Carl W. Anderson: Welcome to the next chapter in the Appellate Court Legacy Project. Today we are honored to have the opportunity to interview Associate Justice Betty Barry-Deal, who served in the First District, Division Three, for a decade, from 1980 to 1990. She is a real pioneer in the law: the first woman to serve on the First District Court of Appeal. But that's not surprising, as pioneering runs deep in her roots, as you are soon to discover.

I am Carl Anderson, a retired Presiding Justice in the First District. I had the distinct pleasure of serving together with Justice Barry-Deal on both the Court of Appeal for six years and before that on the Alameda County Superior Court for two years.

Justice Barry-Deal was born April 25, 1921, in Reno, Nevada, and reared in Susanville, where her father was a distinguished attorney. She graduated from Cal in 1944 and attended Boalt Hall School of Law, where she met and married her husband John Pierpont Deal.

Sadly, she was widowed when John died unexpectedly of a heart attack in 1951. So at the age of 30, she was left alone to care for her five-year-old daughter, Diana, and three-year-old son Thomas. She miraculously was able to finish her legal studies, pass the bar, and find a way for herself practicing law in an almost all-male-dominated profession.

Now let's find out from her how she did it, what she learned, and what we can learn from her. Betty, how was it growing up in Susanville?

Betty Barry-Deal: Oh, Carl, it was a very, very great childhood. Susanville is a small town in Lassen County, which is adjacent to Reno. And it was very small while I was growing up; the town was probably only two or three thousand people. It was situated in the head of Honey Lake Valley. The south side was the Sierra Nevadas, with 8,000-foot peaks. On the north side was the beginning of the great Winnemucca plateau, which was dry and sagebrush. To the east was the great Mojave Desert of Nevada, part of the Winnemucca plateau. The nearest town to the north was Alturas, 108 miles away; the nearest town in the south was Quincy, 60 miles; the nearest town to the east was Reno, about 100 miles; and the nearest town of Red Bluff was about 100 miles.

Carl W. Anderson: So what did you as a teenager for excitement?

Betty Barry-Deal: *[Laughing]* Well, it was pretty much local. We didn't have cars much then, and I had a very large family in Lassen County. My ancestors had settled there very early, and most of the entertainment was really kind of self-made, because in the '20s and the '30s while I growing up there was no TV; radio reception was terrible. There were no visiting arts or things like

that, so the entertainment depended somewhat on the season. In the winter we had skiing, school functions, and dancing. I loved dancing. And every Friday night the school had a dance, and every Saturday night the town had a dance in a hall about 13 miles out of town. The whole community who had kids, grandparents, et cetera, we danced from 9 to 3 a.m. in the morning. *[laughing]*

Carl W. Anderson: Did you have any brothers or sisters?

Betty Barry-Deal: I had an older sister, 5 years older; next, younger sister Jo was 3 years younger; my brother Jim was 8 years younger; my sister Lynn was 12 years younger. So we were really spread out. But I had three cousins from my maternal aunt's family, two cousins from my maternal uncle's family.

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So I had lots of cousins, and we all spent time at my grandparents' ranch. We were down there I think nearly every weekend until I was about 13. So we made our own games. We played hopscotch. We put on plays. We played in the ditches. And so it was a very bucolic kind of growing up.

Carl W. Anderson: So how many people lived in Susanville when you were there growing up?

Betty Barry-Deal: About two or three thousand. There were only about 18,000 in the whole county, and I swear I probably knew 70 percent of them. I could walk down the street and say hello to almost anybody. The one thing that I loved about growing up in Susanville was the tremendous freedom that kids had. You could go home after school, check in with your parents, and then you were free to roam. And we could go up to the hill in springtime and pick violets. We could climb up to the bluff, a bluff above Susanville known as Inspiration Point, and look out over the whole valley. We could wade in Paiute Creek.

So it was a tremendous amount of freedom, which I feel sorry for the kids today who are so programmed and don't have this freedom.

Carl W. Anderson: Did you feel any special pressure of being the daughter of such a prominent lawyer in town?

Betty Barry-Deal: Oh, I don't . . . yes, some, but not tremendous. There really wasn't much of a class structure in Susanville, and I think the most pressure I felt was from my father, who expected A's in school. But the schooling was very carefully supervised. We had Kelly Price, the truant officer, who roamed around town picking up anybody who was cutting school, so pretty much it was taken seriously.

My father was not into status. He was a very, very democratic man with a small "d." As far as I know he had absolutely no prejudices against religion or ethnic background. He just really had three prejudices. He disdained anybody who was lazy, dishonest, or didn't take care of his family; and beyond that across the board was okay. So he would have been the first to object to sort of a class structure, I think.

Carl W. Anderson: Did you spend any time with him in his law practice or get to know the practice of law there in Susanville from him?

Betty Barry-Deal: Oh, yes. His office was only two blocks from home, about three blocks from school; so after school, even in my early grammar school days, I would stop in his office for a nickel for an ice cream cone—and he always happy to introduce me to his clients and his secretary that made type on the typing machine.

So I was early on exposed to the concept of a law office and clients. And then when I learned to drive—I was 14—I drove him to a lot of cases that he had. If he had a case in Alturas I would drive him and he would read his brief, his file, while we went. Or we'd go to Quincy, or even to Reno, because he was licensed to practice in Nevada too, and Red Bluff. So I went to all the surrounding counties. And he was very proud of his five children, so I was always introduced to the judge and the other attorneys and the hotel clerk where we stayed. So it was a very great experience.

Carl W. Anderson: Is this where you developed a love for the law and the desire to someday become a lawyer?

Betty Barry-Deal: Well, it was certainly where I developed a love for the law. I don't think Dad had any influence on my becoming a lawyer; he was pretty neutral about it. I think it was my mother who pressured me into law or suggested it, really.

She loved Philinda Spencer, one of the early, early women in California who practiced law. And Philinda was married to Ephraim Spencer, a lawyer, and helped him in his office. She studied to take the bar and then her son died and she gave up on that; but she practiced in justice court, which they could do then without a license, and helped her husband in a lot of work.

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She was also very active in the suffragette movement and took my mother on these suffragette tours. My mother adored Philinda Spencer, and I grew up hearing all these tales about this wonderful woman lawyer. And so that kind of inspired me, I think, to follow maybe Philinda's trail.

And Philinda had two daughters, one of whom was Gladys Spencer, who married Harry Burroughs, and she became a

lawyer. And when Harry Burroughs died, why, Gladys Spencer was appointed to take his place—I mean, Gladys Burroughs. And she was the second woman superior court judge in California.

And they also had a woman DA up there in the '50s. So Susanville didn't seem to have any great sexist differentiation. I mean, the women who held responsible positions . . . like the clerk of the superior court has been a woman since I can remember.

And one of the women in town ran the major grocery store, and one ran the major bottling works; the assistant title company officer was a woman. But I think this goes back to the pioneer community, where coming across the plains women were pretty darned important, and establishing the early farms they were important.

So I don't think there was any feeling that women were somehow not able to do whatever job they wanted; they—

Carl W. Anderson: Now, you graduated from the public high school there in Susanville?

Betty Barry-Deal: Yes, 1938.

Carl W. Anderson: And did you go on to college at that point?

Betty Barry-Deal: Yes, my father was . . . well, this was '38, the height of the Depression; and remember, we didn't have . . . we didn't suffer, because Dad got so many fees in terms of produce. One Basque farmer regularly supplied us with lamb, so we ate well. But he gave me the option of going four years to the University of Nevada or having two years in junior college and two years at Stanford, which I had dearly wanted to go to. And Dad thought he could get me reduced out-of-state tuition at Nevada because I had been born in Nevada and I could live with my grandfather, who was practicing law there.

But I opted for the two years at junior college and two years at Stanford. The junior college consisted of two rooms in the high school gym and the use of the high school lab. I had three wonderful teachers. Don Butler, who had taught me in high school, also taught in junior college. Lyle Trabert, who taught English literature in high school, also taught the courses at junior college. And Mary Hardy, who taught them in high school, also taught them in junior college.

Carl W. Anderson: How many students were there in junior college?

Betty Barry-Deal: What?

Carl W. Anderson: How many students did you have in junior college?

Betty Barry-Deal: Well, there were about 25 who were interested in letters and science, and half of those probably wanted to go on to college. But during the Depression, Roosevelt set up the CCC program, Civilian Conservation Corps, where they were pulling kids off the street and training them in the forestry service.

So they brought in about 110 or 120 of the Forest Service boys to start up a forestry school in Lassen College. So that swelled the student-body enrollment tremendously. But they were concentrating on forestry courses, which turned out to be rather interesting, because when I took trigonometry it was all based on how you cut down a tree. *[laughing]*

Carl W. Anderson: That's the local application.

Betty Barry-Deal: It was a forestry application. But then Don Butler taught chemistry, physics, and mathematics courses, and I took a lot of advanced chemistry courses and trig courses from him. Then I loaded up on history and English from Mary Hardy and Lyle Trabert.

Carl W. Anderson: Did you ever make it to down on the farm, to Stanford?

Betty Barry-Deal: I finally got there in my junior year. It wasn't a happy experience. I didn't enjoy Stanford. Well, partly it was a naïve little country kid coming into a very sophisticated, wealthy school.

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And we hadn't been impressed with anything like a numbering system in the courses in junior college, so I knew nothing about the numbering system for upper or lower division courses. I signed up as pre-legal at that point, so they gave me a law professor as my advisor. I went in to see him, and he looked at me in dismay like, "She can't be serious." So he said, "Well, you go and take any course you want and I'll assign your assignments."

Carl W. Anderson: So you had already decided you wanted to be a lawyer before you went to Stanford then?

Betty Barry-Deal: Yes.

Carl W. Anderson: So when did that revelation hit you?

Betty Barry-Deal: Oh, I think along about in junior college. I was still doing a lot of driving to work with my father and I didn't want to be a teacher and I couldn't think of anything else to be. I knew I would never make a nurse, because I couldn't stand to fix up a bloody finger or whatever.

Carl W. Anderson: So when you were assigned this law professor, what was his reaction to you going into the law? Were there other women at Stanford?

Betty Barry-Deal: No, I don't know that there were any women in law in Stanford at that point. Sandra Day O'Connor went there, but it was somewhat later. But he just looked dismayed and didn't say anything. He didn't encourage me, discourage me. I think he was thinking, "I'm sure she'll drop out somewhere quickly." But anyway, I ended up taking two freshman courses for which I didn't get credit and one graduate course in philosophy for which I had no foundation. *[laughing]*

Carl W. Anderson: Was that because of your unfamiliarity with the numbering system?

Betty Barry-Deal: That's right.

Carl W. Anderson: Wow. So you didn't like Stanford. And I can't hold that against you. *[laughing]*

Betty Barry-Deal: I disliked Stanford intensely; it was a very . . . Well, I went down with my mother's homemade wardrobe and ran into people with fur coats and I. Magnin wardrobes. It was over my head; I didn't like it. I went home in the end of the semester, in the end of the school year, and I said I'd never go back. And my mother said, "Well, you can't just sit here in Susanville. You've got to do something." And we fought all summer over whether I would go to teaching college, and I refused to be a teacher.

Carl W. Anderson: So this is back in 1939 then, about?

Betty Barry-Deal: I went back in 1940. I finished that once in that year; I went back in June of '40. And after fighting with my mother, we decided that okay, I'd go to business school. So they got me enrolled at Munson Business School in San Francisco. My mother found me housing at the Mary Elizabeth Inn on Bush Street; it was run by some Methodist ladies. But what my dear mother didn't know was that it was in the heart of the red-light district. *[laughing]* Sally Stanford's house was just a block up the street, the famous madam from San Francisco.

But I loved Munson Business School, and the Mary Elizabeth was a real antidote to my ego deflation at Stanford. There were about 70 girls there; many of them were orphans. They were working as secretaries, clerks, whatever, and they were a great bunch of girls; and boy, they had made it on their own. So, I felt really, really happy in that group; I liked it. I did extremely well in business school. I loved shorthand, loved typing.

And then Pearl Harbor happened on December 7, 1941. I can remember it like yesterday.

Carl W. Anderson: Is that right? Where were you when the—

Betty Barry-Deal: Well, I was staying all night in Oakland with my mother's college roommate and her husband. And I'll never forget coming down for breakfast and Harry met me saying, "We've been attacked, Pearl Harbor." And that was . . . he had been a World War I veteran, so he just couldn't believe that this had happened; we were glued to the radio all day after that.

So the Red Cross went into real emergency action. They set up field headquarters at the Presidio; so I guess along about in February or so the field director called the Munson Business School and said he desperately needed a secretary. So the president of the school called me in and said that I hadn't finished the course, but if I would agree to do it at night he would send me out for the job, because I was the best qualified.

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So I went out and started working at the Red Cross. Initially they put me at the Fort Scott, and that was one field director in a room off the local chapel and the other room held the chapel's assistant, who was so shy he could barely say good morning. *[laughing]* And lunchtime meant going across the parade grounds with the soldiers taking great delight in saluting me. And I never knew. . . . *[laughing]*

Carl W. Anderson: *[Laughing]* So how long were you with the Red Cross then?

Betty Barry-Deal: Oh, I was with the Red Cross a long time. I went back to the field director's office and I asked for a transfer back; so Francis Taylor, who was the field director, took me back there and I ended up acting as sort of a floater—when they had any emergency in one place or another, that's where I'd go.

And I'll never forget the one experience that was awesome. When the survivors of the *Yorktown* came into Treasure Island, they sent me over there to help do the paperwork. I never did understand why the Red Cross was arranging this rest and recreation rather than the military itself. But the Red Cross processed all this, and I'll never forget those young guys coming in with burns and in a state of sort of a zombie state; it was quite a shock for me. It was fascinating work. Living in San Francisco during World War II was exhilarating, exciting.

Carl W. Anderson: Where was your desire to go to law school at this point?

Betty Barry-Deal: Oh, it had gone down the drain. I had completely forgotten about it.

Carl W. Anderson: You completely forgot about that? You'd given up?

Betty Barry-Deal: Well, it just seemed like, you know, I only had three years of college, I was now an established secretary, so that was okay. I had a way of earning a good living.

Carl W. Anderson: So you were prepared then to make a career out of the Red Cross? I mean, that's where you—

Betty Barry-Deal: No, I was prepared to make a career as being a secretary. And then we had one . . . the field director hired a bunch of social workers. A few of them were old-time social workers who knew what they were doing, but there were three or four that were brought in only because they had a college education. And they had to have an A.B. to be a field director—I mean, to be one of the social workers. So Charlie Ross, one of the social workers, was totally unqualified, and when he sent the wrong man to South Carolina to see his ill mother, the field director called me in and said I should supervise everything he did, be sure to double-check it. It finally dawned on me: Charlie, who had four years of college, was earning $350; and I, with three years of college, was earning $135. Maybe it was time to go back and get my college degree. So I was with Red Cross I guess about two years before I went back to Cal.

Carl W. Anderson: So it was while you were at the Red Cross, then, you decided to get your college degree; and then why did you decide to go to Cal?

Betty Barry-Deal: I didn't want to go to Stanford, and Cal was the next best choice, and also it was cheap. God, we paid practically nothing; $15 a semester, I think, back then.

Carl W. Anderson: Okay, you were there during the war then. And you graduated in 1944, is that right?

Betty Barry-Deal: Right.

Carl W. Anderson: So you had how many years at Cal, then—two years?

Betty Barry-Deal: Just one year.

Carl W. Anderson: Just one year, just one year.

Betty Barry-Deal: Well, actually, you see, I had gone to UC extension classes at night when I was living in San Francisco, so I had picked up almost enough units to graduate. But I had to have a year's residency, and my father's objection to Cal was it being a hotbed of communism. *[laughing]*

Carl W. Anderson: *[Laughing]* Back then?

Betty Barry-Deal: Back then; so it had dissipated. He was happy to pay for Cal tuition rather than Stanford. My sister was going to Cal at the

same time. So he gave us each $75 a month to pay for board and room and then he expected us to work.

So I got a job working for Professor Harper, who turned out to be my advisor, and he was wonderful. He taught history, but he also was a partner of Walter Carpeneti. Dr. Harper was also a lawyer, and he was a partner with Walter Carpeneti in San Francisco in a law firm.

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So I ended up doing everything for Dr. Harper. I did research, listing cargo on colonial ships for his book on colonial economics in the early years, and I went over to San Francisco, worked as a secretary in a law office, baby-sat his twin children. But it was a great year, and he was very supportive and very helpful.

Carl W. Anderson: So what did you do there when you graduated?

Betty Barry-Deal: Well, I had taken a class in social psychology from Ralph Gundlach, who had been fired from University of Washington for being a communist. *[laughing]* And he got me a job with two labor lawyers in San Francisco, Anderson & Resner. So I worked with them for two months as a secretary while their secretary took a vacation; and that was a great experience.

I was going to say Dr. Harper was a wonderful man, but he was the worst dictator that I have ever run into. He would do a few sentences and then he'd back up, say "Strike that and go back and put in something here," and then he'd go back; and by the time I got through, my stenographic pad looked like chicken scratches because I was in and out changing things.

George Anderson was a totally different kind of a dictator. He came in one day and tossed some names and dates on my desk and said, "Type up a divorce complaint." And that was a new experience. So I was sitting there kind of confused when Herb Resner came to my aid and brought me a file that looked like it was a complaint that I could copy.

So here were two contrasting styles. After two months with them I went up and worked for my father for a month to give his secretary a break, and that was a wonderful experience. Dad turned out to be the best dictator you could ever imagine. He could start in, and he could keep his mind going; he dictated at exactly the right pace. And I could take dictation all day from him. He was also very patient. He explained all the documents; he explained jurats and affidavits. And so that was a good month. And then I started law school in June of '44.

Carl W. Anderson: So you just had the summer vacation then and—

Betty Barry-Deal: Well, you see, law school was all mixed up during World War II. They had decided to do a speed-up program of two years only, straight through, and my husband's class was the only one that completed that speed-up program. They started us out with that in June of '44, and they finished one year of three semesters and then decided it was too hard on the professors. *[laughing]* Not to mention the students.

Carl W. Anderson: *[Laughing]* Not the students.

Betty Barry-Deal: Right. So, I started in June of '44, and in the meantime I had a problem finding a place to live, because in my senior year I had lived in Empress Hall, which is a Methodist boarding school for girls—which was great, except one other girl in the INR, liberal communist days passed around a petition among the other girls in this hall to allow African Americans to live there.

And the manager of the hall called me in and said she thought that I was really out of place for doing that, and if there were any admitted, she'd put them in with me; and I said fine, and then she didn't renew my contract for the next year.

Carl W. Anderson: That's the reward. When you entered law school in September then of 1944 . . . and when did you graduate from law school?

Betty Barry-Deal: 1952.

Carl W. Anderson: 1952, so that was about six years later. When did you take the bar?

Betty Barry-Deal: Eight years later.

Carl W. Anderson: Eight years later. And what happened during those years? Why did it take so long from entering law school until you actually started the practice of law? And I know that you were married and you had children and unfortunately John died, but maybe you can explain what was going on over this extended legal studies career.

Betty Barry-Deal: It's very hard to explain it very shortly. I mean, Carl, it was so chaotic. Actually I started law school in 1944 and I finally passed the bar in 1955. It only took me 11 years; and the first three years were uneventful, and I went straight through, other than having problems finding housing regularly. And then we had the summer of 1945 off.

So back to Susanville I went, and I worked for my father as a secretary. His secretary took time off. Then I started in the fall of, let's see, 1945 for my fourth semester. And John and I were married not long after the semester started. He had just passed the California and Nevada bars. So he started looking for a job.

Most of the law firms around weren't hiring anybody because they were waiting for the veterans to return in 1945. And so I started in my fourth semester; and then when finals came around in February, I guess, or March, I was pregnant with my first child and too nauseous to take the exams.

So I postponed those and went back and made them up later. And then John found some employment opportunities out of the community, so in May we moved away from Berkeley and ended up in Salt Lake City. Our son Tom was born during that four-year interim.

And then in 1949, I guess it was, he had an opportunity to apply for a job with the East Bay Municipal Utility Company in Oakland, so he applied for that and got it. And we were both very, very happy to move back to Berkeley, because we hadn't liked these other places too well. We rented a house the first year and I went to summer school, took a few classes. We had a college girl living with us. We arranged our classes so that I could take the children over to Boalt, she could watch them while I was in class, and then I could pick them up and come home. So that worked out for a couple of courses during summer of 1949.

Carl W. Anderson: So how many years did you have by this time in law school?

Betty Barry-Deal: Well, I'd completed four semesters.

Carl W. Anderson: Four semesters.

Betty Barry-Deal: And I will never forget Barbara Armstrong watched Di and Tom playing outside the window while I was in class. She called me in one day, and I thought, Oh god, what have I done? And she said, "I've been watching your darling children, and if you keep them in those starched iron clothes like you've been doing, you will never have time to practice law." *[laughing]*

Carl W. Anderson: *[Laughing]* Good advice.

Betty Barry-Deal: So anyway, I started again.

Carl W. Anderson: Now, was she the first woman professor at Boalt?

Betty Barry-Deal: Yes.

Carl W. Anderson: Yes.

Betty Barry-Deal: And a well-respected one.

Carl W. Anderson: And were there many women in your class at Boalt?

Betty Barry-Deal: Well, I started originally in 1944, it was a World War II class; and there were only about 56 in the class, and there were about 9 or 10 women.

Carl W. Anderson: Wow.

Betty Barry-Deal: So but there really wasn't any prejudice against women, because Barbara Armstrong had been there for so long and there had been a number of women lawyers appointed. There were quite a few in John's class: Elizabeth O'Neill was one, the Alameda County conciliation counselor; and so the prejudice wasn't bad.

But the law school faculty was crazy. All of the young professors, of course, were off in World War II, so they brought in retired professors. And Henry Ballantine, who was an expert in corporations, taught us torts. Barbara Armstrong, who was an expert in family law and labor law, taught us contracts. And Captain Kidd, who was an expert in criminal law, taught us negotiable instruments.

Carl W. Anderson: So it's just proving how versatile they were?

Betty Barry-Deal: Well, they weren't that versatile. *[laughing]* They tried, and some of them were better than others. I think the only two that were really in their field was Dudley McGovney in constitutional law and William Ferrier in property law. I loved McGovney; he was marvelous. But that was okay, you know; we studied hard. One thing we couldn't do was ever mention Witkin or look at any Witkin summaries.

Carl W. Anderson: Why was that?

Betty Barry-Deal: Well, they didn't approve of summaries. You had to do the Socratic case method down to the last minute.

Carl W. Anderson: You had to make your own summary.

Betty Barry-Deal: Right. And I still think the Socratic method needs adjusting in law school. And so anyway, I started back for my fifth semester in the fall of, let's see, that would have been I guess the fall of 1950.

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Carl W. Anderson: So you're still balancing motherhood and John's still at the East Bay MUD?

Betty Barry-Deal: Right. And I got the children in a nursery school so that they went all morning and I could get all morning classes. But about a month after the semester started, John had a very serious leg operation, was in a cast for three months, so I dropped out again.

And then the following spring I started again for my fifth semester and managed to complete that semester with the children in nursery school. And I fortunately had classes first thing in the morning where the professors understood that I could not get there without being five minutes late after I dropped the kids off at nursery school—so the admonition was "Just walk quietly into the back."

Carl W. Anderson: *[Laughing]* That was very accommodating.

Betty Barry-Deal: Yeah, they were. Well, Covey Oliver was my first hour that semester, and he had five children all under about the age of eight, so he was quite sympathetic. And so then I finished that semester, and that was my fifth semester. Then John died two weeks or a week or two after that semester ended, and I was just too grief-stricken and shocked to even consider going back to law school that fall.

Carl W. Anderson: Did you stay in Berkeley then or—

Betty Barry-Deal: Well, I went to Susanville for the summer and then I went back to Berkeley. And the kids were sick a lot. Looking back on it, I really had amnesia during that period. I could hardly tell you what I did. I survived.

Carl W. Anderson: Yeah.

Betty Barry-Deal: And then I started law school again in the fall, which would be my sixth semester—I mean, excuse me, in the spring of 1952, which would be my sixth semester, and I finished that. And then again I hadn't taken time for real recovery, and the children were young; they were too young to understand death. So they were terrified at the thought that I would leave them or disappear like John had disappeared, and so I spent most of my time just with them. We read books; we went to the park. We just kind of adjusted.

Carl W. Anderson: So you're being mother and father to both of the children.

Betty Barry-Deal: Right. And I was terrified of that double responsibility, and I wasn't sure I was up to it. So that was a bad period. And then I finally got around to selling the family home and looking for a place, a house, to rent. And I ran into landlords who said they wouldn't take children, small children, and I finally found a rental in north Berkeley and went up to interview the landlord in that, and it turned out to be Bernie Witkin.

Carl W. Anderson: *[Laughing]* On Shasta Road?

Betty Barry-Deal: On Shasta Road. And he and his wife owned almost that whole hillside, and they had built a small house down on lower Shasta Road, and then they had built their big, newer house up above

Shasta Road; so there was kind of a hillside between us. So when I timidly confessed that I had two small children, Bernie said, "Bring your kids, your elephants, your parakeets, I don't care." *[laughing]*

Carl W. Anderson: *[Laughing]* Nice.

Betty Barry-Deal: I was happy with that one.

Carl W. Anderson: Well, now you had graduated from Boalt already at this point; and after taking care of the kids, had you any plans to take the bar at this point?

Betty Barry-Deal: Not at all.

Carl W. Anderson: No?

Betty Barry-Deal: Well, actually I started having some thoughts when I sold the house and got relocated. And I thought, you know, maybe now with a new start I can take the bar again; I could take the bar. And so I got the kids settled in school, we got our move taken care of, and I took some halfhearted attempts at a law review course in San Francisco when I could get there.

I studied my old 10-year notes and went over in the fall of—I guess this was 1952—no, the fall of 1953. It was the fall of 1954; I was two years off. And I flunked the bar, but I only missed it by three points, so I was encouraged to try again. If I had missed it by an awful lot I probably would have given up on it; but three points, I could make another stab.

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In the meantime Bernie came down the hill and said, "It looks like you're in trouble." And I said, "I am indeed." And so he said, "I'll give you the manuscript from my next summary to study from. If you lose it I'll kill you, because it's my only copy—and good luck."

So I diligently studied Bernie's manual and a few other books—I think another book on equity—and went back and took the bar in the spring of 1955 and passed it that time.

Carl W. Anderson: Congratulations. Well, that's really serendipity that you have a landlord that turns out to be Bernie Witkin. *[laughing]*

Betty Barry-Deal: *[Laughing]* And the interesting thing is that I had barely heard of him before then, because he'd been such a prohibited source in law school. So Bernie and I became lifelong friends. And we both loved to garden; we met out on the hillside and I watered his plants on the lower part of the hill. And we just had a good time together. Then his first wife divorced him, so Bernie

needed handholding; so there's been a lot of handholding at that period. We just were forever friends after that.

Carl W. Anderson: What did you think about, now that you're past the bar and you had your ticket, actually getting out there and being a lawyer?

Betty Barry-Deal: Well, I went home as usual to Susanville and the kids needed a vacation, so my father had a ranch out there with horses on it. And so I went home for a time not knowing where I was going in law, and Dad tried to get me started in practice. He sent me up to court to probate a will. And back in those days you had to put the surviving witnesses on the stand and the *[inaudible]* and get all that testimony taken care of. So Dad had run me through that, and I'd gotten through that fine, and then I froze and I stood there, thinking, God! What am I supposed to do next? And Judge Curler, who was a very sympathetic man—had known me for years since I was a kid—looked down and he said, "Counsel may present the will now." Ah, that's what I'm supposed to do!

Carl W. Anderson: *[Laughing]* A pretty good cue.

Betty Barry-Deal: So I've always remembered that when I was a judge; that when young lawyers froze and needed some help, do it in such a way that it looks like it was their idea, save their face with their client. So that was a good lesson.

Then I was very tempted to stay in Susanville and practice law with my father. And I would love to have done that, but my mother was an overly motherly type who would have been very much inclined to run my life. I decided that was not a good idea, so I went back to Berkeley and soon got a call from Dean Keeler, assistant dean—and he was in charge of placements—telling me that he couldn't find a firm that would even interview a woman let alone hire one. And that was really my first brush with prejudice as a woman in law.

Carl W. Anderson: That's the first time you ever realized that there would be a problem?

Betty Barry-Deal: Yes, it really was; because it never occurred to me that once I found an opening it would be okay, but you had to find somebody who had an opening.

Carl W. Anderson: That's probably—you were living in Susanville, where everybody was accepted for what they were, you think?

Betty Barry-Deal: Yeah, and I wouldn't have had any problem practicing in Susanville. It would have made no difference.

Carl W. Anderson: But these firms are San Francisco firms then?

Betty Barry-Deal: The whole East Bay firms.

Carl W. Anderson: East Bay, yeah.

Betty Barry-Deal: The whole East Bay; there were no firms that would take a woman.

Carl W. Anderson: So what happened? What did you do?

Betty Barry-Deal: Well, actually I kind of went into a real post-depression, post-grief depression; it's known as delayed grieving. And I started psychotherapy and was kind of floundering around; I didn't know what I was going to do. And Nancy Nye, whose husband George Nye was a public defender at the time, suggested that I volunteer at the public defender's office, so I did that.

George assigned me to Martin Pulich, who was wonderful; and he let me tag along after him. George said, "Don't expect Martin to be polite. He's not going to open doors for you." And sure enough he slammed the door the first time I tagged along after him—almost hit me in the face—but he was wonderful about explaining things and giving me opportunities.

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He once arranged with a defendant up on the ninth floor of the courthouse and had me go interview him. And I'm sure that Martin had talked to the guy; he had a plan. So I took up my notepad and got all the proper notes. When I left, the guy said, "And lady, don't leave your purse around like that, because I could have taken everything out of it." *[laughing]*

Carl W. Anderson: *[Laughing]* And I'm sure you're wondering today why he didn't.

Betty Barry-Deal: Well, I'm sure that he had been prepped by Martin, who became friends with a lot of his revolving defendants. But I developed strep throat and needed to have a tonsillectomy, and I realized that the public defender's office was just too pressured to be able to take proper care of my children—and also I don't think I was a very good public defender. *[laughing]*

Carl W. Anderson: And you were doing this all pro bono?

Betty Barry-Deal: Oh yeah, sure. I know that the few clients they gave me I couldn't get very aroused and excited about defending them. So then Keeler called and said there was an opening at the Continuing Education of the Bar, would I be interested in that job? Sure; it's a job. It seemed like a second-rate law job, but anyway it was someplace to land; so I interviewed, and Felix hired me as a legal editor.

Carl W. Anderson: Felix Stumpf?

Betty Barry-Deal: Felix Stumpf.

Carl W. Anderson: Yeah. Was he the first director of the CEB?

Betty Barry-Deal: He was the first one. He really dreamed up the idea of CEB. He said, "There is so much legal lore and experience locked in lawyers' files in their brains that we should try to extract this and get it organized for the benefit of beginning lawyers or lawyers who want to go into specialties." So he—

Carl W. Anderson: Did he collaborate with Bernie Witkin at all on this?

Betty Barry-Deal: No, not at that time. No, this was Felix's dream, and he was really excited and energetic about it. He started out putting his first book together. I think it was—I can't remember—probate law, I think; then he hired Wilma Horwitz as an editor, and so I was the second one he hired. I knew nothing about legal editing. In fact, I wasn't even a very good writer, and Felix patiently worked with me, explaining what they were trying to do and what he expected of writing. He wanted to get rid of all legalisms—no whereas's or wherefores or any of that. He wanted it to be straight, good English that people could understand quickly; and he stressed that every single chapter had to answer how, why, where, when, and what. You've got to answer all those things in everything you do.

Carl W. Anderson: Sort of sounds like journalism.

Betty Barry-Deal: Well, it was. And then he hired . . . he didn't hire them, he didn't pay them anything. He got lawyers all over the state to write special chapters, like somebody who did probate law to write a chapter on estate administration, somebody who did tort law to write a chapter on torts. So his aim was to put out two books a year with two series of lectures; so that's what he expected us to do—he, Wilma, and me and two secretaries.

Carl W. Anderson: So this was 1955 to '56?

Betty Barry-Deal: Well it was the beginning of 1956.

Carl W. Anderson: 1956. Do you remember how much you were getting paid for this at this point? You were getting paid?

Betty Barry-Deal: Oh, it was $350 a month; better than nothing.

Carl W. Anderson: Well, that lasted pretty well then, in those days.

Betty Barry-Deal: Well, when the rent was $150 it wasn't too lavish.

Carl W. Anderson: Yeah. How long did you stay at CEB?

Betty Barry-Deal: I was there until 1963. I worked on about 15 books. And Felix was wonderful about adjusting adaptability of time. His wife had left him and he had four little kids, four little boys; and

Marge, our other secretary, was divorced and had two kids. So between Marge and Felix and me we had eight little kids.

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So we were all very adjustable and spent a lot of time doing picnics together and even camping. So Felix was very, very understanding about my taking time off for Brownie meetings or Halloween parades, as long as I got the work in.

We needed to get two books a year finished, which meant we had to get galley proof in, page proof in to UC printers on time. So as long as I got my work in on time I could adjust the day to fit the children. So it was a very good job for that period of raising children.

Carl W. Anderson: So then after, in 1963 then, you left CEB?

Betty Barry-Deal: Right. At that point Diana and Tom were teenagers. I tried to hire somebody to supervise, and also CEB was becoming more difficult to be adaptable then because Felix had hired a lot more people. And I realized that when they saw me—I was the assistant managing editor—when they saw me taking time off they thought they could; and the only problem was they didn't work at night like I did.

Carl W. Anderson: Yeah.

Betty Barry-Deal: So I realized that I had to be more consistent, with regular hours at that point. But the children really needed more supervision. And I guess I was getting burned out with CEB; I'd finished two years on the 16-page family law volume, and I was the supervisor and ended up writing about 50 percent of it. So I decided to just put my office in my home. So I interviewed in this room, and had all my separate typing and files and everything up in the attic. I could climb up and down spritely in those days.

Carl W. Anderson: So you're living here in Alameda. Did you put a shingle out in front of your house or—

Betty Barry-Deal: No, I didn't do that. I put an ad in the yellow pages of the *Chronicle*, I mean of the telephone book; and boy, did I get a lot of sailors. *[laughing]* Alameda on the naval station . . . They came by the droves, mainly with landlord problems or domestic problems; and then I also got a strange group of professional men who wanted estate plans drawn up. And it was sort of like a woman was not as intimidating as a man, so I got clients that way. I got a load of men who called me, who wanted me to represent them on statutory rape or regular rape charges, thinking that a woman would be better on this. I declined all those and—

Carl W. Anderson: So that time with the public defender's office didn't come . . . didn't help you out in practicing criminal law?

Betty Barry-Deal: Not a bit.

Carl W. Anderson: And how was that working here, practicing law right here in this room with your children?

Betty Barry-Deal: Well, it worked fine. They got to be very good at answering the phone, opening the door; and most of the clients came while they were in high school, so it worked out fine. It was interesting. I had George Nicholson, who is now on the Court Of Appeal up in Sacramento. He was working his way through law school at the time. He served as a process server, and I'll never forget one case I had where the defendant was a sailor. And I told George exactly where to go and how to serve him.

George came back bewildered. He said, "I went into that bar and there must have been 50 sailors, all of whom looked alike. I didn't know which one to serve." *[laughing]* And then we had to go another way. But there were problems too. I had one client who had a psychotic husband, and he was a little scary.

Carl W. Anderson: Did it bother you with the children in the house here with this kind of client?

Betty Barry-Deal: Yes, it did, and I'll never forget one case—a guy who had actually come to me, but I decided that he was a weirdo. Although he didn't ever appear to be violent as the husband of that woman did, but he was strange; and I told Tom never to let anybody in at night.

So I was upstairs in my bathrobe and Tom answered the door and here was this man. And Tom said he was sorry, but he'd have to come back at the regular hours. And he said, "Well, I just want to leave a note for the attorney; if you get me a pencil, I can leave a note." So Tom went to get a pencil and the guy walks in.

Carl W. Anderson: How'd you get rid of him?

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Betty Barry-Deal: I came down in my bathrobe and ordered him out of the house and told him not ever to come at night again. And I didn't see much of him.

Carl W. Anderson: And he minded?

Betty Barry-Deal: Yes, he did on that one, because I was pretty mad. And anyway, about that time Diana went off to college; Tom had only one more year of high school, but he was very involved in sports. Actually he was on the Northern California Shriners

football team, so he made all the all-star games. And so he was not really the problem of supervision that my daughter had been.

So when McKnight Brunn called me to see if I wanted to rent an office I was very happy. McKnight had been a childhood friend of my husband's when they lived in Salt Lake City, and they had lost touch with each other over the years. And eventually they were going up and down the elevator together and they started looking at each other thinking, "You look familiar"; and finally realized they were the childhood friends.

Carl W. Anderson: This was when John was working at East Bay MUD?

Betty Barry-Deal: Right; and Mac was in a law firm in the Latham Square Building. So we started seeing a lot of Mac and his wife, and John saw Mac every morning for coffee. So it was a longtime relationship. Mac had broken up his partnership and had rented a suite in the Latham Square Building and he had an extra office, so he called and asked me if I wanted to rent it from him. And by that time I was ready to get out of the house. By the way, I made practically no money in the first years.

Carl W. Anderson: It paid the rent.

Betty Barry-Deal: Yeah, paid the rent. But anyway, I started working with Mac and he again was a mentor like Felix had been and like Martin Pulich had been and like Bernie had been. Mac was wonderful. He was a lawyer's lawyer, and he really pushed me into becoming more efficient and learning how to dictate. I was writing everything out, giving it to my secretary; he came in one day, exploded, and said, "When are you going to learn to be an attorney and use a Dictaphone?" So I stayed there one night and learned how to dictate, remembering my father.

After about a year, why, Mac said, "I think it's time we became partners." And that worked out extremely well because Mac was a mentor and I didn't mind being corrected. So we went into partnership and then moved over to the new Kaiser Building, where we had a really slick but terribly small office. I think my office was 10 by 10, barely big enough for a desk and a chair. And then Mac wanted to expand his practice, so he joined up with Leo Helzel and Charlie Leighton and Don Falconer and they talked about combining partners. Leo didn't like the idea of a woman partner and Mac said, "Well, if she doesn't go with us there's no partnership." So Leo finally agreed okay. I never met him before our partnership.

Carl W. Anderson: Yeah. What year was this, Betty?

Betty Barry-Deal: Well, this was about I'd say 1964 or 1965.

Carl W. Anderson: 1964 in the city of Oakland, county seat in Alameda County, and Leo didn't want a woman partner?

Betty Barry-Deal: Right.

Carl W. Anderson: So how did you get around that?

Betty Barry-Deal: Mac was adamant—the woman comes or I don't! *[laughing]* So Leo finally said okay. And so I met Leo for the first time when we had a big open house for our new offices and then he started kind of having a joke with it saying, "It isn't everybody who has a partner they can kiss."

Carl W. Anderson: *[Laughing]* So you brought him around?

Betty Barry-Deal: Well, I had to bring him around. I guess he brought himself around on that one. But anyway the partnership worked out pretty well. We had a young partner, Peter Rochios, and another couple of young apprentice lawyers, Gene Miller and Tom Cooper. The partnership was kind of beginning to roll along, and then Mac brought in Bill Dunbar and our young partner Peter Rochios developed an inoperable brain tumor.

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So we carried him for about 18 months; and it was very difficult because our firm wasn't that up and going. And then Bill and Mac started having personality clashes, so I think we finally decided that it was just better to break up the partnership and go their own ways.

So Bill Dunbar started his own office, and I started my own office. We were close to each other in the Ordway Building. Mac and Charlie and Gene Miller went in with Miller, Starr & Regalia firm. I don't think they joined partnerships, but they took space there.

Leo joined the Bill Coblentz firm over in San Francisco, and I was very flattered because each one of them invited me to go with him. So I decided okay, I was accepted; even Leo invited me to go with him.

Carl W. Anderson: *[Laughing]* So then you knew you could do it on your own. So how long were you practicing by yourself in the Ordway Building?

Betty Barry-Deal: Oh, I think it was about two and half, three years, two and half, I guess, by myself. But I had been practicing family law by that time like about 14 years—well, 14 years by the time I was appointed to the superior court.

Carl W. Anderson: Where you became one of the most renowned matrimonial lawyers in Northern California about this time. And how did you feel about that?

Betty Barry-Deal: Well, I felt great. I liked being a family lawyer. I loved it, really. I enjoyed the practice. I enjoyed the clients and I even learned to enjoy the trials. I learned early on that if you were afraid of a trial, you never could work out a good negotiated settlement. So that you've got to be willing to say, 'I'll be at the courthouse." And that took a bit of learning. I'll never forget one of the early trials I had in front of old Judge Richard Chamberlain; I don't know whether you remember him.

Carl W. Anderson: I remember, yeah.

Betty Barry-Deal: He was a wonderful man and very dignified. And I represented the husband in a custody case, and Lew Van Blois represented the wife. And we were both novices; neither of us had practiced very long. So in the course of . . . Before long after the trial started, Chamberlain said, "Will counsel please approach the bench."

We did. He said, "Mr. Van Blois, if you don't quit mumbling, and Mrs. Deal, if you can't speak up so I can hear you, I'm going to have to end this trial right now." *[laughing]* So we both went back admonished and did better. So we learned with that kind of thing.

I think it probably took me about three years to really learn how to be comfortable in a trial. After that, I realized it was mainly a matter of preparation, knowing your client, knowing what to expect. So I did quite a bit of trial work, and I really enjoyed the practice.

Carl W. Anderson: When you ended up on the superior court in the Alameda County, how did that happen? And how long were you practicing solo in the Ordway Building before that happened?

Betty Barry-Deal: Well, I was solo in the Ordway Building only about two and half, three years, I think, at that time. And two or three friends had urged me to apply for a judgeship, and I'd been reluctant to do it because I just didn't think it was a possibility. And finally after about three or four months of thinking about it, I put in an application—didn't think it was going anywhere.

Carl W. Anderson: Why not?

Betty Barry-Deal: Well, Cecil Mosbacher, the only woman on the superior court in Alameda County, had resigned; no, I guess she . . . I don't remember when she resigned.

Carl W. Anderson: Just before I was appointed, in '75.

Betty Barry-Deal: '75. Okay, well, she had resigned, but I didn't think that it was very likely that a woman would be appointed again—and if so it wouldn't be me. So I didn't think too much about it. I got in my application and then I guess it was in February of 1977 Tony Kline called and said the Governor wanted to appoint me. Fine.

(01:04:51)

He waited. The announcement came so that he could appoint Clint White and me on the same day at the trial court. And Clint was black and I was white and we had been tokens before this. We were both appointed to the board of directors of the Alameda County in 1970; he was the black, I was the white—white woman.

Carl W. Anderson: And you ended up in the Court of Appeal on his division. And did you both consider yourself tokens?

Betty Barry-Deal: We tracked each other all the way along. So anyway, I was very happy for the appointment and also a little surprised; I didn't really expect it. But boy, was it chaotic to leave a sole practice and go on the court.

Now, if you leave a partnership, you've got people to handle your cases; but with a sole practice it's tough. And my old regular secretary had had to leave in December because her husband wanted to move to Carmel, or Pacific Grove, I guess. So she found me a temp person, who tried to work it out, but she was just in all over her head with all the files. So that was real chaos, and fortunately Bill Dunbar took over a number of cases for me, and I farmed others out. Actually, I notified the clients and asked them to find another attorney. And some who couldn't, I referred to Bill, and then I wrote dozens and dozens of letters terminating my employment so that people wouldn't serve modification actions on me. So it was chaotic, and I started—

Carl W. Anderson: So how long did that take, then—to get your practice in order so you could assume the bench?

Betty Barry-Deal: Well, I think it was about a month; so I guess I was sworn in in March, I think.

Carl W. Anderson: March of 1975, right?

Betty Barry-Deal: 1977.

Carl W. Anderson: 1977. Right, 1977.

Betty Barry-Deal: And Judge Hove, who was the presiding judge, called me and said that he would put me in a nonjury domestic calendar first, so that I could sort of get used to it. Then the morning I was to start, having brushed up on all my family law, he called and

said, "You'll have to go to juvenile court. Judge Carl Anderson's parents were killed in the Tenerife airplane accident and he's had to go, so would you please go to juvenile court.

Carl W. Anderson: Well, you'd be right at home there, Betty; the court had never been in better hands.

Betty Barry-Deal: *[Laughing]* Jiminy! Well, I had the criminal juvenile calendar and I hadn't had any criminal law at all, except for this brief little three months in the public defender's office, which wasn't enough to give me very much experience. I had sat through a number of criminal trials with Dad, but that was different than knowing criminal law. I knew how the feeling went of the trial excitement, but not the law.

And I'll never forget the first morning when the deputy public defender and deputy DA were there and the deputy public defender said, "Well, your honor, you'll have to rule on the 1538.5 motion first." And I said, "What code?" And I thought the public defender was going to faint. *[laughing]*

He was astounded and carefully explained what the code was. And I think he was more astounded by my ruling, which I overruled it of course. *[laughing]* And then he and the DA decided that it would be a good idea every morning to get there early and sort of review some of the problems with me. So we did that for the month.

The dependency cases were fine. I did okay in those. But boy was I glad when you came back, because I was over my head. So then I went into a regular nonjury domestic relations calendar, and that was okay.

And six months after I had been on the bench, the Southern Alameda County branch opened, and Judge Sabraw called and asked if I would take the domestic relations calendar down there. I wasn't too excited about going to Hayward, but I was sure excited about a domestic relations calendar, because it had been pretty well taken over, I think, by McKibben—I'm not sure—in North County. So I took that assignment. I think you went down at the same time.

Carl W. Anderson: I did, yeah.

(01:19:59)

Betty Barry-Deal: You went down in criminal law. Mo was persuasive in getting us down there.

Carl W. Anderson: He was. I wanted to stay in juvenile all my life, but I was exposed to your department. Every time you'd take a vacation I would get two weeks of straight family relations, and I learned

to appreciate my wife and my kids during that course. *[laughing]*

Betty Barry-Deal: Well, I loved that assignment. I was down there three years and just thoroughly enjoyed it, and we did a lot of interesting things. First of all, the lawyers were hiring a psychologist to evaluate their client in the trial, and then they'd come into the court with these lopsided opinions on where the child should be.

So I regularly called meetings of the South County bar, and I told them that there was nothing I could do to prevent this practice, but I just wanted them to know that I wouldn't give such testimony very much weight. And if they wanted a good evaluation, I wanted both parents and the children seen, and then I could get an objective evaluation, hopefully.

So then I started getting some very prominent Berkeley child psychiatrists interested in coming. And I had to get them assured that they would not be ripped apart on cross-examination if they did a careful, objective evaluation—lots of tough problems of cases. So I got Kent Zimmerman, who was the director of Children's Hospital psychiatric unit; Bob Schrieber; Byron Nestor.

I got the attorneys to agree to hire these people as independent experts, and they would read the report and they could write written comments, but no cross-examination with the stand. And they went along with it and we got some really very good help with custody cases that way.

Then they were doing sloppy paperwork, so we called another meeting, and I set up what I thought was a sample custody visitation order and asked for comments; and they were good about comments. I regularly would call the meetings and ask them to give the feedback. Some of them were critical; some of them had good ideas.

So it was a happy three years down there. I really enjoyed it, and developed a good relationship with the South County bar. Actually they had a huge reception and named me the Family Law Judge of the Year, I think; Southern California—I forget where.

Carl W. Anderson: Was it while you were doing the family law in Hayward that the Chief Justice called and asked if you would like to come to the Court of Appeal for a little assignment?

Betty Barry-Deal: A pro tem assignment, yes; and that seemed interesting. So I went over there for two months on a pro tem assignment; got to meet all of the other justices. And I still believe that they gave me all of the dog cases. *[laughing]* Some of them were just horrendous.

I had several criminal cases, of course, which were totally over my head. And I will never forget Justice Elkington, who was such a dear. I was assigned to the First Division, which was Elkington, Racanelli, and Newsom. I can't remember if there was anybody else there or not. I guess I was the fourth.

I never saw Newsom, but Racanelli tried to be helpful, and Elkington was just a dear. He saw my floundering in criminal law and offered to assist. He was amazing. He could reach up and pull down a book and say, "This case will help you." It was just, he had them all memorized.

Carl W. Anderson: Do you know why you were selected by the Chief Justice?

Betty Barry-Deal: I have no idea, except . . . and I think by that time that probably Jerry Brown was looking around for who he could appoint, because he came on as Governor with the idea of changing the courts by appointing women and minorities. You know, he was very critical of the courts, and he was going to update them. I think it may be that he and Rose Bird were very close friends, so it may have been kind of a run-through to see what would happen.

(01:15:03)

Carl W. Anderson: Did you find out or did you ever have any discussions with the Chief about this assignment, or did she talk to you when you left?

Betty Barry-Deal: Yes. We didn't have any discussion about my assignment, but she did talk to me when I left and ask me what ideas I had. And I told her that I didn't understand why I had been chosen, and there were lots of other justices or judges on the court that were more experienced that should have this assignment. I also pointed out that she tended to be choosing people that were Democrats.

Carl W. Anderson: You told her that?

Betty Barry-Deal: Yes.

Carl W. Anderson: How did she react to that?

Betty Barry-Deal: She just said, "Oh." She didn't have much reaction to that, except that she started appointing Republicans.

Carl W. Anderson: Well, I know you came back on Monday, and the next week Mo Sabraw was asked by the Chief to go over to San Francisco. And so we always thought maybe you had something to do with that.

Betty Barry-Deal: Yeah, I did. I pointed out that there were Republicans on the court too. *[laughing]* Actually, I think I started changing my political viewpoint about that time. I found when I went on the court that most of the Republican judges were very solicitous and very helpful. I didn't find that with some of the Democratic judges.

Carl W. Anderson: Did you think there was a division in the court based upon what Governor—

Betty Barry-Deal: I think there was quite a division on the court between Democrats and Republicans. I don't know that it was any problem except in terms of personal relations. I guess it's always been that way, and probably it's a good thing that you have a governor come in and appoint a bunch of Republicans, then you have another governor come in and appoint a bunch of Democrats; and then you have a bunch of republicans and a bunch of democrats. So it keeps it balanced, which I think is a good idea. I like to see a balance on a court: conservatives, liberals. It makes for conversation.

Carl W. Anderson: So how long were you back on the superior court from your tour in San Francisco at the Court of Appeal before the Governor called and asked you to make it permanent?

Betty Barry-Deal: Oh, I think it was two years. The Governor never called me. Tony Kline called and asked how I would like to be appointed at the appellate court, or would I like to be. And I said, "No, my experience there was not that great."

He said, "Well, will you think about it?" I said, "Yeah I'll think about it." He said, "Well, I'll call you back in 24 hours." I said okay. I told George Phillips and I think maybe Mo Sabraw—one or two others.

George really urged me. He said, "If you don't take this, you may never get this chance again. It's a wonderful opportunity; you've got to take it." The only negative vote was my son, who said he just didn't think I'd be as happy there. He thought I was just really, really happy on the family law court, which I was.

So when Tony Kline called the next day and asked if I had decided that I'd like the appointment, I said, "Well, yeah, okay." *[laughing]* I wasn't enthusiastic about it. And I was appointed to the Third Division. Justice Clint White was the presiding justice and Sidney Feinberg and Jim Scott were the associate justices; I was the fourth one.

Carl W. Anderson: You replaced Paul Halvonik, didn't you?

Betty Barry-Deal: I replaced Paul Halvonik. Jim Scott had been really in a dissenting mode ever since Paul Halvonik was appointed,

because Clint and Paul and Sid always made up two of the three necessary justices. So there was no way that Jim Scott would ever prevail in upholding a search. They were all turned over, and Jim—

Carl W. Anderson: This is only in criminal law?

Betty Barry-Deal: Yes, in criminal law. And Jim had written dissents, dissents, dissents; and so he assumed if I was appointed to replace Paul Halvonik, I would be his female counterpart. So he was very aloof and didn't want too much to do with me, because he thought, "Oh god, here comes another round of dissents."

(01:20:00)

So the confirmation hearing was really strange. Rose Bird was there, of course, and Deukmejian and Wake Taylor, who was the third, he was the senior judge.

Carl W. Anderson: Of the First District.

Betty Barry-Deal: My son and sister went with me. A woman from the Women Lawyers of Alameda County, in Queen's Bench prose, appeared to speak a few words. There was no opposition; and that was it, and I was confirmed.

Carl W. Anderson: Unanimously?

Betty Barry-Deal: Yes. Deukmejian looked at me puzzled like, who in the world are you? *[laughter]* But I had known Wakefield Taylor before, because one day, when I was in trial practice, I got a call from . . . the secretary came in and said, "Justice Taylor of the appellate court would like to speak with you." And my first thought was "Oh my god, I've done something wrong."

It turned out that Wake had discovered that I was related to the Hardins and researching a Hardin family, which he had learned from Mark Hardin, an attorney in Oakland. He wanted to tell me that he had some things on that that he could add because his great-grandfather, Dr. Harris, had married the sister of my great-grandfather. And they had come across the plains together, and his family had been closely associated with the Hardin family for years. And he said, "I think that makes us kissing cousins." *[laughter]*

Carl W. Anderson: *[Laughter]* How had he heard about you? Because you'd been studying genealogy as a hobby for—

Betty Barry-Deal: Oh, I've been doing genealogy for years. And there was an attorney, Mark Hardin, in Oakland, that I knew was of my Harden family. It turned out he was my father's second cousin. I walked up to him one day and Mark thought, Oh my, here's a

nice young woman approaching me. And then when I said, "I'm interested in family history," he went boom. *[laughter]*

He said, "I do not like searching family history, I don't care anything about it. If you come up to my office, I'll give you the file of everything I have on it." So he gave me a minimum kind of file; but he apparently did run into Wake Taylor and tell him that I was looking for the Hardens and gave him my number, I guess.

Carl W. Anderson: What was the time span between you have this conversation with Justice Taylor and your confirmation hearing?

Betty Barry-Deal: Oh, probably a couple of years. So it was interesting to have Wake there. As I recall dimly, I think maybe Clint White and Sid Feinberg came over to the confirmation hearing. Jim Scott did not.

Carl W. Anderson: How was it that you and Jim . . . because you became very fast friends. When I was appointed over there, you were bosom buddies.

Betty Barry-Deal: Oh, I know, and Jim tells a very distorted, funny story about how we became friends. We were in a writ conference and he claims that I again looked up and said, "What's this 1538.5 motion all about?" I said, "I just don't think it's a very commonsense motion." And Jim looked at me like, "I may have some help on this court." *[laughter]*

I really was a liberal, and a conservative on criminal matters, much to Clint's disappointment. In fact, he one time told me that if he had known how conservative I was, he wouldn't have approved my appointment. Anyway, Jim and I became fast friends, and he was raised in Yuba County with kind of pioneer ancestors and I was raised in Lassen County with pioneers. So we had very similar backgrounds, and we just meshed on a lot of ideas. He dissented occasionally on some of my cases and I dissented on his.

Carl W. Anderson: But that didn't bother you?

Betty Barry-Deal: Didn't bother me, didn't bother him. Actually, it never bothered me to have a dissent. I learned that at CEB—that it's just a matter of a difference of ideas, and difference of ideas are great.

Carl W. Anderson: But didn't you have a problem with some professor at CEB that didn't like your editing or something?

Betty Barry-Deal: Oh, that's what really got me attuned to this problem of dissent. I regularly did heavy editing on a lot of lawyers' manuscripts, because most of them were pretty bad. This professor from UCLA who wrote on community property I guess

prided himself on his writing ability, but the manuscript didn't use very clean-cut language like Felix wanted. He tended to use verbose legal language, and it didn't fit the style of the CEB handbook.

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So I edited it fairly heavily and sent it back to him. I didn't change it anywhere near as much as I did most of them. He wrote me the most scathing letter in the world you could ever . . . and I wrote back defending myself, saying that I had really followed *Fowler's Modern English Usage*. And he wrote back saying, well, why don't you read a bit of Alex—what is it, Mencken? "You're reading the wrong books!" *[laughter]* And he had some other scathing words for me. And I was almost in tears, and Felix came in and said, "Hey, it's just a difference in ideas. He's not attacking you personally; he doesn't even know you." So I never really was offended by dissents or different ideas after that. Good thing.

Carl W. Anderson: You learned how to be criticized and accept it and move on.

Betty Barry-Deal: Yeah. So I had no problems with being criticized; and it didn't bother me when the Supreme Court de-published me or reversed me. No problem.

Carl W. Anderson: That's because you were so busy in the next cases; because you didn't have time to worry about the last cases. *[laughter]*

Betty Barry-Deal: Right. I had a few run-ins with Clint. We had a couple of cases where the parties were black and he became rather defensive over them and I pretty much was color blind. I thought the trial court did the right thing and I was not protective of any particular group. I was pretty much colorblind and gender blind. I love men, I love women; black, purple whatever you want to have it. I got that from my parents.

Carl W. Anderson: It's those Susanville roots again.

Betty Barry-Deal: Yeah. They were very colorblind and gender blind. Clint had, of course, a tremendous amount of pressure from the African-American community to be supportive of black people. So I could understand the pressure that was put on him. And we had a couple of run-ins on a couple of those cases, but we managed to get over it.

Carl W. Anderson: So you were on the Court of Appeal for 10 years then. Was Clint the presiding justice that entire 10 years?

Betty Barry-Deal: The entire 10 years. I didn't feel any prejudice on the court at all. The first meeting was a little strange, however.

Carl W. Anderson: You were the first woman appointed—

Betty Barry-Deal: I was the first woman.

Carl W. Anderson: Okay. And the court had monthly meetings?

Betty Barry-Deal: Monthly meetings.

Carl W. Anderson: How did those go?

Betty Barry-Deal: Well, the first one was strange. Justice Caldecott was the APJ, the presiding justice at that time, and he called the meeting—didn't acknowledge my presence, didn't acknowledge that I was a new justice, and nobody said a word. He gave a brief report and they adjourned and I said, "And that's the monthly meeting? That could have been done with a memo." *[laughing]*

Then after that when Justice Racanelli took over . . . I don't know whether it was Justice Caldecott that was inhibiting or my presence that was inhibiting, but whatever it was, it was quiet; nobody said a word. Then when Justice Racanelli took over, why it seemed to me as though the meetings were livelier; everybody took part and expressed a lot of opinions. We had some very interesting experiences in the writ conferences. I enjoyed those. The four of us would usually meet together. Maybe only three; I can't remember whether all four of us went or three of us went. And then Jack Darr, the writ clerk, would come. And Clint used very, very lively four-letter words for the first several writ conferences. Finally, about the fourth one, he looked at me and said, "Betty, I apologize for my language; I didn't think about using this kind of language."

Carl W. Anderson: You were just one of the boys?

Betty Barry-Deal: Well, he suddenly noticed I was a girl, I think. I said, "Clint, for heaven's sakes, I was raised by a country lawyer. I've heard this kind of language and it doesn't faze me. I don't mind, go ahead." He said, "But my mother would." *[laughing]*

(01:30:04)

So he cleaned up his language after that. So the writ conferences turned out to be very eye-opening for all of us, I think. I had a great staff. Initially, I kept Paul Halvonik's secretary, who kept reminding me that I wasn't doing things the way Paul did. She regularly didn't show up. She was a catastrophe. And I finally fired her, much to the amazement of the court, because people didn't fire people. So—

Carl W. Anderson: Is that when you hired Sue?

Betty Barry-Deal: And that's when I hired Sue Walenta, and she was an absolute jewel.

Carl W. Anderson: Perfect, yeah.

Betty Barry-Deal: She was wonderful. She was an English major at Cal. She knew more English grammar than I did. She was a computer specialist. And she was just a gem. And then I had Richard Inlander, who had been there for quite a while, and he knew a lot about criminal law and was very helpful with that.

Carl W. Anderson: As your research attorney.

Betty Barry-Deal: As my research attorney. He brought me an old hornbook on criminal law so I could brush up on just the substantive part, and he was very, very helpful in holding my hand through a lot of the criminal law cases. I didn't always agree with him, because when I got there, everybody was so used to overturning every search, I kept thinking of Roger Traynor's opinion.

I kind of applied the exclusionary rule back in 1955, before the U.S. Supreme Court got around to it. I was at the public defender's office at the time, and I was grateful for it because I had known about police brutality and coerced confessions and things. But I'll never forget one line in the opinion, and I can't quote it exactly, but it was to the extent that he assumed the trial courts would use common sense in applying the rule.

So when I got to the appellate court I began to think that maybe the appellate courts should use common sense in applying the exclusionary rule. So I was a bit on the conservative side. I could throw them out when they were too bad, but when they were just tiny infractions, I didn't . . . I couldn't go—

Carl W. Anderson: Use common sense then.

Betty Barry-Deal: Right, use common sense.

Carl W. Anderson: How did you find oral argument at the Court of Appeal? Was that helpful or—

Betty Barry-Deal: Not too much. If they really wrote good briefs and set them out well, and if they in oral argument appeared mainly to say, "Do you need any explanation or any argument on any point? I'll be glad to go through that." But when they just came in and meandered all over their briefs again, which weren't too good to begin with, it wasn't helpful at all.

Peter Davis of the Crosby Heafey firm was the ideal appellate court lawyer. He wrote very good, very concise briefs, and he came to court well prepared and made a few opening statements and then asked questions and that was the approach.

But we didn't have very many appellate specialist lawyers. We had a lot of lawyers and even some pro pers, who didn't on the whole write very good briefs. So it didn't help to have them just go through the brief again at oral argument.

Carl W. Anderson: Did you discourage oral argument in certain cases?

Betty Barry-Deal: No, no. We encouraged the lawyers to argue what they wanted to. We tried to limit them to 20 or 30 minutes after a while because some of them would want to go on for hours. But you never knew when you were going to get a good argument.

I'll never forget one labor law case where this woman, allegedly an attorney, came in and with ribbons in her hair and looking like she was a farm girl. And I thought, maybe she's just a client. But when the case was called, she got up to argue, and she made one of the best arguments I ever heard. And she looked as though as she was a housekeeper's assistant, in a little cotton dress, ribbons in her hair. But so you never knew when you were going to be surprised by an oral argument. Some of them were really quite good.

(01:35:04)

Carl W. Anderson: Did you participate in the organization of the court or the administration of the court when you were there? How was that under Justice Racanelli?

Betty Barry-Deal: Oh, it was good. He had monthly meetings, and of course it was not long after I was there that somebody alerted Racanelli to the fact that we were . . . our caseload was just growing and growing and growing. And all the justices on the other divisions were expected to write four opinions a month, and for some reason or other our Third Division wrote five opinions a month. But that wasn't enough to even halfway cut into the caseload. So Justice Racanelli called an all-court meeting: the law clerks, the secretaries, the justices, everybody. And I think we held it at, I don't know, some big hall at the Presidio.

Carl W. Anderson: Fort Mason?

Betty Barry-Deal: Fort Mason. How was that . . . you were there?

Carl W. Anderson: No, I wasn't there; that was before I got there.

Betty Barry-Deal: And reviewed the caseload and how we were going to have to go into some kind of a remedial action to be able to break through the caseload. And so he actually asked questions and said that near as he could see, we were going to have to just really speed up production. And that's when I think they got the idea of adding pro tems to each division so that they could break into teams. And I know that Peter Anello came and worked with Jim Scott and me.

Ed Stern came and worked with Sid Feinberg and Clint, and I don't quite remember what happened to the rest of it. It seemed to me as though there was another justice, another team in there. Anyway, we went on a speed-up of 12 opinions a month for each of these groups. And Peter Anello . . . for each division . . . it wasn't. No, it was 12 opinions per justice; that was it. Each team just worked furiously to work off the backlog. And it was going too fast for me, because I hadn't been there very long. And Jim Scott said, "Don't you worry about it; just be willing to read it and sign it." So I don't think I carried my weight on that, but he and Peter Anello really pushed out a lot of opinions.

Carl W. Anderson: Do you remember what Wake Taylor's attitude was at this conference you had at Fort Mason? Do you remember that?

Betty Barry-Deal: I don't remember that, no. I don't remember Wake being there. I don't know when Wake retired. I'm not sure; I can't recall that. I know that it was a huge meeting, and we certainly went into heavy production mode and we kept up—

Carl W. Anderson: Was it successful then?

Betty Barry-Deal: Yes, we really whittled the backlog down. And then from then on we kept up a much heavier burden of writing.

Carl W. Anderson: How do you compare your experience on the Court of Appeal as compared with your experiences in the trial court?

Betty Barry-Deal: Oh, they're totally different animals. I love the trial court. I love the mix of lawyers and litigants and the constant excitement going on. On the appellate court you have no relationship with the lawyers or any litigants, and you have mainly just the people in your court.

And our division had moved down to the third floor, so we didn't have too much association with the people on the fourth floor except in the way of monthly meetings. But the fortunate thing was that we had a very, very good division, very compatible, and we had good quarters and everybody knew everybody's secretaries and law clerks.

Carl W. Anderson: Do you think there was a lot of congeniality, then, on the court?

Betty Barry-Deal: Yes, there was. Early on I learned that being a woman among a bunch of men presented some problems socially, and I learned this when I was a law partner. I invited Peter Rochios to go to lunch and the poor dear thought he was supposed to pay for it, because in those days men paid for meals.

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So I knew on the Court of Appeal that if I was to go to lunch I was going to have to get people beyond this "I've got to pay for the woman's lunch."

Carl W. Anderson: And did you?

Betty Barry-Deal: I sure did. First of all, I started finding people to go to the cafeteria, which obviously you have to pay for your own as you go through. And I got Sid Feinberg doing that, and a few others; and they got comfortable with my paying, and then I started organizing lunches. And we had a lot of great lunches.

When we went over to the Culinary Academy I'd call in the morning and see who was interested in going to lunch. And then Wake Taylor came over about once a month after he retired, so we walked down to Sears to have lunch with him. And I was so diligent about setting up lunch that they ended up making me the collegiality chairman. *[laughing]*

Carl W. Anderson: You had that all set by the time I got there. I remember because you were very partial to linen napkins. *[laughing]*

Betty Barry-Deal: I liked the Culinary Academy; it was a good place. Although we actually had a lot of good lunches with Harry Low, who arranged special lunches at the various Chinese restaurants around. That was fun too.

Carl W. Anderson: Those fortune cookies, right. So, Betty, you retired in 1990, about 16 years ago.

Betty Barry-Deal: Yes.

Carl W. Anderson: How have you been occupying yourself since retirement?

Betty Barry-Deal: Well, I love gardening, so I've done that. And I have six grandchildren and two great-grandchildren. I spend a lot of time with the family. And then I've been working on genealogy, writing family histories; and that has been exciting.

I had four sets of great-grandparents, three who came by covered wagon, one who came by the Isthmus of Panama. So I got interested in how and why did these people come, and I traced them way back. And finally I got interested in the whole idea of American history and why these people moved around and why did they do one thing rather than another.

Carl W. Anderson: You found a special connection with Daniel Boone, didn't you?

Betty Barry-Deal: Oh yes, yes, yes. My mother descended from Daniel Boone's younger brother Edward. And oh, I swear that 10 percent of the American population is related to the Boone family. So I joined the Boone Family Association and go to their biannual reunions.

I went to one in Lexington, Kentucky, and one in North Carolina. And they're fun. I've met a lot, a lot of Boone relatives, and even discovered that some of the people in Susanville were Boones—only we didn't know it about each other. So I've done some research work for them. They've got a lot of people researching, and I've done some special projects on searching out bits on them. But right now I'm writing a history of the Stickney-Hall-Edwards family and who came to Lassen County early on; and the Hall part of it is supposed to be written by a 91-year-old cousin and I can't get her going on her great-grandmother.

Carl W. Anderson: Maybe you could do it orally. Isn't the center of genealogy in Salt Lake City? Doesn't every genealogist have to end up there at some point, studying and researching?

Betty Barry-Deal: Oh well, no, actually the biggest collection of genealogical material in the world is in Salt Lake City. They of course have . . . somehow or other genealogy is connected with their religion, and I guess it's mainly they're trying to get everybody baptized before they get to heaven. And I'm not sure I understand exactly why, but anyway I laud them for their huge collection of genealogy. And I've worked with the local family history center of the church. And everybody is welcome to go up there, you know; there's one up near the temple in Oakland and there are family history centers all over the United states where people can go.

But I did the kind of thing where you . . . I was interested early, so I interviewed all of the old relatives of my parents and got all of their information down, and then I went to courthouses and cemeteries and I traveled some. I went back to Missouri and Illinois and got some basic court records back there. So I've been collecting this kind of stuff for 30 years during vacations. And while I was on a trial court in Hayward, it was easy to stop at the LDS Center on the way home, and I did that.

(01:45:09)

Carl W. Anderson: So you've had this hobby then since when?

Betty Barry-Deal: Well, actually I think it really developed in about 1970. My father's cousin was an old maid who went to Kentucky and Missouri and interviewed really old ancestors. These would be people like my great-great-aunts. And she had a lot of notes. When she died she left all of her notes to me and all of her pictures—and also which were unlabeled and the notes were almost illegible. And this was in 1958; she left me everything.

In 1970 my father had just died, my second husband developed leukemia, my young partner was dying, and I was just in a tailspin. So I got out Amy's box of notes and started trying to

go through them—because I got pneumonia, and the doctor told me I had to stay home.

That's why I got the notes going. And I got fascinated with what she had written down—as much as I could understand—and I guess that really started me, because it kept me from thinking about all these other things. And so it was a good way of just going off on a different cloud.

Carl W. Anderson: Well, you've been very busy since retirement. I see all the boxes around here, and it's not quite finished yet. *[laughing]*

Betty Barry-Deal: No, it's not. I've still got 20 families to go.

Carl W. Anderson: Well, Betty—

Betty Barry-Deal: It's been such fun because I've been watching. You know, I've gotten interested in migration, in American history, and I kind of liken the migration of my great-grandparents who came from Missouri to escape the Civil War and not too unlike the migration of the Iraqi middle class to escape their war. So it's the same concept that keeps arising.

Carl W. Anderson: Well, you had a long and distinguished career. And thinking back on your entire life as a lawyer—as a persevering law student, as a mother and father to your children, your time in the trial court and then ending up on the Court of Appeal, the second most important court in the state of California—do you have a feeling about what we did and what we do on the appellate court has any significance in the practice of law in California?

Betty Barry-Deal: Well, I've thought about that some, Carl. I sometimes wondered whether we weren't just clearing the brush so that the Supreme Court could handle the trees—and a feeling as though that maybe that wasn't that important. And my son brought me up short on that. He's an attorney for Chevron, and he said, "Mother, the appellate decisions are the meat and bones of the trial lawyers' practice; they're what's really important, because we're constantly looking to them and applying them." So I got to rethinking and realized that some of my opinions were really effective and some important. I've thought about it.

Carl W. Anderson: Betty, your career is fascinating. Your perseverance through law school in getting your degree and your passing the bar—amazing. Your excellence as a judge and jurist have really been an inspiration for us all, and I consider myself very fortunate to have worked with you.

Betty Barry-Deal: Thank you, Carl, and I consider myself fortunate for having been your colleague for so many years.

Carl W. Anderson: Thanks. I thank you thoroughly.

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