. I did one appeal in the time that I practiced with Burt in San Jose. It was a . . . in the olden days and it was a blood transfusion case, as I remember, against Alexian Brothers Hospital. But as a jury trial lawyer, you don't have a practice that gets you to the appellate court very often. Your cases are tried by juries and the decisions are made based upon the facts, and the appellate court does not change facts. So I was not an appellate . . . I was not appellate court oriented. What I did find was that when you came up as a court in Division Six to the Madonna Inn one year, I looked around and I looked at your presiding judge and I thought, "Is that Peter Stone?"

Arthur Gilbert: No, that was Steve Stone's . . . .

Paul Coffee: Identical twin brother!

Arthur Gilbert: Absolutely.

Paul Coffee: Who I knew pretty well from Santa Clara County. He'd been the City Attorney in Palo Alto – the county next door. And we'd actually had some social traffic together. And I thought, "Did somebody not tell me that he'd become an appellate court justice from a different county?" And that's how I found out that Peter Stone had an identical twin brother, Steven. And so did Steven. So I became much better aware of who you were when you had an open house in this building on its completion in . . . '94?

Arthur Gilbert: Who remembers? I'm trying to remember now. I remember that we had a big open house when we . . .

Paul Coffee: Yeah.

Arthur Gilbert: . . . built this.

Paul Coffee: It was probably '95?

Arthur Gilbert: Yeah, something like that.

Paul Coffee: Something like that?

Arthur Gilbert: Yeah, '95, '96.

Paul Coffee: I came down, had a wonderful time at your party, and met everybody. And I thought, "Wow! ***This***would be fun!" ***[laughs]***

Arthur Gilbert: And in fact we invited you to be a . . . to pro tem.

Paul Coffee: Yeah.

Arthur Gilbert: To sit with us by assignment. 1:36:12

Paul Coffee: And Steve said, "Do you think you can wangle a temporary assignment?" And I did for 30 days. Wanted 60, but I'll take 30! And had a delightful time.

Arthur Gilbert: We gave you . . . . I remember ***[laughing]*** you made a joke. We were giving you a lot of CEQA cases, weren't we?

Paul Coffee: Yes.

Arthur Gilbert: That was the Environmental Impact Report cases.

Paul Coffee: That was the Ahmanson Ranch case.

Arthur Gilbert: Yes. That was a big case no one wanted to do. We figured "give it to the new guy."

Paul Coffee: Yeah. Which I did in that period of time, and it spun out into nine other . . .

Arthur Gilbert: That's right.

Paul Coffee: . . . related cases that I handled on a pro tem basis when I . . . after I went back to . . .

Arthur Gilbert: And . . . .

Paul Coffee: . . . San Luis Obispo.

Arthur Gilbert: And CEQA stood for what? The California Environmental Quality Act.

Paul Coffee: Environmental Quality Act. Yes.

Arthur Gilbert: And this is . . . we're in 2013 and there's talk about making a number of amendments to that act. And so who knows whether it'll be around. It depends who's going to be watching this video at what time.

Paul Coffee: That's true.

Arthur Gilbert: But those were very, kind of, involved cases that necessitated looking through a rather formidable administrative record. And so it was a lot of work.

Paul Coffee: Lots of work. It taught me . . . . One of the first lessons I learned about the appellate practice was the variety of matters over which the appellate court has jurisdiction. We do workers' compensation reviews, we do the CEQA cases, we do all of the . . . . There are a surprising number of domestic matters that survive the trial and become appellate matters. There are relatively few tort cases, but some. But I was really astounded at the variety of matters over which we preside in the civil arena. And of course, never having had a criminal assignment in the trial court, I found that 60 percent of my workload as an appellate court justice was criminal cases! 1:38:54

Arthur Gilbert: It's on-the-job training, isn't it?

Paul Coffee: Right. With which I got innumerable inestimable assistance from research attorneys that I hired, with the assistance of Steve Stone. After I was appointed, Steve was kind enough to sit with me and interview for research attorneys, because my position at that time was . . . as the fourth member of the court, there had been no fourth member before me . . . .

Arthur Gilbert: Yes, this was a three-judge court prior . . . .

Paul Coffee: This was a three-judge court.

Arthur Gilbert: And the Legislature had created a new position . . .

Paul Coffee: Right.

Arthur Gilbert: . . . for our court, so we were like all the other divisions in the Second District. Division Seven, I think, was also a three- . . .

Paul Coffee: Right.

Arthur Gilbert: . . . -judge court. And we got a fourth justice, and frankly I'll tell you we were hoping it would ***be*** you. We knew you and there was a real great comfort level there, and so we were lucky. . . . We all lucked out, didn't we?

Paul Coffee: Yeah. Jack O'Connell carried that legislation.

Arthur Gilbert: Yes. He was . . . .

Paul Coffee: His office was then right down the street from where we're sitting now.

Arthur Gilbert: He was a . . . . Was he assemblyman . . .

Paul Coffee: Yeah.

Arthur Gilbert: . . . or state . . . ? Assemblyman, then.

Paul Coffee: He was in the Assembly.

Arthur Gilbert: Then he became the Department of . . . . He became the Education . . . .

Paul Coffee: Right. I don't know . . . .

Arthur Gilbert: I forget the exact title. Not Secretary of Education, but Education something. Suddenly it escapes me. And he created . . . he helped put that legislation . . .

Paul Coffee: Yeah.

Arthur Gilbert: . . . through, and you were appointed. 1:40:41

Paul Coffee: And happily you did not welcome me with a huge stack ***[laughs]*** of files that nobody wanted to handle. I got my own workload and attacked it with the assistance of two research attorneys who survived the interview process with Steve and I – one of whom is still employed as a research attorney in the First District in San Francisco. But she came to us with a history of criminal appeal . . . appellate work with the California Appellate Project. And I thought, "What better assistance could I have?" And . . . . Because that was . . . . Some of the sentencing issues that we have to address are daunting, and it just keeps getting worse.

Arthur Gilbert: It gets worse with that sentencing morass that . . . of legislation we have.

Paul Coffee: Yeah.

Arthur Gilbert: And it keeps changing, doesn't it? So what year was it that you came to sit with us?

Paul Coffee: '97.

Arthur Gilbert: That was '97. And tell us a little bit how you felt being on the Court of Appeal – how we operated and what your view of the system has been.

Paul Coffee: Well, what . . . . I want to say something about the effect that the court-wide meetings in Los Angeles have on me.

Arthur Gilbert: Okay. We have court-wide meetings with the other divisions . . .

Paul Coffee: Yes.

Arthur Gilbert: . . . every several months or so.

Paul Coffee: And we meet in the L. Thaxton Hanson Memorial Conference Room.

Arthur Gilbert: Yes, down south in Los Angeles.

Paul Coffee: In Los Angeles on 300 South Spring Street in a majestic room containing four huge tables put together to make an area that's almost as large as the landing surface on an aircraft carrier.

Arthur Gilbert: ***[laughs]***

Paul Coffee: And surrounded by various pieces of art ***[laughs]*** about which occasionally there has been controversy.

Arthur Gilbert: One of the controversial pieces has been removed.

Paul Coffee: Yes. And it now resides with Mrs. Hanson? Or do we know . . . .

Arthur Gilbert: I think so.

Paul Coffee: Okay. 1:43:31

Arthur Gilbert: Yes. I hope so.

Paul Coffee: Anyway, the first meeting I went to, I sat, I think, with you and Steve. I didn't want you to get very far away ***[laughs]***'cause I felt very much like the kid from Madera. I thought, "This is the California Court of Appeal. There are lawyers sitting around the table." And at that time, there were probably 25 or 30 in attendance?

Arthur Gilbert: Yep.

Paul Coffee: Is that about right?

Arthur Gilbert: That's right. They were judges, they . . . .

Paul Coffee: Yeah.

Arthur Gilbert: Yeah.

Paul Coffee: And people whose names with which I was familiar, but didn't know them personally. But I thought, "You know, this is it."

Arthur Gilbert: You've arrived.

Paul Coffee: Yeah. How could it be any better than this? I . . . . As opposed to others of us on this court, in this division, I liked those meetings. They're an inconvenience because they're 60 miles away, one way. But I always enjoyed the meetings, I enjoyed the camaraderie that exists at . . . with such a disparate group of people who got there in different ways by different processes. And I enjoyed the hearings that we had when new members were appointed and examined, and the Governor would come and sit and ask questions. And I really . . . I just have a different feeling about the court when I think about those meetings . . . the court-wide meetings in Los Angeles. When I compare it to how ***we*** operated as a division, I think we struck the right balance. The most intriguing and rewarding part of being an appellate court justice, to me, over 15 years have been the weekly conferences that we have right next door to where we're sitting that we style writ conferences. And in fact we do spend a lot of time discussing writs, but we discuss a ***lot*** of other things. And we discuss them quote "under the bubble" close quote. As Justice Yegan reminds us, that there's a bubble over that table and everything that happens around that table disappears into the bubble. And it never leaves the room in any other fashion. We talk about our cases, we talk about our problems. I appreciated, when I got here, how much combined experience there was to help me, because we had all three . . . we had two of the three initial members of the court there: Steve Stone and you. Justice Yegan came to the court in the early '90s . . .

Arthur Gilbert: Yes.

Paul Coffee: . . . from a position of senior writ attorney at the big court in Los Angeles. 1:48:03

Arthur Gilbert: He had . . . . Yeah, he went on to the municipal court and then the superior court.

Paul Coffee: Right.

Arthur Gilbert: But he had more experience because he had been a . . .

Paul Coffee: Yeah.

Arthur Gilbert: . . . writ . . . . He had been . . . .

Paul Coffee: Right.

Arthur Gilbert: And a research attorney for various justices on the Second . . .

Paul Coffee: Right.

Arthur Gilbert: . . . in the Second District.

Paul Coffee: He knew writs, and he wrote opinions for some pretty well-recognized appellate justices . . .

Arthur Gilbert: Yes.

Paul Coffee: . . . in Los Angeles. And to be able to partake in, and benefit from, all of that experience, made those writ conferences the highlight of the job. And I think that's what I miss the most now in not doing any of those tasks and not having a problem that I can bring to somebody and say, "This is what I'd like to do. What do ***you*** think?" And then listen to others. And I never got the feeling that there was some hurdle or entry level that had to be satisfied before I became the recipient of the good advice. Justice Yegan says frequently that it probably takes a couple of years to learn this job, and the longer one is here, the more one thinks that his estimate might be a little shy – that it probably takes longer than that. But we had an ethic – that I'm sure you still maintain – that the writ attorneys who prepare the memo upon which we are going to make a decision, as well as the material that is forwarded to us by the trial court, are invited to the writ conferences – are invited to tell us what drove ***their*** conclusions, how ***they*** prepared, what ***their*** feelings are, and then listen to the discussion that ***we*** have regarding the issues that are before us in that particular proceeding. And I don't know of any other division that has that free-flowing communication ethic with the writ lawyers. I'm not aware of any other . . . the inner workings of other divisions. I doubt that you'd find any division in the court in which there is any better communication among ***all*** of the writ attorneys and ***all*** of the justices. Nobody seeks the permission of another justice before talking to that justice's research attorney regarding a matter. It's just they're available, and the information just flows freely, and . . . which is, I think wonderful.

Arthur Gilbert: I must credit you, as well, that in our conferences prior to oral argument, we would discuss various aspects of the cases, including writing and the manner of presentation. And I make jokes . . . we all make 1:52:26

jokes at our conferences, since you left, that we don't have Justice Coffee to catch every nit possible. And in fact we're trying to fill that void. And one of my colleagues will say, "You know, this comma just doesn't belong here," or "Here's a mis . . ." and I said, "Thank you, Justice Coffee."

Paul Coffee: ***[laughs]***

Arthur Gilbert: So we all miss that. You were . . . you had such a sharp eye, and I remember I asked you once, I said, "How do you ***catch*** these things?" And do you recall what your answer was?

Paul Coffee: Yes. In . . . . It goes back to my first practice in . . . or my practice in San Luis Obispo. I had a secretary who kind of came with the building that we bought when we moved to San Luis Obispo. And she was very good. And she worked for me the entire time that I practiced there. But she could not proofread. She'd look at the mistake, and it just did not appear to be a mistake to her! So I had to proofread everything she did. And that just sharpens your eye when you know you're the . . . when the buck stops with you.

Arthur Gilbert: Well, you had a terrific eye and saved us.

Paul Coffee: And I'm . . . . ***[makes a "time out" sign]***

David Knight: We're rolling again.

Arthur Gilbert: Do you . . . . You've been . . . . Let's see, how long were you on the Court of Appeal?

Paul Coffee: Fifteen years.

Arthur Gilbert: Fifteen years. They went by pretty quickly, didn't they?

Paul Coffee: They certainly did.

Arthur Gilbert: And you certainly settled into the job rather quickly, in my view, even though you've been . . . so modestly say that it takes more than two years to really learn the job. I think we . . . . You know, I find that we keep learning about the job, that I never . . . . There's always something new to learn, no matter ***how*** many years you're on the court. Now, we have a diverse group of people on the court. What were your views . . . . You had views about oral argument, did you not?

Paul Coffee: Mm hmm. I do. I thought that oral argument rarely changed my thought process regarding the issues in the appeal very much. There were times when the presentation ***detracted*** from the effect of the briefing. By far, in the majority of the cases, I thought the balance was pretty neutral. It neither assisted it or detracted from it. It may have simply been the fact that there may be an element that as a trial lawyer in my own practice I thought that my word by itself – regardless of what the facts were – was going to be sufficient to carry the day. When you realize that it's not – when you realize that the issues that are to be decided have been minutely dissected in the briefs, which are 1:56:17

available not to be just heard once but to go back and re-read and reconsider if necessary – oral argument seems kind of surplusage. It doesn't help . . . . Well, there times when it can help one justice assist another justice in getting to the desired result. But that's pretty rare. Our discussions in conference are so extensive. When we go over those cases that are going to be on the oral argument calendar, we discuss them with enough depth that anybody . . . any of us is going to see through an attempt to lead the other down a primrose path by throwing softball questions to the lawyers. I just don't think that happens with enough frequency to justify the time that's spent in oral argument. I do think that there should be an opportunity for oral argument. I'm not sure that, you know, the number of times when a lawyer shows up and simply says, "Submitted" doesn't warrant the preservation of the right to oral argument. I probably would leave it like it is. And not everybody has to feel the same way about oral argument. I don't begrudge ***you***, who love oral argument, of the effect on ***your*** thinking process that comes from oral argument. It's just not the same to me.

Arthur Gilbert: Well, you know, I understand. There is still a raging debate about it. A number of colleagues feel that it generally is a waste of time or that it should only occur if the justices want oral argument.

Paul Coffee: Mm hmm.

Arthur Gilbert: Somewhat similar to the federal system. And there's some . . . . I can see the point. So I thought it would be interesting for you to share that with us.

Paul Coffee: Yeah.

Arthur Gilbert: I get a great deal out of oral argument, and others do. But on the other hand there's some cases in which it's just a total waste of time. I see the point of view.

Paul Coffee: Yeah.

Arthur Gilbert: You know, speaking about different points of view, what are your views about dissents? You didn't write many dissents . . .

Paul Coffee: No.

Arthur Gilbert: . . . in the division. We always strove to try to find a principled compromise, if we could, because our view – and I think your view was this; I'll let you state it, but as I recall – we want to give as much predictability to the law as possible and to provide guidance to the lawyers instead of having separate opinions going off on all these different tangents, which we see in the Supreme Court – particularly the United States Supreme Court, and occasionally our own California Supreme Court. But you wrote very few dissents. Do you have any comments about that, or would you like to talk at all about a couple of dissents . . .

Paul Coffee: Well 2:00:14

Arthur Gilbert: . . . you wrote?

[pause in recording]

Paul Coffee: And I think I had the floor to respond to your question. I took, as my philosophy of dissent, comments that have been made by Ken Yegan. He convinced me – without trying, really, 'cause they were comments made in other cases, not particularly the one particular that was under discussion – but he would point out how much our strength is sapped by dissent. A 3-0 opinion is far superior to a 2-1. And what I really found was with some more discussion, with some more thought, with some more effort, there is a position that can be obtained that precludes dissent. I looked at the . . . one of the ones that's in the book – the ***Channel Islands Marina*** case – and I remember the discussions that we had, and we had a bunch. That in hindsight I think Justice Yegan threw out a lifeline, so to speak, that if I had had the ability to attach that lifeline to shore, I would have been satisfied with the majority position instead of writing a dissent. That seemed to me to be the intelligent way that he approached a case about which there was controversy – of what is it, what can we do to reach accord rather than further cement ourselves in a dissenting position? I think he's just brilliant about that. And why I'm so enamored of it is I really believe that our job is to reach consensus, and how much stronger we are when we do than when we don't.

Arthur Gilbert: Well, I wish I'd have known that because I wrote the majority opinion in that case. ***[both laugh]*** And I . . . darn it, I maybe could have gotten your vote.

Paul Coffee: Yeah.

Arthur Gilbert: But I thought you wrote an ***excellent*** dissent. And we looked at that case from different perspectives, . . .

Paul Coffee: Yes.

Arthur Gilbert: . . . whether this would involve some . . . the end of a lease at the marina and there were improvements that a party put in and were those improvements . . . . They weren't . . . . It was the end of the lease, could they take the improvements, should this case have been tried as an inverse condemnation case as opposed to a contract case? And you thought it should be a con . . . . you thought it . . . .

Paul Coffee: Inverse.

Arthur Gilbert: We thought it should be contract, . . .

Paul Coffee: Yeah.

Arthur Gilbert: . . . you thought it should be inverse condemnation. And the Supreme . . . . You had two or three votes for review from the Supreme Court, so your dissent was very well taken. 2:04:30

Paul Coffee: Three.

Arthur Gilbert: And very . . . . Three? You had three! Okay. You had three, so you . . . one more and that would have been in the hands of the Supreme Court. I thought it was a very well-done dissent, and sometimes one just ***has*** to write a dissent.

Paul Coffee: Yeah.

Arthur Gilbert: But I think Justice Yegan would love to know . . . . I will . . . . I'm going to tell him all about the wonderful things you said about him at the conclusion . . .

Paul Coffee: Well . . . .

Arthur Gilbert: . . . of this interview.

Paul Coffee: The talent and experience that he has really helped me learn this job. And I'm . . . not to demean your contribution or Steve's or anybody else's, but . . . . 'Cause I was . . . . As I've said, I was not an appellate lawyer. I was not an appellate judge when I was on the superior court in San Luis Obispo. You'll recall that I tried a case as a . . . I presided over a case in San Luis Obispo that you reversed!

Arthur Gilbert: Yes, I did. I recall that case.

Paul Coffee: 2 to 1.

Arthur Gilbert: Yes, that's right.

Paul Coffee: Mr. Gold.

Arthur Gilbert: Mr. Gold. And I think Steve Stone was the dissent, was he?

Paul Coffee: He was.

Arthur Gilbert: And I think it was Justice Yegan and I.

Paul Coffee: Yeah.

Arthur Gilbert: He joined my majority in the case, and that was a very interesting, close-call case, too.

Paul Coffee: And that was a case that basically examined some collateral damage that occurred by virtue of the admission of some expert testimony that . . .

Arthur Gilbert: That's right.

Paul Coffee: . . . probably didn't have the . . . was not as robust as desired. But it . . . that made me realize what had been described to me from the start of my appellate career, is that the facts don't change. You can arrive at different conclusions about the ***effect*** that those facts are going 2:06:55

to have – you know, the pebble in the bucket produces waves further for some people than others. But the pebble still hits the water.

Arthur Gilbert: That's right. This was a case involving whether the damages were speculative . . .

Paul Coffee: Yeah.

Arthur Gilbert: . . . or not, . . .

Paul Coffee: Yeah.

Arthur Gilbert: . . . as I recall.

Paul Coffee: Yeah.

Arthur Gilbert: That was a while ago.

Paul Coffee: And we went back and we re-tried that case!

Arthur Gilbert: Yeah.

Paul Coffee: With a result that was significantly different than the first because of the difference in the evidence that the jury heard.

Arthur Gilbert: Yeah.

Paul Coffee: And that's the way the system is designed to work. It's a good system. I . . . . People who I grew up with as a tort lawyer say, "What are you dong on the appellate court?" you know. " 'Justice Coffee' – that sounds like a non sequitur to me." And yet it was the most rewarding part of my judicial career. I won't say always enjoyable to the extent of the trial work I did in San Luis Obispo in the Civil Department, but as a matter of accomplishment, it was the zenith.

I do want to mention how impressed I was with the opportunity that was presented – and continues to be presented – to us appellate court justices to sit with the Supreme Court on occasion when they're down in their personnel or their disqualifications or whatever. But I remember I did that in one of their outreach programs up in Shasta in Justice Abbe's old haunts, and I looked down the row and I caught Justice Werdegar's eye, and we each had a little nod of the head, and to me, I was communicating, "This is as good as it gets." And I think she was saying the same thing.

Arthur Gilbert: Well, thank you for a very interesting and, I think, very memorable interview. And I think viewers are going to gain some great insights from seeing this.

Paul Coffee: Well, I hope so. I've had a delightful time talking about it. Talk is what we do. ***[chuckles]***And we'll just keep talking.

Arthur Gilbert: We're in the . . . . We tell stories, don't we? 2:10:08

Paul Coffee: We tell . . . .

Arthur Gilbert: Everything is a story.

Paul Coffee: We tell stories.

Arthur Gilbert: Thank you again.

Paul Coffee: Thank ***you,*** Arthur.

Duration:130 minutes
May 22, 2013