Tani Cantil-Sakauye: Good morning, and welcome. I am here with Consuelo Maria Callahan, a retired justice of the Court of Appeal, Third District. She's blazed a historical trail in the judiciary. We will cover that, and much more, later in this interview.

This interview is the brainchild of the Judicial Council and the Administrative Office of the Courts. They have instituted the Appellate Court Legacy Project, which includes an oral history of the appellate courts via interviews of retired justices.

I am Tani Cantil-Sakauye, an Associate Justice on the Court of Appeal, Third District, and I have the honor of interviewing Judge Callahan.

A few minutes ago, I referred to Judge Callahan as a trailblazer, because she was the first woman appointed to the San Joaquin Superior Court; she was the first Hispanic to be appointed to the San Joaquin Superior Court; she was the first San Joaquin County judge to be appointed to the Third District Court of Appeal in 73 years; and she is the first San Joaquin County judge to be appointed to the Ninth Circuit. There's more, and to my knowledge, she is the first California female judge for whom an American Inn of Court is named. This interview seeks to know more about this trailblazer behind the robe in the stylish suit.

Good morning, Connie.

Consuelo Callahan: Good morning, Tani. Good to see you.

Tani Cantil-Sakauye: You, too. I'm going to ask you a series of questions in chronological order. Feel free to expand.

Where and when were you born?

Consuelo Callahan: Well, a very long time ago, and I don't feel like I'm really actually retired since I have another job. *[laughing]* But I was born at the Stanford Hospital in Palo Alto, California, and my folks were living in the Bay area at the time. And I spent my . . . it was June 9, 1950, and I went home to live in Los Altos was the first place that I lived.

Tani Cantil-Sakauye: Is that where you were raised, Los Altos?

Consuelo Callahan: Well, yeah. It's funny, I say I'm from Stockton, and you will hear that from people because that's the very longest that I have lived anywhere; but actually, my life did begin in the Bay Area, and I lived in Los Altos till I was 12.

Then we moved to the other side of the bay, Fremont. My dad took a job over there, and I went to junior high and high school there.

And then I did my undergraduate at Stanford, so I went back to the other side of the bay to Palo Alto; and it was law school and my legal career that brought me to the valley, and I just haven't left since. So I guess, you know, I'm a Bay Area–born girl; but I consider myself a valley girl at this point.

Tani Cantil-Sakauye: Good. I'd like to get to that in a few moments; but while you were in Los Altos in those early years before 12, did you have any siblings?

Consuelo Callahan: I am the oldest, and people say I am a definite first child; they usually guess that. And I have a younger sister who is two years younger, and then I have a brother that's five years younger. So that's our family.

Tani Cantil-Sakauye: Tell me about your mom and dad.

Consuelo Callahan: Well, my mom and dad . . . You know, I came from what I would describe as a pretty humble background. I would say that I wasn't born with a silver spoon in my mouth, but I was born very fortunate to have very wonderful parents that were very committed to their children and to education.

My mom is Spanish and my dad is Irish. Although I think he married probably . . . My dad was a Spanish teacher and when . . . actually, my mother was his student; but they claim they didn't date till after she was in college. But he was a Spanish teacher, and he had lived in Mexico for a while; so that was a huge influence in my life.

My mom did not speak English until she went to school, and that was true of all the children in their family. So she's very much the immigrant mentality. My dad was . . . he lived in the Depression in San Francisco, was a native San Franciscan, and his parents are Irish.

So they were—both sides were—really quite poor, and my parents were the first that got any further education, because with my grandparents, my grandmother used to describe herself as like Jethro in *The Beverly Hillbillies*. I think she went through, it was either fifth or sixth grade. The furthest we had anyone go was through eighth grade, and that was pretty highbrow for our family at that time, although I think particularly on my mother's side. Her parents came to this country through Hawaii. In those days when people came, some people that couldn't pay for their way here went to Hawaii. They were essentially indentured servants and had to work there till they paid off their fare to get here.

And then they settled in the Santa Clara Valley, and my grandfather was a farmer there that farmed through . . . Then they raised—there were actually six children, but one died—and so they raised five children in that particular area.

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Tani Cantil-Sakauye: Did you grow up bilingual, then, as a result?

Consuelo Callahan: Well, I always heard Spanish, and I do speak Spanish and took it in school. But it was funny, back then it really wasn't very cool to be bilingual, and my mother was fairly traumatized in remembering not going to school, not speaking the language, and the prejudice I think that existed in terms of where she went to school. There were the kids from Los Altos and the kids from Mountain View that were the other side of the tracks that were not the English speakers and that type of thing. So my mom wanted me to be more comfortable and be more assimilated. And while I don't think . . . she was certainly not ashamed of her heritage, but it wasn't considered a positive. So I would say I always heard Spanish, but English is my more comfortable and was more my first language.

Tani Cantil-Sakauye: Now, you were born the oldest child; so were there any expectations of you as the oldest daughter in the family?

Consuelo Callahan: Well, my parents, you know, I look back and I'm really constantly amazed at their parenting skills, that I never felt that they ever told us what to do, but somehow they had this very subtle communication. It's not that we were spanked, it's not that we were yelled at, anything along those lines; but somehow you knew one thing: education was really important. And I think the immigrant thought process to some extent is the way that you get ahead, the way that you have independence is that you have to be a good student, you have to be educated. And the emphasis was not I would say on making money, but the emphasis was on education, and that was a real clear message.

My dad continued on being an educator, and he went back when I was in fifth grade. Well, he got his master's and his doctorate from Stanford in education and went on and was a school administrator. So I would say that was a very clear expectation, education.

And my mom had another subtle expectation. I think she was a pretty early-on feminist in the standpoint that being raised in a . . . She had three brothers and a sister, and it was clear, all the kids, even though they went to college, the boys went to Stanford, they went away; the girls went to San Jose State and they lived at home. And girls got married and had their families. And my mom was, I think, always a little bit frustrated and felt a little bit trapped in her life, that it frightened her that she didn't feel she could take care of her children. And she always, to her daughters there was a not-so-subtle mantra going on: "You need to have a career, you need to be able to take care of yourself. Don't be dependent on a man, because you never

know what's going to happen to you in this life." So, you know, I would say that kind of streak of feminism coming from someone that wasn't a very . . . you wouldn't very likely think it would be coming from.

And my dad was interested in a way that, while I don't think he liked my mom doing whatever she wanted, but with his daughters, he was very equal with his daughters and his son in the sense that I never saw a sense of doubt in my father's eyes. Whatever I said I wanted to do, it was just "Do it, then." And he was very equal with his children that way. And I would say almost in the sense that my brother, who needless to say is . . . I mean, he's a successful dentist, did very well in school and all those things. He's more laid-back than my sister and I are, because I think my mother and my father in a sense felt society takes care of boys—and girls you've got to have that hand on their back and push them out at that particular time.

So, yeah, those dynamics were going on; but they never said, interestingly, it wasn't, "You have to pick any sort of career." They didn't . . . just do what you love and be good at it. And interestingly, while I'm a lawyer and then became a judge; my brother is a dentist, as I said; and my sister is a teacher, but she's getting her Ph.D. right now in the area of, well, cognitive learning and reading, and she's in Berkeley right now. So I would say we were kind of lifelong learners.

Tani Cantil-Sakauye: It sounds like the dynamics of your family is the formula for adult success: education and independence and just the support that you received from your parents. Can you tell me, just before I move on to the high-school years and what you were involved in then, what was a typical day like in your life when you were growing up?

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Consuelo Callahan: Well, it's funny, I was thinking about it. I don't remember a lot before I was five; but the memories that I start to have, I do remember when my brother was born and playing in the driveway. I also remember—and this is sort of a funny little story about me—my mother and I having . . . We checked with the next-door neighbor when I was going to kindergarten to find out whether girls took purses to school in kindergarten, which looking back, it's really fairly hilarious. But I think that my mom. You know, I think my parents really wanted us to be prepared for whatever came in life. And my mom, maybe not having that and feeling somewhat maybe, you know, not . . . you know, assimilation was a little more difficult in her situation, wanting me to feel perfectly comfortable going to kindergarten.

But, you know, we lived in a neighborhood where kids could play out in the street. I remember riding my bike to school probably from around second grade, crossing busy streets. We

would come home, we played in the afternoon, then after dinner was time to do your homework. And my mother was probably . . . if nothing else, we probably could have helped her a little more; but our job was to be a good student and to get our work done. So immediately we didn't even have to wash dishes; we had to go do our homework after dinner. I think we probably could have done both, but we kind of milked that for what it was. And so it was calmer in those days in the sense—I mean, my mom was always there when we came home. Kids didn't have a million activities like they do now. It was more playing, being a kid. And I probably . . . and for us, it was doing our homework and that type of thing. And I did take, you know, my parents were very . . . I took piano; that was sort of a mandatory in our family. I took some dance, and so you had to, there were things along those lines. I was a Girl Scout.

So I suppose it was the . . . I did have activities. I always did have activities, I had a lot of friends, and I really remember being pretty happy, not worried.

Tani Cantil-Sakauye: Pretty fulfilled, it sounds like.

Consuelo Callahan: Yeah.

Tani Cantil-Sakauye: And when you were growing up, then, is it too young yet to have a mentor or a role model? Does that come later in your life?

Consuelo Callahan: Well, you know, I suppose my parents and my family were really important in who I looked to for those things. It's interesting, because I was a little bit of a . . . looking back, I was not a shy child, and people always find it . . . because I'm not a shy person; so that always comes in.

Tani Cantil-Sakauye: Did you say you were not a shy child?

Consuelo Callahan: I was not a shy child; but I was a sensitive child. And people have tended to look at me later as being fearless. I like to perform. You know, I was a trial lawyer, and I'm really an extrovert; but I was really kind of a sensitive child when I was young, and new things did not come easily to me, that my mom had to send me . . . you know, I would kind of come running inside the house, said someone had hurt my feelings, and she'd have to send me back out to defend myself.

These are funny things. I read to a first-grade class a couple of weeks ago in Read Across America, and I was telling them how some of my fears when I was in school. I remember being afraid going first to . . . I think it was first to second grade when we went from tables to desks, because that was like a change. Well, what happens when you sit in a desk?

Then I had a fear of substitute teachers. I didn't like them, because that was . . . I think I liked routine, I liked predictability, and I think I've overcome a lot of that in terms of there's still probably that strain in me; but I know I don't give in to it. If I want to do something, I . . .

Tani Cantil-Sakauye: Well, most certainly, I would say your career, your professional career, has been anything but routine or anything but predictable; so it seems that you have overcome that.

Consuelo Callahan: Well, I think it was those early sessions of my mother sending me back out to defend myself, in that she was a big, "Well, just tell them how you feel," you know, that sometimes that I exercise my First Amendment. Maybe people could have done without hearing from me. *[laughing]*

Tani Cantil-Sakauye: It sounds like your advocacy served you well early on. Tell me about high school and those formative years. It sounds like you moved to another city, and you started afresh.

Consuelo Callahan: Well, it's funny. I think clothes, as you sort of started out, are sort of a theme in defining moments. I don't remember a lot about when I went to seventh grade. We moved very quickly before school started; I had no friends, I didn't know a soul. I remember to this day what I wore that day. You know, I had this sort of royal-blue pleated skirt on with this top that had these three little white pom-poms on it. And I remember it was a defining moment in the sense I think that not knowing anyone and knowing what it's like to just, you know, having to make my way that way. I've always since then been the type of a person if I look in a room, I always look around and see who's by themselves, who seems to feel uncomfortable, who doesn't know anyone, and try to be welcoming along those lines, because that always stuck with me.

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But it also stuck with me in the sense that as lonely and alone as you feel, there's always a light at the end of the tunnel. And so it made me realize that you have to be . . . you know, you sort of have to step back, you have to be alone. You have to be willing to walk through the tunnel to get to the light, or if you want to change things, you can't keep things the same. And so I remember that.

So by the time I got to high school, I did have a few friends; I mean, I had more than a few. And I always did have a lot of friends, and I've always tended to; I retain friends from . . . my oldest friend, for example, goes back to when I was four years old. And so I think at every point of my life, I have friends that I've collected and moved forward and that I still see.

High school was . . . I'm one of those people, too, I guess it will probably sort of sound like I've always had a good time. I remember high school fairly fondly. I remember the first day I went, I was very tiny—smaller than I am now—and walking and thinking, "Oh, my gosh, everyone's going to know I'm a freshman." You know, I think I weighed less than 100 pounds, I was 5'1," and I thought, "There's no way I'm going to blend in here." But that all worked out.

I think part of high school . . . at that time, I was already focused on going to college. I knew the things that I had to do. I was a serious student, but I also was involved in a lot of extracurricular activities. At that time for young women, they weren't playing competitive sports as they are now; I think that's something I would have done, had it been more available. And so the outlet at that time was you were a cheerleader or a song girl, and that's what girls did. And I did that, and I was involved in other school activities. And I think that I've always thought that I look like maybe . . . I don't want to say all of my life . . . people, they don't so much now, because I think people have broadened in their views. It was, "Well, you don't look like a lawyer," "You don't look like a judge," all of those type of things. And I think people didn't even . . . although my friends knew I was smart, but I don't think I looked that smart. And so I think that part of my life was always trying to figure out how can I blend in terms of so that I have the most access, that I have the most opportunities, but still be true to myself. And I think probably because I was outgoing, I was involved in a lot of activities that tend to make students popular in high school. Probably I wasn't at all apologetic about getting straight A's, wanting to be at the top of my class, and those type of things, because I don't think people thought that I was a nerd. And I think high-schoolers tend to be more concerned about fitting in rather than being true to themselves, and so I think that's sort of how I weaved through that.

Tani Cantil-Sakauye: So it sounds like your parents instilled you with some wisdom and pride and that you dealt with the early issues of adolescent and wanting to blend in and wanting to be popular, but still being true to yourself and making sure you get the best opportunities. It sounds like high school was maybe not as traumatic for you as it might have been for other people who were pretty, smart, and popular at the same time.

Consuelo Callahan: Yeah, and had to wait for their vindication, perhaps.

Tani Cantil-Sakauye: Later on. *[laughing]*

Consuelo Callahan: Yeah.

Tani Cantil-Sakauye: And I'm just going to say that probably people who don't know you, which is I'm going to say outside the Sacramento and the

California community, probably still don't. You don't look like a judge. You must still get that from people who do not know you.

Consuelo Callahan: I think in a stereotypic sense, yes, because they somehow think about a gray-haired man that looks very distinguished. But I think everyone that knows me knows when I'm in court I'm pretty all about the business, and I think I have that . . . I have a fun and whimsical, down-to-earth, friendly type of side; but when it comes to doing work, there's another side to that, and I never had any difficulty either as a lawyer or as a judge, you know, controlling the dynamics of the courtroom. I mean, my kids even knew, I guess, that there's sort of a look I get on my face or a focus that I get that people . . . even though it's sort of humorous to me, but because obviously physically I couldn't intimidate a fly; but by the same token, when I'm on it and when I'm serious, people know it, and as an advocate or as a judge that when I tell someone something and when I told my kids something, everyone knew, "Hey, she means it."

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Tani Cantil-Sakauye: That's true. There's no question about that. People talk about your focus and your energy, and they do recognize that whimsical side as you referred to; but they do know, not only in court, but any time you put your time and energy into a project, you're all about the business, and I'll get to that in a moment.

I wanted to ask you, because I read in one of your numerous bios I was reading about you that your interest in the law started perhaps in high school, and you had a mentor in high school. Can you tell us about that?

Consuelo Callahan: Well, the first time I ever remember saying out of my mouth that I thought I wanted to be a lawyer was when I . . . it was at a high-school graduation party that turned out to be . . . it was at the home of probably someone that will be in this Legacy, Justice Mody Sabraw was the . . . and his wife, Betty, and I went to high school with his son, Ron, who just recently retired from the superior court in Alameda County. And I was actually in Ron's wedding, because he married my best friend, Sherry, from high school. So it was all this sort of convoluted thing.

But Justice Sabraw, or Mody, or whatever—I think we called him Judge Sabraw at the time—and he asked me, "Well, what are you going to do?" I was obviously heading off to Stanford at that time, and I said, "Well, I think I either want to be a lawyer or an English teacher." And that was the first time I remember articulating that, and it was odd that it went to him; but he was probably the only lawyer or judge that I actually knew at that time. And so I've often thought back to that, and it's been sort of interesting in the sense that the Sabraw-Callahan combination has . . . you know, we've crossed a number of ways, because then Ron, his son, we ended up being in law

school together and then we both ended up being judges. Then I ended up being a justice. And then Ron's sister later became a lawyer. Her name is Teri Block, and Teri was my law clerk for two years just fairly recently.

So our personal, family, and legal careers have somehow all been intertwined, and I think that I ended up being, whereas Justice Sabraw was somewhat of a mentor to me, that I ended up being sort of the same to Teri later on.

Tani Cantil-Sakauye: Absolutely, and I know some of the folks you're talking about. And I've also heard, actually, in reading and knowing you in the community, that you have touched a lot of lives. You have helped and guided people by example and by your personal touch; but I'm going to get to that later also, as I get to your career.

Consuelo Callahan: Okay. *[laughing]*

Tani Cantil-Sakauye: Tell me about Stanford. Why Stanford? Did you know that that's where you would go? Were you always aiming for Stanford?

Consuelo Callahan: Well, that goes back to a little bit of my focused mind. When my dad went back and got his master's and his doctorate from Stanford, at the time, you know, he had three young children. And my parents spoke to us and said that Dad was going back to school and that that was going to require, you know, a commitment from the whole family. He was going to be gone a lot, and the money would be less, even though we weren't rich starting; but it was going to be even less, meaning, you know, I had to quit piano lessons. It was a whole family effort.

And I remember my dad working very hard, and I remember he was the oldest person in his doctoral program, and when he graduated, he was first in the program. And I do remember all of us being there and being so proud. I mean, I get choked up to this day thinking about it.

Okay, I've got to get back together on this. But it was that, his going back to school, that I said, "I want to go to Stanford." And so as young as being in fifth grade, I started to focus on what I would have to do. And I knew I had to be academically at the top of my class and that I also needed . . . they looked for well-rounded and people that did other things. And so I remember even in high school that I had this little, tiny book, because we didn't have computers or anything like that then, where I wrote down all of my activities, because I knew I would need to remember that for . . . And I remember making a conscious effort at the things that I needed to do. And so it was something that, I think my dad going there and then seeing that and being exposed to the school, that I really was focused on that.

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Tani Cantil-Sakauye: Now, why English at Stanford?

Consuelo Callahan: Well, I think I thought that I was . . . I've always been a talker, and I was a good writer, and communication I believed was always one of my strong suits. So I thought that that was a natural for me, even though my high-school math teacher, who I saw recently, called me . . . he said that I was a math giant, though I didn't even know it. But math was not really . . . I didn't think I was as good in math as I was in English, and I think that some of it looking back was a little bit the times and people encouraged women more to go into things that they thought were more consistent with female skills.

But the interesting part about it as I look back is, I always tested higher in math on any of the standardized tests. And so if I were to do it, now that I've been there, done that, all of that, I might . . . maybe I'd go back the other way if I were to redo it.

But as it turned out, I think it was consistent with my personality, and I think it ended up being consistent with the things I ended up doing. I mean, obviously, now that I've been an appellate judge for over 10 years, what do I do? Read, write, you know, all of that. And then as a lawyer, I was a trial lawyer, speaking on your feet. So I think it really was pretty true to some of my natural gifts; but I'm not sure that it was the only thing that I could have done.

Tani Cantil-Sakauye: I see. I mean, it's clearly served you well; but it sounds like you are certainly not one of those lawyers or judges who avoid math.

Consuelo Callahan: No, I can do math. *[laughing]*

Tani Cantil-Sakauye: Yes, that's right. *[laughing]*

Now, what years did you attend Stanford?

Consuelo Callahan: I was there from 1968 to 1972 during all the unrest when the universities were somewhat up in arms about the war in Vietnam. I remember having . . . they had the lottery for young men on the draft at that particular time. I can remember getting evacuated from my dorm with the National Guard out there and tear gas because of unrest on the campus.

I also remember, I think it was in the spring of '70, we would have had to cross picket lines to go to our classes; so they didn't make people do that, and we all got passes, of which I was a little irritated because I thought I was doing better than a pass in my classes. *[laughing]*

So that was going on during that time. Although I would have to say—because I do remember at my freshman orientation, our memorial chapel, or MemChu as we called it, Joan Baez sang a song in the church; and it was not too far from when her husband at the time, David Harris, had been the president of Stanford, although Stanford was really not nearly as militant as Berkeley—we just couldn't really quite hold the torch.

Tani Cantil-Sakauye: Well, I could see that, I could see that. Now, those are historical times.

Consuelo Callahan: They were. It was different; it really was different. And I think in terms of just watching my children grow up, the difference in terms of that they didn't really understand war in the sense that my husband, for example, is a Vietnam vet, and a lot of people during . . . You know, people that I went to high school with went to Vietnam; and particularly people I think that went to high schools that had poor people there, a lot of the young men, they suffered a lot of casualties at that time. And that's something that we're now starting to . . . history is repeating itself a little bit again.

Tani Cantil-Sakauye: Did any of that historical perspective and this experience impact you in your desire to become a lawyer? Because you were still "English teacher" or "a lawyer." So when did it jell into "I want to go to law school"?

Consuelo Callahan: Well, I don't think that that was honestly a factor. I think it was my awareness of myself as I proceeded that and looking . . . I had thought about being not a college professor, but a high-school English teacher, because I did have teachers in my family and because my dad had been a teacher. I was looking at high-school students and remembering myself in high school and some of my friends, and I just decided that high-school students were not at the level. Most of them didn't care, they were really rude; they didn't do their homework, and they weren't very intellectually engaged. And I decided that was going to be a waste of my what I perceived to be my intellectual rigor in the area at that time and that the kids weren't going to listen to me. And it was just going to be more of a battle trying to find . . . you know, I just decided no and that I would rather do something where I would feel more empowered, where I felt that I could make more of a difference. And I don't think that, looking back, that's not true; but I think that also that was my perception. And I wanted to make a decent living, to have that independence that we go back to what my mother talked about, to give me choices.

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I did want to make a difference. I did want to affect people's lives, and I would say that I saw being a lawyer as combining

all of that. And I'd also recognized in myself at this point that I didn't particularly like taking orders and I liked being in charge more; and that being a lawyer seemed to offer the opportunity to have a fairly autonomous existence and a fairly in-charge type of existence. And I was seeing myself more . . . Whereas some people feel that the burden of the responsibilities is so weighing on them that they would rather be in a position where they have someone else making those decisions and they carry them out, I saw myself more as liking to be out front making the decision, and I was willing to . . . sort of the no guts, no glory. You have more opportunity to do what will make a difference, but also you can fall flat on your face; and I was comfortable with taking those chances.

Tani Cantil-Sakauye: You know, it sounds like, as you described your high-school years and Stanford, that you knew yourself pretty well, and you were wise to discern what made you happy and what your goals were and to focus. And it seems to have served you well to know yourself in choosing a career or planning your future.

So you graduated from Stanford with a major in English.

Consuelo Callahan: Yes.

Tani Cantil-Sakauye: And you applied to law school.

Consuelo Callahan: Yes.

Tani Cantil-Sakauye: And tell us about law school.

Consuelo Callahan: Well, I've thought about it, looking back. I really didn't . . . I wanted to stay in California for the most part, and I find that kind of a little unusual. I had lived overseas when I was at Stanford. They have a lot of overseas programs, so I had been abroad for two quarters.

Tani Cantil-Sakauye: Where'd you go?

Consuelo Callahan: I went to England, because my language was Spanish and at that time they didn't have a campus in Spain. So it was fall back on the English language and to go there. And I really enjoyed that, and I think that that really opened my eyes. But I still wasn't prepared to move that far away from my family and that far away from my roots; so I felt very attached to California. Now I a little bit regret, thinking "Oh, I should have gone somewhere else, and I should have gone and lived in another part of the country"; but it still worked out okay.

So that was part of the reason that I ended up here. And at the time that I was going to law school, there were less than 10 women in my law-school class; so it was a very different type of environment than what I see with law students now. And so we even actually had, one of my professors . . . this is

something you would never get away with now. He used to have what he'd call Ladies Day. He'd just come in and say, "It's Ladies Day," and he'd only call on the women that day. And so you just didn't know whether to, you know, run out of the classroom at that particular time. And I know that you would never get anywhere with doing that at this particular time.

Tani Cantil-Sakauye: You might be pilloried, I think.

Consuelo Callahan: Exactly. But there weren't enough of us at that time, and we were a little bit intimidated. And actually, I would say I did not like law school; and that people find surprising, because I love the law. I've loved being a lawyer. I've loved being an appellate judge, and I love the study of the law, the development. I don't know; I hated law school. And I think at the time maybe I was young, and then suddenly it was fairly adversarial, and I think at the time McGeorge really was sort of a boot-camp mentality. And at that time they were establishing themselves, and they did have a fairly high attrition rate. And one of the things that I would say was a defining experience for me in law school, that there were a lot of scare tactics going on and a lot of pressure in terms of people felt that they might not pass. And I had always been a successful student up until that point in time, and I found my confidence a little bit shaken. And I really fell prey to some of the scare tactics that went on.

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And then when the first year ended and I had done fine in law school and I realized that I had allowed myself to be psyched out, I told myself "I will never allow someone to do this to me again. I've always been a good student. I know what I have to do. I can rise to the occasion. I will work hard. And I'm not going to let—I'm not ever going to be intimidated again." I understand how to approach things and be successful in things, and I've not looked back from that.

And so while at the time I didn't find that to be a pleasant experience, looking back, I think it made me really much stronger; and it also made me pull back, you know, go back into myself and realize that I'm not going to let the outside world define what I can do and who I am, and I'm not going to let people make me feel doubtful of what I know to be true. And I've never suffered from that lack of confidence, or I've never allowed myself to fall prey to that again—not to say that I don't get nervous like anyone else, but not in the way that I did that first year of law school.

Tani Cantil-Sakauye: In that first year when you said there were less than 10 women in your class, we're talking 1972 to 1975.

Consuelo Callahan: Right.

Tani Cantil-Sakauye: Did those 10 or those women make it through all three years, as well?

Consuelo Callahan: I think basically all of them did, except one didn't come back, who was my first-year roommate. And you'll love this: her last name was Justice. And I'm not sure that she could not have come back; but I think that she chose not to, because she had been very sheltered. She came from out of state and just she had too many things on her plate at one time—being a law student, the pressures of law school, being away from home all at one time—that she elected not to come back and finish. But I think otherwise everyone else did.

Tani Cantil-Sakauye: Did you have any mentors or role models or favorite professors other than the man who would save you for Ladies Day?

Consuelo Callahan: Well, actually, one turned out to be kind of a favorite of mine; and I'm not sure I was his favorite student at the time, but I think I became one of his favorite students is Claude Rohwer, Professor Rohwer. And the interesting part about that was, he was my contracts professor, and after I left law school I didn't have as much to do with the law school for a while because I . . . when I moved to Stockton and I wasn't here. But when I came back to the Court of Appeal, I got very involved with McGeorge, and he still was a professor there; he was still there. It was like nothing had ever changed; the clock had not moved forward. And we actually became very good friends, and it was a fun thing to come full circle. And there were a number of the professors that were still there coming back.

So, you know, I would say that he . . . and I went back and looked, and he was the one that gave me my diploma that I actually have a picture of in chambers, and I went back and made a picture for him later; so we both looked a little younger and a little better, but it was fun to see that it had come back full circle.

Tani Cantil-Sakauye: It's come back full circle in a number of ways, because you've been very supportive of Pacific McGeorge; you've been very involved. Can you tell us about a few of those activities that you do for Pacific McGeorge?

Consuelo Callahan: Well, I ended up getting back involved with the alumni board, and I ended up being president of the alumni board. I do guest lectures there. I frequently do mentoring with students. I have students that served as my externs.

And from that involvement, as well, I am now a regent for the University of Pacific, which is the main campus; it's Pacific McGeorge, and so it's the main campus.

So education has become a big focus of things that I'm interested in. And I think with maturity and appreciation of my

career, even though I didn't like and enjoy law school, I'm very grateful for all the doors that it's opened, all the opportunities that it's presented me with, and just a wonderful legal career and making me a very good lawyer; and also being there for me as I proceeded through as a lawyer. The confirmation process even for the federal court, the dean wrote me . . . you know, was supportive of me, wrote a letter and all of those things. And so I guess I have an indebtedness and a gratitude that I've been very happy to have the opportunity to repay and be involved with.

Tani Cantil-Sakauye: Well, you're probably, truly one of their more famous alumni that ended up coming up through the judiciary; because they've had a lot of great alumni, and you have to be in those ranks, I would imagine.

(00:40:00)

Consuelo Callahan: Well, hard to say; but I'm there. *[laughing]*

Tani Cantil-Sakauye: We know you are.

Consuelo Callahan: Yeah. *[laughing]*

Tani Cantil-Sakauye: Now, I want to know, after you graduated from McGeorge, you went to Stockton. Did you know what you wanted to do? Why Stockton? What was your first job?

Consuelo Callahan: Well, I actually—and this also seems somewhat incredible as I evaluate life as it is now—but I was really afraid that I was not going to be able to find a job, because there were not very many women practicing at that time and certainly not in the private sector. I didn't have any lawyers in my family, as I said; so I didn't have any contact to fall into, and so I actually didn't . . . I really hadn't even interviewed for any jobs. People didn't do it like they do now, where by the end of their second year they know where they're going to be for the rest of their lives. Most people interviewed for jobs either their last year or after they graduated from law school, and so I really didn't know what I was going to be doing.

I had done an internship with the public defender's office after my second year, and I had worked there my third year in law school, as well, 20 hours a week. And so I thought I'd like to be a public defender or maybe a district attorney, and that had interest for me.

But I really didn't know what I would be doing, and a friend of mine from law school by chance called and told me that the city attorney in Stockton wanted to hire a woman. And the city attorney was a friend of his; and the city attorney's wife, I believe, had gone to Stanford, and so they liked that about me. And I was a woman. And could I get right down there. And I

had just taken the bar, I had just finished it the week before, and I went and he hired me and "When can you start?" And I said, "Well, right now." And I basically went to work right away.

So I would say it wasn't a terribly thoughtful process. *[laughing]* It was a question of opportunity presenting itself at a time when I had student loans, I didn't have a job, and I thought, "Well, we need to get this show on the road." And I actually felt that there were reasons I would want to be in Stockton, and so that seemed good; but I pretty much knew I wasn't going to stay at that job. I thought, "This will put me in Stockton, I can get my bar results, I can look around and see what else is there and give me an opportunity to see what else is there." And it wasn't that long after I passed the bar that I actually was offered a job by the district attorney's office and the public defender's office. And the DA offered me a job the day before the public defender and I jumped right on it, even though I think I wanted to be a public defender a little bit more. And the rest was sort of history.

Tani Cantil-Sakauye: So the DA got you by a day.

Consuelo Callahan: Well, they did, and there was a little other component in that that I realized that public defenders had to lose a lot more in their cases. I had already focused on that, and I had recognized that that was not one of my strengths and that I was much happier winning; and that I decided that since the DA, that was a bird in the hand as it were, but also that I knew that I would not have to lose cases nearly as often. And you have to define your success differently as a public defender, and I already knew that. And I realized that sometimes I just had a hard time losing things, even when I knew that that was the right result and that I had done a good job for a client; but I just personally didn't get right over it. And so that was part of the deciding factor, I hate to say.

Tani Cantil-Sakauye: Well, when you went to the district attorney's office in San Joaquin County, did you see that as a career? You could see yourself as a career prosecutor?

Consuelo Callahan: I don't think I've ever seen myself anywhere for the rest of my life, and I'm not sure that I . . . don't have that picture of myself right now. It's hard for me to always say, "I'm at my last job," because I always want to think that there's something out there that's going to be really interesting that's ahead.

So I don't think I did see it; I don't think I saw that far ahead. I saw it as something; I knew I wanted to try cases. I felt that it presented a good combination of being able to do public service, helping people, getting up in front of people, working on my advocacy skills; but I don't think I saw it as the end. But I'm not sure.

Tani Cantil-Sakauye: Well, let me see. You spent 10 years there.

Consuelo Callahan: Ten and a half years, yeah.

(00:44:59)

Tani Cantil-Sakauye: Tell me about the kind of cases you handled. I know you finished up as a supervising deputy district attorney, but tell me about those years and those cases and what you learned about yourself.

Consuelo Callahan: Well, my first jury trial was two weeks after I started, and in those days people did not . . . We were not nearly practically as ready as the young lawyers are now when they go into . . . We didn't have the extensive trial-ad program. So although I had appeared in court when I was a certified law student as a public defender . . . So I remember I went down there—it was a drunk-driving case—and I ran down there, and running back at the break I told my supervisor, "I'm not having fun yet." And I said, "I'm terrified." He said, "Well, I never told you this would be fun." I said, "Well, I thought once I got going, I'd feel better about all of this."

And all that really went on was, I was happy in that first trial to just get up when I was supposed to get up and be in the right places and know when I had to make my arguments and all of that. But it was pretty terrifying. But I also learned that I can do terrifying things, and like all good things come to an end, so do all bad, and I moved on.

And in those days, we tried a lot of cases; we were in court all the time, and I moved pretty quickly into handling felonies. And some of those felonies involved prosecutions for rape and child abuse and sexual assault. And things were still pretty . . . those were really difficult cases, as they remain to be difficult. And there was a little bit of stereotyping, that people felt that women would be better in those type of cases, and I really didn't want to be channeled in that direction necessarily. I had no objection to it, because I felt that the best lawyers should be handling these cases, because they're some of the hardest to prosecute. But I didn't think that women were better than men, necessarily; I felt that it was more good lawyers are necessary for this.

But somehow there was a push, in terms of my supervisor's wanting to push me into that. And so when we had a new DA, he said, "I want you start a Child Abuse–Sexual Assault Unit where we have vertical prosecution." And so I started that unit in the DA's office and supervised that for a period of time and continued to prosecute those types of cases. And then they went into infant homicides and that type of thing, and then from that I went into career criminal and homicide and capital prosecutions.

So I really pretty much ran the gamut, did a lot of trial work, was in trial all the time; did supervision as well, but when I did supervision, I carried a full caseload.

Tani Cantil-Sakauye: Tell me about what it was like to be an attractive, petite female prosecutor talking to a jury in front of probably a male judge.

Consuelo Callahan: Well, it had its challenges; but as you've already probably seen, a challenge is something that I'm always up for, and I learned quickly. I remember when I first started out, because I was 25, that people would be in the office and I might be preparing witnesses or police officers, and they would look at me—and I looked younger than 25, as well—that they . . . I could see in their face, "She sounds like she knows what she's talking about, but this just doesn't look right." I could sense the disconnect here, and I noticed as I got more mature, that was helpful; looking a little bit older was helpful.

But I learned very quickly to make a negative a plus from the standpoint that jurors are just regular people. And I could communicate with people better than a lot of people, and I knew how to do that. Or I felt a lot of times that people misjudged my ability, and I was very quick to take advantage of that. If you underestimate your opponent and your opponent knows that, and it's just right there to take advantage of that . . . I think that I won a lot of cases because people somehow maybe trivialized what I was capable of, and before they knew it, they hadn't realized what had happened—you know, they were beat.

And I remember my supervisor—who remained a very good friend of mine till his death, which was fairly recent—he said to me, "Well, you know, actually you're becoming a pretty good lawyer." And I looked at him and I said, " 'Becoming?' " I said, "What do you mean?" I said, "I haven't lost a case since I've been in here. You tell me some other trial lawyer that you're supervising that's got a better track record than I do." And he's sort of backing up as it's going on here.

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But it was always that I think I did always have to continue to prove myself. People always really on some level marginalized what I was capable of, and eventually they realized that maybe I was going to make something of myself.

But jurors are funny. They go with the evidence; they go with the person that's the most persuasive. And I learned very early on that I was going to be more prepared. You know, I was going to hit it and I was going to do it, and I was successful at it.

I also realized that I used . . . I remember one time I finished, I think it was a six-week murder trial, and a couple . . . I had just gotten back to my office, the jury was back, and they called me to the front desk and said, "There's a couple of jurors that would like to talk to you." And there were two women that came in, and they sat down and they asked me, they said, "We just need to know, how long a trial do you have to have before you wear the same outfit?" *[laughing]* They said, "We couldn't wait every day to come and see what you were going to wear, and we felt at the end of the trial that there should have been Wardrobe for Connie Callahan by Such-and-Such—that that should have been rolled on the credits." But you could look at that as maybe they weren't getting it; but I had just convicted someone on a very difficult case. They had done their job. But what I heard there was, I need people to listen to me and I need to communicate with people. And if how I dress, if how I look—if they can somehow relate to me—if that makes them listen to me more than someone else in the courtroom or they can't wait for me to be there and they can't wait, you know, that's what all trial attorneys want.

And so I always, I think, integrated my personal capabilities into what my professional capabilities were and made it work for me, even though some people might have given up sooner.

Tani Cantil-Sakauye: Well, exactly. You made a positive impression. You were the one to watch in the courtroom, and you turned it around in your favor.

How about apart from the courtroom? I imagine there weren't a lot of female prosecutors, and you're in a typically male-dominated profession; your witnesses are very often male law enforcement. Can you talk a little bit about that experience early on in the '70s?

Consuelo Callahan: That's interesting, because I think the Establishment was always more that . . . would find difficulty in maybe giving that sort of responsibility to a woman. Police officers, witnesses, victims, when they realize that they have a lawyer that's very engaged and is very prepared and can put forth and can come home with the results, they much prefer that person, because that's their lawyer; that's the person that's taking their case to court. So I actually never had issues along those lines.

I think a lot of people liked me handling their cases much more than other people and would somewhat look for me to handle them. So from that standpoint I don't think I had any . . . there wasn't a prejudice there, because people on some level understand what's going to work and who's smart, who's prepared. And sadly, not everyone that works in the public sector or anywhere in life, not all lawyers are as engaged as others. So in that, I never really experienced any difficulty.

Other lawyers, when it came to when cases were being assigned, I think as I established my reputation, I think that I didn't have difficulty in getting good assignments. I think that there was a little bit of stereotyping from the standpoint in selecting supervisors. They were not selecting women to be supervisors as frequently as they were men, and the Child Abuse–Sexual Assault Unit, which I was supervising, I think that that was something that they wanted women to do those or they wanted women to go to juvenile or those type of things. And so I resisted going to juvenile, because that was not something that I necessarily wanted to do; and I'm not really sure, I might even be worse with kids than some people. *[laughing]*

Tani Cantil-Sakauye: But I doubt that. I doubt that. Okay, so after 1986, I've heard in one of the bios I've read, the doors opened, and you had a milestone. What happened in 1986?

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Consuelo Callahan: Well, my milestones always have setbacks with them, as well, that in the . . . Well, I became commissioner of the municipal court, and that was a great opportunity. But that's when I had decided to put in for a judicial position for the municipal court.

It was down to two people, and the person that I competed with was the commissioner at that time, and he actually got the appointment to the municipal court judgeship; and then when he got that, then I got the commissioner position. My druthers would have been to get the judgeship first; but that was okay, and it turned out to be . . . it actually turned out to be an interesting thing, because while he was still later on the municipal court, I was already on the state Court of Appeal. So I guess being commissioner didn't turn out to be, you know, such a bad thing after all. *[laughing]*

Tani Cantil-Sakauye: Didn't hold you back at all. *[laughing]*

Consuelo Callahan: No, but I think that it was a very good place for me to start. And I really look back fondly on those days, probably more fondly now than at the time, because I did a lot of traffic and I did a lot of small claims, and I did everything that they wanted me essentially to do by stipulation. So it was very similar to being a municipal court judge at the time.

But I think my time with small claims and traffic, I dealt with a lot of pro pers. I just dealt with regular people that were coming to court, were totally angry, totally distraught; and somehow I had to learn to make chaos out of their lives and reason with them legally without the filter that you have when you have attorneys who understand the law. And I feel that that really carried through with me in my career as I've gone along and become more removed from the actual people,

because I saw so many people. And I'm really glad that I focused on that judging is really about people and people's lives, and I think that those opportunities really made an indelible mark on me. And so I never . . . even though now I don't see the parties—because I'm seeing lawyers basically, I'm looking at briefs, I've got boxes of appellate records—I know that they are real people behind, you know, behind those cases. And I haven't ever lost that, so I thank people for that.

And I've had people compliment me after that in the sense to say, "Well, I felt really comfortable in your courtroom." And even though I'm all about business, I really want people to be able to come and say what they have to say. And I would like to think that I am respectful, I don't put people down. And I don't think that people . . . Even lawyers, I don't think lawyers react well when you completely nail them to the point where they feel humiliated that they can't answer the question; and they're not even going to come close to doing the best job that they can do. And when you talk about court, you really want people to come say what they came to say, and intimidation when it steps over the line doesn't allow people to do that. So those days of communication, I think, have carried through with me.

Tani Cantil-Sakauye: I agree with that. I've read information about you, and I know a lot of people say that you are a lawyer's judge and that you are practical; and that you keep in touch and you know what's really happening; and you do realize that the law is about people, and that's how you write and that's how you run a courtroom; and that's what makes you accessible. I've read that in just about every reference I've read about you in your bio.

Let me ask you, when you were . . . what caused the transition or when did you apply for superior court, and how did that come about?

Consuelo Callahan: Well, I suppose it should go back to a little bit, I think, that says something about who I am. When I decided I wanted to be a judge, and that was not . . . that was just an evolution in terms of after being in court every day as a prosecutor for all those years and seeing a lot of different judges, I said, "Well, I think that's a logical extension of my skills, and it would be something that would interest me and would challenge me." But I told myself, "If I become a judge, I'm going to go to the highest court as opportunities present itself. I'm not going back to practicing law. I'm committing myself to the judiciary, and I'm going to take on any challenges that come in front of me."

The first judicial appointment to me was not the end of it, because I thought, "Well, if others present themselves, I want to take on those challenges." And I think it's not about resting

on your laurels; it's about learning as much law as you can and being the best judge you can be.

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So it was just sort of natural in the sense that when I felt I was prepared to move on and there were further challenges, that I wanted to do that. And I saw the superior court particularly in terms of . . . because I had been a high-level prosecutor doing, you know, the most serious type of cases, I wanted to get back in superior court where the trials are longer, more complicated legal issues. And I wanted to do as much civil as I could do, because since the only civil experience I'd had as a lawyer was in the city attorney's office, and that was fairly brief. So once I went on the bench, too, I said, "One of my weaknesses is I'm very strong in criminal law, I'm very strong in trial work generally; but I haven't been a civil litigator, I haven't been a civil practitioner. And I need to do as much civil as I can both to open doors for me in the future, but also to be the best judge that I could be."

So then I really actually sought out civil assignments, and every year I asked to be in civil law and motion, or to do complex civil litigation. I would take those cases off the wheel, and really at the end I was doing law and motion, I did complex civil cases, and I was doing homicide cases basically back to back. So because some people like to do more calendar cases, they like to do shorter cases, they don't like to have those things hanging over their head, those were my happiest moments.

[Off-the-record discussion]

Tani Cantil-Sakauye: Okay. You were on the superior court from 1992 to 1996, appointed by Governor Wilson, correct?

Consuelo Callahan: Yes.

Tani Cantil-Sakauye: And when you were on the superior court, did you miss being an advocate, being a prosecutor?

Consuelo Callahan: Sometimes I found myself, when the lawyers were doing things that were less than . . . that when I really didn't think they were doing the best job possible, I kind of felt like jumping down and doing a little cross-examination myself; but I resisted that urge. But I have to say that I think because I had done so much trial work, I like to feel that I was sensitive to the stress that they're under, in terms of doing trials is very stressful and you're really trying to orchestrate so many things at one time.

But interestingly, I still found when I was a prosecutor—this is interesting—I always knew what my verdicts were somehow before I got them. The bailiffs would tell. But when I was a

judge, I never knew what they were before. And the foreman would hand the verdict over, and I found myself so incredibly nervous taking these verdicts a lot of times in these serious charges and not knowing what they would be. I found that interesting because I wasn't going to win or lose behind that; but it just . . . I guess I much more related to the parties and the importance of what was going on and maybe the palpable pain and stress in the courtroom that I was surprised how nerve-wracking it was for me taking verdicts sometimes and waiting to see, I guess, if I thought that the jury did the right thing, since I had sat through the whole trial.

But, no, I guess I have so much respect for the system that I really like to let the lawyers try the cases, and I really resented judges when I was trying cases that like to pop in too much, because it was the old adage, "Your Honor, at least if you're going to try my case, don't lose it for me." Because a lot of times judges tend to think they know more than the lawyers, and I think so frequently they don't; that the lawyers have reasons for not doing certain things, and when judges pop in and ask questions, there's a lot of times a bombshell on the other end of it.

So I tried to be very respectful of what they had to do, and even though I don't think . . . well, I know I was never known for being a particularly easy sentencer. I think when people committed first-rate crimes, they knew they were probably going to get a pretty first-rate sentence from me. I think that defense lawyers really liked me in trial, because I really was about letting people have their trials, and letting the jurors make those decisions, and giving people some room, and making sure that they had enough time to make sure that the jurors that they selected were really the jurors that they wanted. I think sometimes in haste, courts don't take enough time on voir dire, don't let the attorneys know enough about who these jurors are, that they are exercising their judgment too blindly and they don't know what they're getting.

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And one of the things that I've learned—and I think it's turned out to be statistically borne out—hung juries happen a lot more when voir dire is reduced. And as a judge I decided that my job was, I want these two parties to have a fair trial; but I want to do this one time. I'm asking these jurors to sit here, I'm taking taxpayer money, and I want . . . whatever the verdict is, I want this to be one time. And I found if I really spent the time on voir dire, let the people know who they were, that I had less hung juries than a lot of people.

Tani Cantil-Sakauye: That's interesting. And what you said is absolutely true, not only about the judge asking the question that the attorney's purposefully evading for whatever strategy—but because you

were a trial attorney, it sounds like it really informed your abilities as a superior court judge.

Consuelo Callahan: I think—and I can get people to talk to me—I think I was not threatening in that capacity. And jurors would say things to me that sometimes they would not say to someone that was maybe less friendly or less open. And the attorneys liked that, because it wasn't them pulling the information out; I was getting the information out there for them. The jurors seemed to love to pour out their hearts. And then they have some concept of what they're dealing with and whether that's a good juror for their particular case.

Tani Cantil-Sakauye: I know, and I said this earlier, that you were the first woman and the first Hispanic judge appointed to the San Joaquin County Superior Court. Do you have any particular challenges or triumphs?

Consuelo Callahan: I think that I've often said to people, unfortunately in San Joaquin County, 1992 for the first woman to be on the court, that's pretty late. And I think San Joaquin County was fairly provincial, and you found women on the superior court in larger areas much, much earlier than that. And so I think it was breaking a glass ceiling, and they since have had . . . fortunately there are many more now; but it even took time for that to happen.

But I also think that my disadvantages turned out to be advantages sometimes; when the time was ready, I was there. And when they decided they did want a woman, I was a qualified woman. When they decided that, you know, that it was time to be more ethnically diverse, I was a qualified ethnic candidate. And I always tell people that I'm sure I did not get some jobs because I was a woman or other reasons. But you know what? I didn't get the jobs back that I got because I was a woman.

So I think life is karmic in those ways, that there are times that what you can control is being qualified and being the best that you are. And at certain times the plus factors are going to be the things that help you get a job; at another time that was maybe something that you didn't get a job for. So there's no sense in being bitter about things. I look at it as, you know, I've had advantages and disadvantages along those lines, and so I feel pretty fortunate to have had all the wonderful jobs that I've had. And so I can't say that any disadvantages I've had have been lasting over my lifetime.

Tani Cantil-Sakauye: Tell us about your appointment to the Court of Appeal.

Consuelo Callahan: Well, it was interesting, because they've only actually ever had two people from San Joaquin County on the Third District Court of Appeal in its entire history, and it had been 73 years. And

my understanding is, the one that was before me I think ended up going to the state Supreme Court, and I think he died in a duel or something. I mean, he was a little disreputable at some point; so he wasn't exactly my role model for the whole thing.

But I think that what was surprising is, because the Third District Court of Appeal is located in Sacramento in the capital and people in the . . . it's always had a little bit of a different dynamic, and most of the judges . . . Even though it covers 23 counties and San Joaquin was the second-largest county to Sacramento, Sacramento has always sort of been the center, and most of the judges always come from Sacramento. And so there was a little bit of a disadvantage for people that were outside the capital; because you're outside the capital, you're not as likely to know the Governor, who's the appointing authority. You're not as likely to have worked in government, and it's only natural that a Governor is going to favor people that have worked for the Governor's Office, that the Governor knows those people's work, knows more about them, as opposed to an unknown that comes from, you know, another county either way up by Oregon or down in the delta.

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So I think that it wasn't that the Governors were unwilling to appoint people; it's just that we were off the radar. And so I even think that the court was pretty surprised when I got appointed, because I didn't know these people. And my presiding judge at the time was someone named Robert Puglia, and he has commented since . . . he's passed away now, but we got to be very good friends. He said I was the first person under his tenure that had actually been a person appointed that he didn't know. So I was definitely an outsider coming in.

Tani Cantil-Sakauye: You were. You were a dark horse.

Consuelo Callahan: I was a surprise, and I kind of liked that. It was a little bit in the sense of, you know, I always like the surprises in life from the standpoint that nothing really is for sure, and I always tell people . . . sometimes they say, "Well, I'm not going to get this; why should I put in for it?" And I say, "Well, you know what? Well, the one thing you know for sure is, you're not going to get it if you don't get that application in. If you sit at home and watch TV in your jammies, no one's going to come and knock at your door and say, 'Hey, do you want this?' And so if you want it, then you need to go for it." And I've been an unlikely appointment more than once in my life and a surprise to others, and they sort of think, "Well, how did that happen?" Not that they thought that I wasn't qualified; but I was the dark horse, as you would say.

So I like to tell that to people, because I think other people, you know, don't always look at a situation and say, "Well, I'm

not the pick, I'm not the anointed one, I'm not the sure shot." If this is something that you want, the first step is you've got to put the application in and then work for it. Don't self-determine that you're not going to get something you want.

Tani Cantil-Sakauye: That's terrific advice. I mean, countless times I've heard people not put in because they didn't think that they were the favorite, it was promised for someone else.

How long were you on the Court of Appeal?

Consuelo Callahan: I was in heaven for six and a half years. I called my years on the state Court of Appeal as the years I died and went to heaven. I loved my time on the Third District Court of Appeal. It is a wonderful court, and when I was there . . . well, as you know, now there are two women, and that's the only time they've ever had two women. It has always been one at a time; they got one whether they needed her or not. *[laughing]* And so I was 1 at a time that there were 10, I guess, or maybe did they go . . . Are you at 11 now?

Tani Cantil-Sakauye: Yes.

Consuelo Callahan: Yeah, so at one point I was 1 woman with 10 men. So I kind of had my posse as opposed to otherwise. But I just have to say, it's such a wonderful court. The collegiality on that court—first under Justice Puglia as the presiding judge and then under Justice Scotland—the leadership of those men, I learned so much. And I have to honestly say that those people were my mentors in so many ways, and I learned so much about leadership from the men on that court and how to work with others and how to pull your weight; but also how to contribute. And that court, they took me under their wing in so many ways; and I think I came out of there definitely a better judge, but also a much better leader. And I think that the opportunities that I've had since, I feel very indebted to the men on that court for making me step up to the plate and take on challenges and be better than I had been.

Tani Cantil-Sakauye: When you first started there, what was one or several of your greatest challenges?

Consuelo Callahan: Well, I think that we talked about this; but interestingly, I guess sometimes your . . . Sometimes it's good the things you don't know about what you don't know. Because looking back, I knew so little in the sense I was a very experienced trial lawyer, I was a very experienced trial judge—I had never done appellate work at all, and here I am on an appellate court. And looking around, now that I've been on appellate courts I've realized that a lot of people that come on to appellate courts either were appellate practitioners at some point in their career or, you know, had done some appellate work. I had not done any, not written a brief; still haven't written a brief, because

I've never gone back to the . . . I've never been an appellate lawyer. So that was my biggest challenge, learning about what do appellate lawyers do, which is very different from what trial lawyers do.

My advantage obviously was, having been in the trenches so much in terms of evaluating the weight of trial error—whether it's prejudicial, whether it's harmless—I had a lot of context. I had a very real understanding of what goes on in trial courts and the challenges that face trial judges and what is harmless error, what is prejudicial error.

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So I guess I had some real advantages, and I guess I had my intellect and my work ethic; but certainly, I didn't have much, I had no, experience in appellate work. So that was my biggest challenge.

Tani Cantil-Sakauye: How did you prepare for a case? How did you prepare to draft an opinion, how did you prepare to read the numerous briefs, how did you prepare for oral argument?

Consuelo Callahan: Well, I guess from the standpoint I was very fortunate coming on being with experienced colleagues, and then obviously I noticed, although my presiding judge did not say this, all my first panels that I sat on were with him and the two other most-senior justices on the bench. So I noticed that he was stacking it with people that would really be carefully overseeing me. So I think I had a little internship of my own that he never said was going on, but I noticed that I didn't get the less-experienced judges on my panels until I got further along. And so I had that going on.

And he, my presiding judge—which I was a little put off at the initial time— he picked my staff for me. He gave me two of the most experienced people on the court, and I think that there was a little paternalism going on at that particular time. But in hindsight, looking back, he really picked the people I would have picked, had I known what I was looking for; so in the end of the day, I couldn't have really been too upset.

So I had two lawyers that probably had worked in other chambers for other justices previously that were very experienced appellate chambers attorneys and very experienced judges. And so that really was my bedrock, that if I was going to go off and do anything too crazy, I had plenty of people there to stop me from doing it.

But I think, like every other position, that I believe when you go in you have to go in humbly, and you have to go in and just take your time. And you just do preparation like everything else. And I approached that the same way: I would always start with

the briefs, then meeting with my lawyers and discussing it with my lawyers, and then we would decide how we were going to approach things.

And then at the Third District Court, it's very different from the Ninth Circuit, because when you actually finally go into oral argument, you have written . . . The three-judge panel has a draft in place that at least two of the justices have agreed on sort of as a tentative decision; of course, that can be changed. So we did a lot of work at the front end and we really had reached a tentative decision by the time we went into court, and then it went from there; so we were very prepared going in.

I find myself still having the same level of preparation going into argument here, but I haven't discussed it with the other judges on the panel at all before they go into oral argument; I don't know what they think about it. So I know what I think about the case, but I don't know what my colleagues think about it; and then we conference after oral argument, and that's the first that I know what their opinion is on the case.

Tani Cantil-Sakauye: So unlike the Third, it's not shared beforehand. Is that just the culture at the Ninth?

Consuelo. Callahan: It is the culture. We do share what we call our bench memos, and the bench memos are basically they summarize what the legal arguments are in the briefs, what the law is. And the bench memos are written by law clerks from the various chambers. And depending on the chambers that you get them from, the bench memo may recommend a resolution that only reflects what the law clerk thinks of the particular case and will come from a chambers where the judge may not have even read it before he or she sends it to you.

On the other hand, I have a different philosophy: nothing goes out of my chambers that I don't agree with. And so if my law clerks are going somewhere that I think is not consistent with how I think the case should be resolved in a bench memo, it will be changed to what I think is the proper resolution of the case—although if they disagree with me, I certainly will give full coverage of the issues in the other. Because my responsibility in a bench memo is to tell the other chambers everything about the case—all the legal issues—and then ultimately make a recommendation. So it's just different from chambers to chambers, but we don't actually with the judges discuss what the judge thinks about the case.

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Now sometimes, you know, because . . . Unlike the Third District Court where on the state Courts of Appeal the parties have a right to argument—they can waive it, but they have a right to it—on the Ninth Circuit they don't have a right to

argument. And we can submit cases based on the panel agreeing that argument isn't necessary and it can be decided without argument. And so the only parties that get argument are those cases that we decide we want to hear argument on. So sometimes when we've decided to submit a case, we've obviously communicated and we've said, "We don't think this needs oral argument and we've each stated what our opinions are, so we kind of know where the other people are coming from." But we still don't conference about the cases till after, when we're all in court in court week.

Tani Cantil-Sakauye: And that's after oral argument.

Consuelo. Callahan: After oral argument.

Tani Cantil-Sakauye: And if you're the author of that particular opinion, then you would then take into account the other bench memos that have been prepared by the other participating judges?

Consuelo Callahan: Well actually, when we get a calendar for a week, we will have somewhere around 40 cases on calendar; and we get it about eight weeks before we go to court, and whoever is presiding makes assignments. And so each chambers only does a third of the bench memos, so we're not duplicating each other. Although all judges are going to read all the briefs, they're going to do their internal work. So we don't duplicate that part of it; that's a way that we sort of share pulling on the oar to at least give the other chambers a place to start.

Tani Cantil-Sakauye: That's very interesting, and I do want to ask you more at the end about your work on the Ninth Circuit.

When you were on the Court of Appeal, did you feel that that kind of work capitalized on all your best features and talents?

Consuelo Callahan: Well, I think eventually it did. As I became competent I think in doing appellate work, I think the other things that I had done rounded me out in a way that maybe someone that had only done appellate work wouldn't have available. So I think in an eventual sense, I think I was really kind of the whole enchilada when I got there. But when I started, I would have to say that I just hadn't done appellate work; so that was really my growth area. So I think when I finally got to the point that I had competence in appellate work, that was the case.

And I think that the state Courts of Appeal are a really good opportunity to develop your abilities. You don't do as much constitutional adjudication as, say, that you do in the federal court; but you do a lot of statutory interpretation. And so you get a lot of seasoning and a lot of practice in terms of really putting to work how you think a court should do statutory interpretation—what is the role of the court relative to the Legislature or relative to the executive branch in terms of when

does the court defer to judgments that are made by other branches of the government? When is the court doing de novo work?

And how much you're willing to dig in, you know, I found a difference in. I think this goes to the difference in judicial philosophy sometimes, that if you really are a plain meaning person when you do statutory construction, you're not going to work too awfully hard to save the Legislature when they do a crummy job, when they're not really clear. You're just going to say, "Hey, look" or "The plain language says this. Whether you meant it or not, that's what you said and that's what it's going to be; and if you didn't mean that, then you're going to have to come back and correct it. You have the capability to do that." Whereas I think some people will go a little bit further in terms of trying to play cleanup for the Legislature. I didn't happen to fall into that category. I think that they've got a distinct function, and I think that if they say it clearly, then that's what it means. Obviously, when it's not clear, there are canons of statutory construction that we can go to that will sometimes resolve the issue of what they meant. We can look at the entirety, you know, or we can look to the legislative history; if it's a defendant, the lenity canon towards the defendant as far as that goes.

But, you know, sometimes at the end of the day, it just is really poorly drafted and you can't figure out anything by it, and so sometimes you just have to leave the Legislature to correct what they didn't do correctly in the first place. And while it may seem that someone might criticize you for saying you could have done more, I look in the ultimate sense that it's really my respect for what that branch of government does and that they have the capability to easily say what they mean if they didn't say it clearly in the first place.

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Tani Cantil-Sakauye: Do you have any advice on how a trial judge can improve or work on factors to become a good appellate justice?

Consuelo Callahan: You know, I think at any point in life that it's pretty much the same: that any time you come to a place that I think success there really doesn't always go to your skill set; it goes to certain personal qualities that people have. And I think to move on in the judiciary, you have to have the requisite intellect to do it. You really have to have the work ethic. And you're not going to . . . you know, judges are generalists, and you're always going to be undertaking new areas of the law. You can't have practiced in every area of the law that you're going to be making decisions in, and so you truly have to have that flexible mind; you have to have the willingness to roll up your sleeves. I think you have to have the ability to write well; I think that judges should really work on that. Trial judges do not have to

do that as much; but if they want to be an appellate judge, clear written communication is really . . . you know, that's our communication in that basis. So you've got to learn to do that. And I think also just recognizing you have a lot of resources available to you, and you need to learn how to exercise those resources.

And surprisingly, you've got to be a good decision-maker to be a good judge. And I'm constantly amazed that there are actually people in the judiciary that can't make up their mind. Now, how this happened, I will never know, and why they . . . it's true that we have difficult cases, and that's different; I'm not saying don't labor over the difficult cases. But we get paid the big bucks, as it were, to pull the trigger at the end of the day. It's not to split the baby; it's to take all the law out there and make your best reasoned judgment on what the law says, what the precedent says. If there isn't an exact answer for it to, you know, how . . . you use what precedent you have, and you appropriately extend it in a way that you think that either your state Supreme Court or the U.S. Supreme Court would do it based on the precedent you have available.

So, you know, I think you've got to get comfortable with that, and you do everything that you can to turn over every rock when you're doing it, to look at everything, to use all the resources that you have available. But in the ultimate sense, you have to make up your own mind, and I would say make up your mind. Don't come out with decisions that don't answer the question that you were presented with.

Tani Cantil-Sakauye: Thank you, that was very nice.

I want to ask you, we mentioned one thing about energy and the rolling up your sleeves and the work ethic, and there's this rumor about you that you probably need very little sleep, because you have boundless energy. Someone once said to me, "I think Connie only needs three hours of sleep a night." Could you speak to that? *[laughing]*

Consuelo Callahan: Well, this is where my mother always likes to pipe in. I came home from the hospital, and I didn't even . . . I only napped 20 minutes at a time then. I just am not a person that needs a lot of sleep, and I think I am blessed with high energy. But certainly, I do believe in sleep, and I do sleep what I need to do.

But, you know, I think where you get your energy, too, to some extent is when you do things that you love and do things that you think that are important, and you essentially match your skills with your passion, you know, and your ability. The rest in my view pretty much takes care of itself.

I don't feel like . . . Even though I've always worked hard, probably in some ways the easiest part of my life has been my

work. I thought raising children was infinitely more difficult than doing work, because in my work I could really control it; people actually have to do what I say. Once I make up my mind, you know, it is because I say it is. You know, my children are just like everyone else's children: they don't listen to me any more than they listen to anyone else. They have no . . . You know, I can remember saying to my son, "You know, people are afraid of your mother. Your mother has actually locked people up for the rest of their lives, and they don't talk back to me. You don't listen to anything that I have to say; you know, you just nod your head and then go and do whatever. You don't think I know whatever I'm talking about."

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I think that really . . . and I always tell people, yes, judging is difficult, and it has a huge impact on people, and you always take that very seriously, and you put all the effort in to do it. But the things that other people do are often very difficult, and a lot of the challenges that we face in the rest of our lives sometimes are things that we have no control over, things that we can't change; and I think probably the biggest challenge is, it's a lot harder for me to accept things that I can't change than some of the work that I have to do, because there's always, there's an answer out there. There's something that you can do; you can get in there and do what you have to do. But sometimes when people . . . bad things happen to them, people are sick, there's nothing that you can do, and helplessness is a lot more difficult for me than working hard and solving problems. So we're pretty lucky, I think in that sense, in terms of our jobs present us an opportunity to accomplish tangible things and positively make a difference.

Tani Cantil-Sakauye: You have accomplished much, and you've also mentioned you raised your children. How many children do you have?

Consuelo Callahan: Well, I actually only birthed one, and I planned only . . . but I raised a stepdaughter, too. So I raised two sort of as life's circumstances come about, and I consider them both my own, but I never had two babies at one time as far as that goes. But it's a challenge, it's difficult. And a lot of people frequently say, "Well, how do you do it all?" And how do you do it all? You don't, and I didn't. And there are . . . I set priorities at different times, and the priorities sometimes when your children are struggling, you have to, you know, you have to juggle things in terms of your work to make sure that you meet whatever their needs are.

But by the same token, I think that people that are very engaged in their careers and spend a lot of time doing it do spend less time with their children. And so it really depends on their entire family dynamics, the children that they have; and each person has to make that decision for him- or herself.

And I probably honestly didn't, you know, because I didn't ever stay home. I always worked. I did go to all the games, I did all of that stuff, and I think . . . you know, I say jokingly, "My kids aren't in prison and they speak to me, so all is well, and they're good people." But comparative to someone that wanted to be home with their babies for five years before they went to school, I didn't do that. Did I miss something? Probably so. You know, would I balance it differently? Maybe not, because that's my personality.

But people need to understand that the tough decisions in life aren't all good, they're not all bad. You make them as they present themselves, much like we do in our work. And it's not . . . you can't divide 100 percent between two things and each side have 100 percent.

Tani Cantil-Sakauye: Absolutely. Now, when and why did you leave the Court of Appeal?

Consuelo Callahan: Well, it really was . . . interestingly, I don't think . . . Well, I left to go to the Ninth Circuit, which is obviously the federal Court of Appeals as opposed to the Court of Appeal. But I didn't put in for that position, so it wasn't something . . . To be honest, my goal, if I were to articulate one, and which I told my son early on—that I wanted to be on the state Supreme Court. That was what I . . . because I'd always been a state practitioner and that's really where I saw myself. And coming from a family with no lawyers and no judges, I thought that that seemed to be really . . . that would be a huge accomplishment and probably a goal that I hope to accomplish; but I wouldn't have to feel bad if I didn't accomplish it.

And so I really just planned to stay in the state court, and I just was pretty much contacted out of the blue about wanting to . . . would I come back and talk to someone about the Ninth Circuit? And I said, "Could I call you back tomorrow?" And I said, "I'd like to talk to my husband." I said, "I've been a state judge for a long period of time." I said, "I wasn't really expecting this call, and I need to—you know, I really want to make sure that this would be something that I would be interested in before . . . and I want to talk to my husband." They said, "Fine, call me back tomorrow."

And so I discussed it with my husband, and we sort of discussed the pros and cons. And I didn't feel that I could resolve all the issues about whether that would be the best move for me; and so when I called back, I said, "I will come and speak to you; but in 24 hours, I haven't had all the opportunity to look into how this would affect my retirement." I said, "My husband and I both work in the public sector," and I said, "I don't know whether this, you know, would be feasible for us."

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And they said, "Well, we're going to be talking to other people; so if you'll just come back, that you can look into these things, and by the time you come back then you can decide whether this is something that you want to—"

Tani Cantil-Sakauye: And come back where? Come back to?

Consuelo Callahan: To Washington, D.C.—actually, to the West Wing—to have an interview with a number of people in the Attorney General . . . the present Attorney General, Judge Gonzales or Attorney General Gonzales, was at that time White House Counsel, so he was the one that conducted the interview.

So I decided, "Okay, well, I will go. What can I lose?" And so I decided that, you know . . . But it was interesting; like everything else that I do, once that I went back there and then once when they started asking me to fill out some forms, I decided, "Well, this is an awful lot of work. If I'm going to go out for this, I'm going to get it." You know, that's the . . . *[laughing]*

Tani Cantil-Sakauye: Yeah.

Consuelo Callahan: But I really had mixed emotions, because to be honest, I didn't really respect the jurisprudence of the Ninth Circuit in the same way that I respected the state Courts of Appeal. Because the Ninth Circuit has always to some extent, and particularly to people that aren't a part of it, been looked at as an outlier court. And they always talk about us as the court that's most reversed by the U.S. Supreme Court and that it's this, you know, kind of just outside-the-mainstream type of court with all these crazy decisions and this, that, and the other.

And so I thought, you know, I'm a justice. I work on a court that is greatly respected; I love the people that I work with. You know, I go to the Ninth Circuit, I'll be a judge, get down to judge, which I was before; plus, you know, then I'm on this court that everyone thinks is, you know, the "Ninth Circus," as we're affectionately known.

But what it ultimately came down to is, I decided there are other challenges on that court that would not . . . types of adjudication that I would not necessarily be doing. It covers nine western states; there's a lot more constitutional adjudication, a different type of cases. Then I decided, well, it would be additional challenges. I would have a learning curve; but it would be growth for me professionally, and I don't think that they're probably going to ask me again. So that's what ultimately put me forward in terms of saying that, you know, I would be willing to be considered.

Now, when I went back there, it wasn't by any stretch of the imagination that they were talking to other people. But I think I had a very liberating interview, because I just wasn't . . . I was really happy where I was. I had a great job, I loved the people that I worked with, and I was a little bit equivocal on how much would I really like this. So I think that I could truly be myself, as opposed to I probably would have been more nervous if I had been more invested in getting the job.

Tani Cantil-Sakauye: Like you said, you had nothing to lose, and it was a challenge, and it was a risk, but you were very happy where you were.

Consuelo Callahan: Exactly.

Tani Cantil-Sakauye: And so after you filled out the application . . . I mean, I know the end result is confirmed by the United States Senate, 99 in favor, 0 no votes, while other nominees languished and never got out. Tell me about that experience.

Consuelo Callahan: Well, the process is, it's more involved than I really had anticipated, because I felt going through the state process that I was pretty used to being vetted and evaluated; but this was unlike anything I had ever been through.

The first interview that I had back in the White House was with Judge Gonzales, and he had I think four other people there that they were all lined up and asking me questions and all of those things. And then they said . . . then they, one person, took me in this little separate room and wanted to know, you know, got down and dirty on wanting to know did I have any Nannygate issues, had I ever used drugs, all those, and the bright light came on.

But, you know, fortunately my goody-goody days of high school . . . you know, at this point I finally realized that never having had a traffic ticket finally had some fruits to bear, that I was so excited that I could finally tell someone that in my life . . . and it meant something to someone.

So he then said, "Well, we're going to meet with the President in a couple of weeks, and then we'll get back to you. We're going to talk about a number of candidates." So I left with the idea that I would eventually hear back.

And then my contact—you have essentially a lifeline with the White House—and that person called me back in two or three weeks and said that the President wanted to go ahead with my background. And I said, "Okay. That's fine." And then he said to me . . . now looking back, I understand what he was saying. I was actually the presumptive nominee at that time, assuming that I passed everything in the background; but I didn't quite understand that. He said, "This is a huge threshold that you've

crossed in terms of the fact that the President wants to do your background." They had selected me at that point. But I didn't really quite get that; I thought maybe they were doing backgrounds on other people.

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And so then that's when you have to start filling out all these forms, which were just unlike any of the state forms that I'd ever had: the Senate questionnaire, the FBI. You have to account for every second of your life, and they go back and they see every employer, they talk to your neighbors, they talk to everything. And the best way that I would describe it to a man or a woman, it's like being at the gynecologist for a month or the proctologist for a month in terms of asking all these questions and going everywhere. And I really initially was . . . I found it very intrusive, because they ask people questions about that if you have any unusual sexual proclivities that would cause you to be compromised, and I'm thinking, "Well, where would that come from? There isn't anyone saying anything about me. Why would they . . ." "Oh, we have to ask these questions of everyone." Or "Have you ever seen her drunk?" Or, you know, "Has she borrowed money from you?" Or "What type of people does she hang around with?"

And my husband finally told me, he said, "You just need to remember: the questions are embarrassing, the answers are not." And that kind of calmed me down from the standpoint, but it just seemed very . . . And I understand now when you consider that someone is going to be having a life appointment that it's important to have as much information. But I think that probably it would discourage a lot of people who would actually be very good judges from going through it if in fact they might have had some part of their life that way long ago, that was less than what they would be proud of; but they've lived an exemplary life that it . . . So that part of it was interesting.

And then I think what turned out to be actually . . . What was sort of unique about my situation was because being in California we have two Democratic senators; the President's a Republican, I'm a Republican, and the President's going to appoint a Republican. But the home-state senators obviously have a say about whether you get a hearing and whether you proceed. And so I think on some level, I was a known quantity. I had a track record, a known judicial track record. I had written, you know, opinions on the Third District Court of Appeal. I had been a trial judge. I had been active in my community. That what you see is sort of what you get. And so I was fortunate, in that the Democratic senators chose to support me, and so that really made the rest of the process fairly easy.

On the other hand, to say that when I watch people go through it in very difficult ways, sometimes there's a little bit of chance

to this. As judges, I think that you know, Tani, that we decide the cases that are in front of us, and sometimes we end up having a case that's very controversial, and any decision . . . and it's a social issue that the public is very socially divided on, and whatever the court decides, regardless of whether it's consistent with the law, half of the people are unhappy with it. And they don't really look to the legal reasoning; they're just unhappy, because they didn't get the social result that they want. Those type of cases, judges that have had to handle those type of cases tend to deal with a lot more political flak going through the process, and I'm not really sure . . . It's nothing that they've done; it's just, some of it just tends to be the luck of the draw.

So, you know, I guess I look at my life from the standpoint, you know, sometimes things are meant to be. And judicial appointments are a little like an eclipse: everything has to line up for you all at one time. And I was that person at that time. Does it mean that I was truly the most qualified person in the universe? Absolutely not. You know, I was a qualified person that at that time was someone that was acceptable to . . . in a situation where they had to . . . you know, both parties had to somehow agree on someone. And so, you know, I feel fortunate. But I'm not sure that, it doesn't mean that, I'm the smartest or the most popular; it just means that those were what the circumstances were at any given time.

Tani Cantil-Sakauye: Well, I would certainly say that the Ninth Circuit's gain is the state court's loss.

Consuelo Callahan: Well, thank you.

Tani Cantil-Sakauye: And it's truly been an honor and a privilege to interview you. Thank you.

Consuelo Callahan: Well, the pleasure . . . as they say, *el gusto es mio*; the pleasure is mine. *[laughing]*

Tani Cantil-Sakauye: Thank you, Connie. *[laughing]*

Consuelo Callahan: Thanks.

Duration: 106 minutes
March 15, 2007