Rosendo Peña: It is my pleasure today to be talking with retired Associate Justice, Dennis A. Cornell of the Court of Appeal Fifth Appellate District. My name is Rosendo Peña and I'm an Associate Justice of that same court in Fresno. As part of the centennial of the California Courts of Appeal, the Appellate Court Legacy Project Committee is creating an oral history of our appellate courts and their justices.

Good morning, Dennis and thank you for your participation.

Dennis A. Cornell: Good morning.

Rosendo Peña: You capped off more than 26 years of traditional service when you retired from the Court of Appeal in June of 2015. But before we get to your legal and judicial career, let's talk about your younger years. First, tell us where you were born and reared?

Dennis A. Cornell: I was born and raised in Merced, California and lived there all of my life until I was appointed to the Court of Appeal in Fresno, except the course while I was away in college.

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

Dennis A. Cornell: My mother was a homemaker primarily, but before she was married, she worked as a secretary in various places. My father was a civil engineer who was the chief engineer for the Fresno Water Department, before World War II. He served in World War II, and then after World War II, he came to Merced where he was the superintendent of the water system in Merced for almost 30 years.

Rosendo Peña: What sort of things did you do with your family that helped shape who you are now?

Dennis A. Cornell: I think it was just basically a normal upbringing, normal middle class American upbringing. I remember one thing that sticks out of my mind and always has is that there was never an assumption that I was not going to go to college. It was always assumed that I was going to go to college. Not only that, I was assumed that I was going to go to specific college, so that was never in my mind that I wasn't going to college, so I never look for anything that didn't involve my college education.

But we would go on vacations and play sports. My father was an avid baseball player and a follower baseball, so I grew up loving baseball. And when I grew up, there wasn't a lot of TV sports, young, and there weren't a lot of a professional teams. Certainly, the only one on the West Coast that was near to us was the San Francisco 49ers. So that's still my original diehard loyalty. After that, came the Giants and the Warriors, and the A's, and so I've generally followed all of them.

Rosendo Peña: And you mentioned baseball, did you play any baseball yourself?

Dennis A. Cornell: I played a lot of baseball.

Rosendo Peña: Would you tell us about that?

Dennis A. Cornell: I played Little League, played high school baseball, played a little bit in college. And after college, I continued to play fastpitch softball as long as I could, and then when I couldn't fastpitch softball, I played slowpitch softball. So it was all consuming interest in my life. More so than golf, although golf supplanted it because I certainly can't play baseball or softball anymore.

Rosendo Peña: During your early formal education, was there any one person who had a particular influence on you?

Dennis A. Cornell: You know what, I can't think of one person because there were a number of them at each level that I have recollection of. I had a third grade teacher that I remember -- I remember every teacher I ever had. And my third grade teacher was memorable because she was the first one I had that made going to school fun, and I always remember that she had that ability and that that was a real positive experience.

Then as I moved on, there were teachers in different subjects through high school which inspired me. Of all things, one of my best teachers were the teacher who taught Latin, which was a subject which I don't think it's taught very much anymore, but it was an important subject when I was growing and it did help in all of the writing and speaking skills that you accumulate and use over the years.

And then when I got to college, I learned something very valuable, but it took me a couple of years to learn it which is you go over the best teachers are, you don't go necessarily where the subjects are that you want to take, because you learn a whole lot more from the best teachers on about everything than you will if you go to a subject that you have to have and you don't have a very good teacher. So I took a History course. I was a Political Science major.

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And I took a history course from a particularly outstanding teacher who was world famous and that's what hooked me on history and ever since then, I've been a real history buff.

And then I followed it up with the course on the Civil War from another nationally-known expert, and that was something that got me interested in the Civil War which is an interest I have to this day.

So an answer to your question, there isn't one but there's a series of them, and I've been very fortunate to cross paths with really excellent instructors in every level including law school.

There was one in law school that I recall vividly now who taught Evidence, and he taught it so well that it's been a lifelong interest of mine and I, too, now teach Evidence on occasion using a lot of what he taught me. So, he sticks in my mind as an outstanding instructor.

Rosendo Peña: You mentioned earlier that even as you're growing up, there was a particular college that you expected that you would be going to. Did you end up going to that?

Dennis A. Cornell: I did.

Rosendo Peña: What college did you go to?

Dennis A. Cornell: I graduated from Stanford University, 1969. That was kind of the family school. That's where my father had gone. It's where his brother was a professor. I think at one time, we counted of at least 10 aunts, uncles, and cousins that had gone there, so it was assumed that that's where I was going to go.

Rosendo Peña: And you mentioned Political Science major, but then you also mentioned History. What did you get your degree in?

Dennis A. Cornell: Got my degree in Political Science. I actually fulfilled all of the requirements of that before the end of my third year of college. So I ended up taking more units of History than I did Political Science, but I didn't get a double degree because you had to write a senior thesis in History to get a Bachelor's Degree in History at Stanford. I don't know if that requirement is still there but it was there when I was there. And I didn't feel as if I want to write a thesis in history. So I probably had at least as many units in History as I did in Political Science.

Rosendo Peña: And you mentioned that you had a special interest in the Civil War, that that begin there at the Stanford or was that later?

Dennis A. Cornell: No, at Stanford. I was like most people, I didn't know a whole lot about it except that it occurred when it occurred and the general reasons why it occurred, but I didn't know much else about it, and then I got very interested, and then I read a lot of books about it, visited battlefields. I spent seven days going around in the Eastern battlefields on a tour which was tremendous, and I've been looking for an opportunity to look at the Western battlefields, so I hope to do that in the not too distant future.

Rosendo Peña: Have you ever actually lectured on the subject or is this for your own interest?

Dennis A. Cornell: For my own interest, and I've never lectured on it.

Rosendo Peña: Did you work during college before going to law school?

Dennis A. Cornell: I did.

Rosendo Peña: Okay, tell us about that.

Dennis A. Cornell: In college, I worked for the water system where my father was a superintendent in the summer, and I also played baseball, and I also did stadium announcing on the nights when I wasn't playing baseball. And that started when I was in high school, and I continued doing that probably up until today.

Rosendo Peña: What games were you announcing there at the stadium, was it the baseball games?

Dennis A. Cornell: I've done all sports. I've probably done stadium announcing for over a thousand games. It's just something I started when I was in high school. I was put in charge of Little League Diamond and so in the evening, I would be the announcer for the Little League games, and then those nights when I wasn't playing myself and then as time went on, I moved up into Babe Ruth League and I started doing high school and college games. When my baseball career at Stanford was over, I was the stadium announcer for the Stanford stadium baseball team, Sunken Diamond is where they played their baseball games.

Done college and high school football, lot of high school and college basketball, lot of girl's fastpitch softball and men's fastpitch softball, I've done so much I can't even remember, it just became second nature to me.

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Rosendo Peña: You ended up four years in baseball there in Stanford.

Dennis A. Cornell: I didn't play all four years, I got injured. I don't know if I would have ever had a thriving career but I didn't. Back in those days when you injure your shoulder, they didn't have arthroscopic surgery or any of the treatments they have now. It was -- tear up your shoulder and go and fix it and basically, that ruined your career. So I didn't have the operation but it did put me out for a year. And after that, I just became the stadium announcer. They were a very talented team. There were eight people on that team that I played on then they ended up playing Major League Baseball. It's a very talented team.

Rosendo Peña: It seems like they have really, really good baseball program there.

Dennis A. Cornell: Yeah. My classmate is the current and long lasting baseball coach there, Mark Marquess.

Rosendo Peña: Mark Marquess, okay.

Dennis A. Cornell: Classmate and teammate.

Rosendo Peña: So what made you decide to go to law school?

Dennis A. Cornell: Well, it's a combination of things. One of my first high school sweethearts, her father was a lawyer and so he was one of the inspirations. And the other one is, is that just as it was expected that I would go to Stanford, it was expected I would end up in a profession and by the process of elimination, I didn't want to be an engineer. It didn't appeal to me and I didn't want to be a doctor and I didn't want to be a dentist. So that didn't leave a whole lot of other choices. All of that occurred about the same time I was exposed to this lawyer who was the father of my then girlfriend. From that point forward, it was a comfortable fit. And when I went to law school, I was confirmed and it was a comfortable fit.

Rosendo Peña: And when and where did you attend?

Dennis A. Cornell: I attended law school at George Washington University in Washington DC. I graduated from there in 1972. I'm one of those people -- there probably aren't very many who can look back fondly on this law school experience than I do look back fondly but it was a vibrant period to be in Washington DC. There was lot of things going on. It was the time of the Vietnam War. It was the time of Watergate. It was the time of the death penalty arguments in the Supreme Court on the Furman case and it was a really vibrant place to be.

Rosendo Peña: It sounds like a lot things were going during that time and you mentioned that you had a good law school experience.

Dennis A. Cornell: Very good law school experience. As I said, it was a comfortable fit and I made some lifelong friends there, and got to participate in a lot of things. I got tear-gassed and other things. It was first school in the country that had a clinic where you can actually work on real cases with real people, and then now of course, every law school has programs like that, but George Washington was in the forefront of that.

And I read about that program in a national newspaper article, and that's what first alerted me that that might be a really good place to go to school, so that's why I put it on my list. And when I went there, I certainly wasn't sorry.

Rosendo Peña: Did you get a chance to participate in some of these student activities as all of these things were going on around you, Vietnam War, Watergate? Did you get involved politically in anything?

Dennis A. Cornell: I did.

Rosendo Peña: Do you want to tell us a little bit about that?

Dennis A. Cornell: Well, it started at Stanford when they had the sit-in at the Stanford Research Institute. I wasn't part of the sit-in but I was part of the rallies on campus. And then when I went to law school, they had a march on Washington which a million people came into Washington. They declared Martial Law on my law school campus.

George Washington University campus is two blocks from the White House. I mean it's right Downtown, Washington DC right in the middle of everything. When we played intramural softball, we played on the Ellipse behind the White House in front of the Lincoln Memorial and right by the Washington Memorial. And so that's where the student life was. And so when there was a march on Washington, all of the people came to Washington, and that was the part of the area where they declared Martial Law.

It was so much so that -- I was in my second year of law school when it occurred. I can't remember, maybe my first year. Anyway at the end of the year, they canceled school two weeks early because of the people, and instead of giving us grades, they gave everybody pass.

Rosendo Peña: Did you get a chance to go to the U.S. Supreme Court for any arguments while you were there?

Dennis A. Cornell: Several times. As I said, I got to go see Anthony Amsterdam argue the death penalty case.

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And when I first got to law school there, we were given a tour in the Supreme Court and we met Justice Thurgood Marshall who came in and spoke to our group. There was a group of about 30 of us and we went into the conference room where the Supreme Court justices meet after the oral arguments and discuss the case and do their first vote and their first assigning of opinions. That's the room where we met and Justice Marshall came in and spoke to us. That was right when I got into Washington DC for the first time. Then after that, I went back when there were specific arguments just as I would go over to Congress sometimes and meet with people there. You would mingle among all of the different types of people and they frequently came over to the campus and lectured and

things of that nature. So there was a lot of exposure to the events of the day and the key people of the day. Again, like I said, that's why I had such a great law school experience.

Rosendo Peña: A little bit different from Merced.

Dennis A. Cornell: Yes, quite a bit different from Merced.

Rosendo Peña: Did you work or volunteer time during law school if you had time?

Dennis A. Cornell: Yes, the clinic program was all encompassing. They took 12 students, and my whole last year of law school was 12 units for the whole year, and you would go down to the court system, there it started mostly with small claims court where the judge would appoint you and lawyers were allowed to appear in small claims court. So, we'd have lawyers from huge law firms, and they're representing clients on small claims cases if they were corporate or other clients of the firm that they wanted to have a lawyer represent them, and then the other side would come in without a lawyer so the judges would appoint us, the law students.

We would represent them, and you would have your hearing, normally a fairly quick hearing less than a half day, or maybe sometimes a full day, and the rest of the class who wasn't participating would be sitting in the back together with the lawyer instructor and make notes, and then you'd meet afterwards and they would talk about things that could have been done differently better, some the things that shouldn't have been done. Plus, they would help with the work-up of the case.

And so this went on day after day after day for my whole last year of law school. So, it was an intensive trial practice course, it's what it was and it was a terrific experience.

Rosendo Peña: So would it be like over two semesters, did you have semester there?

Daniel A. Cornell: Yes. It's what it was.

Rosendo Peña: Okay. And you had mentioned earlier that you played some softball there, any other extracurricular activities that you participated in?

Dennis A. Cornell: Well, basketball, they didn't have any football. Well, they have flag football, that's right, now that you mentioned it, so yes. The dorm that I lived in, they had all of the law students that were going to live on campus lived on the top floor, not unlike where were here, or where we're here now, on the top floor of dormitory. And so we all bonded and formed study groups and

we formed the intramural teams and so we participated in all the intramural sports as a team and it was a great fun.

We had a lot of success. We almost won the school championship in basketball which was something because it's considered quite a basketball school but all of the people on my team I think I had -- there were seven of us and four had played varsity basketball in college. So there were four really good players and then the rest of us who tried not to get in their way.

Rosendo Peña: So is it fair to say that it was all of these extracurricular activities that you participated in that made your law school experience fun and perhaps what you had thought it would be?

Dennis A. Cornell: Well, it was all of those. It was altogether, the courses, the teachers, the interactions with the students. And it was just a completely immersed in the whole situation. It was not a situation where you went to this class and then drove to the suburbs to your home or went somewhere else and had no contact. We were with each other most of the day all day long every day.

When I went to the Supreme Court, I didn't go alone. There would four of us that would go. And when I was trying cases in small claims court, I wouldn't be there alone. There would be the rest of the class that was available that day would be there with me. So it was a complete immersion into maybe a small cultural experience but we are all going through the same things together at the same time and made it all a whole lot more comfortable.

Rosendo Peña: Any recollection of your bar exam and how you prepared for it?

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Dennis A. Cornell: Yes. Let me lead you up to that. When I went back to Washington, D.C., I did not have any plans to come back to California. In fact, my plans were to stay on the East Coast. But as I got closer and closer to graduation, the pull of California came in plus the fact that the East Coast was -- by large part, very parochial and also the weather was just horrible. I don't care where you are on the East Coast, by my terms, it was horrible weather. If anybody complains about Fresno, I'll just tell them go live in the East with the humidity and all of that and you'll change your mind in an instant.

So, I applied for jobs back there. Courtships with federal judges and received one with a very, very good federal judge in Newark. And to this day, I regret that I didn't handle it a little differently. After I was told I had the job, that's when I decided I can't stay on the East Coast, so I turned down the job. There

were plenty of applicants so I'm sure they have more than competent person to take my place.

What that meant was is when I came back to California, I had to put everything on a fast cycle because I hadn't planned to come back to California. So that means, I had to apply for the bar exam, I had to set up for a bar review course and get situated in that taking a bar review course and taking the bar exam and doing all of that in a relatively short notice. So, that was probably a good thing because I didn't sit around and worry about it. Up until that point I was going to take the D.C. Bar depending on where I ended up because if you pass the D.C. Bar, then you were automatically admitted to all federal courts in the United States. When I was in law school, that had been an emphasis was federal law as opposed to any particular state law.

So, that's what my plan was and that bar exam was nowhere near as daunting as the California Bar Exam which is by far the most difficult.

Rosendo Peña: You mentioned the pull of California. Is that pull involved family? You mentioned the weather. What is it that was pulling you back if you could be more specific?

Dennis A. Cornell: It was all of that including my wife. When I came back between my second and third years in law school, I have met my wife, wife-to-be. She was willing to go anywhere but she also was born and raised in Merced, the same hospital I was, same hospital where my daughter was born. So, we were firmly entrenched and even though we were willing to move and at least in the beginning, I wanted to come back to California and pass the California Bar and then make a decision about where I wanted to go.

But I hadn't interviewed with law firms or done any of those things to seek employment in California. Any avenues I may have built up during law school were closed because I've never pursued them then they were filled by other people.

Rosendo Peña: Did you ever come back to Merced over the summers for the purpose of working for the summer? Did any of that ever occur?

Dennis A. Cornell: Part of it. I worked for the Public Defender's Office in Merced during the summer and they created a position for me and then they filled it when I told them I wasn't coming back. And so when I decided to come back, it was already filled.

Rosendo Peña: So you studied there in Merced for the California Bar?

Dennis A. Cornell: I actually stayed with my sister who was living in Palo Alto and took the bar review course at Stanford Law School. There were

about 30 of us which was a really good group because if you went to the live presentations, there were 400 people there, but we got it on videotape or video, not videotape. It was live feed video and it was just a really good group because you'd take the course in the morning and then the afternoon, you'd study mostly together. And we even take the -- as you know, the exam they give you -- the one where after you take the exam you're convinced you'll never going to pass the bar. And then you realized that you couldn't physically write out the answers that they say is the proper answer in the time allotted so you can see what they're doing is a scare tactic and it worked. But that was a good experience too in hindsight. But I took the bar exam in San Francisco.

Everyone has bar exam stories and I'm not alone but I remember vividly the place where I took it was on the top floor of the library at Hastings Law School. That's where I took the exam. So when they had all of us sitting around tables like this, I think there were six to a table so we had three on each side, and a couple of things of course stood out. We were into the first hour of the first when a person passed out and they brought in a crate and picked him up and carried them out.

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And the person sitting across from me would sit there and eat sunflower seeds and she would eat sunflower seeds and just munch and munch and munch on them, and then she put her head down and scribbled vigorously for about five minutes and then she leaned back and go to the next question and I always wanted to get her number to see if she'd passed because back in those days, the norm was to write out the answers. Of course nowadays, it's to type on the computer.

The typists were put into another room because there were very few of them and probably well over 90% of the people were writing it out in the long hand. So I wanted to see if she could scribble down enough in that short amount of time to get a passing grade.

Rosendo Peña: So when you left that final day, were you feeling confident that you'd pass or were you unsure? What were your feelings?

Dennis A. Cornell: My feeling was when I didn't have enough time to put down everything I wanted to put down and I had taken -- one of the teachers at our course had come in and told us about how the bar exam is graded which is they only have six minutes for each book, the readers, because there are so many people taking it. And what they're looking for is issue spotting and so he suggested you do an outline system of answering and that you underline key phrases like specific performance and restitution and all of that to make it easier on the reader. So that's where I wrote out my answers which helped me because

I didn't have to write so much narrative and it also helped me think in terms of outlining and issue spotting and I don't know if it helped the reader or not. All I know is that I passed and as you know, it's a pass-fail, you don't get a grade.

Rosendo Peña: Anything memorable about hearing that you'd passed the exam? Where you and what were you thinking?

Dennis A. Cornell: I didn't have a job or any prospects when I came -- we came back to Merced after I took the bar exam. So I was playing fastpitch softball and the wife of the coach of the team worked for a local attorney in Merced and she suggested I go and talk to him and I did and he hired me. All of it took about as long as I took for me to just mention it to you. So I had no prospects and no job, and 24 hours later, I had a job as a lawyer.

I started right after the bar exam, August 1, 1972 and he was a small town trial lawyer tried everything and tried all kinds of cases. So I followed him around and did a lot of work for him. And then when the bar results came out, back when I got the bar results, they wasn't posted online because there was no internet. They would hang them on the doors of the State Bar which were then only located in San Francisco and L.A., or they would send it to you in the mail, and they never announced in advance which day they were going to be posted or which day they were going to send it to you. So all we knew was it was generally around the time of Thanksgiving.

The first inkling I had that the results were out was an article in the newspaper, the local newspaper about somebody else from Merced who would just received notification that they'd passed the bar and I had received nothing. So I've gone, "Oh, this is horrible." I figured that, "Man, I failed." And the lawyer I worked for, he says, "Quit pouting. You'll be all right." And sure enough four days later, I got the letter from the State Bar but they put down Modesto instead of Merced.

Rosendo Peña: They're cruel that way, aren't they?

Dennis A. Cornell: They were very cruel. And thankfully somebody in the post office in Modesto recognized the street address and re-routed it to Merced and then I got it four days later, but my name never appeared on the local newspaper so people didn't know that I had passed the bar, they just assumed that I hadn't. So, that was again another memorable experience regarding the bar exam.

Rosendo Peña: I would say that would be a memorable feeling that you didn't pass and then to learn that you did pass.

Dennis A. Cornell: I was convinced I hadn't passed.

Rosendo Peña: You mentioned briefly about your wife, how and when did you meet your wife Diana?

Dennis A. Cornell: Again, through fastpitch softball. One of the players on the team I played with in the summer, he was living in the same apartment complex where my wife lived. And his wife and my wife became the best of friends which they are to this day.

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My wife came to the softball game to watch the husband of her friend and I happened to meet her there and that's how we met.

Rosendo Peña: You mentioned that you decided to come back to California in part because you had met your future wife. How did your marriage impact your career path? I mean aside from that, any other things you recall that may have impacted your career because of your marriage?

Dennis A. Cornell: Not really other than it was -- I've been married for 43 years. So it was a stable relationship and that's always helpful. She was very supportive. Always very supportive, to this day, she is very supportive. I'm sure that helped because a lot of the types of cases I handled were mostly high conflict type of cases whether they be criminal or civil, especially family law. It made me really appreciate what I had.

So that's the best thing I can say is that there wasn't a conflict regarding careers. She worked for a while as a bookkeeper. She had worked as a bookkeeper before I met her and she continued to do so. And then after our marriage, she continued to work for the Bank of America for a while. And then we decided to have a family so she did not work outside the home after that. And then when I went out on my own which was the last two years of my private practice, she came and worked as a bookkeeper there which was a really nice setting because she could work.

At that point of her life, my daughter was in her early teens and so she'd come to my office after work and do filing and things and my wife would come two or three days a week and do my bookkeeping which, of course, was very advantageous because I didn't have to worry about somebody embezzling money from me which had occurred at the law firm. We had a bookkeeper who embezzled from us. And also my wife could build up Social Security credits. She was very good friends with Marie who was my secretary at the law firm and followed me in the practice and followed me in the Court of Appeal, and they were good personal friends and so they would socialize together and go to lunch together. So that was a really positive experience.

Rosendo Peña: And you're in private practice from 1972 to 1992. Tell us about your experience especially your earlier experiences as a lawyer.

Dennis A. Cornell: Well, all I have ever wanted to be was a trial lawyer in terms of the law and that's why I picked the law school, I did, and that's why all my pursuits of a job were always consistent with that in mind. I had no interest in being a transactional lawyer or a large corporate lawyer or anything like that. All I wanted to do was to be a trial lawyer.

So when you're in a town like Merced, -- Merced County we had fewer than a hundred lawyers, all the lawyers knew each other. And if you were willing to go to court and try a case which I was and I enjoyed it. I tried all different kinds of cases and so that was a really good experience. People ask me, "Well, did you do all civil cases?" I said, "No, I did some." "Did you do all criminal?" "No, I did some." I tried between 40 and I tried to get a count of this but I could never quite get it accurately. But I think I tried between 40 and 50 cases jury trials to verdict in my first 10 years and that included criminal cases, personal injury cases. I did state fights, will contest, anything that you would try to a jury, I would try at least one or two of them.

And then as time went on, I worked more and more in the family law and that's where my reputation developed. So I started getting more significant cases in that area and then my practice evolved into the last 10 years when I didn't do any jury trial work but I tried a lot of cases to judges which are family law type cases and business cases, rarely are business cases tried to a jury. So it was about 80% family law and about 20% business for the last 10 years of my practice.

Rosendo Peña: And you said for the last two years, if I have this correct is when you went on your own, you left that law firm and opened up your own?

Dennis A. Cornell: I did. Running a law firm in a small county like that presents different types of problems which my practice and reputation developed made it more frustrating.

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We had between 10 and 12 lawyers most of the time in the firm which is a huge firm for a county with fewer than 200,000 people. And unlike the large firms in the big cities, associates as soon as they get to the point where they're starting to produce income for the firm, want to become full partners and also want their name on the door. So, we worked and have an 11 lawyer names on the door. What that means is that they would go out on their own and the bottom line was is that we spent a lot of time developing associates and then as soon as they became profitable, they would leave the firm and that became very frustrating, very frustrating.

There were two of us at the top of the name that was the biggest drawn in terms of producing income but we were sacrificing income to develop associates and then that became frustrating because that seemed to be a revolving door. So finally, after 11 years as the managing partner of my law firm, I decided I just want to go out on my own and be my own boss and produce my own income and not be responsible for developing associates and it was a terrific two years. I had a really good staff and that's when my wife came to work. It was just a really good two years.

Rosendo Peña: How long did it take you at that firm to make partner?

Dennis A. Cornell: I started with that lawyer I mentioned to you and another lawyer, a young lawyer, contemporary mind from a local law firm came in with us, so the three of us formed a partnership almost right out of the box. That was very generous on the part of the lawyer that I went in with originally, who hired me originally.

Rosendo Peña: What was the name of your firm at that point?

Dennis A. Cornell: It was Sharrow. The name of the lawyer was Keith Sharrow, S-H-A-R-R-O-W, Cornell and Marks, M-A-R-K-S. Then after about two-and-a-half years, we split up and Ron Marks and I went in with Terry Allen who in his then law firm which included Bill Ivey who became a judge and others. So, I went into that firm as a partnership and that was the firm and its successors that stayed together until 1990 when I went out on my own.

Rosendo Peña: You mentioned you were the managing partner, were there any politics in the office that you had to deal with on a daily basis or were you trying to avoid politics?

Dennis A. Cornell: Yeah, it was a lot of headaches, personnel, and so on. We were big enough to have problems but not big enough to have a professional staff to handle them. For example, we didn't even have an office manager until -- or I was the office manager until halfway end of my time I was there and then we hired an office manager. Then it had its own set of problems. And then we had a bookkeeper who embezzled from us, those types of problems and dealing with the desires and needs of the partners and the desires and needs of the associates and all of that.

At the same time, I was carrying a full load. I mean that was -- the firm couldn't survive if I didn't work and produce income. So I was carrying a full load. So all the administrative stuff was extra which was fine for a while but did get old and that's why I decided to go out on my own. I was just at that point where I didn't want to have any responsibility for anybody else but myself.

Rosendo Peña: You said you transitioned essentially after about 10 years from really doing jury trials and then specializing family law and doing court trials. Did you have a preference? Did you enjoy one over the other?

Dennis A. Cornell: Jury trial work is a lot harder than court trial work. It just really is. After a while, that work wears you down especially when you have to carry a relatively large case load. When trying that many cases in that short of time, I mean it seems like I was in a jury trial every month and some of them last only one or two days but some of them last 10 days. So it was very stressful with all the other things I had to do.

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Plus I still had this ambition to begin a reputation for excellence and I found out that when you're in Merced as with a lot of other professions, people in Merced don't perceive the people there as being as competent as a person from San Francisco or L.A. So, I found out that was especially true in those types of cases where a jury would make the decision.

For example, if there was a big criminal case, a lawyer from San Francisco would come in. If there's a big personal injury case, they would try to get a lawyer from San Francisco or L.A would come in, but if there was a big divorce case, they wouldn't touch it. They would refer it to me because that was decided by a judge and they want a local talent. So, it was a little bit different than I was the one going to other towns.

Probably one of the biggest moves I made is because of judges and lawyers in Modesto and Fresno wanted out of town counsel for their divorces and that was one of the first phone calls they would make and so I started doing a lot of those types of cases in Fresno and Modesto which might have been where you first heard of me, was representing the wives of lawyers or lawyers or the wives of judges or judges in Fresno.

And that would expand up into Sacramento and down into Bakersfield, so it became a very wide-spread high-end practice which was a lot of fun. I got to meet a lot of really good lawyers, a lot of really good people.

Rosendo Peña: During the time you were in private practice where you served on the State Bar Board of Governors from 1985 to 1988, please tell us about how you got there, your overall experience and your satisfaction with that position.

Dennis A. Cornell: I started early on realizing that I had to do something outside the practice of law to keep me motivated. In other words, just doing the same thing every day is a grind. The private practice of law is a grind. They have the eternal pursuit of income, the

pressure to produce income as with any person making a living, you'd always have the pressure to produce income.

So, I wanted to look for something else which would be consistent with that, but not have that kind of pressure and at the same time, provide me with an opportunity to advance my reputation and name in the legal world. So, I started getting active in the local bar which wasn't much of a bar since it was so few lawyers, but I became president of that bar in 1979 and at that point, I think I was the youngest president ever.

I was 32 years old so I don't think they'd ever had one as young as that and I went from that to the executive committee of the conference of delegates which is -- it's made up a little different than it is now, but it was an arm of the State Bar. I was in charge of the bar presidents' conference and I was also in charge of the legislative program and the annual convention and so I was very active in that.

While I was on that, I'd also gotten on the executive committee of the family law section and through that, I got introduced to some other lawyers from around the state that I'd heard a lot about. So, all of that was happening at the same time and with all of that exposure, it led me to the conclusion that I also wanted to be on the board of governors.

As with any other organization, if you're participating in it, you want to move to the top. At least, that's the way I looked at it and so I went on to the Board of Governors which was terrific three years, very enjoyable. It was a very vibrant times and I look back on it now and I recall vividly being told by former board members, they say, "It seems like we're rehashing the same issues over and over again." And I said, "I have no doubt that we are." I said, "I expect there's very little institutional memory when you're turning over one-third of the board every year," and I'm sure it was true with their service on the board and the board before them. But because we were dealing with the issues like should we split up the bar and make it disciplined and admissions in one hand and all of the other activities on the other?

Rosendo Peña: That's still today I think.

Dennis A. Cornell: That's why I brought it up because right now the issues come up again and it's always driven by the same thing and it always has the same problems. At least, from what I can tell which is that the bar has no constituency in terms of politics and if you get an issue that will attract the attention of somebody in elected office to see who seeks an opportunity and sees an opportunity to advance his or her professional career on the back of the State Bar, they will do it.

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And so, when I was on the Board of Governors, there was a tremendous push to increase the discipline system. Up until that time, the hearing officers for judicial discipline cases had been lawyers in the local area. We had a local court set up, very uniformal courts for discipline hearings. There was a push to have a much more formalized system and we put that in place, but we told the legislature which is going to require us to virtually triple the dues which they approved.

So, while I was there, we tripled the dues which were not popular. We put in a full-time court system, appointed judges and up the amount of resources dedicated to discipline. And I think, thrived compared to not only what it had been before because we had the new resources but compared to the other 38 professions that are licensed in discipline by the State of California. So, if you compare us to ourselves or to an ideal system, we're probably lacking, but if you compare us to every other state discipline system, we're much, much better.

And so, another thing we did while I was there was institute mandatory continuing legal education and I was in charge of the committee. I was chairing the committee on the board that was charged with putting that program together and it became to fruition the year after I left the board when legislation was passed to establish the program.

Rosendo Peña: About 1989?

Dennis A. Cornell: Yes.

Rosendo Peña: I take it with other folks that were from different parts of California --

Dennis A. Cornell: Yes. I was the only one from the valley for those three years.

Rosendo Peña: Did you make any what you might consider valuable connections that would serve you in the future?

Dennis A. Cornell: Oh gosh, yes. Oh, yeah, tremendous connections in several different ways. One was professionally in terms of case referrals and connections to refer cases. Another was to establish friendships so in the event I was going to seek any positions in the future, they would be helpful and supportive which they were. And plus, they were good friends so we had a lot in common and heard a lot of good stories. A lot of behind the scene stuff from headline stories because these are the lawyers that we're handling. So, it was a really good experience.

Rosendo Peña: Do you have some folks that you're still, occasionally --

Dennis A. Cornell: Well, we don't keep in contact, but we do bump into each other at state-wide conferences from time to time. One of the board members with me was Ron Olson from Munger, Tolles & Olson and he was representing -- he'd been hired by the United States during the time of the Philippine turnover in their presidency, the thousand shoes and so on like that. And he told me stories about that. And another board member was Allen Rothenberg who, at the time, was the president of the Los Angeles Clippers, formerly had been president of the Los Angeles Lakers, became the chair of the National Soccer Committee for the World Cup and so he was a terrific friend and colleague. And so, those are the types of people you bump into. A lot of them eventually became judges and justices on the Courts of Appeal.

Rosendo Peña: When did you first become interested in applying for a judgeship?

Dennis A. Cornell: The person who provided the most encouragement to me professionally was Marvin Baxter. Marvin was a family law attorney in Fresno and he and I would bump into each other on cases and that's how we got to know each other. And also, he was a president of the Fresno County Bar when I was on the conference of delegates and so we got to know each other even better then. So, he and I became -- I thought we're pretty good friends. I had a lot of respect for a very good lawyer.

He was on the opposite side of those some cases where I represented wives or husbands of lawyers. We were in Sacramento as part of the board and Marvin, at the time, was the appointment secretary for Governor Deukmejian and so we got together for dinner one day at Frank Fat's which is a restaurant in right Downtown Sacramento which is where the movers and shakers go to make deals and it's not a very fancy place.

But anyway, Marvin and I were having dinner there and that's when he told me, he really encouraged me to apply for a judgeship even though I wasn't of the same political party as he or the governor.

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But, he was the first one and obviously memorably because I remember it, he was the one who really encouraged me to put my name in for a judgeship. Then after that, I didn't know if I wanted to and so I did something which I have encouraged every lawyer to do before they think about it which is I set pro tem on our superior court and to see what it was like, to see what the view was like. In other words, you take a complete a different view when you're a judge as opposed to when you're lawyer.

You're not an advocate. You're an impartial observer and a person who makes decisions. And I didn't know if that would fit me, it's not for everybody. I have known of judges who had a difficult time making a decision and they were otherwise outstanding lawyers, but they did not like being a judge once they got the job because they just didn't like that dynamic. So, I set pro tem a couple of times and said, "Yes, this is something I would like to do." And so that's when I applied for a judgeship.

Rosendo Peña: Well, I understand you're a United States magistrate serving part-time from 1989 to 1992. Can you tell us about that experience, what does part-time mean?

Dennis A. Cornell: It was a system of magistrate judges much it can to what California used to be with justice courts. If it's in existence anymore, it's on a very, very limited basis. But that came from Bob Coyle who had been on the Board of Governors of the state, represented the valley on the Board of Governors of the State Bar from Fresno, and I met him because I was on the executive committee of the conference of delegates representing the valley.

He then applied for it and got the federal judgeship and when the part-time magistrate's position came up for our area, it had previously been filled by a local Merced lawyer. He contacted me and asked me if I wanted to do it and what it entailed on my part was one day a month at Castle Air Force Base which is located near Merced and then another day, every other month at the Sharpe Army Depot in Tracy. So, when I say "part-time" I mean part-time. It involves almost exclusively traffic cases.

So, it was a good way to get your feet wet as to how to be a judge and to learn some of the things you need to know as a judge. It was also interesting because I learned how the federal judicial system works which is just the opposite of California. By that I mean each judge and/or magistrate is a separate budget unit. So, I had my own budget which I didn't have to prepare, they had people in the central office who'll do it , but I had to sign off on it.

And my secretary, again, Marie was sworn in as a federal court clerk so she was my federal court clerk and we had our own sound system for recording purposes. So, we'd load the sound system into the back of my car and we'd travel out to Castle Air Force Base or we travel up to Sharpe Army Depot and hold trials and hold hearings and do a calendar and then we come home and she was the federal clerk and she'd swear the witnesses. So, that's how I got exposed to the judiciary through doing that.

Rosendo Peña: So, you got a little taste of it and did you enjoy it? I mean was that something that fit well within what you wanted to do?

Dennis A. Cornell: Oh, yes. It was very little terms and it was very little preparation. I mean, I generally didn't even see the calendar until I sat down and just started calling it because there weren't any involved cases. It's a -- involved and there were a couple of where I could handle them as you would on a normal court trial. If you need the briefing, you'd get briefing and so on but most of the time there weren't lawyers there. Sometimes, but most of the time there weren't lawyers.

And eventually how it really worked well was that when I left the law firm, I was eligible to get medical benefits through my federal judgeship and so that made it very easy for me to leave the law firm and go out on my own.

I didn't have to incur tremendous expense to get medical insurance. I could get coverage through the federal system. And the other benefit of it was that I could perform marriages. So, as I used to tell people I was a full service divorce lawyer, "I could divorce you and I could marry you."

Rosendo Peña: Okay and eventually you mentioned you had spoken with Justice Marvin Baxter who was appointments secretary at that time for Governor Deukmejian and thinking back, what challenges did you face while going through the judicial application process for superior court?

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Dennis A. Cornell: Well, the first thing in order to become a judge is you have to have an opening. And in Merced, there wasn't an opening until Judge Barrett retired and that happened in 1991. And by then, obviously, Marvin was no longer the appointments secretary and Deukmejian was no longer the governor. So, the application itself was not a problem. I found it interesting, the type of information they were seeking and that's when I called on my -- the contacts that I had made through all the different things I'd done to provide support for my application process.

I was trying to learn and I did learn with the different governors because I went through the process, obviously, more than once but what they like to see on their application and on their letters of recommendation and what wasn't particularly helpful to them. Some people think you just flood them with letters of recommendation, but as I learned later, all of them like letters of recommendation but they like them from a certain segment of the population or certain types of people or certain people in certain positions. Just flooding them with letters of recommendation isn't the way to go.

So, that part of the process wasn't particularly difficult. What was interesting was that there were -- it was a Republican Governor who was in the office and Chuck Poochigian was his

appointments secretary. And I'm smiling because Chuck was a colleague and he's still on the Court of Appeal in Fresno. He had worked as an assistant to Marvin Baxter under Governor Deukmejian and I'd gotten to know him briefly, but I didn't know him very well at all until I started going through this process.

I was the only Democrat who was applying and there were four other Republicans and all of them assumed that I was not going to be considered, didn't have a chance. And so, when we went through that process I was always the afterthought and the interesting -- well, there was lots of interesting parts, but as we got down to the end of it, I remember Chuck asked me to come in for an interview, Chuck Poochigian. And so, I went in to the governor's office and that's where I first time really got to know him very well.

Excellent interview, I thought Chuck was really, really good the way he handled it and very forthright. And what happened was that Governor Wilson was unlike Governor Deukmejian and I look back at all the different governors and how they handled judicial appointments. Governor Deukmejian was by far the most organized and current in terms of the appointments and a lot of that had to do with Marvin Baxter and a lot of that had to do with Marvin Baxter's access to Governor Deukmejian.

Chuck did not have that experience with Governor Wilson. Governor Wilson tended to put things off and when local presiding judges who needed vacancies filled would call the governor's office, they would be connected to Chuck Poochigian then he got all of the wrath and the frustration. What they didn't realize is that Chuck was going through the same thing because he didn't have a lot of access to the governor, at least not on a regular basis. And I remember he later told me, I said, "You know, I had worked up all these judicial positions ready to go, they were all stacked on the governor's couch," and then basically one day he decided, "Let's deal with these."

And so, he and I spent several days going over all of these and so that's why he made, I think, over 60 appointments in the space of maybe three weeks. But I found out later about mine and again, this is hearsay so I never verified it with Chuck but I'm sure he will tell me if I'd asked him. I never thought about asking him until this moment. But, one of Governor Wilson's close friends I understand maybe even a college or law school roommate had been Lowell Carruth who was very prominent and he is a very prominent attorney in Fresno. And a person I had known, I had not had cases against him but I had lawyers in our office had I have come to know him through that and our paths have crossed a few times. And so, when the appointment came from Merced, it came down to me and the current chair of the Republican Central Community who was a

lawyer who happened to be working in my office as an associate, by the way.

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Lowell Carruth, for what I understand is the one that told Governor Wilson that I would be the better appointment, so Governor Wilson appointed me. And I remembered these words from Chuck Poochigian's mouth, he says, "The governor doesn't care if you're the same party as he is. He just wants your views to be consistent with his views about what a judge should do." And I thought that was absolutely appropriate and to this day, I tell people, "That's how it should be approached," and so I got the appointment. Well, the person who didn't get it that the governor waited so long that the vacancy was almost going to an election, and so those people that we're going to run in that contested election, there were three or four of them, not all of whom had applied for a judgeship.

I geared up and started getting Political Science and all that kind of stuffs and so the person who didn't get the appointment, all of those dropped out except for the one who didn't get the appointment, he was on the Republican Central Community. And so he continued to head with the contested election and I was appointed on one day and had to file my papers within a week and I was on a contested election.

Rosendo Peña: Well, I didn't know anything about that. So, you started in January and you had an election by November, how --

Dennis A. Cornell: June.

Rosendo Peña: June, okay.

Dennis A. Cornell: So I was appointed. I was watching an NFL playoff game on a Sunday and the phone rang and I picked it up and Chuck Poochigian says, "Dennis, this is Chuck. Do you want to be a judge?" And what went through my mind in those few seconds was I knew I was going to be in the contested election, because I knew the person who didn't get the appointment was going to keep running. He had made that very clear that if you didn't get the appointment, he's going to run against whoever did get the appointment.

In those few seconds, I had to decide, "Do I want to be in a contested election," and I said, "This is something I want to do and I'm not going to let the threat of an election prevent me from doing it." So I said "yes" and he appointed me and I had to file my papers within a week and I had to gear up the campaign and do all of that. My wife and daughter were jumped in with both feet, full-bore and we were in an election. And it was a county-wide election and it was a small county where

they expected you to have personal contact with everybody and so we were at it, we went to it.

Rosendo Peña: Well, first of all, tell us, did it seem to you like it was a long time waiting for this appointment, different lawyers applied different times and you've mentioned that you had gone through more than one application process.

Dennis A. Cornell: Well, this was the first one. One for the trial court bench was the first one I gone through. I didn't think I didn't have chance because I mean I've been -- I thought I did had a chance. I thought I'd put in the very good application and had a lot of support from the right people. So I never once thought I didn't have a chance. It's just that it took so long that I wasn't even sure if he was going to fill a position. He may want to let it go to an election because it was a retirement and then the office came open. And so I kind of had forgotten about it because it had taken so long, probably almost a year from the beginning to the end.

When the appointment came, I actually was a little bit surprised I mean a phone call on the Sunday afternoon and Chuck remembers it that way too, because he says I was the first phone call. He said he made 14 appointments at first day and I was the first phone call. So he said, "I'm going to be spending the rest of my --," we talked about the game for a few minutes and said, "I got to go, Dennis. I got a lot of the phone calls to make."

Rosendo Peña: My next question is what challenges did you face? Obviously, one of the challenges you faced was this immediate election, any other challenges that you recall facing in the legal community and with your judicial colleagues when you first came on?

Dennis A. Cornell: Well, I had a series of them as you can imagine. The election was a life changing event because it's a small county and it was personal. You walked out in your neighborhood and you'd see your opponents sign on your neighbor's lawn, that's personal because you'd say, "What did I ever do to make that guy angry with me?" And every evening I was out speaking somewhere or walking precincts, meeting people and I had a very really good campaign manager.

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I was fortunate enough to have him, it was Dennis Cardoza, who later went on to become a United States congressman and he was my campaign manager, and I had a really supportive wife and daughter. In springtime in Merced County, every little farming community has a parade. There was a parade in Planada and there was a parade in La Grange. There was a parade in Dos Palos. There was a parade in Wheaton. There

was a parade in Los Banos. There was parade in Atwater. I rode in every one of those parades.

And so the first thing I had to do was get a car and so a client, a former client of mine had her brother, had a black Lincoln Continental convertible that was identical to the car that Kennedy was riding in when he was assassinated. He loaned us that car and I would have different people drive it, depending on where I was. I've had some prominent citizen from that community drive the car and my daughter insisted on going with me, and so she sat with me on the back of the car, 13-year-old girl waving at everybody just like I did going through these parades. It was a real family experience. As I said, it was life changing and personal.

I started out way behind in terms of the amount of work to do and so we had to do an angle, and so my angle was I tried to picture it the way I did, which is what did I do to deserve to get fired. An upshot of all of that was that Chuck Poochigian later told me that all the time he worked as Governor Wilson's appointments secretary, he didn't get as much brief over any appointment as he did over mine because the Republican Central Committee went crazy when I got the appointment. And Chuck told them these judicial appointments are not partisan, that the governor doesn't appoint on a partisan basis. It's on a philosophical basis and a competency basis. So he struck a deal with them, the governor's office did, that if they would not criticize his appointment in terms of the governor, the governor will stay out of the race. Well, I never expected Governor Wilson to get involved in my little judicial race down at Merced but they did.

They started criticizing the appointments saying that I wasn't worthy and that it was merely politics, and that got back to the governor's office, so I got another phone call from Chuck, and Chuck says, "Dennis, can you come on up? The governor wants to endorse you and we're going to give you a picture and some language and you can use it at all of your political stuff." So I went up to Sacramento and dressed similar to what I am right now and went in to Chuck's office, then he took me to the governor's office and the photographer came up and took pictures and the governor talked to me for about 15 to 20 minutes. He must remember that the Governor himself does not interview you for a trial court appointment, usually not even for an appellate court appointment. On a Supreme Court, it's different, they do interview you.

So I had never met the governor before but there I went in and met the governor, and he said he was going to support me, that he didn't like the criticism. And Chuck was in charge of all of what we were doing that day in the governor's office, so after a few minutes, we went back outside and Chuck told me how to handle it and we went back and immediately, Dennis

Cardoza, we put in the flyers and got his picture out and things like that.

Rosendo Peña: Did that change you think the way the election was going at that time?

Dennis A. Cornell: I don't know. I know that all of the components I put together, I won and I thought it was a very good campaign, the way it was handled. Dennis told me from the beginning, he says and to this day, I remembered it because he was very -- and he's very -- politically as testifies -- testimonies, what he's accomplished. He said most elections, he says, "People don't make up their minds until the last 10 days, the majority of the people." He says, "So you don't want to campaign that goes like this. It starts out hot and then kind of dies at the end." He says, "You want a campaign that's going like this." And my opponent went like this. I mean he was so much out in front me that people are going, "You really got to get going. You're going to lose. You're going to lose." And, boy, when you hear that form people, you get really nervous. And so my campaign manager, part of what his job was to, "Calm down. We're doing fine."

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He did a lot of things like everything was amped up as we got toward the end. He reserves space in the local newspapers, because back then, there wasn't the ability to do things on the internet that there is now, but he reserved space to respond to an ad, clear up to the day of the election. So, we had to pay money to reserve space on the newspaper in case there was an attack out against me. Never one came about but I had a space on the newspaper reserved if I needed it. That's a type of thing that he would and so I felt very -- that the campaign had been very well run. I won approximately I think close to 60 to 40 and then the person that ran against me, who was then a juvenile court referee told me afterwards he felt the campaign slipping away from him at the end, which is exactly consistent with what Dennis Cardoza told me would happen. But I can tell you election night is very tense when your job is on the line.

Rosendo Peña: So now you know you have the job, everybody on the bench knows you have the job. Did anyone take you under their wing as a mentor or did you kind of do everything on your own?

Dennis A. Cornell: Yes, I had a mentor. It didn't start just with that. You heard me mentioned Bill Ivey. I first met Bill Ivey, because he had been a graduate of George Washington in law school and so when I had decided to go there, his wife was friends with my mother and so they had set up an interview so I went in and met Bill Ivey in his law office on a Saturday morning before I went back east to the law school. That's when I first Bill Ivey.

And then when I got out of law school, I ended up being a law partner with Bill Ivey for many years. And then he became a trial court judge. And when I went on the bench, he became my mentor, as he had been as a lawyer, all the way through and a friend to this day up, a very good friend. So I had Bill Ivey. Bill Ivey had my back so to speak. He was very helpful.

Another problem with the campaign is, is that I was still working as a full-time judge while the campaign was going on. I mean all my campaigning was done when I wasn't sitting on the bench and in Merced, at the bench, you don't specialize. We had three-superior court judges for the whole county, and every judge handles a particular law and motion calendar, whether it'd be civil law and motion or criminal arraignments and sentencing or juvenile, between 8:15 and 10:00 a.m., and then at 10:00 a.m., you take a jury trial. That got somewhat ameliorated by getting a juvenile court referee but that juvenile court referee generally didn't handle dependency cases, they only handled criminal cases. So the dependency cases were still one of our three morning assignments and we rotated those every six months.

But the primary thing is that we were all doing jury trials every day, starting at 10:00 a.m. So I was doing that while I was campaigning but I remember vividly, my first day on the job, when I walked out on the bench, they gave me a two-defendant gang attempted murder case with a courtroom full of people. I walked out on the bench, my first day, everybody looking at me assuming I know what I'm doing.

Rosendo Peña: That was "Baptism by Fire"?

Dennis A. Cornell: Absolutely. And so I took the lawyers aside and I said, "Please don't hurt me." And I got through it but that experience was indelibly etched in my mind when I went through the judicial education process and started participating in over the years that there was nowhere for a new judge to go learn the techniques of controlling a courtroom. All the different little things you pick up for yourself as time goes on, that little physical things you do, the things you say, the approaches you take, the particular types of problems.

Rosendo Peña: Putting your hand out?

Dennis A. Cornell: Exactly. That's where I became known as "the hand" and that caused me to write that course which ended up being the two-hour course which you've done with cedure(ph) and is still on the archives, which I understand is still watched on a regular basis because there's nothing else like it out there. And that was the impetuous, it was my first day on the bench, walking out and seeing a courtroom full of people in a real high tension, high profile attempted murder case, so baptism by fire.

Rosendo Peña: So what did you enjoy the most and the least as a trial judge?

Dennis A. Cornell: Well, the least part of it -- I enjoyed being a trial judge and the longer I was at it, the more I enjoyed it. There's a lot to learn when you first go on the bench about a lot of different things. The process of judging is something which people don't focus on it that way, but I've look back on it and thought of it as that way.

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By that, I mean the ability to handle a calendar, the ability to make people comfortable and feel as if they've been treated fairly. The ability to deal with difficult parties, difficult lawyers, all of those things are part of the judicial process and the ability to deal with colleagues and the ability to deal with the administration headaches that come with it. So for the nine years I was on the trial bench, I was a presiding judge or assistant presiding judge for almost all of them, which is no big deal. But the presiding judge was the one who lost the election. But the presiding judge stuff was done between 7:15 and 8:15 and then you went on the bench and did your morning calendar, then you do your jury trial and then you get off the bench at 4:30 and start reading the files for next morning's calendar or the administrative problems or you met during the lunch hour to deal with administrative problems.

The most difficult part was having to assimilate into all of that. Having run a law firm was a great assistance to me in the ability to budget my time and keep things isolated. I also had great help from Bill Ivey and great help from another judge, Frank Dorothy who was the presiding judge of the then municipal court because we consolidated, and so Frank Dorothy and I then became the presiding judge and assistant presiding judge, and we would alternate those jobs for the remainder of my time while I was on the Merced bench. It brought about a whole lot of changes. We got a court administrator for one court and all of those things that comes from consolidating, that was the toughest part, it was learning the process.

But as you know, judging is like everything else. I mean when I was just semi joking, when I said, "You walk out on the bench and everybody thinks you know what you're doing," they assume you do because they don't have any other gauge. They have to assume. It's a like a doctor performing surgery. If it's your very first one, they don't know that. They assume that you know what you're doing. And as with most other things, you get better at it in time and I thought I improved dramatically in handling all parts of becoming a judge. And so by the time I left the trial court bench, I was very comfortable, I enjoyed immensely. There were headaches and bumps and bruises and things of that nature, but the actual work in the

courtroom, as most judges would tell you, the work in the courtroom was the enjoyment. The work off the bench, I mean that's more frustrating.

Rosendo Peña: Now, you've mentioned it, but we haven't really talked about your daughter, do you want to tell us a little about her?

Dennis A. Cornell: She's terrific. I'm prejudice but I think she's terrific. I'm not the only one, a lot of people. She's now working in the U.S Attorney's Office in San Francisco area. She's a lawyer, obviously, had been with a big law firm, Sedgwick, for almost 10 years. And I decided she wanted something different so that's when she went to work for the U.S. Attorney's Office. I don't know how long she'll stay there, but I think she's a really good lawyer. She's really bright. She was a really good athlete and I've never been with her when she doesn't make me laugh. When she was a little girl, she could always make us laugh. She's been a funny -- she makes everybody laugh who's around her.

Rosendo Peña: Have you talked to her about someday applying for judicial appointment?

Dennis A. Cornell: No, because she's a real independent thinker and she's never expressed an interest in being a judge. And she's never built her career in such a way as to work toward a judgeship, although, going to the U.S. Attorney's Office, I think, would be a step in that direction and she still has time.

Once I decided that that was something that would be interesting to me, I really focused on doing things that I thought would help my becoming a judge and once becoming a judge, moving up a ladder in the judicial process.

Rosendo Peña: Well, tell us about your decision to apply to the Court of Appeal and your approach to the application process.

Dennis A. Cornell: That came about almost exclusively when, Holly Best(ph) who -- being from Fresno, Holly Best is an icon as you know among the judges, just a tremendous judge and tremendous person. He had befriended me over the years and had been very supportive about me. He called me one day in 1994. I've been on the trial court bench for about two years and said, "Would you like to sit up here in the Court of Appeal for a month?" And I said, "I loved to." Up until that point, I didn't know if it was something I wanted to do, similar to being a lawyer and being a judge.

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And so I went to Fresno and I sat on the Court of Appeal for a month and thought this is something I really would like to do. It was something that was consistent with what I like to do with

the law and it was something that I thought I was ready for, not instantly but that I could get ready for. Although I like being on a trial bench and I liked it more each day that I was on it. So that was the impetuous behind it. And so as it happened, Holly was retiring and an opening came up and so I applied for it.

And again, there was a Republican governor, and the process was about the same in terms of the documents you filled out, but then you had to -- I thought and based on what Chuck and others had told me, what would be really helpful would be letters from other judges to support you and other people who was close to the governor. That was a little bit different part of the process. Mind those fields a little bit more so than when I was applying for the trial court. Plus, you had experiences as a trial court judge which would be very helpful to the governor in making the decision.

The problem with the process was that is that you had some really good competition. My competition for that was Becky Wiseman and Bert Levy. And so the next two openings on the Court of Appeal went to Becky Wiseman and Bert Levy, both of whom were very encouraging to me to be the appointment after that. But one thing I later learned, which I didn't know at the time and nobody told me, but I later learned it, is that governors will appoint to the trial bench without consideration of political affiliation, but not to the Court of Appeal. To them, they want the political affiliation, and there are rare exceptions to that but they are very rare.

And so my chances of getting appointment to the Court of Appeal had been slim and none, but I'd still enjoy going through the process because I got to meet people and go through the process and when the time came for me to apply with the Democratic governor, I had to go through the whole thing again. But by then, I had really worked up the context that would help the governor, and I had learned that you had to have the ear of the governor.

Rosendo Peña: So even though you had been appointed to the superior court by a Republican, a part of the registration I guess never changed.

Dennis A. Cornell: Never changed. And Chuck Poochigian commented on that, he commented on it in a way that he made it sound like a plus, because other people who had been applying for the superior court judgeship in Merced had done that. There are a couple of them that had changed their party affiliation. And I just looked Chuck in the eyes and said, "I'm not going to insult you by doing that," and he started laughing and says, "Good." That's when he made the statement that I gave to you earlier, he says, "The governor doesn't care which party you're a member

of. He just cares that your philosophy and judicial, -- being a judge is consistent with his."

Rosendo Peña: Now, you had established yourself in the Merced community, obviously, you've grown up there, born there. Was it difficult for you to have to move to Fresno when you received that appointment to the Fifth District?

Dennis A. Cornell: Yes, it was difficult. That was life changing, much more so for my wife than me because she had known no other place and she had a wide circle of friends and acquaintances and activities that she was leaving, but she's the one who wanted to move. I mean I was content to commute everyday from Merced which Marie did, my assistant secretary then assistant at the Court of Appeal did for her entire career at the Court of Appeal. But my --

Rosendo Peña: She came with you to the Fifth District from her Merced position?

Dennis A. Cornell: Yes, not directly because when I got to the Court of Appeal, the assistant for the judge or the justice that I was replacing, Justice Bill Stone, was still there and thank goodness because she knew a whole lot more about the process of the Court of Appeal than I. Just as you've learned, you had one of the most experienced assistant there, so she greased the wheels so to speak. But she retired two years into my job, then I called Marie who had then -- after I became a judge, she went back to my old law firm and worked there all the time I was on the trial court bench. But we've kept in touched and she had prepared my applications for the Court of Appeals, she had still done that.

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I called her and offered her the job. And at first, she turned it down and then she asked how much it paid and I told her, and she goes, "Let me get back to you," and talked to her the next day and she accepted it. And of course, I was ecstatic because I was comfortable with her and I knew she can do an outstanding job and she did. As you know, thinking of me being there without her is -- we went together as a pair.

Rosendo Peña: Well, you lived in Fresno ever since, not all that far away did you -- I guess did you keep some committee involvement with Merced or how did that work?

Dennis A. Cornell: Well, yes. In fact, when we looked for a house in Fresno, we looked for a house; we ended up buying a house that was as close to Merced as she can possibly be while still being in Fresno, so way out in northwest Fresno and it was about 45 minutes to Merced. But we kept things like doctors and accountants and all of those kinds of things. But then as time

went on, slowly but surely, we moved away from that, became much more Fresno residents and just like when we left Fresno and moved out to Wine Country, a lot of those contacts in Fresno were slowly done away with. So, that's just the normal course of events. But it was difficult in the beginning, but as time passed, it got to be less so.

My wife really didn't like the access that Fresno had to all kinds of things that Merced didn't, a whole lot -- Merced had hardly any restaurants of distinction, maybe none. The UC(ph) had not come there yet, it was just a lot of working had gone into it. But it hadn't won the appointment and hadn't developed the campus.

But Fresno has tremendous shopping, tremendous restaurants and their library system was tremendous and the medical care that we started getting there we thought was better than Merced. And so down the line, we slowly severed our ties. The last tie I severed was my accountant. Since I only saw him once a year, I never severed that until I moved up to Santa Rosa, and the other one was my dentist because I only saw him twice a year. So the dentist and the accountant were the last two to go, but now, I have no ties to the valley.

Rosendo Peña: Now shortly after your appointment to the Fifth, you were considered for an appointment to the California Supreme Court, can you tell us about that from your perspective?

Dennis A. Cornell: That was quite an experience. In the past that I think since then, governors generally don't involve the public in their process of selecting Supreme Court justices. I'm talking about the State of California. They would generally just announce the person that they selected and that's the first time that the public really got an official indication of what the governor was thinking.

Governor Davis did it differently. Through Burt Pines, his appointments secretary, a person I became good friends with, he decided to send out for comment to the public as well as to the Judicial Nominees Evaluations Commission four names. So the public knew that one of those four individuals was going to be appointed to the California Supreme Court. In this way, the governor's office could get some input from those four people, about those four people. I thought that was interesting different approach and I think it worked out well for him.

But in terms of my involvement, I didn't even think I was being considered until I got a call. I'm trying to remember. It might've been through my lead attorney who was active in democratic politics who'd came into my office one day and said, "Your name has come up." And then after that, I got a call from Tony Capozzi who was very active in statewide democratic

politics and especially Fresno County politics and said the same thing that, "Your name had come up."

The Supreme Court isn't something you apply for, it's something you were asked to apply for. If there's an opening which there was, Justice Mosk had retired and then passed away all within the matter of hours. You don't send in your application. You get asked to apply. So, all of that process of winnowing it down to four people was done without any formal application, and the way it was done is through talking to people and checking out people and so on

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Again, you had to have the ear of the governor. Governor Davis had appointed or had selected several people as a screening committee and I don't know all of the members but Tony Capozzi was one of them. Maybe four or five people to screen all the names and along with Burt Pines, so they can have a group from whom they could select in a Supreme Court Justice, and contrary to Governor Davis' other practices on his delays and appointment because again, he was similar to Governor Wilson in that regard. This, he was going to act on with great haste. He wanted to get the whole process from beginning to end done as quickly as possible because the Supreme Court was just one court dealing with thousands of cases and they needed a full complement of justices. He was going to have the whole process completed as quickly as possible.

I think from beginning to end, the whole thing probably took maybe 180 days, if that. That was another one where I got a phone call on a Friday night at 9 o'clock by Burt Pines. From Burt Pines, he goes, "Dennis, the governor is going to send your name to the JNE Commission as one of four people and we're going to release the names to the public." And I said, "Really?" He goes, "Yeah." I said, "Well, who are the other three?" And he said -- and I had been reading the papers about all of the speculation and -- so the three names I gave him, I think one was right, the other two weren't and he told me who the other three were. Then he said, "Could you get a written personal data questionnaire filled out into us," so we've something to send to the JNE Commission because they have nothing to send to the JNE Commission.

So the next week on a job, we put together my personal data questionnaire together with all the appellate opinions that I have been responsible for up until to that point. Two years in, I already had a huge box of them because you know we do a lot of cases. We worked hard and got through all of that and I was on the phone quite a bit, contacting people whose support I was seeking and at that time, it was no other appellate justices

as well other trial court judges and prominent lawyers around the state, so that process worked its way through.

And then once the application was in, this is where it was markedly different in the other two appointments. Once they'd made the names public, every special interest group wanted to interview because they all wanted to have a say in the ultimate selection.

I got contacted by the Police Officers Association, the Prison Guards Association, the Labor Unions, and the Chamber of Commerce. I think maybe another three or four from the hall across the spectrum of the political parties and the political points of view. People that wanted to talk to me so they can get a feel for what I was like, and of course, the press wanted to talk to us the most.

Somehow, the four of us all came at the same conclusion, so we were not going to give any interviews to the press. But I think all of us talked to the special interest groups, at least I did. I never said no to any of them. I wasn't afraid to talk to anybody and so I did. I met with them and talked with each group would send up -- the prison guards and the police came together as one. They sent their representatives and they sent along -- came along was an appellate court justice to do the questioning, which I thought was very odd but that's what happened. And also, my interview with the JNE Commission was different. In my interviews for the trial court and the appellate court bench, they had mostly focused on professional qualifications and questions they may have about that based on the responses they got.

On the Supreme Court, they started asking questions about philosophy, which I thought was strange and questionably inappropriate. They asked me for my views on the death penalty. They asked me for my views on legal aid, for the indigent and things of that nature, instead of professional qualifications. So, I answered the questions but I mentioned Burt Pines afterwards and he was shaking his head because he was concerned about that as well. Those are the questions the governor gets to ask, not the JNE Commission.

But it was interesting because when I applied for the trial court bench, I got two negative comments. One of which was I had no criminal law experience and so that obviously was from a young attorney that didn't now all my experience, the first 10 years to my practice.

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When I was on the appellate court, I got one negative comment. When I applied for the Supreme Court, I got no

negative comments. So apparently, I was more qualified for the higher position.

Rosendo Peña: That is an interesting process which is a lot closer and it's interesting to hear about that --

Dennis A. Cornell: Well, I'll interrupt you, if I may, but I thought the most interesting part was the interview with the governor, because as I said, you don't speak with the governor on the other lower court appointments. It took place in L.A., the interview was supposed to start at 4:30. I think it started about 7:00 because of the governor's schedule. I went up stairs and met with the governor and Burt Pines, the three of us, and Burt had a binder on me like this and the governor had a binder on me like this, and the governor sat and asked questions and we had a conversation for about an hour, and I thought it was a very enjoyable conversation. We talked about a lot of things.

Some of the things he asked, I disagreed -- I remember he had signed a new piece of legislation dealing with premarital agreements in family law cases and he asked my opinion on it and I told him and Burt Pines agreed with me and the governor says, "Well, I wished I had talked to you first because I already signed it, because we thought he should've -- of it."

At one point and this is the most interesting part when he got through asking me questions, I said, "May I ask you questions?" And he said, "Certainly." So I asked him questions about things like he'd gone through the energy crisis in the early 2000s, earlier that year, he gone through it and all of the machinations that took place there and he told me what his experience like and he was just shaking his head. And then we later found out that Enron had created the whole crisis to generate more income for Enron and none of us knew that at the time. But he said everybody that came into the room when I tried to get people to work on a consensus to solve the problem and everybody came to the room, all they talk about was raising rates, raising rates. They didn't care to work with each other or anything. There were no help whatsoever. He said it was just the most frustrating thing he'd ever dealt with. I thought that was very interesting insight from the governor. Anyway, go back to your question.

Rosendo Peña: Well, let's get back to your service on the Court of Appeal. You served there from 2000 through 2015; did you feel the job was everything you had hoped it would be?

Dennis A. Cornell: Yes, wonderful place to work.

Rosendo Peña: Did you miss the trial bench?

Dennis A. Cornell: A little bit in the beginning but it's like everything else, when I went on the trial bench, I missed being an advocate, but then

that went away and then when I went on the Court of Appeal, I missed being on trial bench and then that went away, so it wasn't very long. When you first get to the Court of Appeal, you still speak of the trial court as "we" and then when you're there a little while, the trial court becomes "they". So that didn't take very long, probably a few months and that was it.

Rosendo Peña: What was it that you enjoyed the most or that you like the best I suppose about the new position?

Dennis A. Cornell: I just like the whole process of the even flow of the work, even though the cases may come in like this. They're distributed to us like this. So our workload is almost always the same and you're in control of your own workload, you don't have to confront a calendar every day. Although the open courtroom stuff is -- oral argument contend to be not very helpful but it's still kind of fun because you miss the days of -- when you walk out on the bench every morning, you got a courtroom full of people and you were dealing with the calendar every day. You missed that interaction. I think that's the thing I enjoyed the most was the even workflow and getting better at it and understanding what's involved and what the role of the court is and all of those types of things.

Rosendo Peña: Do you think from your time on the trial bench that that helped you with your approach to decision making or opinion writing?

Dennis A. Cornell: Well, one thing that stood out, of course, is the realization that trial court bench has seconds or minutes to consider these issues and decide them where we have as much time as it needs for us to get comfortable with the decision we're making which is a real luxury. So, I'm always aware of what's confronting the trial court and when the record is not as complete as I wanted to be, I certainly understood why and I can understand the presumptions that the trial court is corrected and it has to be the way, that it couldn't do it in any other way, and my trial court experience got me there.

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Rosendo Peña: Can you tell us about your teaching experience? I know you taught some Ethics courses. Did you enjoy that aspect of your career?

Dennis A. Cornell: Yes, I'm still doing it. That was an evolution from my days of being a stadium announcer, how I like to get up in front of people and talk. But I started teaching -- let me back up. When I was on the Board of Governors, I worked a lot in the area of ethics, the Code of Professional Conduct and so on for the lawyers, and so it was a natural evolution when I got into judging, for me get into Judicial Ethics. I started teaching Judicial Ethics while I was on the trial court bench and the CJA knew of my experience and so they encouraged the people of

the CJA, California Judges Association encouraged me to get into Ethics through the Ethics committee and teaching ethics. So I started teaching at CJA and then later cedure extensively on Ethics and other subjects.

It's something I enjoyed doing. It makes me I think better because you got to prepare to teach the subject. And so it's something I look forward to, and like I said, I still do it to this day. I'm teaching a course in July up here. I taught a course in Palm Springs in March. I'm teaching a course down in Los Angeles next September, so I'm still doing it.

Rosendo Peña: Now you served on the Commission on Judicial Performance as a lawyer from 1989 to 1992, is that kind of how you got into this teaching ethics?

Dennis A. Cornell: That was consistent with it, yes, because I've gone from the State Bar and Board of Governors who appointed me to the Commission on Judicial Performance. They had one appointee and I was appointed, and that's how it all started evolving with my work with the Board of Governors, and then into the Commission on Judicial Performance and then into CJA and cedure. So those three years were really a good experience to serve some terrific people.

Rosendo Peña: Any regrets about that? I mean I suppose you were involved in some kind of discipline that was given to some judicial officers.

Dennis A. Cornell: Yes. There were a lot of different things going on when I was there. Jack Frankel who had been the founding director of the commission in 1960, the very first one in United States was still there. And then he left while I was there, and we were the ones that selected Victoria Henley as his successor. So I was on that board that selected her and in fact, I think I was pretty instrumental in her getting the appointment, not in terms of her qualifications or any part of the impression she made on the board, it was making sure that she was considered because she had not made the first cut. And I had known her professionally and known that she was an outstanding lawyer, so I put her on the list. So instead of having 10 people to interview, we had 11. And from that point forward, her star shown and the other commission recognized her ability since she'd became the director, so that's one of the things that happened.

The other thing that happened is a judge that was in the middle of the discipline process right after the hearing had committed suicide, so that got statewide publicity and a lot of pressure put on to the commission to open up its processes. And then I think that led again to the types of things that had been playing the State Bar is the commission is a nice easy target with no constituencies. So when a politician wants to get some favorable headlines and talks about the commission and again,

without going through that same thing right now about transparency and so on.

At the same time, the California Judges Association kind of act as adversaries because they have a constituency they need to serve, so there's that constant tension. But, no, I enjoyed my time on there and as a result of my time on there, I set as a hearing officer for them on several different cases which got some high profile coverage.

Rosendo Peña: Now as a Justice, you authored more than 60 published opinions covering many significant legal issues and of course, you authored hundreds of non-published opinions. Let's start with civil cases, are there any cases that stand out in particular to you?

Dennis A. Cornell: The first one, there were a couple that stand out to me, let's say three.

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I'm sure I can talk all day on all of the others but three of them stand up. And the first one was the case that came from Southern California, not in our district. It was a case involving a suit by the employees of McDonnell Douglas about overtime pay, been a class action. And they had received the verdict in San Diego of about $500,000 in actual damages for back pay and $100 million in punitive damages.

During the course of the appeal, a word had leaked out that one of the appellate court justices who was handling the case had said to a trial court judge that we're going to reverse you or reverse the opinion. The trial court judge, if I remember it correctly, played golf with one of the trial attorneys and mentioned that comment and then he went to the press. And Ron George and his political astuteness immediately took the issue away from the controversy and reassigned it to the Fresno, to the Court of Appeal.

There were a lot allegations and denials and so on. So I don't know what the true facts were. But I remember that that was the version that I heard and that was the reason that we're sitting Fresno. I'm on the Court of Appeal in Fresno, hadn't been there a week. And Justice Ardaiz who was a residing justice came in and said, "I expect because my plate was relatively clean in terms of work." He said, "I'm going to put you on in this panel. You could be on there with Justice Dibiaso and I." And I said, "Sure." And so oral agreement came and we're getting ready for oral argument, and we had sent out an issue letter about sufficiency of the evidence which had not been raised by any of the parties. And there were some huge players on this, Ellis Horvitz on a bit on one side, one of the biggest appellate lawyers in California and in the other side was

-- I can't think of his name, but he's very prominent. He'd been on the other side. And eventually, Erwin Chemerinsky argued this case in front of us when he came back to us eventually.

So what happened was, I'm sitting there and the bailiff comes in the robing room and says with an excited look on his face, "We've got a courtroom full of people." And I looked around to the other guy and go, "So what? Every morning of my judicial career, I walked out to a courtroom full of people." They go, "Usually, we have nobody there except the lawyers." And we went out and sure enough, the courtroom was full and I found out that our argument was being piped back to San Diego where they had an auditorium full of people. So all of the people on the class action were -- the plaintiffs were sitting in the courtroom or in the auditorium listening to these oral arguments.

So we ended up reversing the case and the reversal was upheld by the Supreme Court on the lack of sufficiency of the evidence. And I remember that the losing side in that case were so upset that when I was being considered for the Supreme Court, they wrote a letter to the governor's office saying I should not be appointed because of my vote in this case. I wasn't the author; I was just on the panel. And then Ellis Horowitz turned around and wrote a letter saying just the opposite. So, that was one civil case.

Another one was Hewitt which is to me, I thought was one of the best opinions I have wrote because to me, it expressed what I thought was my evolving education as an appropriate approach for appellate justice, which was deal with the case in front of you, that's our role, we're an immediate appellate court. It is not our job generally to set policy or generally to determine the constitutionality of the statute although we will if confronted with it. Generally, our job is to correct error. And the Supreme Court job is to set policy or determine the constitutionality of a statute. So, our job is very narrow and should be very restrained which is deal with the case in front of you and then make your decision on the narrowest grounds that are appropriate.

And in that case, there had been a school attached to a gas line, and a water heater inside the school, gas had just been turned on, this was natural gas. And two plumbers had been in the room with this hot water heater and they turned on the gas and they did not smell anything, so they didn't think that the gas had been hot. In other words, if there was active gas coming in there. And then it had ignited and they've had been injured. Thankfully, they had not been killed. They had been badly injured. But from what I understand, they both recovered almost 100%. At least I certainly hope they did.

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So, they had sued the gas company, which was not PG. I think it was Southern California Gas if I'm not mistaken. On the grounds that they had failed to warn that the gas line was hot and as a result of that, they were liable for the injuries. And as a result of that, I learned a lot about the process which is that natural gas is odorless and they add a chemical to it to make it smell so people will know that the gas line is open. But that chemical doesn't fully permeating give off the odor until the line had been opened a certain amount of time. And also, the length of the connection from where it hooks into the gas company to the point where it's being distributed out of the hot water heater also has an impact on the ability to be able to smell the liquid and how long it takes for that odor to make it to the other end.

As a result of that, there had been an extensive trial; plaintiff's lawyer had done obviously an outstanding job convincing the jury that the gas company was liable. There had been a verdict of, I believe, about one million in compensatory and approximately 10 million of punitive damages, then it got appealed to us. So the issue that came up to us was whether or not there was a duty to warn in this particular fact situation. Well, that argument was tenuous, but it called for a policy decision on whether how extensive the duty the warning goes because we have a tremendous -- we had over a thousand feet between the hook up and the hot water heater. We had evidence on question, evidence that at the point of the hook up, there had been -- everything in the power company was required to do by statute and regulation they had done, and so there was that.

And so we looked at this case trying to think of which is the best way to approach it. Well then when we were working on it and got into it, my research attorney and I, we realized that all of the different things they said that the gas company should've done to warn these two plumbers about the problem had been asked of the plumbers if this would've made a difference and basically every instance they had said, "No." So we backed up and said, "We don't need to confront the issue of the policy question about whether or not there was a duty to warn. Let's assume that there was a duty to warn and then base the decision on a lack of sufficient evidence whether the warnings would have made any difference because that's so much more restricted approach to the decision." And so that's the way I wrote the opinion is, we will assume without deciding because it should not have any presidential value whatsoever that there was a duty to warn.

Now, let's go to the next step and then oral argument, we'd asked the attorney, "So, would it have made any differences? Does the evidence show that it would've made any difference?"

We asked it over and over and over again, and the answer was always the same. The evidence showed that it would've not made any difference. The written warnings, the plumbers said, "No, I didn't read those. I knew what I was doing." Putting it on the internet, well, I never looked at the internet, on and on and on. And so that was the decision, we reversed the decision on the grounds that there wasn't sufficient evidence that any warnings would've made any difference to these individuals.

Well, the plaintiff's attorney didn't like the result and I can certainly understand that because he had done an outstanding job in the trial. But I thought that was a simple case and I have a strong recollection of, and --

Rosendo Peña: The Supreme Court didn't take the --

Dennis A. Cornell: They denied review because of the -- I'm sure if we had decided it on a policy basis, they would've taken it because that's the type of thing that they should decide. And then the third one of course is the Ferrini(ph) case which was close to the end of my time as appellate court justice, which involved another nasty set of facts. There was a drink called "Four Loko" that had a lot of -- I think you might've been on my panel on that, I'm not sure. You might've been. I know it was while you were there. And that one involved the liability of the manufacturer of the drink for the effects of that. What had happen is this individual had drank several cans of that and had acted irrationally and ended up getting shot and killed by police. And so the family of the person who'd been killed sued the -- first the Bar and then the manufacture of the drink over the drink and then California. The Bar cannot be sued because of immunity, statutory immunity.

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They had been dismissed out, and so the only ones that appealed were -- they appealed against was the manufacturer of the drink and they didn't allege that they were liable because of the distribution. They alleged they were liable because of the contents of the drink, because it was much more involved in alcohol and as a result, they had a duty to warn. It came to us as a pleading case, which means that all we looked at was the complaint and we have to assume that all the allegations of the complainant are true. I don't know where the case ever ended up. But between the time of the incident and the time that it had gone to us, the Four Loko had gone out of business and was no longer making drinks, and it's highly concentrated with alcohol and caffeine and other chemicals, that's what the allegations were.

And so based on those allegations, we said there was no statutory immunity and a lawsuit could go forward. We didn't say they were liable. We just said the lawsuit could go forward.

And again, the Supreme Court did not grant review because it was a pleading case I believe and it had gotten a lot of attention in the alcohol industry and the plaintiff's bar. And surprisingly, when you read the media accounts, surprisingly, I guess it shouldn't be at this point, but their reporting of what the opinion says and what the opinion actually says is far removed.

Rosendo Peña: What a surprise.

Dennis A. Cornell: What a surprise.

Rosendo Peña: How about any criminal cases, did any of those stand out to you?

Dennis A. Cornell: Well, what I get excited the most of course is Killebrew, which came real early in my career as a justice. And that's one of the ones that I think was decided correctly but the rationale was -- I would change it if I were going back and doing it. About the testimony of gay experts and how much that can supply sufficient evidence to meet the requirements of the elements of the offense, and we had found that in that instance that it did not. There aren't many of cases that say that, so it got cited a lot. I think it's the most cited case I've ever done. Other than maybe Tharp, which of course is my family law case involving attorney's fees which gets cited a tremendous amount.

Rosendo Peña: Any others in the criminal law area that --

Dennis A. Cornell: Nothing that stand out. The last one of course about the Illinois State of Criminal Law, but it's the one that's up for the Supreme Court now, which I don't know if you're going to ask about it, the Parker case.

Rosendo Peña: Well, if you can tell us a little about it at least from your perspective.

Dennis A. Cornell: Yeah. It's pending. That involves a statute that has not been implemented about the reporting requirements for the purchase of ammunition. There are certain kinds of ammunition for pistols. And it had been attacked facially unconstitutional and the trial court had found that it was unconstitutional. And in our court, it came to a 2:1 decision. But what really stands out to me is how the panel, the three of us worked together to try to make -- because we knew the Supreme Court was going to end up with it as they should, to make sure that all sides of the argument whether it's constitutional or not constitutional were presented clearly and thoroughly in front of the Supreme Court and the parties so that it could be dealt with by the Supreme Court. And so I think we've accomplished that because both sides, all three of us worked closely on both opinions on the majority opinion and the descending to make sure it stated everything that we thought should be stated.

Rosendo Peña: And you were the descending opinion?

Dennis A. Cornell: I was. I started out as a majority but as it happened sometime, I couldn't get the second vote.

Rosendo Peña: All right. In your experience, were there are a lot of descending opinions, a lot of concurrent opinions that you participated in?

Dennis A. Cornell: No. They're not unique to me. The Court of Appeal, like I said, its role is to correct errors. So we're not dealing with the types of things that generate those kinds of opinions. Our decisions are not that nuanced generally. Whereas, you get more concurring opinions and descending at the higher courts because those issues are again policy decisions by and large, and the issues are more nuanced in what we deal with. We deal with trial court error and that's what we're dealing with.

Rosendo Peña: So how would you describe your judicial philosophy?

Dennis A. Cornell: Well, I would like to describe it, as I said, dealing with the case in front of you, being very restrained and trying to decide the case on the narrow grounds, because my experience has found that whenever -- starting on the trial court, whenever I tried to anticipate arguments or anticipate outcomes or anticipate what would happen if I did this, it eventually ended up coming back and biting us. So I think that's true in the appellate court as well that there's a reason for judicial restraint. There's a reason for standards overview. We couldn't make decisions without standards overview.

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And more closely you adhere to those and the more restrained you are, I think the better your work product and the better the opinion and the better it is for the system as a whole which law moves slowly and traditionally tries to stay as close to -- as possible so it has predictability.

Rosendo Peña: Well, tell us about your decision to retire? What have you been doing since?

Dennis A. Cornell: I've been doing some private judging, teaching, speaking, playing golf and being retired. We moved up to the Wine Country and we have not regretted it. It's a wonderful place to live. We're very fortunate, closer to our daughter and we're living in a place that's a senior community, so we have a lot of activities, a lot of bald heads and gray hair, and the golf courses are easier and the opponents are easier. So life is good. I have nothing to complain about.

Rosendo Peña: And looking back now, what achievements are you most proud of and what would you like the legal community and the general public to remember about your work as a judge?

Dennis A. Cornell: That's difficult. I like to be thought of as being consistent. When you look at different articles about my judicial philosophy, they noticed that I vote to reverse large verdicts and I vote to affirm large verdicts.

Rosendo Peña: Somebody fond of consistency, huh?

Dennis A. Cornell: Yeah. So that to me is a compliment because that meant that I adhere to what I think is important which is deal with the case in front of you and deal with the issues in front of you as narrow as possible regardless of the outcome, because if you do it that way, the outcome will become evident and it's a natural product of that process. And that's something that evolves as you become -- the longer you are on the appellate bench, it's just like a trial bench. You get better at it. You begin to understand it. When you get cases that you think or have these many issues and then after five years on the bench, you realize, "No, they only have like these many issues," and that's the way it should be.

You asked me what I would like to be remembered for us is to be consistent, trying to do the best I can with the case in front of me and trying to write an opinion that's as clear and as concise as possible.

Rosendo Peña: And if you had to do it all over again, is there anything that you would change?

Dennis A. Cornell: Sure. When you look back on your life, there are lots of things that if you have an opportunity to do them over, you do them differently. But what I tried to remember is at the time I was doing it and I thought I was doing the best that I could do. I remembered when I was on the appellate bench, I would look back at an opinion I'd written a year earlier, I put a lot of timing on that if I had it today, I would write it differently, maybe not a different result, but I would write it -- the language would be a little different, the emphasis might be a little different in different places. I mean so --

Rosendo Peña: Just a learning experience.

Dennis A. Cornell: Just a learning experience and I think that goes on all your life. And so as I say, you try to do the best you can with what's in front of you and then you have fewer regrets later on.

Rosendo Peña: Well, thank you very much again for being with us here today and sharing a little bit about yourself. You shared a lot about yourself, sometimes it's difficult, but we appreciate it.

Dennis A. Cornell: Well, thank you. It's been fun to review some of these old experiences I had a long time ago. I didn't know I've remembered them that well.

Rosendo Peña: All right. Well, enjoy some more golf.

Dennis A. Cornell: I will.

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