Justice Rosendo Peña: It is my pleasure today that we are talking with retired Associate Justice Rebecca Ann Wiseman at the Court of Appeal, Fifth Appellate District. My name is Rosendo Peña and I am an Associate Justice of that same Court in Fresno.

As part of the Centennial of the California Courts of Appeal, the Appellate Court Legacy Project committee is creating an oral history of our Appellate Courts and their justices.

Good morning Becky and thank you for your participation. You capped off more than 27 years of judicial service when you retired from the Court of Appeal in October of 2013.

Justice Rebecca Wiseman: On Halloween by the way.

Justice Rosendo Peña: On Halloween but before we get to your legal and judicial career let's talk about your younger years. First tell us where you were born and reared?

Justice Rebecca Wiseman: I was born in Sanger, California and grew up in Fresno.

Justice Rosendo Peña: Tell us about your parents, what did they do?

Justice Rebecca Wiseman: My parents were very typical I think of their times. My mother was a homemaker and my father had a very interesting life which I will mention because I think it was so important in how I grew up and in shaping how I thought about things, even may be influencing my judicial philosophy somewhat.

But he was raised in a very small town in Arkansas, they did not even have streets to it, it flooded all the time and for him it was a really uncommon thing to have a pair of shoes because he was constantly skipping over water moccasins in that area.

But he ran away from home when he was 16 years old and rode a rail to California which is how the family ultimately ended up being in California and because he had a brother who had already left Arkansas, he went to be with him in the Central San Joaquin Valley. And so he lived with him and that's how we got here.

Justice Rosendo Peña: And, well that's very interesting, what was his first job when he got here to the Central Valley?

Justice Rebecca Wiseman: Picking grapes and then he went to driving trucks. And I mean the stories about going over the grapevine losing the brakes, the hard work that he went through the long hours and that's what convinced him that he was going to not do that all his life. So he went to college which was quite a deal in between which he enlisted in World War II.

Justice Rosendo Peña: And I have read that your father was a glider pilot in World War II, can you tell us a little bit about that?

Justice Rebecca Wiseman: Oh yeah, great stories. He still tells me, he is still living, he is 93-years old and he still remembers those stories. But he was a glider pilot, he was in the mission that they made a movie about called "A Bridge Too Far." As they did with gliders and they dropped them into enemy territory in Germany.

And my dad was captured as was the person that was with him and they were taken in by a German family. And the Gestapo came and found them and murdered the family and then took my dad off to prison camp. They actually murdered the man that was with my dad as well.

And so daddy spent about nine months in prison camp and then fortuitously the war ended and I mean the stories he told are fascinating, one after another, and so anyway, he came back to the Central San Joaquin Valley because that's where his roots have been established, and finished college.

He met my mother on an Amtrak train, they were playing cards and I guess he likes to say he picked her up and she didn't like that very much. She's pretty prim and proper but anyway that's how it started.

Justice Rosendo Peña: Now, you mentioned that – well how often would you talk about – I mean this sounds like something that would obviously change a person's life. Did he talk often about it or did he talk about it early on and then decided not to talk about it any more?

Justice Rebecca Wiseman: Well, he was I think typical of many people of that generation, he didn't talk about it much until, I remember, I got into college and after and now he talks about it a lot more, maybe as he's gotten older he appreciates the value of the experience.

And I think he can tell we really like hearing the stories because if we don't hear them now, they will be lost and they are not lost by any means but he can go on and on with them. And his mind is still so clear. We don't hear them over and over again. There are still new ones coming up all the time.

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Justice Rosendo Peña: And as far as that your mother said they met on an Amtrak train, can you tell us a little bit more about that sounds pretty interesting and do you know where they were coming from?

Justice Rebecca Wiseman: My mother was from Pennsylvania and she came to Modesto of all places. That seems pretty random to me but she did, she got a job with the Department of Agriculture doing inspection of fruit and they would inspect fruit to determine whether it had adequate sugar levels.

And so my mother is – she had a degree in chemistry she's pretty sharp cookie and really enjoyed science, it was her gift and so she had started in that role. She was on the train with friends, back in those days people traveled on the train a lot, it was a very social thing and she was going back and forth to LA.

And my dad was on the train with some other officer, they were -- my dad was a lieutenant and so he thought she was pretty cute, that's how he put it and so they went and started playing bridge and that's how they met and he got her phone number and came back to Modesto to look her up.

It's not like he had the Internet where you could find somebody on Facebook. He had to go pretty much walking through the streets of Modesto to find her and he did.

Justice Rosendo Peña: Wow, well that's very interesting, you said he went to the work and back finished the college, so where did he end up working – what was his employment or his career after that?

Justice Rebecca Wiseman: Well, he worked for a company called Producers Cotton Oil Company and it is located in Fresno and it had gins, they called them gins, cotton gins all over the Central San Joaquin Valley and he started as a gin manager

which – my dad was a pretty quiet guy and so I think it was helpful to him to learn how to talk, and part of the job was keeping the customers happy.

So I still have hard time thinking of my dad is being chatty, but apparently he developed that skill and then worked his way up into management. And in those days people like to work for one company, it's so different than now where you go different places and staying at one job for five years might even be uncommon, but he was there 30 years, got his gold watch, and his reputation was that of how does that phrase go, the velvet hammer, he was pretty tough, growing up as a kid, you didn't mess with my dad.

Justice Rosendo Peña: And mentioning that, tell us about any siblings growing up here in Fresno, you said you were born in Sanger but grew up in Fresno, can you tell us a little bit about maybe the schools that you attended in Fresno?

Justice Rebecca Wiseman: Yes, I attended local schools, public schools, I went to McClain High School, I have a sister Joanne, who is -- I mean she was the beautiful one, tall and slender and she is a fabulous person, also very scientific oriented, she ended up being a teacher and a great teacher. She taught middle school by choice and all the boys wanted to be in her class for no surprising reason and anyway, she was great.

Justice Rosendo Peña: Did she teach in Fresno or in San Joaquin Valley?

Justice Rebecca Wiseman: She taught at Sanger, yeah, she is still there.

Justice Rosendo Peña: And during your early formal education, did you ever have to work as a student?

Justice Rebecca Wiseman: Oh yeah, I have had a job since I was 12 years-old and my first job was working -- my aunt was a court reporter as Fresno County Superior Court and so she would give me her verbal notes and then I would transcribe them for her.

Justice Rosendo Peña: So you would type them up on a typewriter?

Justice Rebecca Wiseman: Yeah, I don't think I was very good, I think she had to go through and fix some of my mistakes, typos, but I remember the first case she gave me was something called a gang rape case. My mother didn't know that's what it was and I thought, oh gang! What's that? Well,

by the time I was through, I had a pretty good idea. It was probably not the best judgment to give a 12 year-old. But I got my initiation early and then I worked at Liberty House, which was a department store.

Justice Rosendo Peña: You remember that?

Justice Rebecca Wiseman: Yeah, it would be comparable to Macy's, I suppose, and it was a local chain and I was the representative of the high school that I worked at. But that's why I really started enjoying public speaking. I would put on shows and presentations for them and learned how to speak extemporaneously.

Justice Rosendo Peña: When we say put on shows, does this involve clothing or --

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Justice Rebecca Wiseman: It did. And we would do it for various foundations and causes and raise money for organizations. Every high school had a person, at that time they were women, the girls, now I suppose they are all men and women, but we would put these presentations on, it was great training. I had never done anything like that before and I liked it, I liked public speaking.

Justice Rosendo Peña: Great! So you graduated from McClain High School and where did you go to college and what was your major?

Justice Rebecca Wiseman: I went to Fresno State, I never really thought about leaving because dad had always been home. My major was Journalism because I wanted to be a TV broadcaster, never once thought about being a lawyer.

Justice Rosendo Peña: Now you said, you only considered Fresno state at that time, do you have reason for that?

Justice Rebecca Wiseman: I did, apparently finances, we were obviously not wealthy people and staying in Fresno, seemed like a good idea, we didn't travel, so I hadn't had much exposure to other things and other places, and it was an economic choice.

Justice Rosendo Peña: And how did you become interested in journalism?

Justice Rebecca Wiseman: I just always was, maybe because the public speaking I did, I did forensics and debate and I just liked it, I did. I liked Walter Cronkite, I thought, God, that's what I want

to do, Barbara Walters, it was -- it just seemed like the most glamorous life possible.

Justice Rosendo Peña: So did you have that as an aspiration, or maybe one day be either a news caster or behind the cameras?

Justice Rebecca Wiseman: Yes, I got my first job. Out of college it was with KOVR in Sacramento, and worked in a newsroom.

Justice Rosendo Peña: What were your responsibilities or duties in the newsroom?

Justice Rebecca Wiseman: It was kind of a grant and I was so grateful to get it, and it was the 25th market in the United States, so it was a really great place to start. I would file clippings. They would not even allow you to have a pad of paper. So that's where I learned to write on a typewriter.

If the news director caught you with a legal pad or any kind of paper, writing a story, he would whip it out and tell you to do it the right way. They didn't have time, they had deadlines, you have to learn how to do that, and it was great. That's served me well. I have never written -- when I was at the Court of Appeal even on the trial bench, I don't think I ever had a pad, I did everything on a computer, everything.

Justice Rosendo Peña: And so during your time at the Fresno State, did you do any work anywhere to either supplement your income or prepare yourself for your career?

Justice Rebecca Wiseman: Yeah, I always had a job, I worked in various jobs, but I think the most interesting one for me, I got a job in the summer at Sacramento, ooh hoo, big city, and I thought that was great, and that's where I ultimately ended up meeting my husband, it was through that position. It was for the Secretary of Health and Welfare Agency, Earl O'Brien, who I thought was really cool at the time. He ultimately ended up in prison, so he was a medical doctor as well as a lawyer, and I think not the most honest person in the world.

But that is how I got my start and the first time I moved away from home and went to Sacramento, and had a great time.

Justice Rosendo Peña: And was it at that time that you were excited to go to law school or did you already have that in mind?

Justice Rebecca Wiseman: Well, I actually decided to go to law school very randomly which is sort of how I have done many things in my life like applying for judgeships, it was kind of a random decision and a bad experience. I decided not to stay at the newsroom. I was unhappy because I didn't get a position that I had hoped that I would. Things often work out the way they should but you don't know that at the time. So I started applying for positions and I had a friend call me and say that he had been offered a job as an account executive with a public relations advertising firm, and I thought, well, it's not quite what I want but it is in my field.

So I applied, and I went in, and I had a pretty good resume. I had done well in school and had some awards and good grades. So anyway I thought, well, I should have a shot at this, and I went, and I was being interviewed by this young woman and she kept asking me -- now bear in mind this was like 35 years ago, she kept asking me how fast I could type and how I was on the phone, and these kind of questions.

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I said, well, this is all fine but what position am I interviewing for? Isn't this the account executive position? And she said, oh, we don't have an account executive position open. This is for the receptionist, and I said, well, I know you do have an account executive position open because my friend, who I named, was just offered a position.

And so she lied and she said, well, yes that's true, but we would never consider you for that position. And I said, why not? And she said, because you are a woman, which in retrospect I gave her credit that she was honest because I do think those kind of things happen today but people know you don't say it like that. Anyway --

Justice Rosendo Peña: I mean hearing that her saying that, how did that make you feel?

Justice Rebecca Wiseman: I was unhappy about it, but what it did is I walked away from there and then I talked to my husband, I said, you know, I don't have a credential. Here I have this degree from college and I have done well, and they get my friend who I really like, he didn't have -- his credentials weren't the same as mine.

I said, I need to get something where I don't always get asked as the first question how fast you type, and that's when it occurred to me, maybe I'd go to law school. And it's funny, I had an offer, the same day I got accepted at UC Davis Law School, I got an offer to work at a newspaper and be an editor of one of their -- it's like '***Paradé*** magazine, USA, one of those types of magazines for a Sacramento paper, I just thought, oh that sounds really good.

Justice Rosendo Peña: Was that a difficult choice for you?

Justice Rebecca Wiseman: It was, because I never once thought of being a lawyer, but that experience, getting back to your question, which is how did I react to that, I didn't ever want to have that happen again.

And so I figured fine, I will do this credential thing and then I don't know if I'll ever practice, but nobody is ever going to ask me that again.

Justice Rosendo Peña: And you mentioned you got an offer from UC Davis, did you accept that offer, did you attend that UC Davis class?

Justice Rebecca Wiseman: I did.

Justice Rosendo Peña: And what year was that, what year as I guess?

Justice Rebecca Wiseman: It would have been 1978, 1977, right in there.

Justice Rosendo Peña: We all have different experiences, how would you rate your law school experience?

Justice Rebecca Wiseman: I didn't like law school. I am sorry, but I didn't. It was a means to an end for me. I had some classes that I really liked. I had a water law class that I thought was fabulous.

But my law school experience was complicated by the fact that my husband moved to Kern County which is five hours away to drive, and so I was driving back and forth every weekend, and I think that colored my experience because I was always frantic, just trying to keep my reading up, my first year –

I had a great experience with classmates, wonderful friends from law school, but as far as the coursework, I

think I wasn't really prepared for what was involved, I hadn't really thought that through.

Justice Rosendo Peña: So if I were to ask you what you expected -- you didn't have any particular expectations, or was it not what you expected.

Justice Rebecca Wiseman: I didn't really have expectations, I had no regrets having done it but my goal in going was I wanted to be taken seriously and I felt at that time as a young woman that was the way to do it. So that was my motivation and I had no regrets in doing it and I still don't. But was it something I dreamt about all my life? We had no lawyers in the family, so it's not like I was trying to be like my dad or -- I have a cousin who went to law school, and we are it. So we didn't sit around the fire talking about torts, that's not how I was raised.

Justice Rosendo Peña: Now you have mentioned a number of times your husband Ken. Can you tell us about when you met, how you met, story behind that?

Justice Rebecca Wiseman: Yeah, Ken is great. You know Ken well.

Justice Rosendo Peña: I do.

Justice Rebecca Wiseman: He is just one of the nicest, most interesting men, I say that after 37 years of marriage, I still think of him as one of the most interesting people I know. He makes anybody in a room feel comfortable, and yet he is not pushy at all, I'll tell you. But we met -- we actually didn't hit it off, I didn't hit it off with him.

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We were at a political convention that I was at because of this position in Sacramento that I mentioned I had taken. I saw him there and he was giving me a bad time and I was passing out literature for this, he probably was more pressing it than I, but his father went to prison and of course I didn't -- obviously there was no issue with that then, but he was running for office, which looking back on it was probably totally inappropriate to use state funds to hire interns to work with you.

But I was passing this literature out and I didn't want to be doing it. So I was kind of on edge I think anyway and he came up and started teasing me, he didn't care for

him. So he once again was able to see character where I didn't and see lack of and he gave me a bad time and I told him, I said, buddy, you are cruising for travel, he was starting to push my button and so anyway it was maybe a month later that he was able to track down my address through one of my friends who was there.

Justice Rosendo Peña: Here was like your dad then.

Justice Rebecca Wiseman: Yeah, exactly. So anyway he loves to tell the story. He is much better at it than I am, but we got married maybe a couple of years later.

Justice Rosendo Peña: Was this while you were in law school?

Justice Rebecca Wiseman: It was before law school. We did law school together. Well, sort of, he moved to Kern County in the first year, so I was only with him on weekends.

Justice Rosendo Peña: And so I guess a lot of your time, during law school had to deal with just being able to keep contact with him and meeting with him, how do you take that?

Justice Rebecca Wiseman: Yeah, I got to know 21:48 really well.

Justice Rosendo Peña: Well let's move on to your bar examination, do you remember anything about that, how you prepared for it?

Justice Rebecca Wiseman: I was like 24×7, because I knew one thing, I was not taking that again. So I stayed in Fresno with my parents, and the only thing -- I mean I took all the writing courses, I didn't want to take any chances, and the only pleasure I allowed myself was new this is sort of sick, but Perry Mason used to come on, I love Perry Mason and I don't want to say, I didn't go to law school because of Perry Mason because I never thought about going to law school, but I would watch Perry Mason at lunch and that was my big moment that I would step away from studying but I took it very seriously. So I took the bar in San Francisco.

Justice Rosendo Peña: And where were you when you got the results?

Justice Rebecca Wiseman: I was at home and petrified, and that time you could find out by calling and I didn't have the courage to call, and Ken said finally it was like 1 o'clock in the afternoon, the results came out at 10. He said, we've got to do this. I said, well you call, I can't. I can't do it.

So he called and by then got through and all I remember is hearing -- we had an old screen door and it has a very distinctive sound that screen doors make when they slam, you know it, and I heard that slam, I thought, oh, it's either good or it's not good and he came running up, gave me a big hug, and I realized I passed, and then this is so much life. The guy across the street, who was named David and we have been friends and he said, well, what are you so excited about? And I said, I just passed the bar, and I thought may be he would be happy, but he said, really? He said, don't you feel bad? And I said, no, I felt great. And he said, but don't you feel bad, you took a job away from some man trying to support his family, and I looked at him and I said, are you crazy?

Justice Rosendo Peña: Well, that's certainly not the reaction that I would have expected.

Justice Rebecca Wiseman: No, I didn't either, and it's funny, but that's how it was. I'll tell you it didn't bother me, I was on cloud nine.

Justice Rosendo Peña: Were you in Bakersfield at this time or --

Justice Rebecca Wiseman: Yes.

Justice Rosendo Peña: Okay, so this would have been a neighbor from Bakersfield and after you took the bar, you moved in with your husband Ken in Bakersfield, was that kind of how it happened, but you studied in Fresno?

Justice Rebecca Wiseman: I did. Well, yeah, I wanted to take a Bar Review Course, and I didn't have anything in Bakersfield. So the closest I could get was Fresno, and it was a video kind of thing, but it was good, it worked.

Justice Rosendo Peña: So do you feel that your marriage, did that impact your career path in anyway?

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Justice Rebecca Wiseman: Oh yeah, Ken was the one -- I have always been a reluctant warrior, I don't like spotlight and he – well, I mean I worked for a firm and I didn't care much for the firm, and then I went into the DA's office and even in there I took an unusual path in the DA's office. I did a lot of their civil litigation, which was fun, because my interest was Water Law, that's what I thought I was going to do.

All right, now I am lawyer, I want to do Water Law, and so that's what I did, I was in the DA's office, but I handled environmental cases for them, wasn't sitting -- I took a stint where I was out in the hinterlands, Buttonwillow and Shafter and Wasco.

Justice Rosendo Peña: The outline in the cities of Kern County.

Justice Rebecca Wiseman: Yeah, I loved it, I loved it.

Justice Rosendo Peña: So you mentioned that you did have -- your first job, was it in a civil law firm?

Justice Rebecca Wiseman: Yeah.

Justice Rosendo Peña: What kind of work did they have you doing there?

Justice Rebecca Wiseman: Well, my boss was an engineer and I realized that my perception of what Water Law was about, may be wasn't what his perception was, because I wasn't an engineer and it was a little less exciting than I had hoped it would be, and so – yeah and he was an interesting guy.

Justice Rosendo Peña: Then you decided to try public service in district attorney's office in Kern County.

Justice Rebecca Wiseman: Yeah, I did.

Justice Rosendo Peña: I am sure there is a lot to talk about that. Tell us a little bit more about your experience. You spent what -- at least four years or something there.

Justice Rebecca Wiseman: Yeah, I did, and that was with -- I was hired by a DA named L Latte (ph) who was a very nice man and had some -- Kern County has had some interesting challenges with its district attorney's office and Ed Jagels ran for the office and ran against the City Kern County Judge and Ed won and so I worked with him and it was during that tenure that there were a lot of molest cases that came out of occurring that became rather notorious. I wasn't involved in any of those types of cases. But the way the prosecutions went and how those cases were developed did influence my judicial philosophy down the road.

I felt we had wonderful, there were some wonderful attorneys in that office. But that there was a lot of pressure put on people too, but tough.

Justice Rosendo Peña: You mentioned you were doing Environmental Law for the most part, what kind of prosecutions did that entail?

Justice Rebecca Wiseman: Toxic waste dumps, things like that. People in rural counties just go dump stuff or they feel they can do whatever they want, because it's open space and there was even more open space then. So, we did things like that and consumer fraud cases, those were fun.

Justice Rosendo Peña: So did you attempt to force them to clean up their messes or fine them something --?

Justice Rebecca Wiseman: We actually filed some public nuisance actions which was fun – I don't mean to take -- it was as a young attorney, it was interesting, it was exciting. We were able to work with them and meet resolutions which I think were for the public good. But it was exciting; it felt like we were making a difference.

Justice Rosendo Peña: Did you get chance to do very many jury trials during that course of that time?

Justice Rebecca Wiseman: Yes, I did to jury trials, not as many as some, but maybe 10 or 12 a year.

Justice Rosendo Peña: Did you enjoy that type of work?

Justice Rebecca Wiseman: Yeah, I did. It was the closest thing to – oh, I sort of thought it was kind of like broadcast journalism, I like being in front of people. And I got certified as a law student and my very first jury trial was without any doubt my most memorable, because I worked with, understudied a attorney which you have to do and it was an indecent exposure case, again, you know, why would they pick me to do this, I don't know, but I did.

And it was a more pejorative way they described those cases, which you can probably imagine what it was. And so, anyway, I did this case and I remember Jack Weinstein calling me and saying something right before we are going to pick a jury, he said something very important I need to tell you. I said, okay, I am thinking all right now, he is going to give me the sage advise about how to pick juries my very first one.

And he said, you know my wife Emily and I have talked about you and we have decided you use makeup very ineffectively. I heard everything and was like oh my

God, will you please have this conversation some other time, I said, I don't think the jury is going to care.

But I did learn the lesson of not asking one question to many and I will never forgot this lesson, I have passed it along to people and anyone who will listen where we had an indecent exposure case within employee, employer situation.

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It was a young employee and it was in a shoe store. And the employer asked her to get a shoehorn and measure him.

He was apparently exposing himself and he wanted her to measure the length of his penis. And so apparently she did. Well, the young Rebecca Wiseman asked one question too many, and I didn't know the answer to the question, and I said well, after that happened what did you do? She says, well, we went to lunch and I talked to the jury afterwards and they equated and they said this was consensual, this is stupid, and I should never have asked that question, because I didn't know the answer to it.

Justice Rosendo Peña: Do you think that the result might have been something that would be different say in these days or do you think the attitudes were different back then?

Justice Rebecca Wiseman: Well, in these days I think that the company which was a big company would have gotten super sexual harassment and it would have been a civil case, but yeah, it would be very different, but that's how I guess how people work, nobody thought about that kind of thing. And certainly, I didn't.

Justice Rosendo Peña: You mentioned you were certified law student at the time. And was this also with – did you have job there as a student before you worked there?

Justice Rebecca Wiseman: Yeah, I got a job at the DA's office. This was before I went to work for the civil law firm, I was there during the summer.

Justice Rosendo Peña: So, you had a little bit of work there. Any office politics that you had to deal with at the District Attorney's Office?

Justice Rebecca Wiseman: Oh sure! I was not an aggressive prosecutor, I was one that tended to want to try and resolve cases and we had some people there that were extremely aggressive. One person I remember in particular and Goddard negative headlines over, but took a case trial because someone took a paper bag out of the grocery store.

Justice Rosendo Peña: So, this is like a petty theft?

Justice Rebecca Wiseman: Petty theft. And I thought that was stupid. You know when you start weighing public resources. So, people like that I, we didn't have the same philosophy about managing our cases.

Justice Rosendo Peña: But as far as your overall experience, would you say it was a positive one, how would you describe it?

Justice Rebecca Wiseman: Oh yeah, it was wonderful. I enjoyed it very much and I made lasting friends in that office, many of which went on to become judges. So, we had relationships with each other, professional relationships for years.

Justice Rosendo Peña: And do you recall any special mentor or anyone that you know helped you out, but you thought was really helpful to you?

Justice Rebecca Wiseman: From the DA's office, Steve Gilner. And we are still friends, he lives in Austin with his wife Brenda, I still go see him. They are great people.

Justice Rosendo Peña: All right, so now we can move on. When did you first become interested in applying for a judgeship?

Justice Rebecca Wiseman: Oh, my husband pushed me in to it, because again, I didn't – I have always been reluctant warrior. I had no interest in becoming a judge because I was really liking working at the DA's office and doing this niche practice there, and Ken told me that you should put in for this, you might get it. And the worst thing that could happen, I will never forget this line, it's what convinced me to do it. The worst thing that can happen is you will get the job.

And I thought, oh, okay, I can buy that. The implication being that you can say no. And I didn't really think I would get the position anyway.

Justice Rosendo Pena: And so what year was that, that you were first appointed as a judge, if you recall?

Justice Rebecca Wiseman: It must have been like `86.

Justice Rosendo Peña: 1986, and what judicial office did you hold at that time?

Justice Rebecca Wiseman: Municipal Court, it was called Western Municipal Court, Marvin Baxter called and told me. He was great; he was the Judicial Appointment Secretary.

Justice Rosendo Peña: Yes, and he is now retiring from the California Supreme Court.

Justice Rebecca Wiseman: Oh, I am so sorry, yeah.

Justice Rosendo Peña: And do you remember anything about those days your Muni Court days that you like to talk about.

Justice Rebecca Wiseman: Yes, I loved it, I really –- I understand the whole concept of unification that being unifying superior in municipal court. But I sometimes regret that that happened, because people that are young aren't really getting a chance to be judges.

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You have to be ten years now before you can even be considered and for the types of judgeships and responsibilities that you get, I think older attorneys are the ones that tend to get considered which is as it should be if you are handling superior court work.

But if you are doing a bunch of small claims and you are running a civil calendar and maybe doing just preliminary hearings, it's a great way to test out whether you like being a judge, it should work that way for me.

And I loved it as it turned out, I really did. I liked it, I think I was a better judge than I was a lawyer, because I never liked that true advocacy position. I like more, let's talk about this, let's figure how we can make this work, and that suited my personality more.

Justice Rosendo Peña: And so back in the days of municipal courts which we don't have any more, you needed a minimum five years of legal experience. And do you feel that the work that you had done up to that point prepared you for that position?

Justice Rebecca Wiseman: Sure! Well, it helped, but nothing prepares you for the first small claims case you have in and people hate each other and they are arguing. I think it's more your temperament, and you either like that kind of work or you don't.

Justice Rosendo Peña: You had to go from being an advocate to making decisions, how difficult was that for you, if at all?

Justice Rebecca Wiseman: It wasn't. I hope I made right decisions, but I was never one that you know run my hands and struggled. I would look at an issue. In fact, my clerk gave me little story that I kept on my desk, I still have it. It was a quote from Sandra Day O'Connor, who is my heroine and I always took it to heart.

She said that she always put all her effort in on the front end and she worked very, very hard. And then she would made her decision and then she let it go, because she knew, she put it all in on the frontend and after that it's done.

Justice Rosendo Peña: So then describe your first judicial experiences really in a positive way.

Justice Rebecca Wiseman: Well, my judicial experience – our presiding judge you obviously were trial judge and you know how, what rolls downhill and the people that are new are the ones that get what gets to the bottom of the hill first and he assigned me my very first day, very first day a jury trial with two lawyers that absolutely hated each other and they were notoriously, they are very good lawyers very talented but they jus couldn't stand each other.

Justice Rosendo Peña: They were going to make for difficult trial?

Justice Rebecca Wiseman: Yes, and I don't think any of the others wanted to do the trial so guess what the new kid gets it and it was a DUI and, you know the DUI cases in those days were pretty complex because you were hearing expert testimony and making rulings on foundational issues and that's where those cases were won and lost.

And so it was challenging and I made it. I felt I earned my stripes and we got through it and we didn't have any fisticuffs, which had happened with these two, they had broken into fights before and we made it and I can't remember what happened, I don't know if the guy got

convicted or not, I can't remember but I do remember thinking to the presiding thanks a lot.

Justice Rosendo Peña: Well, that did it seem to you that because he had put you in this difficult position that perhaps now the remaining cases you were going to hear were going to be a lot easy?

Justice Rebecca Wiseman: Oh, yeah maybe. Let's go with that, that's a good one and we are friends I mean he was a very good judge and – but I have valued and again looking back on it I never got coddled ever, ever and I am glad about that, I think that helped.

Justice Rosendo Peña: Now, thinking back on that do you think that you were assigned this particular trial to really test you or was it something else?

Justice Rebecca Wiseman: I don't think the motivation was good.

Justice Rosendo Peña: Do you think, because at the time you had what maybe five years of experience and you were obviously a very young judge that – did that play into it at all, do you think?

Justice Rebecca Wiseman: Yes. I do.

Justice Rosendo Peña: But that didn't stop you, did it?

Justice Rebecca Wiseman: No.

Justice Rosendo Peña: Five years down the line you get another call from the Governor's office.

(00:39:59)

Justice Rebecca Wiseman: I did. Yeah and that one that was – I knew enough -- I needed to get to know people and so I volunteered I was learning, this is what I tell new lawyers, our new judges, always take the assignments nobody else wants and then do the very best you can.

And you would distinguish yourself and no one will interfere with you because they don't want to do it anyway and they are just grateful you are. And at that Court, nobody wanted to do civil, it's hard for some people to understand because many courts that's the plum assignment it was not the plum assignment.

Justice Rosendo Peña: And we should be talking about Municipal ---

Justice Rebecca Wiseman: Municipal Court and I volunteered to do that they were thrilled so I was able to run the Civil Department put in some rules that I thought would work but it gets to your question is because I got to know the civil bar and then they became comfortable with me and it doesn't matter what you look like or what -- how old you were. They know if you work hard, you listen to them, you do your best then they at least don't oppose you.

Justice Rosendo Peña: And then some of those civil cases did you find that there were a lot of self represented litigants or were most of your cases, cases in which that you had attorneys on both sides?

Justice Rebecca Wiseman: Surprisingly, it was a good mix of both. I don't think it's that way now but this was a long time ago and I suspect attorneys could still afford to take those kind of cases and I had lots of lawyers; we had Section 1983 Jury Trial when I was in Municipal Court. The civil rights case out of a Los Angeles because they got moved, I remember having to go look up Section 1983 because I had never read it I thought oh my gosh, I am doing this trial I better know what the statute says and did some research. Actually, I attended a – I had the good fortune to attend a CEB course on it before the trial started and it was very helpful.

Justice Rosendo Peña: And --

Justice Rebecca Wiseman: This was Muni court.

Justice Rosendo Peña: Now you mentioned that you became familiar with the civil bar, prior to that what challenges did you face in the legal community or with your traditional colleagues? Was there anything in particular that you felt was going on?

Justice Rebecca Wiseman: Well, it was all the same stuff like I have been talking about. I had a wonderful relationship with my colleagues and I don't want to suggest I had otherwise, but there were learning, they had never worked with a woman in that position ever.

And I remember I was pregnant with our first child. And the only time I had words with this one judge, he was the presiding, another presiding and I came in to his chambers, he had a whole group of male attorneys, and

we had sort of a running thing going, because I always made people stand when I walked in to the court, not because I deserved it, but it was one way that I felt I could command some respect, get them to quite down because I did a lot of master calendars and I think I was – that was one of my talents, I can move people through and keep balls going in the air.

So, I couldn't get people to shut up, so we would make them stand and then they would do that. Well, this judge thought that was silly, he was very relaxed in his courtroom style, but he is 6'6" and he should have a different style. But anyway I remember walking into his chambers with all these male lawyers, there are probably five or six of them, and he says, okay, let's all stand for the pregnant lady.

Justice Rosendo Peña: Well you had a lot of really interesting experiences so far as --

Justice Rebecca Wiseman: No, no, you ask any woman that's practiced, that's my age, and you hear these stories. These are the things that happen. But that's the only time I remember taking him aside and I told him that if he ever did that again, I would report him.

Justice Rosendo Peña: And so you mentioned the first time that you got the call, it was from Marvin Baxter, five years later you get another call for superior court, was it still Marvin Baxter then?

Justice Rebecca Wiseman: No, it was Terry Flanagan.

Justice Rosendo Peña: Terry Flanagan, okay. And do you recall, were you looking forward to transitioning to superior court at the time?

Justice Rebecca Wiseman: Oh yeah, I sure was. I loved Muni court, I loved every job on the trial bench, I loved them all, they were great, but we wanted to move up into the mountains and that was outside of the municipal court district, so we were renting a place in downtown Bakersfield because I didn't want to get in trouble with any kind of jurisdictional requirements. So, that was great, we were able to get rid of the apartment after that.

(00:45:03)

Justice Rosendo Peña: And you had mentioned earlier that most of these judges were not familiar with working with the woman – you became the first female superior court judge, is that correct?

Justice Rebecca Wiseman: Yes, in Kern County.

Justice Rosendo Peña: In Kern County. And any and you have mentioned one, any other difficulties or challenges you felt that you faced because of the fact that you were the only female now?

Justice Rebecca Wiseman: I could tell you countless stories like I have but no, I really admired my colleagues. I think once they figured out I was for real and that I worked hard and that I listened to them, I tried to be respectful, because that's – you know I was telling about my dad, that's how I was raised, then they chilled out.

I had wonderful experience on the trial court bench. And I was never coddled and I believe that was because ultimately they felt I could handle the job and to me there is no higher compliment.

Justice Rosendo Peña: And you mentioned you have done a lot of civil work in the municipal court, did you specialize in any particular area in the superior court bench?

Justice Rebecca Wiseman: Oh yeah. I had an assignment in an area that I had no training in family law, that wasn't my favorite. But I was in that for six months and then they put me in running the criminal calendar, which in Kern County is a big deal because there is a lot of crime there and I ran the whole department.

Again I don't know what their motivation was in putting me in that assignment, I did that for a year, and I had two little kids and it was 24X7, we ran everything, I can't tell you how many sentencings I did and how many motions to suppress I heard and those were controversial in Kern County, you suppress evidence.

They kept book on judges, and but that's just the job, probation revocations, I mean I would hear all kinds of things, we have prisoners in, but I liked the inmates. I never had problems, we never had problems. I always felt that if you talk to people just like as they are real people that have had moments in their lives with very rare exceptions, I never had problems.

Justice Rosendo Peña: And you mentioned family law and that's I think probably an area that most judges don't care to do is that you think that might be the reason that you --

Justice Rebecca Wiseman: I think people either love it or they don't and it's a chain because I think people that love it should do it, because it's so important, it's so important. Same with juvenile, I think it's so important they have someone there that really love kids or really cares about the community.

Justice Rosendo Peña: And both are very specialized areas?

Justice Rebecca Wiseman: Very, very specialized and it wasn't so much that way then, but now I think it's risky to, I would like they did when I was a judge, it always seem like if you had expertise in that area that would be the last assignment that you would get.

Justice Rosendo Peña: And that's still very interested to hear that from new judges. So, this was when you started doing that criminal calendar how long did you end up doing that?

Justice Rebecca Wiseman: A year and then they ask me if I would take over direct calendar for civil and oh yes, so I did.

Justice Rosendo Pena: And so that would have been a year into your stint with the superior court or thereabouts, year and a half and did you enjoy that?

Justice Rebecca Wiseman: I loved it, I loved it, there were three of us that did it. Kern County has been one of the worst counties in the state for getting cases processed quickly. And so we were chosen as a poster child, we had to change our ways, and Art Wallace, who was on the superior court wrote the rules and put this program together and he selected me and Steve Gilner my friend that I mentioned earlier, we were – it was a little law firm we had a wonderful time together.

I loved it I have never worked harder, I managed 800 cases, and I did all civil trials and your reward if you managed to clear your calendar was to get a criminal case. So we would try may be 8 or 10 criminal cases a year and I had a civil trail usually every week and it was great.

(00:49:52)

Justice Rosendo Peña: So, what would you say that you enjoyed the most and may be enjoyed the least as a trial judge?

Justice Rebecca Wiseman: I loved everything about being a trial judge. I mean we would have litigants sometimes that were little scary in civil cases, I had more issues with civil litigants than I did with criminal. But I liked it, I liked being a judge.

Justice Rosendo Peña: You know we are talking about 17, 18 years ago, now, right and so anything, any memorable experiences that you want to share about your time on the trial bench, anything that stands out to you?

Justice Rebecca Wiseman: No, I think I have covered most of those. I really liked that I do still really like the bench from 50:53. They are very eclectic group and I always enjoyed working with them.

Justice Rosendo Peña: And do you feel that after you did the criminal calendar that you also may have won over some of your colleagues in the community in that respect?

Justice Rebecca Wiseman: May be.

Justice Rosendo Peña: Well at some point didn't you receive jurist of the year award?

Justice Rebecca Wiseman: Oh yeah, I did, yeah I did.

Justice Rosendo Peña: And when was that, do you remember?

Justice Rebecca Wiseman: I was at the Court of Appeal, but haven't been their long, yes, that's right, I did, yeah, and it was well attended, so they must have, and they didn't have to go, because I wasn't on the trial bench anymore, yeah I forgot about that.

Justice Rosendo Peña: It seems to me that I think you did win folks over with your style, perhaps with the fact that you are taking cases that maybe others didn't want to do. And so that probably had something to do with your going on with the Court of Appeal bench, but before we get there, I don't think we have talked about your children very much, you want to tell us about them, you mentioned being pregnant earlier, but we haven't talked about them?

Justice Rebecca Wiseman: We have two great kids, one is now 30 and one is 24, our daughter was born, she was two when I went on

municipal court bench, and the most memorable thing about that for me was that she went everywhere, poor kid.

She went everywhere per kid, I mean she went everywhere. I had jury duty, I didn't have a sitter, I took her with me. I mean she went everywhere.

And when I was sworn in for Municipal Court, my husband was holding her and she was so excited, she just burst loose from him and she ran and wrapped herself in my robe and stuck her thumb in her mouth. And of course, what picture do you think was on in the news it was that one. Of course, the downside of that wonderful story is within a month I was getting death threats, and that was terrible.

I thought well, what have I done, to may hire guards to protect her. She was in her little preschool. And anyway, but not to take away from a wonderful story but she went everywhere with me. She attended more women lawyers meetings, California Women Lawyers. I think that's how she learned to sit still. She is just a great kid.

And then we had our son. I actually went into labor in the middle of a case, so not to get too TMI but I did, and I was in the middle of picking a jury.

Justice Rosendo Peña: And so how did you handle that, was it pre trial –

Justice Rebecca Wiseman: No, it all worked out. Yeah, the lawyers, bless their hearts, they didn't know I was pregnant because I wearing a robe and I hadn't seen very them much and I know this only because I ran into one of their wives at a baby store because the baby came 10 days early and I'm on a schedule. And so I wasn't expecting him for nine days, so that's why I thought I get this jury trial done.

Justice Rosendo Peña: You weren't going to take any time off?

Justice Rebecca Wiseman: No, I didn't. Like my son said, mom you are better mom when you are working, and I think it's true.

Justice Rosendo Peña: All right! Can you tell us then a little bit about your decision to apply to the Court of Appeal?

Justice Rebecca Wiseman: Sort of just like rest, I didn't really want to do because I loved being Trial Judge, and my husband Ken

encouraged me to do it and used the same line on me and I said, this really isn't going to work.

And so anyway, I applied, I thought at the time that it would be a good decision to go back to Fresno, because my folks were there. So I applied.

Justice Rosendo Peña: So was it the same line you are talking about that, well, if you get it you can always turn it down, something along those lines?

Justice Rebecca Wiseman: Something like that.

Justice Rosendo Peña: And so who, if you recall, did you get the call from when you -- relevant to that position?

Justice Rebecca Wiseman: Well, Chuck Poochigian interviewed me, and I can't remember -- oh! It was John Davies who called me. Yeah, it was a long time, it was like 18 months that my application was in.

(00:55:02)

I kind of forgotten about it to tell you the truth, I really had and I was a reluctant warrior anyway so.

Justice Rosendo Peña: So you have this beautiful home, you mentioned in the mountains and many friends now in Kern County, was it difficult for you to move back to Fresno.

Justice Rebecca Wiseman: Yeah, it was, it was. I had real hesitation about it but I did.

Justice Rosendo Peña: And you mentioned that your parents were still here so that was one thing I suppose had made it little bit easier for you.

Justice Rebecca Wiseman: Yes.

Justice Rosendo Peña: And there was a justice by the name of Bill Stone from Bakersfield he was at the Fifth District Court of Appeal at that time, did he help you transition in any way?

Justice Rebecca Wiseman: Oh yes. He was actually – another part of the reason why I put in for the position because I just love Bill Stone. He was -- I had jury trails in front of him, I thought he was just the consummate judge, consummate gentlemen, very low key, very kind to me and I really liked his family so he was there he thought

it was okay so I thought well, if he thinks it's okay, maybe it's okay.

Justice Rosendo Peña: Was he someone that you talked to before you made the application or –

Justice Rebecca Wiseman: I did, I did, I am sure I did.

Justice Rosendo Peña: And you ended up serving on the Court of Appeal from 1995 through 2013, so was job everything you hoped it would be did you miss the trial bench?

Justice Rebecca Wiseman: I did, yes, I did miss the trial bench. I missed my friends. It sounds like a high school but I did, I missed my friends and they are just that I worked with, they were such an eclectic group of people and I missed that about them.

Going to the Court of Appeal what I noticed is that all the judges except for Justice Stone were from Fresno and they'd all formed bonds as trial judges together or they practiced together so when I first came I felt like an outsider I was an outsider and Kern County was probably not viewed as being the primo county in the district at that time.

Justice Rosendo Peña: Well, you had mentioned the child molest cases they ended up going to the Court of Appeal and –

Justice Rebecca Wiseman: They got reversed pretty good.

Justice Rosendo Peña: And so may be that was part of the reason that you thought or did you feel at that the judges in Kern County were looked on upon by the folks in Fresno?

Justice Rebecca Wiseman: They did and they were, I am confident they were. I heard that I had a couple of trial lawyers call me and say you need to know what there's what -- there was one in particular that had made comments which I thought was quite unprofessional about our bench and that he said to this lawyer that he would start reviewing the record of the Kern County case and presume it was a reversal.

Justice Rosendo Peña: So not exactly the send-out that you were hoping for when you first started?

Justice Rebecca Wiseman: Yeah.

Justice Rosendo Peña: Did things improve from there or how did you -- you won folks over in Kern County, did you win folks over in Fresno County?

Justice Rebecca Wiseman: Maybe? It was a harder sell.

Justice Rosendo Peña: Now during the time that you were at the Fifth District Court of Appeal you decided to pursue an LL.M.

Justice Rebecca Wiseman: Yes.

Justice Rosendo Peña: What motivated you to do so?

Justice Rebecca Wiseman: I just – education, I just – it was an opportunity I couldn't pass it up, I could go to University of Virginia and I had to take all my vacations and pile them together but I went for Summers and worked my tail-off.

I took our two kids with us and they became little street urchins which was I think a great experience for them, all the judges came and we lived in a – it's the UVA model where you live on campus, you live with your families and all of the kids became fast friends and they hung out together; they did thing, I let them do things there that I never would have let them do in Fresno.

I mean they ran around and explored and played and we did all the things you do in that area, floated down the James River, explored historical places and the caliber, the education was just so intoxicating I couldn't say no and it was an opportunity to go and they would pay for your education.

Justice Rosendo Peña: I hear you mention that the other judges that were also going through this had their families there or their children there?

Justice Rebecca Wiseman: Yes, many of them did.

Justice Rosendo Peña: Okay.

Justice Rebecca Wiseman: It was great, it was such a communal experience and the caliber of the professors was fabulous, I mean that's where CJA got a lot of their connections to bring out these incredible educators.

(01:00:04)

Michael Klarman, who was I see is often quoted in Justice Scalia's opinions, his opinions and the types of things that he wrote and I've never had professors like that, that was my law school experience. I loved every minute of it, studied economics and it was fabulous.

Justice Rosendo Peña: So you have mentioned that this law school experience was much different from your earlier experience, is that --

Justice Rebecca Wiseman: Yes. That was wonderful. I loved it.

Justice Rosendo Peña: And did you learn anything that you feel helped you either approach decision making or opinion writing?

Justice Rebecca Wiseman: Yes. The most significant was by studying economics and I think it should be mandatory education for every attorney is to take economics and to understand and for judges at least to understand the implications of your decisions.

Not that you make a decision on the basis of how it's going to impact money-wise, it's just you need to understand that is there are these causation issues, if you do A, B will happen and are you sure you want B to happen, it's a policy consideration and it opened my eyes to those types of things, and it influenced decisions that I had, it most definitely did.

Justice Rosendo Peña: And it seems to me that would be something important to have, I think that the judges or something -- judges on Court of Appeals sometimes ask, while I wonder why they did this and I wonder why they did that, maybe economics might be -- behind some of those decisions that were made you know would be made on appeal?

Justice Rebecca Wiseman: I do-- if not maybe should have been but yes, although it depends on how you approach it.

Justice Rosendo Peña: So it seems to me that education because when you weren't the student, you were teaching, tell us about your teaching experience and why you would join the --

Justice Rebecca Wiseman: You know it's a good question, I don't know, I just love it, it forced me to learn new things and I do like that, and I like -- maybe it was my law school experience, I like to try and learn something so well that you can

make it sound so easy that people want to hear and I've always been put off by people that you can't understand and I don't think it's because you are so smart, I think that they can't communicate and I've done a lot of teaching with -- I used to do a lot of teaching with the California Judges Association, Arthur Gilbert and I do a civil law update gig, which is so much fun to do with him.

I have done a lot with The Rutter Group, well I think I have been teaching with The Rutter Group for 20 years and that even as we speak, I have got a program in week that I am doing on employment law.

Justice Rosendo Peña: Did you ever teach at the law school?

Justice Rebecca Wiseman: Yes, I did. I taught at a law school in Bakersfield, I taught what I wished I had been taught and it was about civil procedure before trial and so we put people through their paces how to write a demur, how to respond to a demur, how to do a motion for summary judgment, how to write a settlement conference statement, how to do a 998 offer, things like that.

Justice Rosendo Peña: Tell us a little bit about some of your published writings, you have mentioned The Rutter Group that any other writings other than the (Inaudible) published that you were either enjoyed doing the part of, what would you think of?

Justice Rebecca Wiseman: Well, one in particular -- two in particular, one is I am an author for the Rutter Group on employment litigation and I've been doing that for a long time. We are in the middle of finishing our updates now and I do enjoy that very much and since I have retired, I am even enjoying it more because I have a little bit more time to digest the material and I love doing that.

And I also wrote my thesis for the LLM was on judicial retention elections and what's in a name and I took -- I did a regression analysis for all names from mid-appellate level retention elections in California from 1984 until whatever the current time was and we did this regression analysis where you would assign a value on the basis of the nature of the name whether it was a dramatic sounding name, whether it was a name that sounded like it was female, hyphenated names, Latino sounding names, Latina and we crunched all the

numbers and came up with percentages as to how that likely impacted the number of people that voted for you.

Justice Rosendo Peña: And what did you find?

Justice Rebecca Wiseman: We found lots of interesting things. First of all, being a woman helped. That was the first time I ever female -- I discovered that and this was a little while ago and I hope things have changed but if your name sounded Jewish, that did not help, it was may be 2 percentage points less than someone else being having a Latino sounding name would reduce the results, even in the second district which I was a little surprised about, because I felt that was counterintuitive because of the larger Hispanic population but ultimately put that off to the fact that maybe Hispanic people weren't voting.

I don't know, but that is anecdotal. Hyphenated names didn't matter, names that sounded familiar -- what was it Orville Jack Armstrong, he got the highest percentage of votes of anybody and he is a great judge but nobody really knew his writings, it was just he sounded like a radial personality and it was just -- it was like that.

Justice Rosendo Peña: Just because you have a name like Hollis Best maybe.

Justice Rebecca Wiseman: Oh Hollis Best, another high scorer, who could vote against someone who had the last name Best and at that time there was no information available about judges, so you truly if you voted, we are going on the basis, either what some lawyer told you that he knew or what you thought the name sounded like.

Justice Rosendo Peña: Is that a whole lot of information in it regarding the process that were on the (Inaudible) anything?

Justice Rebecca Wiseman: You can get it, but it's not on the ballet, like legal women voters, there are ways to get the information, most of them are good but there are some groups that put information out and suggest how you should vote on somebody based on who appointed them which I find troubling.

Justice Rosendo Peña: Now as an associate justice you authored more than 160 published opinions, for many significant issues and of course you also authored many unpublished opinions, but let's start with some cases, are there any cases that stand out to you?

Justice Rebecca Wiseman: Two, one is the California Voting Rights Act Case with the city of Modesto, that was significant to me. We determined that it was constitutional, facially constitutional which now seems sign of a no-brainer, but at the time it was pretty out there.

Justice Rosendo Peña: Is this Sanchez versus city of Modesto?

Justice Rebecca Wiseman: Yes, Sanchez versus city of Modesto.

Justice Rosendo Peña: And you have said in that case they actually filed a cert in the US Supreme Court and that was denied, so it sounds like in national significance at least to these parties, were there any amicus briefs filed in that case?

Justice Rebecca Wiseman: Yes. And to me it's significant because I think it impacted regular people's lives and it still is, you still see this issue. I was reading the Maddy report today and there are several stories in there, even today they have, in Merced, they are having an election whether they are going to vote by way of district or at larger elections so it's still very much alive. So I thought that was important.

The other case that sort of struck me as important at least to me was to protect our water case.

Justice Rosendo Peña: It should be the California environmental act case --

Justice Rebecca Wiseman: Right, but it was really an appellate case because it was about how to make an adequate record and I remember the staff attorney that was working with me on this case, we just threw our arms up because we couldn't figure out the record, it was a mess.

And so we decided you know this is not our job to make the record and put it together, so I had been told by many counsel that that case had an impact and this gets back to the economics issue. People now prepare their records because they have an economic interest in doing so, because they don't want to do it again.

Justice Rosendo Peña: So you would think that this didn't have an impact on the energy, such as the counties or other energies that use your charge with keeping by making the record.

Justice Rebecca Wiseman: Yes, I know it didn't, they have told me and yeah, people have told me that over the years and I mean

now everybody liked it, that's for sure, but I understand that.

Justice Rosendo Peña: Ultimately I have liked it is help in development the law, at least on appeal with regard to (Inaudible)?

Justice Rebecca Wiseman: I think so, I think so I think in a good way it's just you get used to doing it right the first time and then that becomes the standard.

(01:10:01)

Justice Rosendo Peña: And any criminal cases, does any typical case stands out in your mind, and if so, why?

Justice Rebecca Wiseman: Well, one case stands out of my mind, it was when I was in municipal court, it was a gang rape case and it just stuck out to me because I was very young, the victim was male and there were three defendants, all male, there were three defendants lawyers, all male, and the court reporter was male and the victim was a male and he was brutally raped and I was the only woman in the whole room and I remember looking at him.

I thought there was sort of a divine moment I think he had an easier time testifying because I was there, and I thought how ironic, this is always -- I think it's always happened, these types of horrible crimes to the men and women but men never talked about it and I felt I was really at the right place at the right time to offer comfort, to make the situation as easy as it could be because it was a terrible situation for everybody and recall the defendants were not very nice people. They had very lengthy records, it was a preliminary hearing so there wasn't much question they were going to be bound over, but I will never forget that experience.

Justice Rosendo Peña: Does that incident happened in the jail or do you remember where it happened?

Justice Rebecca Wiseman: It happened in the jail and this poor kid all -- they shouldn't have done it but he was through a writing, obviously he didn't sign up for that.

Justice Rosendo Peña: And so that, suppose, tell us a little bit about important it is to how it's going to be made some appropriate errors based on the record?

Justice Rebecca Wiseman: Exactly.

Justice Rosendo Peña: And so as far collegiality on the Court of Appeal reaching a number of cases, how important was that to you as a justice?

Justice Rebecca Wiseman: It was important, a lot of our cases at the Fifth District are criminal and so they were different as far as we would get together and talk about them. The civil cases were where I felt there was more of a challenge because that's when people's judicial philosophies tended to come into conflict some times.

But I was never one that liked to do memos, I don't get this memos thing where you write up something and then send it to your colleague, if you have questions, you go sit down and talk to them and I always tried to do that to the extent they were willing to listen.

I had some colleagues they didn't want to do it that way and I think looking back on it they were not able to learn through oral listening, I have since learned as a teacher that people learn different ways and it is impersonal but some people liked to write it out, that's how they learn and that's how they can assimilate information.

And if you go and sit down in front of them and start, well what do you think about this and what do you think about that, they don't respond well to it and you have to figure out who is like that and not be offended by it.

Justice Rosendo Peña: So then there was plenty of given and take, does it some times have to take different forms oral or written?

Justice Rebecca Wiseman: Yeah, once I have -- you kind of have to learn what your people are learn what works for them and sometimes you step in it until you learn that but you know none of us on the court of appeal are awfully slow learners, you pick up on it and then approach them in the way they are comfortable.

Justice Rosendo Peña: Concurring and dissenting opinions, under what circumstances do you believe that separate opinions should be written?

Justice Rebecca Wiseman: Concurring opinions are important, I have been reading the California Supreme Court and I have really appreciated the value of concurring opinions more so now than I did before with Justice Leu I read a lot of employment cases and I think his concurring opinions are really good. He is very scholarly in how he

approaches thing, I think that is an appropriate use of a concurring opinion.

Justice Rosendo Peña: That maybe for development of the law, is it --

Justice Rebecca Wiseman: Yeah, and sometimes the opinions, maybe because he is a professor I don't mean to just focus on him, but sometimes we as appellate justices, you only decide the issue in front of you and that is the appellate way.

But sometimes it's helpful to give a little bit more guidance, especially in areas where the world is changing so much, class action litigation is a primo example and sometimes I think concurring opinions at that level can be very helpful.

(01:05:02)

I would not be too thrilled about writing a concurring opinion in an unpublished case if I didn't feel strongly about it, because in some ways you were just poking a colleague in the eye, I will send dissenting opinions that I know upset colleagues quite a bit and they would go from, the case was going to be published to you writing a dissent and then all of a sudden, I well I guess we are not going to publish on this case after all.

Justice Rosendo Peña: Are there any dissenting opinions or concurrent opinions that stand out in your life?

Justice Rebecca Wiseman: Well, one of more interesting dissents I wrote was fairly recently, it was a Ralph's grocery case and it had to do with union picketing at the front of a grocery store and that was hotly contested and that went out for review and I wrote a dissent in that case, it was friendly everybody agreed to disagree, but I actually wrote a dissent I didn't really like my opinion, but I felt it was what the law required.

Justice Rosendo Peña: Was that case taken up here?

Justice Rebecca Wiseman: Yeah, it was.

Justice Rosendo Peña: Or it was still pending?

Justice Rebecca Wiseman: No, it's done.

Justice Rosendo Peña: Did Supreme Court decide?

Justice Rebecca Wiseman: They did, I mean they don't always 01:16:22 with me, but they did this time.

Justice Rosendo Peña: Was I gratifying I guess once you had more than one.

Justice Rebecca Wiseman: Yeah, but you know they go the other way too. Yeah.

Justice Rosendo Peña: So, how would you describe your judicial philosophy and how if at all has changed from your mini court days to last days on the Fifth District Court of Appeal.

Justice Rebecca Wiseman: Well, I guess when I was on the trial bench, I wanted people to feel they had their say, it was very important for me, they had their say and that they had a chance to be heard. At the Court of Appeal I suppose some of my philosophy was to do no harm. And listen to people but don't be afraid to speak out on cutting edge issues if that's what you feel is warranted, sometimes at the court you are in the opportunity to make bill 01:17:22 and you know them when you see them.

Justice Rosendo Peña: So, it's a slightly different approach certainly we have litigants in front of the 01:17:29 process work for them 01:17:35.

Justice Rebecca Wiseman: And I did carry that through when we would have all these horrible cases, where you have children that have been taken away from parents and they are almost always proper and the standard of review was such that there is no real possibility that the judge is going to be reversed. I would always let the parent cry and talk about whatever they wanted to talk about, I felt it was cruel to tell them this isn't part of the record and we all knew that.

But that was one time where I would just let them speak. And I felt that was important they are going to lose because of the rules of the appellate process. They didn't make their record. But that doesn't mean that we need to lecture them.

Justice Rosendo Peña: The Fifth District covers numerous counties, is there over time during which and it's based in Fresno, is there ever time you wished the 01:18:41.

Justice Rebecca Wiseman: Yes.

Justice Rosendo Peña: Tell us about it.

Justice Rebecca Wiseman: Yeah, we were the first court to ever do it. And I ran that show, our presiding judge didn't want to do it and I just felt it was so important I did it anyway which was not maybe the most prudent call, but we did and we had real PR problems in Kern County, they didn't like the court of appeal going back to those molest cases, they felt they were picked on by the Fifth District Court of Appeal whether that's true or not I don't know.

But anyway we went down there and held court and high school students it was packed, people never had seen the Court of Appeal in operation and the first one we did filled an auditorium, they brought kids from all over the county and brought them in.

Justice Rosendo Peña: So, these were used also as educational tool?

Justice Rebecca Wiseman: Yes. And then the judges would open themselves up to question and nothing was scripted. But I was proud of them, that was not easy for them. That was -– I like that, but I know not everybody does. And they handled it well.

Justice Rosendo Peña: And now settlement conferences on 01:19:54 I guess I have not necessarily heard you did do any settlement conferences?

Justice Rebecca Wiseman: Yes, Justice Kane and I. We put together a mediation program, one of the first of its kind where the justices of the Fifth District Court of Appeal screen all civil cases that come in and do mediations at no cost to the litigants.

Justice Rosendo Peña: Do you remember how long ago you began to implement these mediations?

Justice Rebecca Wiseman: Let's say, maybe about, it's been about 3 years. yeah, because we did it together, it was fun.

Justice Rosendo Peña: How would you gage the success?

Justice Rebecca Wiseman: Oh I think, it's great, I don't know what you are doing now, but I settled some cases, and I knew Justice Kane did and Justice Cornell and probably Justice Franson too, maybe Justice Levy that would never have settled without that. And they didn't have to write briefs, they didn't have that added expense.

I did that one case that I will never forget as long as I live, it was a drowning case where the father died in the arms of the family because of a flash flood. And it was destined for litigation, we took CEO 01:21:12 to do, but we got it done. And went back to the court room where the case was tried and that's where we put it on the record.

Justice Rosendo Peña: It wasn't the Court of Appeal you went out to the --

Justice Rebecca Wiseman: I did, I would go wherever they work, because I am up in the Bay area, so they were Modesto and that's where the family was, so I often would hold the mediation in Modesto.

Justice Rosendo Peña: You take mediations on the road.

Justice Rebecca Wiseman: On the road, yeah, why not.

Justice Rosendo Peña: What major challenges do you believe that the judicial system faces today?

Justice Rebecca Wiseman: Irrelevance, the shine is gone we are just another governmental agency. When I started, it was special and it still is but the money issue and the asking for money constantly, I think the computer issue, the field development if that really took the polish off, it made the judiciary look like it didn't know what it's doing and whether that it's accurate or not I have no opinion, but that's how it appeared.

Justice Rosendo Peña: Self inflection wounds, would you say?

Justice Rebecca Wiseman: Yeah, that would be accurate. And that's the way the press covered it and then you have a fewer legislators that are lawyers or have any understanding or interest in the law. It just diminishes the branch and you don't normally bargain well if you are not coming at it from strength.

Justice Rosendo Peña: So, do you think that the most recent Chief Justice California Supreme Court has faced with additional challenges.

Justice Rebecca Wiseman: Oh, yeah. I think she is doing amazing job, but it's got to be hard and she took on hard situation, because that all happened before she got on the job.

Justice Rosendo Peña: Kind of all fell on her lap as she took that off.

Justice Rebecca Wiseman: Right, and she has been so positive and never let her guard down. But that's hard.

Justice Rosendo Peña: Can you give us your observations or comments on the changing views of judicial ethics, civility in the court room, the impact of technology and on the challenges of greater sensitivity to the avoidance of bias.

Justice Rebecca Wiseman: Well, I think with all the education requirements that judges and employers must give their employees, it is changing. Some of the stories I was telling wouldn't happen today and that's important. By the same token that doesn't mean that people don't feel those things, they are just much more subtle.

But we have had some recent pretty serious breaches ethics wise. I mean even out of Kern County there were a couple where inappropriate sexual relationships between judges and attorneys or litigants, I mean sometimes you just can't legislate brains.

It's like my daughter sent me a copy of a story and just said felony dumb, how do you teach people not to do those kind of things, but it just points out that the judiciary attorneys were all people and people make mistakes and do dumb things.

Justice Rosendo Peña: There is still plenty of work to be done in that area.

Justice Rebecca Wiseman: Yeah, but there always will be, there always will be. But as long as we are trying I think that's all anyone can ask.

Justice Rosendo Peña: Fair enough. Tell us about your decision to retire, what you have been doing since your retirement?

Justice Rebecca Wiseman: Well, I am still writing for The Rutter Group, I love it and I am that's almost a full time job, at least for four or five months of the year it's very active, I am still teaching with them.

Also I love gardening and I love color, I love design and style and texture, I love it, I always have, I also love to make floral design six foot large arrangements, I do them every week and I am also teaching Flowery, it's fun.

Justice Rosendo Peña: So, you have been doing lots of gardening things that you really enjoy.

Justice Rebecca Wiseman: Yeah, I have always done it but it's been always good therapy. My husband says he thinks it's cheaper than therapy, but I am not really sure.

Justice Rosendo Peña: So far I guess no regrets about retirement decision?

Justice Rebecca Wiseman: No, that that I have any, I loved the position and frankly if I had been in Fresno, I wouldn't have, the drive was beginning to get to me, you kind of feel like every time you get home it was a good day, it's like dodge ball on the free way.

Justice Rosendo Peña: So, what advice would you give someone who is considering a career in law?

Justice Rebecca Wiseman: Think long and hard, if you do it, don't go in necessarily thinking you are going to practice, keep our options open, recognize it's expensive to go and if you don't have a good nest egg, think hard and long about it, I wouldn't be advising anybody necessarily to go unless they really knew what they wanted to do when they got out, because otherwise it can be postponing the job search and you end up with a mortgage and no house.

Justice Rosendo Peña: So two past members of your research staff have become judicial officers, what advice would you give someone who is considering a career as a judicial officer.

Justice Rebecca Wiseman: Be like them. I knew when I met these two particular staff attorneys that they were destined for great things, it's just who they are, be involved in your community and I don't mean like join things, do things, be the president, run the show, be involved politically and it is a political appointment and that is important.

Don't sit on your laws, always be pushing yourself and be out there, be in the mix. If you are not, you can be a wonderful scholar and that's great, that will qualify you to be an incredible research attorney at the Court of Appeal. But to be on the bench you need to do more.

Justice Rosendo Peña: Now important is it to get along with others in terms of the legal profession, is that factor in to being able to perhaps get a judicial appointment.

Justice Rebecca Wiseman: Oh yeah, you need to know them first of all and it's helpful if they like you, which means that you listen to them and you cooperate with them and you don't poke them in the eye, that's helpful. It's like play well with others.

Justice Rosendo Peña: Keep a good reputation I guess is that how we can sum that up?

Justice Rebecca Wiseman: Yes.

Justice Rosendo Peña: After your retirement you received the Rose Bird Award from the California Woman Lawyers. Tell us a little bit about the award and tell us what it meant to you receive it.

Justice Rebecca Wiseman: It was great. I thought I was done and I got the call about the award, and I thought what, what is this? It surprised me and it was a terrific experience and having friends come, people that I haven't seen and to be there I don't like necessarily spotlight kind of things about me, I like spotlight where I am teaching or I am working with others, I love that, but I don't like it where it's on me exclusively.

But it was so gratifying to have dear friends and you came and spoke and I will never forget it. It was wonderful. And I always had a high opinion of the California Women Lawyers, I have been member of that forever, I think since just about when it started. And it is such an incredible honor.

Justice Rosendo Peña: Did you feel that based on the attendance and other things that were said and of course the award itself, you maybe have had an impact.

Justice Rebecca Wiseman: Yeah, I did, it was nice. You know I forget about things, something happens and, I don't think about it anymore and it was nice to -- sometimes it's nice to recall where you have been.

Justice Rosendo Peña: Alright, we are pretty much done here, if you had to do it all over again, is there anything that you would change regarding your career?

Justice Rebecca Wiseman: No, maybe I would have started arranging flowers sooner. I don't know. But no, I have no complaints and I am not done. I look at, this is just a start and I am happy.

Justice Rosendo Peña: And is there anything that you have thought about at this point that you might still want to pursue or is it you are just going to leave the door open or how are you feeling right now.

Justice Rebecca Wiseman: Door is open, but at this point I don't anticipate practicing law, who knows maybe someday I would do some mediations for maybe like foundations, folks that can't afford it and need help, that I could see myself doing.

Justice Rosendo Peña: So, you are talking about a whole new chapter and you are thinking that book is open, the whole new chapter doesn't have to do necessarily with law or decision making which you have done for so long?

Justice Rebecca Wiseman: Yeah, my only decisions I am making is if I go out to dinner what am I going to order.

Justice Rosendo Peña: Well, again, thank you so very much for agreeing to participate in this interview, I believe that this is a great way to keep the history of the Court of Appeal and I have thoroughly enjoyed my time here with you, I hope that you have enjoyed it as well and you had an opportunity to say the things that you hope you can say.

Justice Rebecca Wiseman: Yes, I did. Thank you Rosendo.

Total Duration: 92 Minutes